

## Chapter 4 - The evolution of public-private intelligence ‘partnerships’ during the Global War on Terrorism

This chapter examines the rationales and implications behind the evolution of public-private intelligence interactions during George W. Bush’s Global War on Terrorism (GWOT). Although the relationship between the intelligence community and the private sector predates the GWOT, a series of factors fostered its growth in the US in the decade following the 9/11 attacks. Three types of rationales for this growth are discussed. First, following the end of the Cold War, the US political context offered a permissive environment in which privatisation burgeoned. Second, the evolution of the nature and the imminence of the threats faced by the US intelligence community fostered calls for cooperation between the intelligence community and the private sector. In the time of crisis that followed 9/11, policy-makers and intelligence managers considered that staff shortages within the intelligence community needed to be filled rapidly. In order to do so, vast amounts of money were appropriated to the intelligence community and intelligence managers were then able to rely on private contractors to augment the capabilities of the US intelligence community. As a result, both the US intelligence community and the market for intelligence expanded. These two first rationales helped the government justifying privatisation by presenting it as a necessity resulting from the requirements that were faced by the intelligence community. However, these requirements were not only due to ‘new’ threats and demands, but also the product of previous governmental decisions. At the dawn of the twenty-first century, following a movement of privatisation that decimated its ranks, the intelligence community considered that outsourcing intelligence was the easiest solution to palliate an apparent lack of capabilities. Third, some authors have suggested that the US government has occasionally turned to the private sector in order to circumvent regular channels of intelligence accountability, or even to further some government officials’ private interest.<sup>1</sup> Notwithstanding that it may have occurred in some specific cases, this type of rationale does not fully explain the increasing scope and depth of public-private intelligence interactions since 2001. From 9/11 onwards, public-private intelligence interactions proliferated and diversified to an unprecedented level. Private contractors, that is to say commercial companies (industrial contractors) and individuals (independent contractors), now carry out

---

<sup>1</sup> See for example: Joshua Chaffin, ‘Contract Interrogators Hired to Avoid Supervision’, *Financial Times*, 22 May 2004, p.6; Simon Chesterman, *One Nation Under Surveillance. A New Social Contract to Defend Freedom Without Sacrificing Liberty* (Oxford: Oxford University Press 2011) pp. 117-8, 129.

all types of intelligence activities for the government, from the most banal kind of administrative support to the most sensitive covert actions. In this context, it is not infrequent to hear that public-private relations are maturing towards a 'partnership'.<sup>2</sup> However, a closer look at the organisation of public-private interactions reveals a more complex reality. Furthermore, a variety of private entities relate to the US government and its intelligence community in ways that are not always formal, harmonious or economically viable.

## **The government's rationales for an increased reliance on the private sector**

### **A permissive environment**

#### *The privatisation movement*

In the second half of the twentieth century, economic and political views supporting privatisation gained increasing appeal and reached the realm of national security. The foundations for privatisation were actually laid in the 1950s in academia and in politics. The so-called 'Chicago school' provided an economic rationale for unfettered free markets and a series of government decisions set up the policy of contracting-out commercial activities.<sup>3</sup> The end of the Cold War prompted the prominence of a capitalist ideology and similar economic arguments that consider privatisation as a positive solution to the shortfall of government resources, capabilities and performance.<sup>4</sup> Proponents of privatisation argued that shifting the production of goods and services from the government to the private sector allows cost-savings in the long term because the existence of public-private competition and

---

<sup>2</sup> See for example: Robert S. Mueller, 'Remarks to the US Chamber of Commerce', 19 January 2006, <<http://www2.fbi.gov/pressrel/speeches/mueller011906.htm>> (accessed 21 October 2011). Mueller has been Director of the FBI since 2001. See also: Ackerman, 'Intelligence Tries a New Public-Private Partnership', pp. 53-5; Business Executive for National Security (BENS), 'A Review of BENS 2007 Business Response Task Force Report', April 2011, pp. 31-41. For a critical appraisal of the concept in this context, see: Petersen, 'Terrorism: When Risk Meets Security', pp. 173-90.

<sup>3</sup> Michal Laurie Tingle, 'Privatization and the Reagan Administration: Ideology and Application', *Yale Law and Policy Review* 6/1 (1988) p.233; Bernard D. Rostker, *A Call to Revitalize the Engines of Government* (Santa Monica, CA : RAND 2008) p.3 (note 3).

<sup>4</sup> John D. Donahue, *The Privatization Decision: public ends, private means* (New York: Basic Books 1989) p.216; Harvey Feigenbaum, Jeffrey Henig, and Chris Hamnett, *Shrinking the State: the Political Underpinnings of Privatization* (Cambridge: Cambridge University Press 1998) pp. 5-7, 11, 38-9, 151; Kim R. Nossal, 'Global Governance and National Interests: Regulating Transnational Security corporations in the Post-Cold War era', *Melbourne Journal of International Law* 2/2 (2001) p.473; Carlos Ortiz, 'Private Security and Military Companies: Misconceptions, Re-conceptualisations, and Regulation', *CGPE Working Paper No.6* (2009) pp. 4-8.

comparative advantages within the private sector would drive costs down.<sup>5</sup> For example, when contracting out its activities, the government would not have a lifetime obligation regarding the health care and retirement benefits of the people it hires.

In the US, these economic arguments were relatively well received by a people whose belief in self-government has historically been strong. Popular political leaders such as Ronald Reagan introduced privatisation on the national agenda in the 1980s<sup>6</sup> in a deliberate effort to reduce the scope of the government and change the balance between public and private sectors.<sup>7</sup> In his inaugural address, President Reagan famously argued that 'government is not the solution to our problem; government is the problem'.<sup>8</sup> The US Office of Management and Budget (OMB) circular A-76 then became a central tool behind the outsourcing of governmental activities. The circular set up a procedure to review the operations of government and determine which ones are 'commercial' or 'inherently governmental'.<sup>9</sup> It also provided a mechanism to measure private versus public sector efficiency. President Reagan started to outsource a considerable amount of government activities, among which military support services.<sup>10</sup> For example, in the 1980s, the Army started planning its reliance on civilian contractors with the Logistics Civil Augmentation Program (LOGCAP).<sup>11</sup> However, overall, this venture in privatisation remained limited by the reluctance of various government agencies attached to their prerogatives.<sup>12</sup>

---

<sup>5</sup> For a similar argument applied to the CIA, see: Michael Rubin, 'Privatize the CIA', *Weekly Standard* 12/20, 5 February 2007 <<http://staging.weeklystandard.com/Content/Public/Articles/000/000/013/220wnna.asp>> (accessed 21 June 2010).

