



## THE BUSINESS OF INTELLIGENCE IN THE U.S.: PRODUCTIVITY VS. LOYALTY?

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### **Abstract:**

Following the collapse of the Soviet Union (USSR) the U.S. Intelligence Community (IC) experienced important structural and material changes in order to reduce the ballooning intelligence and defense budget as a result of the Cold War. These adjustments encouraged the liberalization of the information technology (IT) market in support of IC requirements, outsourcing and privatizing national security, causing a pernicious dynamic within its oversight, management and inspection mechanisms. The 9/11 events and the Iraq War stimulated an out-of-control neoliberalization which reflected the limits between public interests and private interests, where domestic security and foreign security concepts, simultaneously, overlapped. This reality discouraged the strengthening of the known IC strategic intelligence deficit favoring IT.

**Keywords:** Intelligence, Information Technology (IT), Military, Privatization, Contractors.

### **Resumen:**

*Tras el derrumbe de la Unión Soviética (URSS), la Comunidad de Inteligencia de Estados Unidos (IC) sufrió una serie de cambios estructurales y materiales para limitar el exorbitante presupuesto en defensa e inteligencia resultante de la Guerra Fría. Tales ajustes animaron la liberalización del mercado de tecnología de información como apoyo a las necesidades de la IC, externalizando y privatizando la seguridad nacional y causando de esta manera una dinámica perniciosa para los mecanismos de control, gestión e inspección. Los sucesos del 11-S y la Guerra de Irak estimularon una neo-liberalización descontrolada que reflejó los límites entre los intereses privados y públicos, donde la seguridad doméstica y los conceptos de seguridad exterior se superpusieron simultáneamente. Tal realidad desalentó el refuerzo del ya conocido déficit en la estrategia de inteligencia de la IC a favor de las tecnologías de información.*

**Palabras clave:** Inteligencia, tecnología de información, ejército, privatización, contratistas.

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*We have always known that heedless self-interest was bad morals. We know now that it is bad economics.*

—Franklin D. Roosevelt

## 1. Introduction

Understanding how the evolution of new information technology has influenced the development and the function of military intelligence is crucial to acquire a panoramic view of the phenomenon of the business of intelligence. In particular, it had been accepted in the mid 90s that new conflicts, even when multiplying, would be categorized as low intensity conflicts (LOWs) and intelligence in support of the military had to encourage integration of information systems synergies and optimization of military means. Hence, intelligence gained a different and broader relevance than in the past. In 1995 *Presidential Decision Directive* PPD-35 reflected this new priority for the IC. Similarly—as a response to the terrorist attack in New York in 1993—PPD-39 identified terrorism as a criminal act that represented a national security threat, thus providing civil intelligence a new role accordingly. It was in such manner that the U.S. government granted the IC new objectives and functions, both in the military realm as well as in the civil realm, while at the same time it experienced an important transformation.<sup>2</sup> The collapse of the USSR and the end of the Gulf War caused a structural and material readjustment of U.S. intelligence and defense services under which many intelligence officers lost their employment and/or decided to join the private sector, focused on promoting a superior performance of projects in support of the IC. In fact, according to Michael Herman, by 1995 it was suggested that only between 50%-75% of U.S. satellites that were in orbit during the Gulf War were operative.<sup>3</sup> Additionally, also in 1995, the Central Intelligence Agency (CIA) officially lost 23% of its resources and the Defense Intelligence Program projected 6,000 employment losses up to 1997. The Pentagon (i.e., Defense Department) would lose up to 30% of its budget, though controlling slightly over 80% of the total defense budget, was not as affected by these reductions as the CIA, which controls slightly over 15%.<sup>4</sup> Notwithstanding, considering a majority of unemployed intelligence officers—including its analysts—joined the private sector, it cannot be affirmed, in principle, that the capacity of the IC was diminished.

The following analysis' objective is to explain and analyze: (1) the evolution and organization of the U.S. IC; (2) the liberalization of the intelligence and defense private sector in the U.S. in the context of the post-Cold War; (3) the neoliberalization of the intelligence and defense private sector in the context of post-9/11 assessing the state of intelligence and security policies in the U.S.; and (4) How this evolution influenced the appropriate supervision, management and inspection of the public administration of the IC, which not only hindered the maintenance and enhancement of first class analysts, but also caused a

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<sup>2</sup> PDDs are a form of Executive Order and as such, are characterized and have legal force; see, e.g., Presidential Directives and Executive Orders, PDD-35: *U.S. Intelligence Requirements* (March 2, 1995). Source: Federation of American Scientists (FAS), in <http://www.fas.org/irp/offdocs/pdd35.htm>; PDD-39: *U.S. Policy on Counterterrorism* (June 21, 1995). Source: FAS, in <http://www.fas.org/irp/offdocs/pdd39.htm>.

<sup>3</sup> Hedley, John Hollister (1995): *Checklist for the Future of Intelligence*, Georgetown, Institute for the Study of Diplomacy, p. 28; Herman, Michael (1996): *Intelligence Power in Peace & War*, London, Royal Institute of International Affairs, p. 341.

<sup>4</sup> Shorrock, Tim (2008): *Spies for Hire: the Secret World of Intelligence Outsourcing*, New York, Simon & Schuster, p. 2.



deterioration in their instruction. Though admitting that surprise attacks are by definition unavoidable, this instability could have caused a strategic intelligence deficit indicating al-Qaeda planned to attack the U.S. in its own territory; finally a conclusion will summarize key arguments presented herein. In reaching these conclusions this analysis will draw information from studies in U.S. military history; strategic intelligence; investigative journalism as well as information available in the media. While this analysis may suffer from a deficit in bringing contractual specificities related to national security between the private sector and the government, being this deficiency attributable to the writer, the reader should be mindful of the difficulty in obtaining such information as a result of the secret character surrounding them. The data reflected is drawn from studies or reports published by the U.S. government or investigative research conducted by James Bamford and Tim Shorrock, among others. Conclusions in this analysis ought to be understood as a critique and a call of alert to national security public administration members responsible for supervising, managing and inspecting the private sectors' performance and not as a pejorative value judgment of the whole sector, which carries out an important and necessary function in the sensitive realm of national security.

## **2. Evolution & Organization of the U.S. Intelligence Community**

The organization of the U.S. IC had been developing before the Japanese surprise attack on Pearl Harbor in 1941, although, undoubtedly, this event evidenced the need to coordinate national intelligence.<sup>5</sup> Once World War II ended, the U.S. prepared a reorganization of national security for peace times that would be capable of foreseeing emerging threats and thus prevent, as far as possible, a new surprise attack.<sup>6</sup>

Intelligence communities of democratic states reflect both their states' virtues as well as their deficiencies. In the U.S., the traditional tendency towards federalizing its institutions to balance the separation of powers preventing any one institution from presenting a potential threat to democratic stability is an accurate reflection of this reality. Hence, the debate within national security between domestic security and foreign security existed even before the formation of the IC, officially conceived by the National Security Act of 1947. As a result of this law, the CIA is created as a civil organization, independent from the military responsible for the collection of foreign intelligence in order to counsel the Executive Office's information requirements and to coordinate national intelligence. The Director of the CIA (DCIA) would be responsible for protecting sources and methods of collection. The National Security Council (NSC)—also created under the new law and responsible to the Executive—is created as a support institution in the coordination of national security and foreign policy decision-making. The new institutional reality invaded traditional jurisdictions that both the military and the Federal Bureau of Investigation (FBI)—with its own intelligence unit—considered their own since President Franklin Roosevelt assigned counterespionage and counterintelligence functions to them in 1939. The FBI was responsible for national security in the domestic realm, although it held jurisdiction to operate in Latin America since 1930. Simultaneously, the new organization would reduce budgets already assigned to other agencies and departments of defense. The seed for rivalry had been laid, particularly between

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<sup>5</sup> see, e.g., Wohlstetter, Roberta (1962): *Pearl Harbor: Warning and Decision*, Stanford, Stanford University Press.

<sup>6</sup> Betts, Richard K.: "Analysis, War & Decision: Why Intelligence Failures are Inevitable", *World Politics*, no. 31 (October, 1978), pp. 61-89, eloquently sustains why surprise attacks are by definition unavoidable.



the CIA and the FBI. Yet the objective outlined by President Harry Truman was clear: to coordinate national intelligence limiting the concentration of powers. This objective would exacerbate competition between the different organizations of the IC to optimize their effectiveness. However, in a sense this also inhibited their cooperation, both in preventing interferences that could disrupt democratic stability, or in cooperating to alert of a potential domestic or foreign threats. Subsequently, more agencies would beef up IC ranks. In the civil realm, the CIA and the FBI would have new partners; units arising from different departments such as: the Bureau of Intelligence and Research (INR) in from the Department of State; the intelligence unit from the Department of the Treasury—now the Terrorism and Financial Intelligence (TFI); that in the Drug Enforcement Administration (DEA) from the Department de Justice; the Information Analysis and Infrastructure Protection Directorate (IAIPD)—responsible for the integration of counterterrorism intelligence along with the FBI and domestic security entities—from the Department of Homeland Security (DHS); and lastly, the intelligence unit from the Department of Energy (DoE)—responsible for safeguarding and monitoring nuclear materials and national arms laboratories. In the military realm, the different intelligence units of the armed forces—Army; Navy; Air Force (USAF); and Marines would be complemented by new organizations associated under the Department of Defense (DoD): the National Security Agency (NSA) responsible for collecting and analyzing foreign communications as well as government communications and its information systems; the National Reconnaissance Office (NRO) charged with coordinating, developing and managing espionage satellites; the Defense Intelligence Agency (DIA) responsible for the analysis of military intelligence; the National Geospatial Agency (NGA) responsible for foreign aerospace imagery surveillance; and finally, the Coast Guard's intelligence unit, a joint civil-military unit where the four elements of the armed forces—responsible for the collection of tactical intelligence for their different missions—would be framed under the guidance of the DHS.<sup>7</sup>

After over a half century, the U.S. IC would be formed by sixteen intelligence agencies. This evolution manifested the need to professionalize the capability of IC members, something that was substantively achieved. Yet, the practices of some IC agencies have not been without critique, particularly with regard the always controversial—though necessary in certain cases—covert actions that the CIA conducted in the foreign security realm and to the possible Fourth Amendment violations by the FBI—which protects private property from unreasonable search and seizure without probable cause from the government—in the domestic security realm.<sup>8</sup> The 70s would be highly controversial for the FBI, the CIA and NSA. The FBI had been involved in questionable covert actions, illustrated by systematic violations of the Fourth Amendment since the 50s. This controversy especially affected the CIA after the *Watergate* eavesdropping scandal on the National Democratic Committee, ordered by President Richard Nixon, where several of its agents meddled. This caused the creation of the Privacy Act in 1974 making it illegal for the FBI or any other government agency to conduct warrantless investigations on U.S. citizens. It is noteworthy to mention that the Privacy Act does not establish limits over warrantless and surreptitious investigations conducted by private entities. Nonetheless, warrantless and surveillance activities against US citizens opposed to the Vietnam War and those actions conducted in Latin America between

<sup>7</sup> see, e.g., Posner, Richard A. (2006): *Uncertain Shield: the U.S. Intelligence System in the Throes of Reform*, Maryland, Rowman & Littlefield, pp. 11-16 y Johnson, Loch K. (2007): *Handbook of Intelligence Studies*, New York, Routledge, p. 4.