<sup>6</sup> See: Donald J. Savoie, *Thatcher, Reagan, Mulroney: In Search of a New Bureaucracy* (Toronto: University of Toronto Press 1994). On the US case, see for example: Walter F. Baber, 'Privatizing Public Management: The Grace Commission and its Critics', *Proceedings of the Academy of Political Science* 36/3 (1987) p.153. The Grace commission's recommendations were also taken into account by the CIA. National Archives and Records Administration: CIA Records Search Tool, Maryland: Chief Information and Management Support Staff, Office of Logistics, President's Private Sector Survey on Cost control (Grace Commission), Memorandum for Executive Officer, Office of Logistics, Date: unknown.

<sup>7</sup> William L. Megginson and Jeffry M. Netter, 'From State to Market: A Survey of Empirical Studies on Privatization', *Journal of Economic Literature* 39/2 (2001) p.327; Tingle, 'Privatization and the Reagan Administration: Ideology and Application', p.230.

<sup>8</sup> Ronald Reagan, 'Inaugural Address', 20 January 1981, Washington DC, <<http://www.presidency.ucsb.edu/ws/index.php?pid=43130>> (accessed 20 December 2012).

<sup>9</sup> White House, Executive Office of the President, Office of Management and Budget, Circular No.A-76, 4 August 1983, <[http://www.whitehouse.gov/omb/circulars\\_a076/](http://www.whitehouse.gov/omb/circulars_a076/)> (accessed 4 September 2012).

<sup>10</sup> E.S. Savas, 'Privatization', in Mary Hawksworth and Maurice Kogan (eds), *Encyclopedia of Government and Politics* (London: Routledge 1992) p.827. For a critique of privatisation under Reagan, see: Fred. L. Smith, Jr., 'Privatization at the Federal Level', in Steve H. Hanke (ed.), *Prospects for Privatization* (New York: The Academy of Political Science 1987) pp. 179-89.

<sup>11</sup> US Department of the Army, Logistics Civil Augmentation Program, Army Regulation 700-137, 16 December 1985, <<http://www.aschq.army.mil/gc/files/AR700-137.pdf>> (accessed 6 March 2010).

<sup>12</sup> Tim Shorrock, *Spies for Hire: The Secret World of Intelligence Outsourcing* (New York: Simon and Schuster 2008) p.83.

The privatisation trend was not limited to just Republican presidents. After a lull under President George H. W. Bush, the Clinton administration streamlined privatisation across multiple areas. In 1993 Vice-President Al Gore initiated the national performance review, which intended to determine how to transform the government bureaucracy in an ‘entrepreneurial government’ in order to guarantee better public performance levels.<sup>13</sup> Capitalism and privatisation, it was expected, would reinvent the government. Deregulation was deemed to guarantee better public performance levels. A series of legislation modernised government procurement and partly redefined ‘inherently governmental functions’.<sup>14</sup> On the White House website, Gore drew a list of achievements resulting from this initiative and announced that ‘with 377,000 fewer employees, the federal government is now the smallest it has been since President Eisenhower’.<sup>15</sup> This policy also affected the defence and intelligence communities whose workforces were significantly downsized during the 1990s.<sup>16</sup> In 1996, the Defense Science Board produced a report on ‘outsourcing and privatization’.<sup>17</sup> In his letter accompanying the report, the chairman of the board recommended to the Secretary of Defense ‘an aggressive outsourcing initiative’, to ‘improve the quality of support services at significantly reduced costs’.<sup>18</sup> According to the former Chief Human Capital Officer at the Office of the Director of National Intelligence (ODNI), the intelligence community was ‘decimated’ and some agencies lost as much as 40 percent of their capability.<sup>19</sup> Meanwhile, the defence and intelligence communities started to rely more extensively on contractors’

---

<sup>13</sup> Bill Clinton and Al Gore, *Putting People First* (New York: Basic Books 1992) p.1.

<sup>14</sup> US Congress, Pub. Law 103-355, The Federal Acquisition Streamlining Act, 103<sup>th</sup> Congress, 2<sup>nd</sup> sess., 13 October 1994; US Congress, Pub. Law 104-106, The Federal Acquisition Reform Act, 104<sup>th</sup> Congress, 2<sup>nd</sup> sess., 10 February 1996; US Congress, Pub. Law 105-270, The Federal Activities Inventory Reform Act, 105<sup>th</sup> Congress, 2<sup>nd</sup> sess., 19 October 1998. On the evolution of inherently governmental functions, see: Mary M. Dickens Johnson, ‘A New Twist in the Outsourcing Saga’, *Contract Management*, January 2009, p.43.

<sup>15</sup> Al Gore, ‘Reinventing government’, National Archives and Records Administration website, <[http://clinton4.nara.gov/WH/EOP/OVP/initiatives/reinventing\\_government.html](http://clinton4.nara.gov/WH/EOP/OVP/initiatives/reinventing_government.html)> (accessed 20 September 2011). According to Feigenbaum, Henig and Hamnett, Gore’s thinking was strongly influenced by: David Osborne and Ted Gabler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector* (Reading: Addison-Wesley 1992). See: Feigenbaum, Henig and Hamnett, *Shrinking the State*, p.7

<sup>16</sup> Christopher Andrew, *For the President’s Eyes Only. Secret Intelligence and the American Presidency from Washington to Bush* (New York: Harper Perennial 1995) p.540. On the privatisation movement in the defence sector, see: Allison Stanger, *One Nation Under Contract. The Outsourcing of American Power and the Future of Foreign Policy* (London: Yale University Press 2009) pp. 85-6.

<sup>17</sup> Office of the Under Secretary of Defense for Acquisition and Technology, Report of the Defense Science Board Task Force on Outsourcing and Privatization, August 1996.

<sup>18</sup> Philip A. Odeen, Defense Science Board, Memorandum for Chairman, Defense Science Board, Final Report of the Defense Science Board Task Force on Outsourcing and Privatization, 27 August 1996, p.2. See also: Government Accounting Office, Defense Outsourcing: Challenges Facing DOD as It Attempts to Save Billions in Infrastructure Costs, GAO/T-NSIAD-97-110, 12 March 1997.