<sup>8</sup> According to Roy Godson, covert action [differentiated from the simple collection of information] is the attempt by a government or group to influence events in another state or territory without revealing its own involvement'. Four categories follow: propaganda; political; paramilitary; intelligence assistance (Roy, Godson (1995): *Dirty Tricks or Trump Cards? US Covert Action & Counterintelligence*, New York, Brassey's, pp. 2-3.)



the 70s and 80s were the ones which annihilated Congressional trust on the principal intelligence agency. The NSA was not exempted from criminal conduct, as the Church Committee investigating these activities revealed the NSA had intercepted US citizens' communications coming from abroad colluding with the main companies of the telecommunications industry, AT&T, MCI and possibly Sprint. Following these inquiries—carried out by both the Church Committee and the Pike Committee—which with regard to the CIA included, in certain cases, the targeted assassination of foreign leaders, a clear abuse of powers was evidenced. This led to the establishment of two political oversight mechanisms within the IC: (1) the Senate Select Committee on Intelligence (SSCI) in 1976; and (2) the House Permanent Select Committee on Intelligence (HPSCI) in 1977.<sup>9</sup> Additionally, the Foreign Intelligence Surveillance Act (FISA) was approved to regulate and supervise the interception of foreign intelligence—from foreign governments, entities or citizens—in order to block warrantless governmental abuses. Both committees are composed from members of the Republican and Democratic parties. It was expected that the politicization of intelligence would hinder cooperation, but committee members demonstrated, generally, to be committed to national security, putting aside vicissitudes and preparing an annual report related to IC activities and budget since their creation. One of the more characteristic elements of the US IC is the National Intelligence Council created in 1979 under the direction of the DCIA. The NIC is a planning and prediction organization responsible for producing estimates—National Intelligence Estimates (NIE) and Global Trends. Finally, to ensure oversight within the IC, Congress approved the Intelligence Oversight Act in 1980, ordering executive directors of all intelligence agencies to maintain the committees 'completely informed of all current and future activities foreseen' by their agencies. Yet, after over a half century of evolution, former DCIA, Stansfield Turner, considered the U.S. was as vulnerable as it was at Pearl Harbor.<sup>10</sup>

The economic liberalization and the concern over industrial espionage evidenced by the French espionage interference in 1995, caused the creation of the National Counter-Intelligence Center (NACIC) during the Clinton administration in 1994 under the direction of the NSC first and later under the direction of the FBI—renamed again National Counter-Intelligence Executive (NCIX). The structure of the IC consolidated gradually until the 9/11 terrorist attacks and the decision to use force in Iraq in 2003 broke with its conceptualization. Just as in the immediate aftermath of the Cold War and the Gulf War, these events shaped new reforms in the IC—the already mentioned NGA and the new Office of the Director of National Intelligence (ODNI)—which this analysis will be evidenced throughout this analysis. Certainly, the need to establish a new domestic intelligence agency—stripped from any incriminating authority—within the IC is still debated. Richard Posner eloquently suggests an agency akin to the British MI5, could be established within the DHS without eliminating the FBI's National Security Branch intelligence capabilities. The new domestic intelligence agency would be encouraged to cooperate with the FBI when it uncovered evidence of serious criminal activity where an immediate action needs to be executed to safeguard national security. Simultaneously, this would impede the FBI's reactive and incriminating culture—devoid of the indispensable preventive intelligence factor—from ruining investigations that would eliminate a potential threat completely, as opposed to detaining a few cells or operatives charged with a terrorist mission inside U.S. territory, for

<sup>9</sup> Indeed the committees are not the only regulatory and oversight mechanisms, though they are certainly those most accountable. Others include: the powerful Armed Services Committees; the Appropriations Committees; the Homeland Security & Governmental Affairs Committees; at the executive level: the President's Foreign Intelligence Advisory Board; Joint Intelligence Community Council; Office of the Inspector General; Office of Management & Budget.

<sup>10</sup> Turner, Stansfield: "Intelligence for a New World Order", *Foreign Affairs*, vol. 70, no. 4 (Fall, 1991), p. 161.



example.<sup>11</sup> There are many reasons that predict rivalry, but the benefits gained could minimize it. The new agency, Posner suggests, would solve the limits of cooperation between the FBI and the CIA. Contrary to general assumptions, the FBI and the CIA did cooperate before 9/11, yet perhaps not to optimal standards. However, irrespective of the limitation in their cooperation, their different cultures and methods impede the creation of a satisfactory joint picture related to an imminent threat. In 1998 the CIA informed the FBI that a group of terrorists planned to fly an explosive laden plane into the World Trade Center in New York, but the FBI dismissed the information since it was not supported by sources or the methods validating it. In order to perform an investigation, the FBI needs conclusive evidence that justify such investigation, but the CIA naturally cannot provide it in order to protect its sources or methods through which it was obtained. Nonetheless the FBI's deficiencies were significant considering it possessed evidence indicating certain individuals attempted to learn to fly while discarding landing lessons.<sup>12</sup> Posner's suggestions represent an option to bridge this deficiency. Thus, the circle is not yet closed in the debate over the transformation of the IC, which reflects the increasingly blurred and overlapping limits between domestic security and foreign security. Similarly, the debate between the public interest and the private interest with regard to national security remains open; especially following the liberalization of the intelligence sector with the commercialization of national security and, in particular, with the commercialization of advanced IT and surveillance mechanisms, both in the military realm as well as in the civil realm of intelligence. This is the main angle from which this analysis centers its approach.

### **3. The Liberalization of the Intelligence & Defense Sector in the U.S.**

Since NSC-68 defined U.S. military strategy in 1950 framing it within the Cold War confrontation, research and technological development would be subrogated to the military realm. In 1955, the report *Meeting the Threat of a Surprise Attack* alerted President Dwight D. Eisenhower about the need to develop intelligence and reconnaissance aircraft and satellites in order to anticipate a potential Soviet aggression.<sup>13</sup> Yet, these suggestions had been made in the mid 40s when U.S. Air Force (USAF) General, Curtis Le May, granted Douglas Aircraft permission to prepare a preliminary experimental design of an aircraft with the capability to orbit the globe. Under the *Research AND Development* (RAND) project of the company, which would later become the *RAND Corporation*, the first research from which the future surveillance and reconnaissance satellites would be configured was undertaken.<sup>14</sup>

Once the USSR launched the Sputnik satellite in 1957—leading to the creation of the National Aerospace Administration (NASA) in 1958—the U.S. accelerated improvements in its scientific and technical intelligence capability. Such improvements had started previously in 1955, when the CIA stimulated the development of the U-2 spy plane project created by

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<sup>11</sup> Posner, Richard A. (2006): *Uncertain Shield: the U.S. Intelligence System in the Throes of Reform*, Maryland, Rowman & Littlefield, pp. 87-139.

<sup>12</sup> 'Threats and responses: security; CIA puts risk of terror Strike at 9/11 levels, *The Washington Post* (October 18, 2002), <http://www.nytimes.com/2002/10/18/world/threats-and-responses-security-cia-puts-risk-of-terror-strike-at-9-11-levels.html?sec=&spon=&pagewanted=all>.

<sup>13</sup> Killian, Jr., James R. et al.: "Meeting the Threat of a Surprise Attack", Office of Defense Mobilization, *Report to the President of the Technological Capabilities Panel of the Science Advisory Committee*, (February 14, 1955).

<sup>14</sup> Peebles, Curtis (1997): *The Corona Project: America's First Spy Satellites*, Maryland, The Naval Institute Press, p. 5.



Lockheed, through its Directorate of Science and Technology (DS&T). Nonetheless, it was not until 1960 with the development of the Corona project when the U.S. finally made a qualitative leap in the development of its scientific and technical intelligence capability to undercut the Soviet threat. The Corona project, developed mostly between RAND, Lockheed and the USAF, optimized the development of technologies to improve intelligence and national defense. Until this moment, U.S. intelligence sources depended on more conventional collection means to obtain information based on a most crude effort to analyze those Soviet publications from which valuable intelligence could be extracted. The Corona project substantially improved imagery intelligence (IMINT), which began to develop during World War I. As a result, President Lyndon Johnson admitted in 1967 that '[b]efore we had the photography our guesses were way off. We were doing things we didn't need to do. Because of the satellites now I know how many missiles the enemy has'.<sup>15</sup> Hence, undoubtedly, the Corona project deeply transformed the quality of U.S. intelligence producing analysis—military and economic—based on the real Soviet menace, thus avoiding erroneous predictions or estimates thanks to signals intelligence (SIGINT). Lacking Corona, the 'balance of terror' deterrence regarding Mutually Assured Destruction (MAD) would have not soaked heavily in the minds of the leaders of the two superpowers, preventing among other things, a catastrophe during the Cuban missile crisis in 1962 or the Strategic Arms Limitations Treaty (SALT I and SALT II) afterward. Yet, this could not prevent elements within the armed forces' exaggeration of certain estimates in order to obtain a larger budget from the government to promote particular or corporate military objectives. As a result, President Eisenhower detached himself from these segments alerting the American to beware of the threat to national security posed by the wild growth and influence of the military industrial complex people in 1961. Certainly, the inherent corporate spirit from the different elements within the U.S. armed forces has always played an important role from which this perception has been framed despite the national security reorganization of 1947. President Eisenhower's concern centered on the potential for political decisions—anchored on the search for the public good—to be substituted by scientific and technical elites' interests.<sup>16</sup>

In this context, the technological and aerospace industry began to strengthen their interest more effectively with national security interests. The Department of Defense encouraged the military supremacy doctrine, while the private sector foresaw an opportunity for profit. The relationship existed since World War I, but became especially strong from 1958-1988. Secretary of Defense Robert McNamara became the catalyst to this union which would consolidate increasingly until the end of the Gulf War in 1991. McNamara introduced a new business methodology as a management, planning and budget systematization strategy in the department—introducing civilian specialist consultants optimizing defense research and development (R&D). Centralized management of scientific and technological national defense means thus attracted the private sector, which responded to the new military requirements, also in the context of the Vietnam War. The armed forces always maintained control of intelligence and defense R&D technologies mainly through: (1) Advanced Research Projects Agency (ARPA); (2) the NASA; and (3) the Independent Research and

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<sup>15</sup> Cited in: Stephen S. Beitzler: "Imagery Intelligence", in Hopple, Gerald W., & Watson, Bruce W., (eds.) (1986): *The Military Intelligence Community*, Boulder, Westview, p. 79. Herman, Michael (1996): *Intelligence Power in Peace & War* (Cambridge, UK: The Royal Institute of International Affairs, p. 74.

<sup>16</sup> The debate about the control of scientific and technological R&D was profound since it influenced the control over a public good. Since 1945 Theodore von Karman proposed the creation of a military entity to encourage permanent and dynamic military forces; Similarly, Vannevar Bush suggested creating a civilian R&D finance program modeled on the association with the MIT or Johns Hopkins University. Finally the National Science Foundation (NSF) was created to aid public administration in exercising greater oversight. Yet, the record suggests the NSF has no leverage over the Pentagon's R&D projects.



Development Program (IRDP)—which authorized independent R&D when it was considered necessary for national security. Technological R&D also received a significant boost under the Reagan administration's Strategic Defense Initiative (SDI)—destined to create a missile defense shield with the participation of up to 135 defense contractors—whose expenditure was estimated between \$700 Billion to \$1 Trillion. During this period of centralization and industrial development of military means IC collection means were also stimulated. The launching of satellites into orbit was complemented by the development of intelligence surveillance and reconnaissance (IS&R) aircraft such as the Airborne Warning and Control Systems (AWACS) developed by Boeing and Lockheed—assisted by Northrop Grumman and Rockwell radars, among other companies. Additionally, and as an incentive to promote SDI, among other things, the Reagan administration created the Economic Recovery Tax Act in 1981, which resulted in a 25% tax return on R&D for industrial contractors, benefiting the larger contractors especially. In reality, according to Anthony DiFilippo, this amounted to a direct government subsidy, which was incremented up to 75%, in certain cases, following questionable accounting practices that attributed expenditures to R&D budgets.<sup>17</sup> Seymour Melman qualified the Defense Department management as 'Pentagon capitalism', since through contractual concessions for R&D and production, the Pentagon altered higher education and rechanneled key technology development to meet military interests. Consequently, it is understandable that some analysis contend that a parasitic relationship exists between the Defense Department and the technological and aerospace private sector, which deprived the civil sector for many years of technological resources that would have stimulated a larger economic and social growth, preventing simultaneously, a loss of competitiveness in the semiconductors industry. This counter argument, thus questions whether the 'national interest' was unfocused or whether profit was its real *raison d'être*.<sup>18</sup> While this critique is not without merit, it is undeniable that R&D related to the military-industrial complex was the catalyst for the creation of the most capable, professional, powerful and modern military in the world as evidenced, particularly, by the military supremacy demonstrated in the Gulf War and in the Iraq War.