<sup>19</sup> Ronald Sanders, Office of the Director of National Intelligence, Media Conference Call, 14 January 2010, p.6, <[http://www.dni.gov/interviews/20100114\\_interview.pdf](http://www.dni.gov/interviews/20100114_interview.pdf)> (accessed 20 August 2011). See also: Appendix 6.

supplies and services to support their missions.<sup>20</sup> The First Gulf War (1991) and then the American intervention in Bosnia (1995) confirmed the importance but also the difficulty to manage private contractors supporting the military.<sup>21</sup>

At the turn of the twenty-first century, the intelligence community and the Pentagon, in particular, increasingly sought to meet its requirements through technology solutions provided by the private sector. Many of these technologies were ‘superior and cheaper than those developed by the government’.<sup>22</sup> As the private sector improved and diversified its offering, for example in the sector of satellite imagery services,<sup>23</sup> the intelligence community increasingly relied on commercial companies to collect information and support its missions.<sup>24</sup> The company ManTech provided support services to Army intelligence during the First Gulf War, and then in Bosnia, Kosovo and Albania.<sup>25</sup> In the US, as a result of the privatisation movement, the critical information infrastructure shifted gradually towards the private sector. A declassified document produced by the NSA in December 2000 worried that private sector infrastructure was becoming ‘more vulnerable to foreign intelligence operations and to compromise by a host of non-state entities’.<sup>26</sup> Manifestly, intelligence community leaders recognised that the security and fates of the public and private sectors had become increasingly intertwined. Intelligence agencies relying on technological development

---

<sup>20</sup> Mark M. Lowenthal, Statement before the US Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Intelligence Community Contractors: Are We Striking the Right Balance?, Hearing, 112<sup>th</sup> Congress, 2<sup>nd</sup> sess., 20 September 2011, p.5. Mark Lowenthal is a former Assistant Director of Central Intelligence for Analysis & Production, and President of the Intelligence & Security Academy, LLC.

<sup>21</sup> US Department of Defense, Inspector General, Audit Report On Civilian Contractor Overseas Support During Hostilities, Report No.91-105, 26 June 1999, <<http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA379922&Location=U2&doc=GetTRDoc.pdf>> (accessed 14 April 2010); Peter W. Singer, *Corporate Warriors: The Rise of the Privatized Military Industry* (New York: Cornell University Press 2003) pp. 5-18. For a table on the presence of contractor personnel during several US military operations, see: Thomas C. Bruneau, ‘Contracting Out Security’, *Journal of Strategic Studies* (2012) p.3. On the difficulty to manage contractors, see: Government Accounting Office, Defense Budget: Need to Strengthen Guidance and Oversight of Contingency Operations Costs, GAO-02-450, May 2002, pp. 3, 20-1; General Accounting Office, Contingency Operations: Army Should Do More to Control Contract Cost in the Balkans, GAO/NSIAD-00-225, 29 September 2000.

<sup>22</sup> Bryan Bender, ‘New Intelligence Policy Gives Private Sector Larger Role’, *Defense Daily* 196/57, 19 September 1997, p.1; Ellen McCarthy, ‘NSA is Making No Secret of Its Technology Intent’, *Washington Post*, 24 June 2004, E01.

<sup>23</sup> Jeffrey T. Richelson, ‘Commercial Satellite imagery and National Security’, <<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB404/>> (accessed 25 January 2013).

<sup>24</sup> The Open-market Reorganization for the Betterment of International Telecommunications Act (ORBIT Act) called for the full privatisation of international satellite services in the US. See: Government Accountability Office, Intelsat Privatization and the Implementation of the ORBIT Act, GAO-04-891, 13 September 2004; Andrew Rathmell, ‘Privatising Intelligence’, *Cambridge Review of International Affairs* 9/2 (1998) p.208; Jennifer E. Sims, ‘Understanding Friends and Enemies. The Context for American Intelligence Reform’, in Jennifer E. Sims and Burton Gerber (eds), *Transforming U.S. Intelligence* (Washington DC: Georgetown University Press 2005) p.21.

<sup>25</sup> Shorrock, *Spies for Hire*, pp. 102-3.

<sup>26</sup> National Security Agency/Central Security Service, Transition 2001, December 2000, p.32.

devised policies to augment their reliance on the private sector. A policy directive approved by the director of the National Imagery and Mapping Agency (NIMA) on 10 September 1997 emphasised how the agency could ‘improve performance by capitalising on proven commercial capability, capacity, and efficiency’.<sup>27</sup> Michael Hayden, the former director of the NSA, recognised in a 2002 testimony that the NSA’s ‘strategy for nearly three years has been a shift to a greater reliance on American industry’.<sup>28</sup>

The so-called open source revolution in the 1990s generated enthusiasm for the development of networks of experts bridging the public-private divide. In an article published in 1993, Robert Steele, a specialist on open source intelligence, imagined ‘an extended network of citizen analysts, competitive intelligence analysts in the private sector and government intelligence analysts, each able to access one another, share unclassified files, rapidly establish bulletin boards on topics of mutual interest’.<sup>29</sup> Steele further argued that the privatisation of intelligence would be particularly relevant to broaden not only producers but also the consumer base for intelligence products.<sup>30</sup> The open source intelligence movement was livening up a basic truth of intelligence, society constitutes a pool of knowledge, global reach, experience and skills that intelligence agencies cannot overlook.<sup>31</sup> In this context, it seems logical that the US government has come to rely increasingly on the private sector for research and development, the collection and analysis of information.<sup>32</sup>

---

<sup>27</sup> Bender, ‘New Intelligence Policy Gives Private Sector Larger Role’, p.1.

<sup>28</sup> Michael V. Hayden, Statement for the Record before the Joint Inquiry of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence, 17 October 2002, p.8.

<sup>29</sup> Robert D. Steele, ‘National security and national competitiveness’, *Bulletin of American Society for Information Science* 19/3 (1993) p.21. For a similar argument, see: John P. Sullivan, ‘The Frontiers of Global Security Intelligence: Analytical Tradecraft and Education as Drivers for Intelligence reform’, *Small Wars Journal*, 22 August 2008, <<http://smallwarsjournal.com/mag/docs-temp/87-sullivan.pdf>> (accessed 20 March 2010), p.6.

<sup>30</sup> For a similar argument in the late 1990s, see: Rathmell, ‘Privatising Intelligence’, pp. 199-204.

<sup>31</sup> Charles E. Allen, Statement before the U.S. Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Intelligence Community Contractors: Are We Striking the Right Balance?, Hearing, 112<sup>th</sup> Congress, 1<sup>st</sup> sess., 20 September 2011, p.2. Allen was Assistant Director of Central Intelligence for Collection from 1998 to 2005, and Under Secretary of Homeland Security for Intelligence and Analysis from 2005 to 2008. See also: Robert David Steele, *The New Craft of Intelligence: Personal, Public and Political* (Oakton, VA: OSS International Press 2002) p.161. For arguments in favour of outsourcing intelligence analysis, see: Rubin, ‘Privatize the CIA’; Henry A. Crumpton, ‘Intelligence and Homeland Defense’, in Jennifer E. Sims and Burton Gerber (eds), *Transforming U.S. Intelligence*, p.213.

<sup>32</sup> Walter B. Wriston, ‘Technology and Sovereignty’, *Foreign Affairs* 67/2 (1988) pp. 67-70; Brendan I. Koerner, ‘The Security Traders’, *Mother Jones*, September/October 2002, <<http://motherjones.com/politics/2002/09/security-traders>> (accessed 20 October 2011); Helen Margetts, *Information Technology in Government* (London: Routledge 2003) p.125; Paul Magnusson and Mike McNamee, ‘Welcome To Security Nation’, *BusinessWeek*, 14 June 2004, <[http://www.businessweek.com/magazine/content/04\\_24/b3887036\\_mz011.htm](http://www.businessweek.com/magazine/content/04_24/b3887036_mz011.htm)> (accessed 15 October 2011); Andrew Liaropoulos, ‘A (R)evolution in Intelligence Affairs? In research of a new paradigm’, *RIEAS Research Paper No.100* (2006) p.8.

President George W. Bush strongly endorsed privatisation. As many other senior policy-makers in the US, President Bush, Vice-President Cheney, Secretary of Defense Rumsfeld had extensive experience in the private sector.<sup>33</sup> In 2002, the President's management agenda emphasised market-based performance and the outsourcing of products and services that were not 'inherently governmental'.<sup>34</sup> The outsourcing of services was particularly prevalent. In 2003, the Office of Management and Budget revised its circular A-76, which regulates competition for commercial services and among other aims, this revision intended to support the administration's goals towards more competitive sourcing. In particular, the revision was supposed to help downsizing the civilian workforce in the Department of Defense by 50 percent.<sup>35</sup> From 2000 to 2010, federal spending on service contracts increased from \$164 billion to \$343 billion.<sup>36</sup> In this context, the 9/11 attacks and the wide support they generated for the Bush administration constituted an opportunity to further its belief in privatisation, including in the realm of national security intelligence.

### The 'functional arguments' for privatisation<sup>37</sup>

From the early 1990s onwards, the nature of the threat facing the US called for a disaggregation of its security strategy and an increasing reliance on the private sector. With the disintegration of the Soviet Union, US intelligence agencies were faced with a diversified set of new challenges while their workforce was downsized. In 1993, the new Director of Central Intelligence (DCI), James Woosley, famously underlined this shift when he told Congress: 'we have slain a large dragon, but we live now in a jungle filled with a bewildering variety of poisonous snakes. And in many ways the dragon was easier to keep track of'.<sup>38</sup>

---

<sup>33</sup> President Bush worked in the oil industry during his early career. Vice-President Cheney was chairman of the board and chief executive officer of Halliburton, one of the largest oilfield service corporations in the world. Secretary Rumsfeld was CEO of a pharmaceutical company and sat on the board of many other companies. For more on Cheney and Halliburton, see Pratap Chatterjee, *Halliburton's Army. How a Well-Connected Texas Oil Company Revolutionized the Way America Makes War* (New York: Nation Books 2009); Robert Young Pelton, *Licensed to Kill. Hired Guns in the War on Terror* (New York: Three Rivers Press 2007) pp. 100-1. On Rumsfeld, see: Andrew Cockburn, *Rumsfeld. An American Disaster* (London: Verso 2007) pp. 55-72.

<sup>34</sup> White House, Executive Office of the President, Office of Management and Budget, *The President's Management Agenda, 2002*, p.17, <<http://www.cfo.doe.gov/budget/03budget/content/appendix/mgmt.pdf>> (accessed 12 February 2011).

<sup>35</sup> Valerie Bailey Grasso, 'Defense Outsourcing: The OMB Circular A-76 Policy', Congressional Research Service Report for Congress, 30 June 2005, pp. 16-9.

<sup>36</sup> David Berteau et al., 'DoD Workforce Cost Realism Assessment', Report of the CSIS Defense-Industrial Initiatives Group, May 2011, p.1.

<sup>37</sup> Elke Krahnmann, *States, Citizens and the Privatization of Security* (Cambridge: Cambridge University Press 2010) p.10.

<sup>38</sup> James R. Woosley, Testimony before the Select Committee on Intelligence of the United States Senate, Nomination of James R. Woosley to be Director of Central Intelligence, Senate Select Committee on Intelligence, 103<sup>rd</sup> Congress, 1<sup>st</sup> sess., 2-3 February 1993, p.76.

Less than a decade later, when George W. Bush became President, Woosley's metaphor held true. If anything, US intelligence managers faced more and more snakes. In the words of a senior intelligence officer, the intelligence community had to focus on 'literally the entire world, all of the peoples, all of the cultures, all of the languages'.<sup>39</sup> Moreover, the end of bipolarity paved the way for the emergence of 'new wars' (Afghanistan and Iraq) where the military is facing adversaries such as insurgents that cross the traditional nation-state boundaries and tend to use unconventional methods.<sup>40</sup> As a result, the intelligence community's support to military operations increasingly focused on individual threats and networks. In 2002, Secretary of Defense Rumsfeld argued that new technologies and an emphasis on networks would revolutionise the sectors of defence and national security.<sup>41</sup> This alliance between technology and networks proved particularly successful in the early days of the wars in Afghanistan and Iraq<sup>42</sup> and it also solicited a deeper alliance between the public and private sectors.

Furthermore, terrorists' ability to penetrate open societies and their indiscriminate targeting of civilians called for greater cooperation between the civilian entities that may be targeted in the American homeland such as transportation, communication networks, energy circuits, and the government.<sup>43</sup> Since citizens constitute the quintessential targets of terrorism, they were asked to notice any unusual trend or fact to the intelligence community.<sup>44</sup> The

---

<sup>39</sup> Ronald Sanders, interview with Mr. Andrew Pourinski, Federal News Radio, 'Ask the Chief Human Capital Officer', 2 August 2007, p.2, <[http://www.dni.gov/interviews/20070802\\_interview.pdf](http://www.dni.gov/interviews/20070802_interview.pdf)> (accessed 20 August 2011).

<sup>40</sup> Singer, *Corporate Warriors*, pp. 49-52, 60-2; Deborah Avant, *The Market for Force. The Consequences of Privatizing Security* (Cambridge: Cambridge University Press 2005) pp. 32-4, 36; Christopher Kinsey, 'Challenging international law: a dilemma of private security companies', *Conflict, Security & Development* 5/3 (2005) p.275; Alyson J. K. Bailes and Caroline Holmqvist, *The Increasing Role of Private Military and Security Companies* (Brussels: European Parliament 2007) p.1.