As a result of the end of the Cold War and the Gulf War the ICs' main target had disappeared, transforming the U.S. into the victorious superpower. Then Joseph Nye, Jr. wrote about the existence of a *unipolar* world and a future tendency towards *multipolarity*. It was a time when the Powell Doctrine, anchored for its functional effectiveness on possession of overwhelming military force, stopped being preeminent.<sup>19</sup> The theory of the end of history, predicated by Francis Fukuyama, where democracies would expand and conflicts would be reduced under the leadership of the U.S. gained momentum. Under this premise and citing the need to engage in a national security sector structural readjustment, President Bill Clinton ordered Vice-president Al Gore to undertake the Reinvigorating Government (ReGo) reform. To comply with ReGo, Gore implemented National Performance Reviews (NPRs) across government agencies to optimize the federal budget to its maximum potential. Henceforth, all

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<sup>17</sup> DiFilippo, Anthony (1990): *From Industry to Arms: The Political Economy of High Technology*, Westport, CT, Greenwood Press, pp. 1-15; 81-103.

<sup>18</sup> *Ibid.*; Melman, Seymour (1970): *Pentagon Capitalism*, New York, McGraw-Hill; (1974): *The Permanent War Economy: American Capitalism in Decline*, New York, Simon & Schuster; "From Private to State Capitalism: How the Permanent War Economy Transformed the Institutions of American Capitalism", *Journal of Economic Issues*, vol. 431, no. 2 (June 1997), pp. 311-330; from an economic and political standpoint, the Pentagon's interventionist vision modeled on English economist John Maynard Keynes gave in to Milton Friedman's liberal theses in the 80s.

<sup>19</sup> Weigley, Russell F. en Feaver, Peter D. & Richard H. Kohn (eds.) (2001): *Soldiers & Civilians: the American Civil-Military Cultural Gap*, Cambridge, MA, The Belfer Center for Science in International Affairs, pp. 241-246.





dysfunctional programs should be either decommissioned or eliminated. From 1993-2001 federal employment cuts reached up to 386,000 while public contracts' expenditures with the private sector increased to 44% with respect to 1993.<sup>20</sup> With this objective in mind, the Clinton administration undertook, paradoxically, the greatest liberalization in U.S. history, where the both the CIA and the Pentagon experienced important material and human adjustments. Since 1992 under what was branded as the Peace Dividend, Pentagon procurement was reduced in \$60 Billion and acquisitions up to \$100 Billion, affirmed former Pentagon Acquisitions Official, Jacques Gansler, in an interview with Tim Shorrock.<sup>21</sup> Other cuts, in the Pentagon as well as in the CIA, occurred because the national security profession had been discouraged, thus causing the withdrawal of competent intelligence officers.<sup>22</sup> Gore's optimization efforts, however, are not without critics: Gregory Treverton suggests many governmental programs are designed due to their social impact, not their efficiency; this is how it occurs with certain investments or appropriations in the small business sector, which implies that certain cuts were not justified. Treverton also suggests the Clinton administration identified the new international security reality, characterized by a multiplicity of targets and consumers over which the information revolution era projected itself, yet failed to prepare the IC in consequence, thus preventing its transformation—decentralization—aligning it with the new reality.<sup>23</sup> Bruce Berkowitz and Allan Goodman also offered a 'decentralized, commercialized and fluid' approach for the transformation of the IC.<sup>24</sup> Robert Steele promoted a 'virtual' vision characterized by the expansion of governmental *transparency*, discarding the traditional secrecy within the intelligence function promoting instead the use of Open Source Intelligence (OSINT) as a way of empowering the citizenry.<sup>25</sup> In a sense, these visions were consistent with the Aspin-Brown Commission's conclusion, which conducted research on the new functions and objectives for intelligence in the XXI century in order to improve centralized management of collection and analysis. The Commission's report, *Preparing Intelligence for the XXI Century* concluded in 1996—among other things—that between 80%-90% of information collected by the clandestine services originates from OSINT.<sup>26</sup> The most delicate question for intelligence is to find the right balance in its civil-military relations and in that between the public-private good with its consumers.<sup>27</sup> However, achieving this ideal seems almost a utopia, as a result of the power that intelligence generates in the political realm.

Even under budgetary stress, the prediction regarding new challenges for the 90s in the form of low intensity conflicts favored the military function over the civil function within the IC. Consequently, the Pentagon emerged victorious over the CIA in this process of

<sup>20</sup> Shorrock, *op. cit.*, p. 86.

<sup>21</sup> *Ibid*, p. 85.

<sup>22</sup> see, e.g., former CIA Directorate of Operations Officer's memories. Mahle, Melissa Boyle (2004): *Denial & Deception: an Insider's View of the CIA From Iran-Contra to 9/11*, New York, National Books, pp. 123-131.

<sup>23</sup> Treverton, Gregory F. (2001): *Reshaping National Intelligence for an Age of Information*, Cambridge, RAND, pp. 8-19.

<sup>24</sup> Berkowitz, Bruce D. & Goodman, Allen E. (2000): *Best Truth: Intelligence in the Information Age*, New Haven, CT/London, Yale University Press, p. 92.

<sup>25</sup> Steele, Robert D. (2001), *On Intelligence: Spies and Secrecy in an Open World*, Oakton, VA, OSS International Press; The Smart Nation Act (2006): "Public Intelligence in the Public Interest", Oakton, VA, OSS International Press, in

[http://www.oss.net/dynamaster/file\\_archive/060908/07186f23e0e0f63f4d54f9941fa7f3b1/Smart%20Nation%20Act%20PDF%20for%20Web.pdf](http://www.oss.net/dynamaster/file_archive/060908/07186f23e0e0f63f4d54f9941fa7f3b1/Smart%20Nation%20Act%20PDF%20for%20Web.pdf).

<sup>26</sup> "Preparing for the 21st Century: An Appraisal of U.S. Intelligence", Commission on the Roles & Capabilities of the United States Intelligence Community, Washington, D.C., U.S. Government Printing Office (March 1, 1996), p. 88.

<sup>27</sup> Treverton, *op. cit.*, pp. 8-19; p. 240.



national security reform, particularly, since not only would it maintain control over the scientific and technical intelligence collection agencies, but would also receive a greater budget.<sup>28</sup> As a result, the IC reform project presented in 1992 was ignored. The IC reform project called for the creation of a Director of National Intelligence (DNI), with absolute budgetary authority aided by two Deputy Directors with responsibilities in the realms of: (1) Intelligence Operations; and (2) Intelligence Analysis, respectively.<sup>29</sup> Instead, it was decided that the DCIA, with a significantly reduced budget, would multiply his competencies arising simultaneously as: (1) DCIA; (2) Director of Central Intelligence (DCI) at a national level; and (3) Presidential Intelligence Advisor. Even then, critics such as Senator Daniel Patrick Moynihan appealed to dismantle the CIA altogether. These adjustments were not well received by James Woolsey, DCIA in the Clinton administration. Woolsey had great technology R&D plans for U.S. intelligence following the advent of the information systems integration technologies industry, but his plans were frustrated by ReGo's budgetary requirements, for which after implementing substantial reductions in the agency's global capabilities, he resigned from its directorship in 1995. Woolsey's and other official's objectives were to improve intelligence systems' capabilities, especially intelligence surveillance and reconnaissance (IS&R), and prepare the CIA for the era of the information revolution. Certainly, since the advent of the Corona project, the CIA would never control U.S. scientific and technological intelligence capabilities,<sup>30</sup> despite Woolsey's desire to manage satellites and Unmanned Aerial Vehicles (UAV) for CIA missions.

In 1996, new DCIA, John Deutch, implemented a profound administrative reorganization within the CIA in order to improve its coordination and its performance. Under the management of Deputy Director of the DS&T, Ruth David, the CIA affirmed, according to Robert Ackerman that 'these emerging technologies offer the agency a plethora of new ways to collect, process and disseminate vital intelligence', promoting interoperability with its consumers in the executive real as well as in the military realm. As a result the boundaries between the different intelligence disciplines: Measurement and Signature Intelligence (MASINT); Communications Intelligence (COMINT); Electronic Intelligence (ELINT); Human Intelligence (HUMINT)—among others—will converge, but subject to the information systems integrationist imperative, will forfeit part of their identity.<sup>31</sup> David implied that the transformation of information technology means would be followed by an optimization of the necessary speed with which consumers receive relevant intelligence products. The proposition was not new; Peter Sharfman had previously identified the advantages to the IC derived from the electronic dissemination of intelligence analysis.<sup>32</sup> The problem that was discerned early on was how to assimilate the astonishing information volume with such collection and acquisition capabilities? This suggested intelligence collectors' professional capabilities would need to be centered on information technology infrastructures instruction (*software and hardware*). However, David also evidenced an information infrastructure management deficit possibility which would facilitate carrying out

<sup>28</sup> Since Eisenhower, the NRO is administered jointly by the CIA and the Pentagon. The CIA may have determined targeting, but since satellite funding rested within the Pentagon's budget it own exclusively this infrastructure, which ensured it would adjust targets according its particular objectives at any given time.

<sup>29</sup> see, e.g., suggestions made by former SSCI & HPSCI Chairmen: Van Boren, David L.: "The Intelligence Community: How Crucial?", *Foreign Affairs*, vol. 71, no. 3 (Summer, 1992), p. 58-62; McCurdy, Dave: "Glasnost for the CIA", *Foreign Affairs*, vol. 73, no. 1 (January/February 1994), p. 138.

<sup>30</sup> see, e.g., Treverton, *op. cit.*, pp. 73-80.

<sup>31</sup> Ackerman, Robert K.: "Vital Intelligence Technologies Converge on Information Systems", *Signal Magazine, Armed Forces Communications & Electronics Association* (April 1996), p. 35.

<sup>32</sup> Sharfman, Peter, "Intelligence Analysis in an Age of Electronic Dissemination", *Intelligence & National Security*, vol. 10, no. 4 (October 1995), pp. 201-211.



intelligence functions through the new revolutionary means; in other words, an obstacle promoting user-friendliness or ease of access and use of programs through computer and electronic terminals to their final point, where the all-source analyst would integrate the final intelligence product before it is preapproved for final *on-line* dissemination.<sup>33</sup> This process of perfecting analysis through the horizontal transmission of intelligence is defined as *vetting*. Yet, it is certainly true that the vetting approach does not correspond to the actual process, where intelligence integration has been promoted, but through entities such as the CIA Counterterrorist Center (CTC) or the National Counter-terrorism Center (NCTC)—under the direction of the Office of the DNI, where the NCIX was relocated and the National Counter-Proliferation Center (NCPC) later created—with representatives from all intelligence agencies. Even then, the dissemination of the final product also varies in terms of what kind of intelligence is being delivered to the consumer of such product: (a) current intelligence; (b) warning intelligence; or (c) estimative intelligence.<sup>34</sup> Consequently, even under the flow of the new information technology means, the IC continues to use the traditional intelligence transmission method or *stovepiping* across its different elements and disciplines, following an impossibility to eliminate organizational hierarchies.<sup>35</sup> Finally, the socio-economic liberalization of the 90s affected the ‘inherently governmental’ character of actors previously related to the intelligence cycle, displacing many officers and policymakers into the private sector, raising, hereafter, important moral question marks—over the public good—regarding their productivity and loyalty in the management of the public administration of the IC. Undoubtedly, the intelligence cycle scheme, its functionality and its application, deserves a study all to its own that does not correspond to this analysis. Nonetheless, it is noteworthy to mention Joseph Nye, Jr. also promoted the liberalization dynamic inspired by the IT revolution. Not only would it allow the U.S. to maintain its leadership, but also would expand its magnetism through its *soft power*, Nye believed. Yet, Nye also alerted over the challenge to categorize the power of information since it ‘cuts across all other military, economic, social, and political power resources, in some cases diminishing their strength, in others multiplying it’.<sup>36</sup> In order to support the IC integration of an increasing volume of information and in order to maintain decentralization and an appropriate balance of power between the different agencies, The National Imagery and Mapping Agency (NIMA) is created in 1996—later rebranded National Geospatial Agency (NGA) in 2003.

The economic liberalization promoted by ReGo favored the channeling and the development of IT from the intelligence and defense public sector to the private sector, which accepted it in great measure. In fact, in 1996 the Defense Science Board Task Force on Outsourcing and Privatization (DSB), composed preeminently of corporations from the national security realm, recommended in several studies conducted from 1996-1997 that the government outsources most of its competencies and eliminate the A-76 process. The A-76 process established a framework for managing contractual public/private adjudications. The DSB guaranteed to reduce national security public administration costs in the amount of \$10-\$30 Billion. The Business Executives for National Security (BENS) organization also firmly

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<sup>33</sup> Ackerman: “Vital Intelligence Technologies Converge on Information Systems”, *Signal Magazine, Armed Forces Communications & Electronics Association* (April 1996), p. 36.

<sup>34</sup> see, e.g., Hulnick, Arthur S.: “The Intelligence Producer-Consumer Linkage”, *Intelligence & National Security*, vol. 1, no. 2 (1986), p. 212-233; “What’s Wrong with the Intelligence Cycle”, *Intelligence & National Security*, vol. 21, no. 6 (2006), pp. 959-979.

<sup>35</sup> This impossibility affects the transmission of relevant intelligence due to corporate rivalries or other reasons; protection of information, its sources, et al.

<sup>36</sup> Nye, Jr., Joseph y Owens, William A.: “America’s Information Edge”, *Foreign Affairs*, vol. 75, no. 2 (March/April, 1996), pp. 22-23; *soft power* is the ability to achieve desired outcomes in international affairs through attraction rather than coercion.



supported the DSB recommendations. Yet, Ann Markussen contends that the DSB studies ‘offered inadequate evidence in support of claims for future savings from privatization ... Nor did these studies analyze the hurdles in contracting out large and complex operations, or why public/private competitions should be abandoned’.<sup>37</sup> Thus, the large defense corporations became privy to the lucrative national defense contractual market while they eyed the intelligence market as their next entrepreneurial target. But what arguments did the Pentagon put forth explaining its decision to abandon the A-76 contractual process in order to outsource its services? According to Ken Silverstein, who interviewed both DIA officials as well as those from the Department of State, the Clinton administration began outsourcing traditional armed forces’ competencies for two main reasons: (1) to provide the military and police training to U.S. foreign allies; and (2) to maintain support in its foreign military operations—including top-secret counternarcotics covert actions in Latin America, intelligence gathering and military assistance programs for U.S. clients. After obtaining a license to operate abroad, the Military and Education Training Program (METP)—which since 1997 provided military instruction to foreign allies—is displaced favoring the rise of private military contractors. The privatization of these services, Silverstein affirms, ‘allows the United States to pursue its geopolitical interests without deploying its own arm, this being especially useful in cases where training is provided to regimes with ghastly records on human rights’.<sup>38</sup> In other words, the government was legitimizing the private sector to use force, a decision that since the Peace of Westphalia in 1648 resided exclusively on the armed forces as an institution of the state, as argued by different analysis from Max Weber to Charles Tilly.<sup>39</sup> In the past, states did outsource the use of force, but always under their legitimacy. The new trend evades this consideration, generating evident moral and legal question marks, since private contractors are not subject to the same normative accountability requirements to which armed forces’ members or civilian officials are. Another explanation suggests that because the Clinton administration’s risk-averse foreign policy had significantly limited the capability of the CIA to project itself abroad—for different reasons—through covert actions (especially paramilitary), the outsourcing of these operations to private contractors resolved this deficit—and would presumably optimize results—since these competencies were not transferred to the Army’s Special Operations Command (SOC).

Since intelligence in support of the military had to encourage integration of information systems synergies and optimize military means, this new trend would also have its equivalent in the private sector, whence the rise of Private Military Firms (PMFs) that Peter Singer analyzed in *Corporate Warriors* took place. This argument explains how Military Professional Resources Inc. (MPRI) and DynCorp—among others—began operating in the Balkans, offering their services to the Croatian and the Bosnian armies, respectively.<sup>40</sup> Yet, not all PMFs share the same objectives or perform the same function. According to Singer, the PMF industry is divided in three different sectors: (1) Private Security Firms (PSFs)—‘which offer tactical military assistance including combat services’; (2) Military

<sup>37</sup> Markussen, Ann R.: “The Case Against Privatizing National Security”, *Governance: An International Journal of Policy, Administration, and Institutions*, vol. 16, no. 4 (October 2003), pp. 486-487.

<sup>38</sup> Silverstein, Ken: “Privatizing War: How affairs of state are privatized to corporations beyond public control”, *The Nation* (July 28, 1997), en <http://www.mtholyoke.edu/acad/intrel/silver.htm>.

<sup>39</sup> Gerth, Hans H. & Mills, C. Wright (1958): *From Max Weber: Essays in Sociology*, New York, Oxford University Press; Tilly, Charles (1990): *Coercion, Capital, and European States, Ad 990-1990*, *Studies in Social Discontinuity*, Cambridge, Mass., B. Blackwell; see, e.g., Bertani, Mauro & Fontana, Alessandro (eds.), (2003): *Society Must be Defended: Lectures at the College de France, Michel Foucault 1975-1976*, David Macey, trans, New York, Picador.

<sup>40</sup> Singer, Peter W. (2003): *Corporate Warriors: The Rise of the Privatized Military Industry*, Ithaca, NY, Cornell University Press, p. 5



Consulting Firms (MCFs)—‘which employ retired officers to provide strategic advice and military training’; and (3) Military Support Firms (MSFs)—‘which provide logistics, intelligence, and maintenance services to armed forces, allowing the latter’s soldiers to concentrate on combat and reducing their government’s need to recruit more troops or call up more reserves’.<sup>41</sup> The third sector arises as the most relevant in this analysis, since it influences not only the objectives but also the intelligence functions thorough both the military and civilian realms. The legal void created by the strategy to outsource and privatize would, as it will be further evidenced, tarnish U.S. foreign policy prestige. However, this possibility did not seem enough of a concern to the Clinton administration, where the Secretary of Defense concentrated so much power that soon, following the development of last generation IT, a new Revolution in Military Affairs (RMA) was suggested. This suggestion allowed to coin what would be branded soon after in journalistic jargon as the Rumsfeld Doctrine—future Secretary of Defense in the Bush administration—which according to some journalistic segments and military historians such as Anthony Cordesman, emphasized the use of light units with rapid decisive operational capabilities, supported by expedient intelligence, almost in *near-real-time*. Equally, these units would have to be able to connect to other military elements from the rest of the armed forces, thus emphasizing *jointness* and integration of information systems synergies in order to obtain *total battlespace awareness*. The development of these warlike activities became cataloged as *net-centric warfare*. One of the terms most common in this context evolved in its denomination from Command, Control, and Communications (C<sup>3</sup>I) to Command, Control, Communications and Computers Intelligence (C<sup>4</sup>I).<sup>42</sup> Some of these concepts were not new,<sup>43</sup> but the new intelligence capabilities produced by the integration of IT systems elevated them into a new dimension.

The revolution in IT systems also reached the civilian realm since the creation and commercialization of the InterNet encouraged by DARPA and later perfected by the private sector. The number of users increased from 4.4 million in 1991 to 665 million in 2003.<sup>44</sup> As a result of this evolution, Congress approved then the development of industrial surveillance ITs aiming to supervise the appropriate use of the new electronic communications outlet by passing the Communications Assistance for Law Enforcement Act (CALEA) in 1994. CALEA created a legal framework by which telecommunications companies were obliged to aid the government’s monitoring and surveillance requirements. The potential for industrial espionage—among other criminal possibilities—had increased, causing a surge within the private sector of companies—some with connections to retired Israeli intelligence officers—like Converse Technology or Narus. While Converse Technologies established in the 80s, Narus did so in 1997. The industry would experience a *boom* in the near future. Hence, following the end of the Cold War and the end of the Gulf War, many other companies that had provided scientific, technical and logistical support to national security long ago like Lockheed Martin—after its fusion with Martin Marietta; Boeing; McDonnell Douglas; Northrop Grumman; Booz Allen Hamilton (BAH); TRW, Inc.; Science Applications International Corp. (SAIC); General Dynamics; ManTech International Corp.; et al.,<sup>45</sup> became

<sup>41</sup> Singer, Peter W.: “Outsourcing War”, *Foreign Affairs* (March/April 2005), pp. 120-121; Peter: “Corporate Warriors...”, *op. cit.*, Ithaca, NY, Cornell University Press, pp. 91-100.

<sup>42</sup> see e.g., Cordesman, Anthony H. (2003): *The Iraq War’, Strategy, Tactics & Military Lessons*, Washington, D.C., Center for Strategic & International Studies Press, pp. 160-164; 219.

<sup>43</sup> The term RMA was coined by Soviet Marshal Nikolai Ogarkov in the 70s and 80s.

<sup>44</sup> see, e.g., Boot Max (2006): *War Made New: Technology, Warfare & the Course of History*, New York, Gotham Books, p. 311.

<sup>45</sup> Other important companies that now play an important role in the intelligence function include; *CACI International, Inc.*; *L-3 Communications*; *Essex Corp.*; *Abraxas*; *Scitor*; *Frost & Sullivan*; *QinetiQ*; *Oracle*



privity to lucrative governmental contracts in order to develop further ITs to improve civil and military intelligence capabilities and thus prepare the U.S. for the New World Order that President George Bush had enunciated at the dawn of the 90s and that President Clinton promoted through the expansion of democracy and free trade. The IT systems integrators, particularly BAH and SAIC, were those companies that best positioned themselves. BAH acquired the services of former NSA Director, Admiral Mike McConnell, in February of 1996 as Vice-president with a \$2 million salary,<sup>46</sup> while SAIC attracted first, Bobby Inman, another former NSA Director locating him in its board, and William B. Black, Jr., an NSA heavy weight, as Vice-president, later in 1997.<sup>47</sup> In time, other high ranking intelligence executives from the public sector, like Woolsey and Deutch would also wind up working for BAH and SAIC, respectively. British Aerospace (BAE) Systems employed former Deputy Director for Intelligence and Director of European Analysis at the CIA, John Gannon, as its Vice-president of Global Analysis, thus also tightening its bonds with the IC public sector.<sup>48</sup> Lockheed Martin, the most important private company in the world related to defense and intelligence matters, counts on a 52,000 strong workforce specialized in ITs holding security clearances; SAIC counts on one with 42,000 of which over 20,000 hold security clearances; and BAH, which counts with another one near 20,000 strong of which over 50% hold the highest level of access granted by the government *Top Secret Sensitive Compartmented Information* (TS/SCI).<sup>49</sup> Therefore, the liberalization of the IC in the U.S. was carried out in an orderly manner, despite the material and personnel reductions it was subjected to, in order to continue optimizing the integration of net-centric and IT information systems, replacing or eliminating those older or incompatible ones. Many other high ranking CIA, NSA and other agencies' officers, among the sixteen different intelligence agencies with the IC, remained to oversee the transformation it suffered, which experienced a spectacular acceleration from 2001 onward. With regard to the NSA, the HPSCI Report alerted in 2000 over the challenges facing the NSA with respect to its ability to develop fiber-optic cable connections and its capability conduct appropriate monitoring and surveillance of the internet. The Committee's report affirmed that

During the 1980's budget increases, NSA decided to build up its in-house government scientists and engineers and the Agency now seems to believe that in-house talent can address the rapidly evolving signals environment better than outsiders can. Budget problems and processes also contributed to the proliferation of small independent activities, and this evolution accentuated the traditional high degree of local program autonomy, with virtually no effort to integrate systems across the SIGINT architecture. The culture demanded compartmentation, valued hands-on technical work, and encouraged in-house prototyping. It placed little value on program management, contracting development work to industry, and the associated systems engineering skills.<sup>50</sup>

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*Corp.; Computer Sciences Corp.*; and in a more peripheral way regarding intelligence, though not less relevant: *IBM; Microsoft; Hewlett-Packard; Cisco Systems*; et al.