<sup>41</sup> Donald H. Rumsfeld, 'Transforming the Military', *Foreign Affairs* 81/3 (2002) pp. 21, 26-7, 31. For an account of how defence contractors focusing on military hardware benefited from this focus, see: Shorrock, *Spies for Hire*, pp. 163-6. On intelligence and the 'Revolution in Military Affairs', see: John Ferris, 'A New American Way of War? C4ISR, Intelligence and Information Operations in Operation 'Iraqi Freedom': A Provisional Assessment', *Intelligence and National Security* 18/4 (2003) pp. 155-74.

<sup>42</sup> Alastair Finlan, 'Warfare by Other Means: Special Forces, Terrorism and Grand Strategy', *Small Wars & Insurgencies* 14/1 (2003) pp. 92-108; Stephen D. Biddle, 'Afghanistan Airpower, and Modern Warfare The Afghan Model in Afghanistan and Iraq', *International Security* 30/3 (2005/2006) pp. 161-76; Dale G. Uhler, 'Technology. Force Multiplier for Special Operations', *Joint Force Quarterly* 40/1 (2006) pp. 54-9.

<sup>43</sup> Elke Krahnemann, 'Security: Collective Good or Commodity', *European Journal of International Relations* 14/3 (2008) pp. 391-2; Peter Gill, 'Not Just Joining the Dots But Crossing the Borders and Bridging the Voids: Constructing Security Networks after 11 September 2001', *Policing and Society* 16/1 (2006) pp. 37-8; William J. Lahnenman, 'The Need for a New Intelligence Paradigm', *International Journal of Intelligence and Counterintelligence* 23/2 (2010) pp. 201-25.

<sup>44</sup> Richard K. Betts, 'The Soft Underbelly of American Primacy: Tactical Advantages of Terror', *Political Science Quarterly* 117/1 (2002) p.30; Peter R. J. Trim, 'The GISES Model for Counteracting Organized Crime and International Terrorism', *International Journal of Intelligence and CounterIntelligence* 18/3 (2005) p.452; Jennifer Sims, 'Intelligence to Counter Terror: The Importance of All-Source Fusion', *Intelligence and National*



government aimed to create a new ‘information sharing environment’ in which both the public and private sectors would share prevention strategies and warning about specific attacks.<sup>45</sup> This emphasis on surveillance in the homeland fostered the emergence of commercial companies specialised in gathering, fusing, analysing and disseminating intelligence to government agencies.<sup>46</sup> Some of these companies offered ‘tailor-made security solutions’, arguing that they could gather information that is closer to the source of the threat, closer to society.<sup>47</sup> This situation was also reinforced by US law which restricts government access to private information and imposes fewer restrictions on the private sector.<sup>48</sup> As a result, the government began to rely increasingly on private-sector databases such as the ones created by credit card marketing companies to gather private information.<sup>49</sup>

### Emergency growth and structural conditions

The unprecedented growth of public-private intelligence ‘partnerships’ in the GWOT can be traced to the structural conditions under which an overwhelming increase in demand for intelligence occurred.<sup>50</sup> Following the 9/11 attacks, the legitimisation of the role of the government in securing the homeland constituted a key dynamic behind the privatisation of

---

*Security* 22/1 (2007) p.44; Karen Lund Petersen, ‘Terrorism: When Risk Meets Security’, *Alternatives: Global, Local, Political* 33/2 (2008) p.174.

<sup>45</sup> US Congress, Pub. Law 108-458, Intelligence Reform and Terrorism Prevention Act, 108<sup>th</sup> Congress, 2<sup>nd</sup> sess., 17 December 2004, section 1016. See also: Philip Zelikow et al. (eds), *The 9/11 Commission Report: final report of the National Commission on terrorist attacks upon the United States* (New York: W.W. Norton 2004) pp. 394-8, 418-9; Peter Gill, ‘Securing the Globe: Intelligence and the Post- 9/11 Shift from ‘Liddism’ to ‘Drainism’, *Intelligence and National Security* 24/3 (2004) pp. 476-8; Jay Stanley, ‘The Surveillance-Industrial Complex: How the American Government is Conscripting Businesses and Individuals in the Construction of a Surveillance Society’, ACLU report, 2004; Laurence H. Silberman and Charles S. Robb, *The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, Report to the President*, 31 March 2005, pp. 330, 396, 400-1, 525; John T. Chambers and Gilbert G. Gallegos, National Infrastructure Advisory Council, Public-Private Sector Intelligence Coordination, Final Report and Recommendations by the Council, 11 July 2006; Lahneman, ‘The Need for a New Intelligence Paradigm’, pp. 201-25; Linda Millis (Director, Private Sector Partnerships, ODNI), cited in Robert K. Ackerman, ‘Intelligence Tries A New Public-Private Partnership’, *Signal* 64/2 (2009) p.54; Dana Priest and William M. Arkin, ‘Monitoring America’, *Washington Post*, 20 December 2010, A1.

<sup>46</sup> Robert Jr. O’Harrow, ‘In Age of Security, Firm Mines Wealth Of Personal Data’, *Washington Post*, 20 January 2005, A1; Jeffrey Rosen, *The Naked Crowd. Reclaiming Security and Freedom in an Anxious Age* (New York: Random House 2004) pp. 150-1; Stanley, ‘The Surveillance-Industrial Complex’, pp. 25-7.

<sup>47</sup> See for example the website of the company REDfour, <<http://www.redfour-group.com/ourservices.htm>> (accessed 25 November 2009). See also: Stanger, *One Nation Under Contract*, pp. 27-8.

<sup>48</sup> Jon D. Michaels, ‘All the President’s Spies: Private-Public Intelligence Partnerships in the War on Terror’, *California Law Review* 96/4 (2008) p.908.

<sup>49</sup> Peter Swire, interview with Frontline, 17 January 2007, <<http://www.pbs.org/wgbh/pages/frontline/homefront/interviews/swire.html>> (accessed 20 august 2012); Michael Woods, interview with Frontline, 1 February 2007, <<http://www.pbs.org/wgbh/pages/frontline/homefront/interviews/woods.html>> (accessed 30 July 2012).