<sup>46</sup> Bamford, James (2008): *The Shadow Factory: the Ultra Secret NSA from 9/11 to the Eavesdropping on America*, New York, Doubleday, p. 197.

<sup>47</sup> *Ibid.*, p. 201.

<sup>48</sup> Shorrock, *op. cit.*, pp. 45; 135.

<sup>49</sup> see, e.g., *Ibid.*, pp. 12; 23; 44; see, Allen Hamilton, Booz <http://www.boozallen.com/about>; [http://www.boozallen.com/doingbusiness/contractvehicles/BPAs/diescon3/diescon3/why\\_booz\\_allen](http://www.boozallen.com/doingbusiness/contractvehicles/BPAs/diescon3/diescon3/why_booz_allen).

<sup>50</sup> HPSCI report: "Intelligence Authorization Act for FY 2001", *US House of Representatives 106th Congress* (May 16, 2000), pp. 15-16, in <http://intelligence.house.gov/media/pdfs/iaafy01.pdf> in James Bamford (2008), *The Shadow Factory: the Ultra Secret NSA from 9/11 to the Eavesdropping on America*, New York, Doubleday, p. 196; Currently, while Google; Yahoo!; AT&T; Verizon and AOL provide telecommunications services, the



As a result, and following an insufficient optimization of services considered essential for the successful performance of intelligence functions, the HPSCI report recommended seeking these skills in the private sector; in other words to contract out.<sup>51</sup> NSA Director (1999-2005), General Michael Hayden, also admitted the situation had to change. According to James Bamford, Hayden affirmed the solution with regard to the management deficit and empowerment of IT special skills had to be found in the private sector.<sup>52</sup> The HPSCI recommendations would be carried out in only seven years, having attracted the NSA up to 40% of its workforce by 2008.<sup>53</sup> Therefore, a significant number of outsourcing and privatization partisans of the public function of intelligence existed which had identified these management practices as a dynamic and flexible strategy to transform the administration of the IC, aligning it with the new socio-economic reality and with national security requirements. Consequently, IC management sought a decentralized model from which to attract competitive material and personnel with speed in order to optimize the relation between intelligence producers and consumers. The public sectors interests overlapped with the private sectors interests in the realm of intelligence.

#### **4. The Intelligence-Industrial Complex in the U.S.**

Although some commentators attribute the phenomenon of the neoliberalization of the intelligence sector to the rise of George W. Bush to the Presidency of the U.S., the historical record shows the event seems a mere coincidence. Instead, it is evident that the 9/11 terrorist attacks accelerated the evolution of the phenomenon, as well as its approach, with important implications for civil liberties and for the defense of the U.S., in the era of *hyperterrorism*. The 9/11 experience and the Iraq War marked new priorities in the direction the Bush administration's Preemptive Security Strategy (PSS) would follow, and especially its Terrorist Surveillance Program (TSP). Thus, the Intelligence and National Security Alliance (INSA)—formerly, the Security Affairs Support Association (SASA) created in 1980 as a nexus between intelligence and the industrial community—established a new process of investment, acquisition and expansion from the private sector.<sup>54</sup> INSA associates numerous and influential PMFs; members of the armed forces—as a whole; members of the IC; and companies responsible for the development and management of IT means. Together they form a large intelligence network at national and international levels—cutting across both civil and military realms—defining R&D direction as well as security concepts and strategies in terms of their particular commercial interests. In such manner, a wide market for the intelligence-industrial complex's new projects is born.<sup>55</sup>

Out of the three components that form the National Intelligence Budget (NIB)—(1) the National Foreign Intelligence Program (NFIP); (2) the Joint Intelligence Military Program (JIMP), administered by the Pentagon; and (3) the Tactical Intelligence & Related Activities

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undersea fiber-optic management rests with multinational companies such as *Global Crossing; Apollo and Flag Atlantic*.

<sup>51</sup> *Ibid.*, 16-17.

<sup>52</sup> Bamford, *op. cit.*, p. 196.

<sup>53</sup> *Ibid.*, p. 199.

<sup>54</sup> *Ibid.*, p. 201.

<sup>55</sup> the term *intelligence-industrial complex* originates from Shorrock, *op. cit.*; formation of *intelligence networks* is discussed by Gill, Peter: "Not Just Joining the Dots But Crossing the Borders and Bridging the Voids: Constructing Security Networks after 11 September 2001", *Policing & Society*, vol. 16, no. 1 (march 1, 2006), pp. 27-49.



(TIARA), administered by different agencies/bodies—the NFIP is that which receives most funding since it covers foreign intelligence as well as counterintelligence activities from which the private sector benefits handsomely—and presumably also delivers services essential for the IC. The NIB experienced a substantial increase following 9/11. Different analysis estimated in 2004 the NIB approached \$40 Billion, while in 2006 others pinned it to \$50-\$66 Billion, suggesting its evolution represents approximately 10% of the Defense Department’s global budget, which then reached almost \$670 Billion.<sup>56</sup> These calculations point to the existence of a broad market where the interests of the public sector and the private sector converge in the realms of both civil and military intelligence.

In the domestic security realm, Congress approved the highly controversial USA Patriot Act, conceptualized by the Bush administration, which altered FISA regulations significantly. Traditionally, FISA regulations had an eminently preventive—non prosecutorial—character, used exclusively to gain foreign intelligence, including counterespionage and counterterrorism information (even when U.S. citizens could be implicated). Yet, the once flexible language within FISA appeared ambiguous now at best, due to the overlapping of legal concepts between domestic security and foreign security the 9/11 events evidenced. The FBI used the legal flexibility traditionally within FISA to obtain prosecutorial and thus incriminating information. Here, however, its objectives collided straight into the Fourth Amendment, under which searches and seizures, including wiretaps—upon individuals or entities and their property—may be warranted only once probable cause is established. The FISA Court—competent in national security investigations—ought to determine probable cause’s reasonableness in order to authorize the FBI to conduct an investigation. This controversy splashed the NSA and the FBI all over the headlines after the *New York Times* revealed in 2005 both agencies had been not only cooperating but also colluding in the systematic violation of the Fourth Amendment, failing to provide the necessary reasonable evidence demonstrating probable cause to obtain legal authorization from the FISA Court to intercept suspected terrorists’ communications. The critique raised against the Bush administration centered on the fact that whilst it could have formalized such request to the FISA Court, it deliberately chose not to—which suggest the corruption of the process. Both the FBI and the NSA had been intercepting foreign communications from U.S. citizens, and in a host of cases it was demonstrated these had no connections with terrorism. The meddling of the NSA—a military intelligence agency—in the domestic security realm, an environment not covered by its mission, was a showy affair. Subjects’ investigations included access to financial reports and reading habits of potential ‘terrorist suspects’ without previously certifying their nationality, an element once determinant when obtaining a FISA warrant. Notwithstanding, the FISA Court of Appeals ruled in August 2008 that the Bush administration could, in fact, intercept such communications, liberating intelligence and security agencies from the formality of requesting a warrant from the court first.<sup>57</sup> According to Richard Posner, this occurred because FISA ‘retains value as a framework for monitoring the communications of known terrorists, but it is hopeless as a framework for detecting

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<sup>56</sup> see, e.g., “The US Intelligence Budget: A Basic Overview”, *Congressional Service Research Report* (September 24, 2004), p. 3. Source: FAS, in <http://www.fas.org/irp/crs/RS21945.pdf>; Tim Shorrock et al. estimates in Shorrock, *op. cit.*, pp. 17-22, 392; Bamford, *op. cit.*, p. 199.

<sup>57</sup> “Bush lets U.S. spy on callers without courts”, *The New York Times*, December 16, 2005, <http://www.nytimes.com/2005/12/16/politics/16program.html>; ‘Court affirms wiretapping without warrants’, *New York Times*, January 15, 2009, in <http://www.nytimes.com/2009/01/16/washington/16fisa.html>; \*Under FISA, FBI eavesdropping on an foreign citizen is allowed for up to one year. Yet, if an American citizen is involved a warrant from FISA is required within 72/h. since the eavesdropping initiated.





terrorists'.<sup>58</sup> FISA, in fact, had to be adapted to the new reality, where the overlapping of domestic and foreign security took place in order to remain a useful legal national security tool. In this regard, the Bush administration issued appropriate suggestions as the FISA Court of Appeals' final ruling concluded.

In an attempt to limit these actions' impact upon a citizen, the law did require that, except in particular cases, a subject under investigation could be notified about such investigation. For many U.S. citizens this instance is clearly unsatisfactory, since those well informed were already aware of the existence of the Carnivore software program, renamed DSC-1000 (and subsequent series), operated by the Research Engineering Facility (REF) at the FBI. The FBI as well as the private sector, experienced a surge and, anchored on CALEA as a legal support, adopted an extremely intrusive approach, which in many instances violated the Fourth Amendment, since the reasonableness underpinning many prosecutions seemed dubious.<sup>59</sup> The private sector took copious notes on how events developed, and knowing that the Privacy Act of 1974 does not establish limits on unreasonable searches or seizures, including wiretaps, conducted by the private sector, anticipated the government's national security requirements under the Terrorism Surveillance Program, investing significantly in surveillance technologies. Thus, AT&T contracted Narus' services while Verizon matched its needs with Verint Systems, Inc. (a Converse Technology subsidiary), whose Presidency was held by the former FBI Director of Industrial and Telecommunications Relations. Narus, Verint, as well as other companies' software programs, sift through internet traffic filtering throughout sites where they consider their interests may lie, while Carnivore's successors deploy once the target has been identified or minimized in scope into individual Internet Service Providers (ISP).<sup>60</sup> As a result, Bamford affirms, '... by 2004, a large percentage of America's—and the world's—voice and data communications were passing through wiretaps built, installed, and maintained by a small, secretive Israeli company run by former Israeli military and intelligence officers'. Verint's surveillance IT applications and equipment are so advance they match that at the NSA, with the capability to intercept communications (data and voice) from hundreds of countries around the world from the distance of its own headquarters.<sup>61</sup> In this manner, qualified by the private sector under the shelter of the Privacy Act, any government agency could satisfy its requirement with regard to any citizen, effectively limiting any legal questions marks.

Prior to the development of surveillance technologies in the domestic realm and centered in the foreign security realm, the Echelon project—operated by the NSA within the UKUSA (U.K.; U.S.; Canada; Australia; New Zealand) Anglo-Saxon association, had traditionally been very much debated within the security and defense literature in the intelligence framework. Carnivore as well as Echelon intercept electronic communications via the internet and also phone communications in Echelon's case. However, considering that currently 80%-90% of communications traffic occurs undersea, Echelon needed to adjust its capabilities to the new reality,<sup>62</sup> since its traditional function had been to intercept foreign

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<sup>58</sup> Posner, Richard, "A New Surveillance Act", *Wall Street Journal*, February 15, 2006, in <http://online.wsj.com/article/SB113996743590074183-search.html>.

<sup>59</sup> see, e.g., Stanley, Jan & Steindhard, Barry (2003): "Bigger Monster, Weaker Chains", *American Civil Liberties Union Technology & Liberty Program*; Schulhofer, Stephen J.: "No Checks, No Balances: Discarding the Bedrock of Constitutional Principals" en B. Darmer, M. Katherine; Baird, Robert M. & Rosenbaum, Stuart E. (eds.) (2004): *Civil Liberties vs. National Security in a Post-9/11 World*, New York, Prometheus Books, pp. 53-79; y pp. 89-103.

<sup>60</sup> Bamford, *op. cit.*, pp. 236-237.

<sup>61</sup> *Ibid.*, pp. 241-242.

<sup>62</sup> *Ibid.*, p. 212.



intelligence communications throughout outer space. While Echelon's functionality is framed within the foreign security realm, Carnivore's is located in the domestic security realm, though the increasing internationalization of FBI functions as well as the challenge to determine the national origin of COMINT, ELINT and SIGINT, dilute this dynamic, complicating, simultaneously, legal definitions as evidenced by the 2005-2008 eavesdropping controversy. Undoubtedly, and paradigmatically, while the FBI intercepted communications with technology provided by Verint, high ranking Verint executives and also those from its parent company, Comverse Technology, engaged—thanks to their top secret access—in a conspiracy of 'theft, bribery, money laundering, and other crimes' from which its President, Kobe Alexander produced \$138 million.<sup>63</sup> It is worrisome the evident fracture in the balance between the oversight for the use of this technology in within the civil realm under the justification it is an imperative in support of the 'War on Terror'. Thus, the new surveillance technologies the government possessed, over which the private sector had provided a significant contribution, crashed against the existing legal framework, always evolving at a slower pace than the changes occurring in the society over which it governs.

The rise of Donald Rumsfeld to the helm of the Defense Department implied a turn to neoconservatism and the beginning of a specific agenda for the Pentagon,<sup>64</sup> in particular, to the DIA and for the Defense Advanced Research Projects Agency (DARPA),<sup>65</sup> both under his control. Rumsfeld considered the intelligence provided to the IC by the CIA to be deficient and thus moved decisively to terminate with such dependency. Undoubtedly, the Pentagon has never depended upon intelligence provided by the CIA, though responsible for producing civil as well as military intelligence, the agency becomes, therefore, a competitor to the DIA. DARPA acquired retired Rear Admiral John Poindexter's services as Director in a Project aimed to find utility to Poindexter's Total Information Awareness (TIA) program—with the capability to intercept absolutely 'any data' that could point to the development of a terrorist threat. Rumsfeld transferred management of TIA to BHA. Yet, following its exposure after only one year of R&D, TIA was struck down by Congress immediately, though this obstacle did not prevent SAIC and BAH from obtaining millions from their management's contract, having obtained BAH up to \$63. The idea of involving military intelligence in the civil realm enraged a significant segment of the political establishment; more so considering Poindexter's discredit, since during his tenure as President Reagan's National Security Advisor was incriminated under multiple charges following the Iran-Contra scandal.<sup>66</sup> The uneasy political climate's heat increased following the FBI and NSA eavesdropping controversy, despite the FISA Court of Appeals' final ruling on the subject three year later ending the legal dispute. Yet, it was the Abu Ghraib prison images of suspected Iraqi terrorists being tortured, while under the U.S. military's responsibility in 2004 that evidenced the neoliberalization of the intelligence-industrial complex was out-of-control. At such time, *Premier Technology Group*, recently acquired by giant *CACI International, Inc.*, deployed two former military interrogation specialists to identify and eliminate the leaders of the insurgency facing the U.S. military. An incongruence since CACI landed at Abu Ghraib under a contract to integrate IT. *Titan Corp.* (now Titan/ L-3 after being acquired by L-3 Communications) also deployed an interpreter who, in addition, lacked a necessary TS/CSI. Together, the contractors integrated into the 205<sup>th</sup> Military Intelligence Brigade (MIB) responsible for leading interrogations at Abu Ghraib representing the IC. Under the authority of the MIB, CACI inquisitors imposed,

<sup>63</sup> *Ibid.*, p. 247.

<sup>64</sup> In 1998, Rumsfeld and other U.S. IC leaders affiliated to the neoconservative *Project for the New American Century* (PNAC) forwarded President Clinton ea letter advising a preemptive strike against Iraq.

<sup>65</sup> DARPA was the old ARPA, having acquired the 'D' in 1996.

<sup>66</sup> Shorrock, *op. cit.*, pp. 52-53; the Iran-Contra scandal implied overbilling Iran for arms sales and channeling excess balances to finance the Nicaraguan Contra in Nicaragua.



according to Seymour Hersh, who unearthed what occurred, brutal torture practices—beyond the human limit—even when reputed experts have argued conclusively these methods do not—generally—produce satisfactory information.<sup>67</sup> On occasions, these contractors instructed and directed members of the 372<sup>nd</sup> Military Police (MP) Company responsible for the prisons management on the use of these practices. Shielded under the Bush administration's tacit authorization for the use of torture techniques to obtain intelligence, the men from CACI felt omnipotent versus the poorly trained and instructed men and women from the MP, modeling their conduct based on torture techniques previously applied in both Guantanamo Bay prison in Cuba and that in Bagram in Afghanistan. The contractors ordered the MP to prepare the 'necessary conditions' to break the prisoners psychologically, effectively of subrogating the MP to their requirements. The immediate result of this vertical chain of command from the contractors over the MP ended dehumanizing not only the prisoners, but also the MP itself. The techniques employed contravened both the Military Extraterritorial Judicial Act (MEJA)—which governs prosecutions of civilian and contractor personnel under the Department of Defense—as well as the Geneva Convention on the Treatment of Prisoners of War (GCTPW). Thus, contractors became the Bush administration's national security objectives' executor. Following Hersh's revelations, the Army conducted three independent investigations of which two received greater acknowledgement; the Taguba and Fay reports. The internal report by General Taguba in 2004 and his interview after retiring in 2007 validated Hersh's investigations.<sup>68</sup> The General affirmed that '[s]oldiers are trained people ... [b]ut when their leaders fail to supervise them, [civilian] authorities who are not subject to the Uniform Code of Military Justice or any other laws, may take it upon themselves to exploit the situation'.<sup>69</sup> The General received no praise from his former Secretary of Defense, more questioned than ever before considering America's reputation was tarnished. General George Fay's report substantiated and provided consistency to Taguba's report. Yet, recommendations issued by the reports, particularly, the Taguba report, over high ranking officers' criminal responsibilities over the scandalous affair were disregarded by the Pentagon, which in addition did not prevent CACI from becoming the beneficiary to millionaire contracts, including that to provide IT engineering support to build the Army's Intelligence School for \$156 million in 2006. An independent civil case, however did take both companies to court. While Titan/L-3 was exempted from criminal prosecution free of criminal charges, the legal road in court for CACI would continue. In 2005, however, titan/L-3 pled guilty to corruption charges under the Foreign Corrupt Practices Act de 1977 following the revelation of evidence indicating it had illegally financed President Mathieu Kerekuo's reelection campaign with \$2 million.<sup>70</sup>

Under the Bush administration and Secretary of Defense Rumsfeld's leadership, IC budgets increased benefiting the private sector lucratively. In fact, according to Bamford,

<sup>67</sup> Dershowitz, Alan M. (2002): "Should the Ticking Bomb Terrorist Be Tortured?" en *Why Terrorism Works: Understanding the Threat, Responding to the Challenge*, New Haven, Yale University Press; also in M. Katherine B. Darmer, Robert M. Baird y Stuart E. Rosenbaum (eds.), *Civil Liberties vs. National Security in a Post-9/11 World* (New York: Prometheus Books, 2004), pp.189-214

<sup>68</sup> "Torture at Abu Ghraib", *The New Yorker*, May 10, 2004, en

[http://www.newyorker.com/archive/2004/05/10/040510fa\\_fact](http://www.newyorker.com/archive/2004/05/10/040510fa_fact) ; "The Struggle for Iraq: Civilian Employees; Contractors in Sensitive Roles, Unchecked", *The New York Times*, May 7, 2004, en

<http://www.nytimes.com/2004/05/07/world/struggle-for-iraq-civilian-employees-contractors-sensitive-roles-unchecked.html> ; Gibney, Alex, "Taxi to the Dark Side", *ThinkFilm* April 17, 2007, in

<http://video.google.com/videoplay?docid=-2987535946644608661> ; Hersh, Seymour , *Chain of Command: The Road from 9/11 to Abu Ghraib*, New York, Harper Collins; Shorrock *op. cit.*, pp. 2-6.

<sup>69</sup> General Antonio Taguba quoted in 'General says Abu Ghraib scandal will resonate 'for years to come', *UC Berkeley News*, February 13, 2008, in [http://berkeley.edu/news/berkeleyan/2008/02/13\\_taguba.shtml](http://berkeley.edu/news/berkeleyan/2008/02/13_taguba.shtml) .

<sup>70</sup> "Titan Agrees to Pay Record Settlement", *CorpWatch*, May 2, 2005.



by 2007, excluding the military, the intelligence community's budget was 43.5 billion, about a third larger than during the pre-9/11 years. Adding in the military and tactical intelligence budgets brought the total to about \$60 billion ... [Of these]—about \$42 billion, an enormous 70 percent—was going to contractors ... In October 2001, the NSA had 55 contracts let out to 144 contractors. But by October 2005, the agency had 7,197 contracts and 4,388 active contractors.<sup>71</sup>

In 2007, however, military intelligence's proximity to the civilian realm veered its course under the direction of incoming Secretary of Defense, Robert Gates. Despite this new direction, another scandal in Iraq rocked confidence in the U.S. conduct of counterinsurgency operations. This time, *Blackwater Worldwide* contractors opened fire killing 14 Iraqi civilians, thereby reviving criticism over the use of contractor personnel employed by the U.S. government. Particularly because, as Pilar Pozo evidenced, the MEJA governs over the conduct of civilian and contractor personnel employed by the Department of Defense, but *not* over that under other government departments' or agencies'.<sup>72</sup> Therefore, a legal void that had not been properly supervised or managed existed. Several military officers attributed this deficit to the Pentagon's downsizing policies, which according to David Isemberg from the reputed British-American Security Information Council (BASIC), '... came as part of longtime Pentagon plans to trim its personnel levels while expanding spending on tech and weapons systems ...'.<sup>73</sup>

Undoubtedly, the intelligence-industrial complex had consolidated its influence within the national security sector in the U.S. during the neoliberalization phase. It experienced a boom following 9/11 and arose as the largest single military-related contingent after the U.S. military itself during the Iraq War.<sup>74</sup> Without the interest and the will between the public and private intelligence and defense sectors, increasingly more tediously distinguished, this consolidation would have never come to fruition. Certainly, for the development of high-end technology, this nexus is necessary and generally productive, yet the professional duality; that of simultaneously holding private sector posts while carrying out public functions, under poor oversight and management, created a pernicious dynamic at the heart of the IC for two main reasons: (1) following the pursuit of selfish interests as opposed to national interests by some officers; and (2) following excessive confidence in the ability of IT to prevent another surprise attack. For this reason, the next section addresses these questions.