<sup>50</sup> Ronald Sanders, Results of the Fiscal Year 2007 U.S. Intelligence Community Inventory of Core Contractor Personnel, 27 August 2008, pp. 4, 14.

intelligence. Since public-private intelligence ties have existed throughout American history, the growth of the intelligence community logically instigated further public-private intelligence interactions. In other words, the growth of the intelligence budget from 2001 onwards generated an increase of the intelligence community's reliance on the private sector in absolute terms. The IC reliance on the private sector also increased in relative terms when compared to the pool of government employees and in order to justify this relative growth, intelligence managers have repeatedly evoked the structural conditions that constrained the US intelligence community. From this perspective, the intensification of the outsourcing of intelligence in the twenty-first century stems from the government's lack of strategic planning in the area of human capital. After the downsizing of the 1990s, a significant part of the national security workforce shifted to the private sector. Following 9/11, the requirements for intelligence products and services dramatically increased and managers were expected to provide a rapid and effective answer to the crisis.<sup>51</sup> However the scarcity of resources and loss of institutional knowledge within the IC meant that new challenges could hardly be met by the community alone. To support the surge in intelligence requirements, senior policy-makers decided to augment the capabilities of the intelligence community. President Bush 'gave orders to increase the size of the analytic and operational cadres in CIA by 50 percent each'.<sup>52</sup> According to the ODNI, 'more than 50% of the Intelligence Community workforce was hired after 9/11'.<sup>53</sup> This reaction was based on the debatable conclusion that the US 'intelligence agencies on 9/11 just didn't have enough people to do the job'.<sup>54</sup> With hindsight, some commentators have criticised the decision to comfort the US intelligence community's 'bureaucratic instinct that bigger is always better'.<sup>55</sup> For Carl Ford, a former senior intelligence official at the State Department, 'pouring more money and human resources into taming surprise only insures many of the policy-makers' urgent problems will go

---

<sup>51</sup> Sanders, Results of the Fiscal Year 2007 U.S. Intelligence Community Inventory of Core Contractor Personnel, p.2.

<sup>52</sup> Lowenthal, Statement before the US Senate Committee on Homeland Security and Governmental Affairs, p.5. See also: John Ganon (Vice President for Global Analysis, BAE Systems Information Technology), Testimony Before the US Senate Committee on the Judiciary, FBI Oversight, Hearing, 109<sup>th</sup> Congress, 2<sup>nd</sup> sess., 2 May 2006.

<sup>53</sup> Office of the Director of National Intelligence, Key Facts About Contractors, p.2, <<https://www.fas.org/irp/news/2010/07/ic-contract.pdf>> (accessed 25 October 2012).

<sup>54</sup> Sanders, interview with Mr. Andrew Pourinski, p.2.

<sup>55</sup> See: Dana Priest and William M. Arkin, *Top secret America. The Rise of the New American Security State* (New York: Little, Brown and Company 2011) p.85. For an example of argument relating budget growth to improved security, see: Patrick C. Neary, 'Intelligence Reform, 2001-2009: *Requiescat in Pace?*', *Studies in Intelligence* 54/1 (2010) p.7.

unaddressed'.<sup>56</sup> Nevertheless, Congress effectively sanctioned the growth of the intelligence community by granting it vast amounts of money.<sup>57</sup> In the decade following the 9/11 attacks, the intelligence community's budget roughly doubled. In addition, the use of supplemental appropriations and overseas contingency operations funding to carry out the GWOT, which are renewed on a yearly basis, made it 'very difficult to hire government employees' because these latter are 'very difficult to hire one year at a time'.<sup>58</sup> In this situation of emergency, the intelligence community expanded rapidly and in a relatively unplanned fashion.

The loss of experience that occurred in the 1990s effectively created a need to replace knowledge and skills. As a result, the government started to rely more heavily on commercial companies providing the services of former experienced government employees to augment particular intelligence capabilities. An unclassified document released by the ODNI notes that the 'dramatic surge required people with the institutional knowledge and tradecraft to fill skill gaps and train new hires. Much of that expertise existed among our retired ranks, who answered the post-9/11 call to duty as a de facto "intelligence reserve corps"'.<sup>59</sup> Similarly, Michael Hayden, the former director of the CIA, is keen to note that the intelligence community was not experiencing a new growth but it was simply 'buying back capacity, buying back capability, buying back resources and personnel that we had lost in the decade of the '90s following the collapse of the Soviet Union'.<sup>60</sup> In this view, when outsourcing intelligence, the government was able to keep talented professionals close to the community.<sup>61</sup>

The alternative, which was not followed at the time, was to hire new government employees. However, recruiting and training new government employees typically takes time

---

<sup>56</sup> Carl W. Ford Jr., Book review, in Thomas Maddux and Diane Labrosse (eds), *H-Diplo/ISSF Roundtable Reviews 3/15* (2012), <<http://www.h-net.org/~diplo/ISSF/PDF/ISSF-Roundtable-3-15.pdf>> (accessed 25 June 2012) p.14. Carl Ford was Assistant Secretary of State for Intelligence and Research from 2001 to 2003. See also: US Senate, Select Committee on Intelligence, *Nomination of Lieutenant General James Clapper, Jr., USAF, Ret., To Be Director of National Intelligence*, 111<sup>th</sup> Congress, 2<sup>nd</sup> sess., 20 July 2010, p.2.

<sup>57</sup> See for example: US Congress, Pub. Law 107-38, *An Act Making emergency supplemental appropriations for fiscal year 2001 for additional disaster assistance, for anti-terrorism initiatives, and for assistance in the recovery from the tragedy that occurred on September 11, 2001, and for other purposes*, 107<sup>th</sup> Congress, 1<sup>st</sup> sess., 18 September 2001.

<sup>58</sup> James Clapper, cited in US Senate, Select Committee on Intelligence, *Nomination of Lieutenant General James Clapper, Jr., USAF, Ret., To Be Director of National Intelligence*, p.11; US Senate, *Post-Hearing Questions for the Record Submitted to Paula Roberts From Senator Daniel Akaka, Intelligence Community contractors: Are We Striking the Right Balance?*, 20 September 2011, p.72.

<sup>59</sup> Office of the Director of National Intelligence, 'Key Facts About Contractors', p.2.

<sup>60</sup> Michael Hayden, interview with Frontline, 19 August 2010, <<http://www.pbs.org/wgbh/pages/frontline/are-we-safer/interviews/michael-hayden.html>> (accessed 12 July 2012).