## 5. Productivity vs. Loyalty?

Indian literature Nobel laureate, Rabindranath Tagore, affirmed that '... whatever we treasure for ourselves separates us from others; our possessions are our limitations'.<sup>75</sup>

During the 1990s, on Hayden's watch, there were few targets as important as the Yemen ops [operations] center. It was known to be connected to both the African

<sup>71</sup> Bamford, *op. cit.*, p. 199.

<sup>72</sup> Pozo, Pilar, "El Departamento de Justicia de Estados Unidos presenta cargos contra empleados de Blackwater: un incierto paso contra la impunidad", *Athena Intelligence Journal*, Assessment No. 14 (December 11, 2008), in <http://www.athenaintelligence.org/a142008.pdf>.

<sup>73</sup> "Private Contractors & Torture at Abu Ghraib", *CorpWatch*, May 7, 2004, in <http://www.corpwatch.org/article.php?id=10828>.

<sup>74</sup> "The Privatization of War", *The Guardian*, December 10, 2003, in <http://www.guardian.co.uk/world/2003/dec/10/politics.iraq>.

<sup>75</sup> Tagore, Rabindranath (1913): *Sadhana: the Realization of Life*, London, UK: The Macmillan Company, p. 16.



embassy bombings and the [destructor] USS Cole attacks as well as serving as bin Laden's communications hub—with hundreds of calls to him and from him. Yet for nearly a year the agency intercepted phone calls between the house in Yemen and the suspected terrorists in Sand Diego without ever discovering their city code or even country code. With an annual pre-9/11 budget of more than \$4 billion a year, and a constellation of satellites and listening posts around the world, obtaining metadata should've been well within the agency's capabilities.<sup>76</sup>

Certainly, the IC with the NSA at the helm, suffered from an inassimilable quantity of information—an information glut—which reflected an almost chronic incapacity to translate into actionable intelligence the vast volume of collected information. The increasing multipolarization in the international security realm directed the IC into the imperative operational need to seek support to assimilate such quantity of information. During the Cold War, since the Soviet threat presented the only single, direct and real menace, the analysis of possible threats was different. Paradoxically, while the IC budgets decreased, the targets that could present a threat to U.S. national security increased. The response to optimize the available budget's reductions was found in the private sector, whose ranks swelled increasingly with former national security public servants. This trend had the effect of discouraging the strengthening of strategic intelligence—and in particular HUMINT—favoring scientific and technical intelligence for perceived collection needs. This hypothesis is surprising, especially because since 1997 the HPSCI voiced its concern in this regard calling for the immediate strengthening of strategic intelligence to bridge this deficit. The historical record demonstrates this deficiency was not covered, and the excessive concentration in the IC race to assimilate new requirements as well as transformational practices to provide current intelligence to its consumers eclipsed the always necessary and vital function of intelligence to produce quality strategic intelligence estimates; in particular those analyses anchored on long-term predictions and estimates.<sup>77</sup> Intelligence's technological capabilities are important, but as the HPSCI argued in what would seem a premonition, '[e]xpending resources to collect intelligence that is not being analyzed [or is analyzed inadequately] is simply a waste of money' that reflects negatively over national security.<sup>78</sup> For this reason, it is not surprising that former CIA veteran, Melvin Goodman, with over three decades of service, now with the Center for International Policy, suggests that the nexus with the private sector is important to develop scientific and technical intelligence, as occurred in the past, but it does not justify the instruction of analysts or the suitability of their analyses.<sup>79</sup>

As a result of the uneasy political environment caused by the surveillance and eavesdropping scandals implicating civil intelligence agencies as well as military intelligence agencies, a self-examination debate kicked in with regard to the excessive access and questionable loyalties from intelligence officials belonging to the private sector that had previously held public national security functions. The productivity of the neoliberalization of the intelligence-industrial complex began to be questioned, manifesting the imperative to establish limits that guaranteed a greater balance between those functions performed by the private sector from those performed by the public sector within the IC's administrative

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<sup>76</sup> Bamford, *op. cit.*, p. 203.

<sup>77</sup> HPSCI report "Intelligence Authorization Act for FY 1998", *US House of Representatives 105<sup>th</sup> Congress*, June 18, 1997, pp. 13-19, in <http://intelligence.house.gov/media/pdfs/iaafy98.pdf>; a previous study by this same author analyzes this problematic; see, Celaya, Fernando: "To what extent was Western intelligence at fault in failing to identify the nature of the terrorist threat before 9/11 and its aftermath?", *Athena Intelligence Journal*, vol. 4, no. 1 (January-March 2009), <http://www.athenaintelligence.org/aij-vol4-a6.pdf>.

<sup>78</sup> *Ibid.*, p. 16.

<sup>79</sup> Melvin Goodman quoted in interview with Tim Shorrock (April, 2007) in Shorrock, *op. cit.*, p. 119.



framework. Apparently driven by the national interest, some officials offer their loyalties to the state as well as to corporate interests that pay lucrative salaries. Yet the wild neoliberalization in the intelligence sector naturally creates an unavoidable double morality in officials' minds that impedes their effective productivity for the defense of national interests—a good considered to be public. The negative blowback that occurred when public-private contractors bagged thousands of dollars following their possession of stock in In-Q-Tel, created and financed by the CIA since 1998 illustrates this debate.<sup>80</sup> A scandal that indicates, however, that public administration's oversight and management is not totally ineffective developed in 2005, when it was probed that USAF Acquisitions Official, Darleen Druyun, who managed a \$30 Billion budget, had issued preferential contractual concessions to Boeing following a pledge from this company's Chief Financial Officer to ensure future employment.<sup>81</sup> In yet another corruption incident *Kellogg, Brown & Root* (KBR), a *Halliburton* subsidiary, overbilled the U.S. government in the amount of \$1 Billion for its services. Although some of these events are not directly related to the traditional function attributed to intelligence, they are relevant to this analysis since they demonstrate the private sector's influence over the public sector with respect to national security matters, and the public administration of the IC's difficulty to follow-through with meaningful and proper oversights and inspections due to the IC's inherent secretive character. Notwithstanding, no other event has caused more critique than the 2007 finding probing that 70% of the NIB was invested in contracts with the private sector.<sup>82</sup>

This dynamic between the public-private—between the civil-military—leads to question the evident: Where do private sector managers and intelligence official's loyalties lie? National defense's interests wind up being subrogated to the law of supply and demand, which unequivocally creates a serious imbalance in the instruction, maintenance and control of first rate intelligence officials to perform national defense with confidence and prevent, to the extent possible, surprise attacks threatening U.S. security and national integrity. The fact that the CIA only produced 25 intelligence officials in 1995 and former DCIA, George Tenet's testimony affirming in 1997 that '[t]he infrastructure to recruit, train and sustain officers for our clandestine services—the nation's human intelligence capability—was in disarray', illustrates the competent brain-drain from the public sector to the private sector. If this data was eye-popping, the general data was dismaying since '[b]etween 1992 and 1998, 40 percent of newly hired analyst resigned within less than five years in service'.<sup>83</sup> Thus, after a second thought, it should not come as a surprise that between 2000 and September 2001, the CTC at the CIA could only assign five analysts to its al-Qaida unit. Yet this reference does come as a surprise considering that the CIA had declared 'war' against the organization headed by Usama bin Landen.<sup>84</sup> This evidence favored an enormous surge activity on behalf of the CIA—and the rest of the IC—which increased exponentially following the 9/11 terrorist attacks. Yet the instruction of new recruits takes time, time which the CIA and the rest of the IC lacked. IC managers' priorities and requirement lied elsewhere in other projects; those associated with an inherent IT character. In an unprecedented demonstration in 2004 that honors the oversight intelligence institutions they represent, the Chairman of the HPSCI, first, as well as a former Chairman of the SSCI, later, assumed publicly their responsibility for

<sup>80</sup> Shorrock, *op. cit.*, pp. 144-153; The CIA and the NGIA promoted the financing of the Earth View program (*Keyhole, Inc.*) through *In-Q-Tel*. Later *Google* would buy *In-Q-Tel*'s stock in *Keyhole, Inc.*, creating *Google Earth*.

<sup>81</sup> 'Former Boeing CFO might face prison in procurement scandal', *Executive Government* (February 18, 2005)

<sup>82</sup> Shorrock, *op. cit.*, pp. 15-16.

<sup>83</sup> Mahle, Melissa Boyle (2004): *Denial & Deception: an Insider's View of the CIA From Iran-Contra to 9/11*, New York, National Books, pp. 221.

<sup>84</sup> *Ibid.*, p. 322.



failing to effect proper institutional oversight as evidenced by a poor concern with regard to the rise of the threat from Islamist terrorism and an excessive concern over budgetary obstacles.<sup>85</sup> It was suggested in such manner that the strengthening of strategic intelligence had been undercut by those interests promoting emerging ITs, which did receive more budgetary attention; this suggestion conforms to this author's opinion. Following 9/11, the neoliberalizing dynamic stimulated a necessary expansion of resources, though it occurred in a frenzied, unfocused and pernicious manner within the IC. John Gannon himself, now with BAE Systems, concluded in 2006 before the Senate Judiciary Committee that 'the 'core problem ... is that there is minimal executive branch supervision ... and inadequate congressional oversight'. Surprisingly Gannon delved even further, admitting that the neoliberalization of the sector is a corrosive force, since much abuse exists.<sup>86</sup> As a result, General Hayden, who had moved from the direction of the NSA to the helm at the CIA in 2006, ordered to prepare immediately an evaluative report analyzing the private sector's contribution at the CIA. According to Hayden, the report demonstrated that,

[there] is a clear recognition of the vital role contractors play in supporting our mission. They serve alongside staff officers on the front lines of the war on terrorism and in other critical assignments. We do not simply appreciate their skill and expertise—we rely on it .... But we also recognize that CIA has not efficiently managed our contractor workforce, which grew out of staff hiring freezes in the 1990s and our greatly expanded ops tempo after 9/11. We must now begin to address these inefficiencies and ensure that our Agency has the proper mix of staff and contractors to meet current and future challenges.<sup>87</sup>

The report also identified areas with special sensitivity thus subject to exclusive public officer competency and concluded at the end of 2008 that the contractor force would be reduced in 10%.<sup>88</sup>

Considering, according to Shorrock, that '[s]ome analysts believe that the number of contractors in these divisions exceeds 70 percent of the workforce—about par for the Intelligence Community, as we know now from the ODNI's own figures',<sup>89</sup> General Hayden's contractor reductions are clearly insufficient. Thus, future public administration officials responsible for managing the IC ought to tend with urgency the dynamic that creates a brain drain from the national security public sector into the private sector.

The intelligence failure that occurred on 9/11 and the impossibility to demonstrate Iraq possessed Weapons of Mass Destruction (WMD) caused the creation of investigative commissions. Following the 9/11 and the Iraq WMD Commissions' conclusions, the Bush administration adopted a measure that had been suggested over a decade ago; the creation of the figure of the Director of National Intelligence (DNI) aiming to coordinate the IC. Yet although the measure was adopted in 2004, John Negroponte was not nominated as first DNI until 2005. Nonetheless, the DNI has not received the budgetary authorization—among

<sup>85</sup> see, e.g., 'Congressional Oversight of Intelligence Criticized', *The Washington Post*, April 27, 2004, in <http://www.washingtonpost.com/ac2/wp-dyn/A44837-2004Apr26?language=printer>.

<sup>86</sup> Dr. John Gannon, Vicepresident of BAE Systems Information Technology cited in 'FBI Oversight', testimony before the U.S. Senate Committee on the Judiciary (May 2, 2006) en Shorrock, *op. cit.*, p. 136.

<sup>87</sup> General Michael Hayden quoted in "Statement to employees by Director of the Central Intelligence Agency on Contractor Study", *CIA press release*, May 30, 2007, <https://www.cia.gov/news-information/press-releases-statements/press-release-archive-2007/statement-on-contractor-study.html>.