<sup>61</sup> J. Michael Waller, 'Private intelligence contracting is here to stay', *Serviam*, July-August 2008, <[https://www.iwp.edu/news\\_publications/detail/private-intelligence-contracting-is-here-to-stay](https://www.iwp.edu/news_publications/detail/private-intelligence-contracting-is-here-to-stay)> (accessed 1 September 2011).

and this was a resource policy-makers appeared to lack following the 9/11 attacks.<sup>62</sup> According to Michael Chertoff, the Director of the Department of Homeland Security between 2005 and 2009, the intelligence community needed the flexibility and the responsiveness of the private sector.<sup>63</sup> Following the 9/11 attacks, contractors were expected to fill the intelligence community's capability gaps temporarily, until the government would catch up. The government could not have directly augmented its number of full-time employees because it is a very slow bureaucratic process. Government employees need to be vetted and trained for years in order to acquire the necessary experience and work efficiently.<sup>64</sup> Outsourcing government activities to former employees with security clearance typically proceeds faster, often only a few weeks.<sup>65</sup> Moreover, once an activity is outsourced, a commercial company can get started quickly, direct important sums of money towards the product or the activity and then absorb early expenses in the following years. In contrast, because of bureaucratic constraints, the government typically spends its money in a more linear fashion.<sup>66</sup> As a result, it is more difficult for intelligence agencies to spend vast amounts of money in a short period of time. Outsourcing is also more flexible because it binds the government for the length of contracts, generally for a few years. In this sense, contractors can provide a solution to some of the problems of resources allocations and prioritisation faced by intelligence managers.

In terms of resource allocation, intelligence managers are limited by the congressional ceiling imposed on each agency's personnel.<sup>67</sup> Although Congress can move these ceilings, it has been reluctant to do so. In an interview, Michael Hayden noted that 'money was always easier to get increased than it was to get end strength... because [raising the end strength] has

---

<sup>62</sup> Sanders, interview with Mr. Andrew Pourinski, p.8.

<sup>63</sup> Michael Chertoff, in video: C-SPAN, Privatization of U.S. intelligence, 20 August 2009, <<http://www.c-spanvideo.org/program/288482-1>> (accessed 10 September 2011). The Department of Homeland Security is not a formal member of the intelligence community. However, the Department has a handful of offices producing intelligence, for example the Office of Intelligence and Analysis. See also: Sanders, Results of the Fiscal Year 2007 U.S. Intelligence Community Inventory of Core Contractor Personnel, p.1.

<sup>64</sup> On the recurring problems regarding the US government's security clearance process, see: US Senate, Committee on Homeland Security and Governmental Affairs, Oversight of Government Management, The Federal Workforce and The District of Columbia Subcommittee, Progress or More Problems: Assessing the Federal Government's Security Clearance Process, Hearing, 109<sup>th</sup> Congress, 2<sup>nd</sup> sess., 17 May 2006, p.70. According to the Department of Defense, security clearance investigations average between 150 to 410 days to complete.

<sup>65</sup> Former Senior Intelligence Official A, interview with author, 8 August 2011, Washington DC.

<sup>66</sup> See: Appendix 7.

<sup>67</sup> Congress imposes ceilings on the intelligence community workforce. These ceilings are part of the classified schedule of authorisation of the annual intelligence authorisation act. See for example: US Congress, Pub. Law 108-487, Intelligence Authorization Act for Fiscal Year 2005, 108<sup>th</sup> Congress, 2<sup>nd</sup> sess., 23 December 2004, Section 103. See also: Sanders, Media Conference Call, p.12; Sanders, Results of the Fiscal Year 2007 U.S. Intelligence Community Inventory of Core Contractor Personnel, p.6.

an air of permanence about it, whereas money appropriated for this fiscal year, that's a good idea'.<sup>68</sup> Therefore intelligence agencies used supplemental appropriations to hire contractors and raise their capability temporarily.<sup>69</sup> In this way, the workforce grew without being limited by congressional ceilings. This explains why (in some cases) the use of contractors may have been 'driven by factors unrelated to mission'.<sup>70</sup> Furthermore, the reliance on contractors can minimise resource allocation problems by focusing government employees on key tasks and orienting contractors towards support tasks. More generally, contractors can act as a temporary fix in order to palliate some of the capabilities gaps caused by the uncertain variation of intelligence requirements. In turn, the federal government's intention to use contractors as a temporary fix, partly explains why the lack of planning behind the community's increasing reliance on contractors was deemed acceptable.<sup>71</sup> Interestingly, this managerial perspective presents the privatisation of intelligence in a-political and pragmatic terms as an aggregation of ad hoc managerial adjustments aiming at restoring security rapidly. This perspective plausibly explains why, when problems involving public-private 'partnerships' occurred, the leaders of the intelligence community did not seem to have kept an eye on them.

### **Privatisation as a strategy for domination**

Privatisation has been described as a political strategy aiming 'to realign institutions and decision-making processes so as to privilege the goals of some groups over the competing aspirations of other groups'.<sup>72</sup> This strategy could support political goals such as the expansion of influence,<sup>73</sup> and many studies point out that, under some specific conditions, privatising security allows government reducing political costs, depoliticising decisions or even evading accountability all together by shifting responsibilities and removing basic

---

<sup>68</sup> Hayden, interview with Frontline.

<sup>69</sup> Former staff member of the HPSCI, conversation with author, 2 April 2012, San Diego, CA.

<sup>70</sup> Office of the Director of National Intelligence, The US Intelligence Community's Five Year Strategic Human Capital Plan. An annex to the US National Intelligence Strategy, 22 June 2006, p.14. The document refers to an 'arbitrary ceiling'.

<sup>71</sup> For justification in terms of 'temporary need for additional personnel', see: US Senate, Select Committee on Intelligence, Authorizing Appropriations for Fiscal Year 2004 for Intelligence and Intelligence-related Activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for Other Purposes, Report 108-044, 108<sup>th</sup> Congress, 1<sup>st</sup> sess., 8 May 2003, p.19.

<sup>72</sup> Feigenbaum, Henig and Hamnett, *Shrinking the State*, p.41; Henig, 'Privatization in the United States', p.669.

<sup>73</sup> For a similar argument, see: Solomon Hughes, *War on Terror, Inc. Corporate profiteering from the politics of fear* (London: Verso 2007) p.177. Hughes argues that private companies shifted the control of intelligence operations into the hands of Department of Defense officials.