<sup>88</sup> *Ibid.*

<sup>89</sup> Shorrock, *op. cit.*, p. 121; cf: Hillhouse, J.R., "The Achilles Heel of the US War Effort", October 4, 2007, in [http://www.thespywhobilledme.com/the\\_spy\\_who\\_billed\\_me/2007/10/the-achilles-he.html](http://www.thespywhobilledme.com/the_spy_who_billed_me/2007/10/the-achilles-he.html).



others—required to undertake an effective and responsible mandate.<sup>90</sup> Therefore, considering the aforementioned criticism directed at the management of the public administration of the IC, caused by the neoliberalization of intelligence, the Democratic Party, having obtained a majority in the House of Representatives at the close of 2007, led a draft bill for the Intelligence Authorization Act (IAA) for FY 2008. This would be conducted by both intelligence committees from Congress. The IAA 2008 would guarantee, among other things, improvements in the oversight, management and inspection of the IC with regard to private sector contractors. Once approved by the Senate, the IAA 2008 instructed new DNI, Michael McConnell (former BAH Vice-president), to submit an annual report to both the HPSCI and the SSCI which included: (1) an assessment of which activities ought to be considered not appropriate to be performed by contractors, and as a result out of their reach; (2) regulation mechanisms evaluating contractor's performance in their contractual relations across the IC agencies; (3) a list of all companies currently under contract with the IC that: (a) have been audited by an inspector general the previous year; (b) are under investigation by an auditor during the present year; or (c) will be subject to criminal prosecution, fraud, failure to perform under contract, waste public funds, or other activities that impede competent service; (4) areas where contractors perform functions singularly similar to those performed by public officials, a statistical analysis and a salary comparison; and (5) an analysis over public infrastructure value and support granted to contractors.<sup>91</sup> In its final version, the Senate excluded, according to Shorrock, a provision that would have significantly improved transparency over the private sector's activities within the IC; '[t]he provision would have required the DNI to estimate the numbers of contractors working in the most sensitive areas of intelligence, including collection and analysis; covert action; interrogation of enemy prisoners; the detention and transportation of prisoners; and the conduct of electronic or physical surveillance or monitoring of United States citizens in the United States'.<sup>92</sup> These requests were justified following the absence of data considered necessary to perform essential oversight and inspection duties over IC management as evidenced by a survey conducted on this subject as well as the proper supervision of the adequacy of private sector relations with the NSA regarding domestic espionage. Considering that even highly sensitive counterintelligence functions were being outsourced to perform surveillance on IC's own officials, these requests seemed understandable. Otherwise, how could proper oversight be conducted and who could perform adequately such oversight without essential transparency over the guardians' spies? The HPSCI report's section 411—accountability control standards in intelligence contracting—centered the committee's concern on the fact that the IC 'does not have a clear definition of what functions are "inherently governmental" and, as a result, whether there are contractors performing inherently governmental functions' that may conflict with the public interest.<sup>93</sup> Hence the IC ought to establish appropriate parameters governing its relation with the private sector acknowledging that the collection and production of intelligence, despite being an inherently governmental function, should not be exclusive in every circumstance.<sup>94</sup> Yet the dilemma presented by the privatization of the public function of intelligence is more

<sup>90</sup> see, e.g., Posner, Richard (2006): *Uncertain Shield: the U.S. Intelligence in the Throes of Reform*, Maryland: Rowman & Littlefield, analyzing the limits of the DNI's influence within the IC.

<sup>91</sup> HPSCI report, 'Intelligence Authorization Act for FY 2008', *US House of Representatives 110<sup>th</sup> Congress*, May 7, 2007, pp. 9-10, en <http://intelligence.house.gov/Media/PDFS/IAAFY08.pdf>; cf. Shorrock, *op. cit.*, p. 366-369.

<sup>92</sup> Shorrock, *op. cit.*, p. 367-368.

<sup>93</sup> HPSCI report, 'Intelligence Authorization Act for FY 2008', *US House of Representatives 110<sup>th</sup> Congress* (May 7, 2007), p. 42, in <http://intelligence.house.gov/Media/PDFS/IAAFY08.pdf> in Shorrock, *op. cit.*, p. 368.

<sup>94</sup> "Privatizing While Transforming", *Defense Horizons, Centre for Technology & National Security Policy, National Defense University*, no. 57 (July, 2007), p. 6, in [http://www.ndu.edu/CTNSP/defense\\_horizons/DH57.pdf](http://www.ndu.edu/CTNSP/defense_horizons/DH57.pdf).





profound than its own definition, since such practice may potentially create a separation of powers constitutional conflict—between the executive and the legislative branches—with significant implications to accountability since: (1) the more this practice expands, the greater the difficulty to execute proper oversight over the Executive Office with regard to public monies; and (2) since the attainment of military objectives through the private sector suggests the existence of an opaque foreign policy mechanism that generates serious concerns among U.S. citizens and allies of the U.S..<sup>95</sup> At least, the HPSCI finally found the key pieces to perform adequately its oversight and inspection mandate; and although the SSCI eliminated an important provision, the partisan cooperation that was so seriously damaged following (1) the 9/11 terrorist surprise attacks; (2) during the evaluation process of the evidence leading Congress to authorize the use of force on Iraq; and thereafter (3) following a failure to find WMD, was revived. This effort, however, did not prevent President Bush from blocking the IAA 2008, after which it finally lost its support in Congress. Yet after this setback, IC public administration officials clearly began to pay greater attention to outsourcing and privatization's effects. Thus, the SSCI estimated the average annual cost attributed to an IC public official when compared to a contractor, concluding that a public official's cost stands at \$126,500, while that of a contractor stands at \$250,000. Considering the IC's strategic intelligence deficit, and especially that related to HUMINT, the cost-benefit analysis' calculus was clearly not productive, leading the SSCI to advocate for a long-term reduction in the IC's reliance on contractors.<sup>96</sup>

The oversight effort has gained momentum under President Obama, who has officially banned the practice of interrogation methods that fall out of the scope of the U.S. Army Field Manual, implemented under the Bush administration.<sup>97</sup> This move does not necessarily imply the new President will force a new battle in Congress to adopt IC oversight and inspection measures that could establish a greater balance between contractors and public administration officials attributing proper functions to each and that were hampered by his predecessor's administration. Yet even with these efforts in place, as the distinguished Reginald V. Jones would affirm over three decades ago, '[t]he problem will always be to strike the best balance between secrecy and openness, and it seems impossible to lay down a rigid set of rules and laws which may not be unduly restrictive and disadvantageous on one side or unduly capable of abuse and thus disadvantageous to the other.'<sup>98</sup> Notwithstanding, the Obama administration, with Senator John McCain's support, does justify an annual reduction of \$40 Billion in contracts between the Pentagon and the private sector following conclusions by the Government Accountability Office's (GAO) latest report which revealed surcharges in intelligence and defense contracts by the private sector in the amount of \$295 Billion.<sup>99</sup> In its race to outsource or privatize, the IC management under the Bush administration forgot these strategies are generally productive, but they need only be applied when it implies either budgetary optimization or the optimization of services—or both. The evidence demonstrates this reality has not been entirely satisfactory for the IC. This revelation has influenced the Secretary of Defense's decision to attempt to undertake a budgetary readjustment—which

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<sup>95</sup> *Ibid.*, pp. 7-8.

<sup>96</sup> SSCI report, "Intelligence Authorization Act for FY 2009", *US Senate 110th Congress 2nd Session*, May 8, 2008, p. 7, <http://intelligence.senate.gov/110333.pdf>.

<sup>97</sup> "Obama reverses Bush policies on detention and interrogation", *Washington Post*, <http://www.washingtonpost.com/wp-dyn/content/story/2009/01/21/ST2009012101583.html>.

<sup>98</sup> Jones, Reginald Victor: "Knowledge & Power: Thoughts on Intelligence in a Democracy", *Minerva*, vol. 14, no. 2 (June, 1976), p. 249.

<sup>99</sup> "President Obama, Senator McCain, unite to slash no-bid contracts", *New York Daily News*, March 4, 2009, [http://www.nydailynews.com/news/politics/2009/03/04/2009-03-04\\_president\\_obama\\_sen\\_mccain\\_unite\\_to\\_slas.html](http://www.nydailynews.com/news/politics/2009/03/04/2009-03-04_president_obama_sen_mccain_unite_to_slas.html).



also reflects a change in military strategy's direction—geared to: (1) reduce significantly arms systems in favor of others; (2) increase troop numbers; and (3) add new technology to fight insurgencies in Iraq and Afghanistan.<sup>100</sup> To a great degree the third reason respond to what Singer's suggestion that the Pentagon invests billions of dollars in ultimate technology, but this does not trickle down to the foot soldier conveniently.<sup>101</sup> Therefore, the Obama administration is mitigating the pernicious process with the IC by (1) limiting contractors access to lucrative defense contracts and their meddling in the domestic security real; and (2) realigning contractors' responsibilities and accountability, now subject to the MEJA.

## **6. Conclusion**

The historical record indicates the business of intelligence in the U.S. experimented tow clearly distinguished phases of: (1) liberalization, in the aftermath of the Cold War and the Gulf War; and (2) proliferation and consolidation, in the aftermath of the 9/1 terrorist attacks and the Iraq War. The different conflicts of interests created by the neoliberalizing dynamic that the business of intelligence adopted throughout the proliferation and consolidation phase led military intelligence to meddle into civil intelligence's realm, causing a grave perversion of the intelligence and defense system illustrated by: (1) the rise of PMFs; (2) the Abu Ghraib prison scandal—among others—where PMF contractors as well as members of the MP violated human rights in Iraq; (3) the legal ambiguities in the FBI and NSA eavesdropping scandal; and finally, (4) the scandal with regard to the TIA project promoted by the Pentagon. The rise of PMFs, particularly, deserves greater attention—from both academic and political circles—than it receives considering the important role carried out presently by PMFs in foreign policy. Yet, according to Singer, this is to date 'a poorly understood—and often unacknowledged phenomenon'.<sup>102</sup>

The conflicts of interests that caused the pejorative neoliberalizing dynamic have their origin in the poor oversight, management and inspection of public-private contracts on behalf of public officials responsible for safeguarding contractual relations' balance between the IC's public and the private sectors. This did not come to pass, since 'inherently governmental' parameters of competencies and responsibilities attributed to contracts with special sensitivity for national security were not clearly defined. This management deficit is responsible for the beginning of the corruption of the system. The myopic and excessive concentration IC managers placed in the development of IT integration systems to conduct surveillance and espionage during throughout the last two decades to improve the quality of collection, acquisition and dissemination of intelligence hampered, simultaneously, the development and instruction of a commensurate analytical quality. Historically the IC already suffered from a deficit in this capability as well as that in HUMINT collection. These capabilities were not strengthened, causing an imbalance in the ability to analyze appropriately strategic intelligence that may have prevented the 9/11 terrorist attacks, whilst acknowledging the uncertainty that always surrounds intelligence.

The deficient oversight, management and inspection of the IC's public administration *vis-a-vis* private sector contractors should serve as a lesson for other intelligence communities to prevent the perversion of their national defense systems. Even while acknowledging the

<sup>100</sup> "Military Budget Reflects a Shift in U.S. Strategy", *New York Times*, April 7, 2009, <http://www.nytimes.com/2009/04/07/us/politics/07defense.html> .

<sup>101</sup> Singer, "Outsourcing...", *op. cit.*, p. 110.

<sup>102</sup> *Ibid.*, p. 119.



U.S. IC's system is not comparable structurally or functionally to others, what is evident is the danger that the overlapping of military and civil intelligence and the unbalance between the public and the private interests may present to the heart of their particular IC model. Considering, simultaneously, that the U.S. is one of the states that exercises greater oversight over its IC, others ought to take copious notes, for even counting on important—and traditionally efficient—oversight mechanisms, the public good may be infected by private interests.