decisions from the public to the private realm.<sup>74</sup> For example, Joshua Chaffin, a journalist, reported that ‘the Pentagon used private contractors to interrogate prisoners in Iraq and Afghanistan in a deliberate attempt to obscure aggressive practices from congressional or military oversight’.<sup>75</sup> Considering some of the controversies that surrounded the use of intelligence agencies by policy-makers, such as the Watergate scandal or the use of raw intelligence by the Bush administration to support its case for a war in Iraq, this type of argument is conceivable. However, while executive aspirations provide a plausible intent, a more careful examination of the events following the 9/11 attacks weakens the argument that privatising intelligence reduces political costs. First, as the policy failure in the lead-up to the 2003 Iraq War demonstrated, decision-makers do not need to rely on the private sector to circumvent traditional intelligence processes or gain more power. Experienced policy-makers can use the bureaucracy to their own ends. For example, when Rumsfeld created an Office of Special Plans, he effectively created an extra layer of bureaucracy that sidestepped the traditional intelligence processes.<sup>76</sup> Second, in the case government officials would outsource an activity to hide some wrongdoing, the fact that they could outsource actually brings more people in the loop, not just the public actors but also some private actors. Inevitably the more people know about a secret, the more likely it is that it will be revealed. Considering the attention security and intelligence contractors have drawn, at least since 2004, the continuing government reliance on contractors despite the political headache such arrangements have sometimes caused, suggests that the government had more significant other reasons to rely on the private sector.<sup>77</sup> Nevertheless, certain experts have argued that outsourced activities are

---

<sup>74</sup> For a similar argument about privatisation in general, see: Craig Becker, ‘With Whose Hands: Privatization, Public Employment, and Democracy’, *Yale Law & Policy Review* 6/1 (1988) p.88; Steven Hanke, ‘Privatization versus Nationalization’, in Hanke (ed.), *Prospects for Privatization*, p.2. For an example, see: Chesterman, *One Nation Under Surveillance*, pp. 117-8, 129. Chesterman argues that the recourse to private aircraft companies in the rendition programme was a part of ‘a clear effort to avoid oversight’. See: Michael Scheuer, cited in Dana Priest, ‘Jet is an Open Secret in Terror War’, *Washington Post*, 27 December 2004, A1. See also: Bob Hoogenboom, ‘Grey Intelligence’, *Crime Law and Social Change* 45/4-5 (2006) p.377; Michaels, ‘All the President’s Spies’, pp. 901-4; Peter W. Singer, interview with Robert Young Pelton, cited in Pelton, *Licensed to Kill*, p.107; Singer, *Corporate Warriors*, pp. 216-7.

<sup>75</sup> Chaffin, ‘Contract Interrogators Hired to Avoid Supervision’, p.6.

<sup>76</sup> According to Seymour Hersh’s sources, the Office of Special Plans was created in order to find evidence that Saddam Hussein had close ties to Al Qaeda, and that Iraq possessed WMDs. Hersh then proceeds to explain how the creation of this office ‘gave the Pentagon’s pro-war leadership added leverage’ in its turf battles against the CIA and State Department. Seymour M. Hersh, ‘Selective Intelligence. Donald Rumsfeld has his own special sources. Are they reliable?’, *New Yorker*, 12 May 2003  
<[http://www.newyorker.com/archive/2003/05/12/030512fa\\_fact](http://www.newyorker.com/archive/2003/05/12/030512fa_fact)> (10 May 2009).

<sup>77</sup> In other places, such as Colombia, the US intelligence community’s reliance on private companies has been less visible. See for example: Juan Forero, ‘Private U.S. Operatives on Risky Missions in Colombia’, *New York Times*, 14 February 2004, A3.

often less transparent than political and bureaucratic structures.<sup>78</sup> Dana Priest, an investigative journalist for *The Washington Post*, holds that outsourcing masks ‘the fact that the government was growing in response to the 9/11 attacks’.<sup>79</sup> Although Priest is not wrong, in the realm of national security intelligence agencies have never been controlled by completely overt bureaucratic and political structures, and even since the institutionalisation of congressional oversight in the 1970s the intelligence committees mostly meet in secret. Fourth, if privatisation really turns out to weaken intelligence accountability, it does not mean that decision makers intended to do so. For instance, there has been some confusion - not to say conflation - between the use of the private sector as a cover to protect intelligence agencies’ sources and methods and its use to cover agencies’ wrongdoings.<sup>80</sup> While the former situation is part of the daily challenges of intelligence, such abuses do surface occasionally and are often difficult to prove.

Privatisation is sometimes considered as a strategy adopted by policy makers and intelligence officials to further their own interest and the interest of their former colleagues who moved to the private sector.<sup>81</sup> This strategy can be opportunist in an electoralist and nepotistic sense if the decision-maker intends to reward political allies. Allegations of cronyism have been widespread in recent years and are supported by at least two phenomena: the revolving door or the flow of individuals moving from the public to the private sector (and vice versa) and the American system of political funding. The first phenomenon feeds allegations that some government employees developed strong ties with some commercial companies and awarded them government contracts in order to obtain a job with one of these companies when they left the government.<sup>82</sup> Although this sequence of events may actually not breach the law, the revolving door does give an incentive for senior policy-makers to

---

<sup>78</sup> Feigenbaum, Henig and Hamnett, *Shrinking the State*, p.52; Nils Rosemann, ‘Privatized War and Corporate Impunity’, *Peace Review: A Journal of Social Justice* 17/2-3 (2005) p.279.

<sup>79</sup> Dana Priest, ‘America’s security Overload’, *The Daily Beast*, 21 September 2011, <<http://www.thedailybeast.com/articles/2011/09/21/government-private-contractors-hinder-fight-on-terrorism.html>> (accessed 25 September 2011). Another argument compares the outsourcing of intelligence to the outsourcing of other governmental activities and concludes that contracting data are less accessible when the government outsources intelligence activities. See for example: Scott Amey (Project on Government Oversight), Statement before the U.S. Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, *Intelligence Community Contractors: Are We Striking the Right Balance?*, Hearing, 112<sup>th</sup> Congress, 1<sup>st</sup> sess., 20 September 2011, p.2.

<sup>80</sup> See Chesterman, *supra* note 78. In the case of the rendition flights, at the time, the US government may not have considered it was involved in some kind of wrongdoing.

<sup>81</sup> Tim Shorrock adopts this approach in his book, see: Shorrock, *Spies for Hire*, *passim*.

<sup>82</sup> For example, see: Shorrock, *Spies for Hire*, pp. 38-40, 48-60; Glenn Greenwald, ‘Mike McConnell, the WashPost & the dangers of sleazy corporatism’, 29 March 2010, <[http://www.salon.com/news/opinion/glenn\\_greenwald/2010/03/29/mcconnell](http://www.salon.com/news/opinion/glenn_greenwald/2010/03/29/mcconnell)> (accessed 29 September 2011); Priest and Arkin, *Top Secret America*, pp. 188-91.

make favours to commercial companies for which they have worked or those that are willing to hire them in the future.

The second phenomenon that feeds allegations of personal interest is the funding of political campaigns by some of the companies that are involved with the intelligence community.<sup>83</sup> It is reasonable to suppose that these companies expect political favours in exchange to their funding and, in at least two cases, this kind of cronyism has been proved illegal. In 2006, former Republican congressman Randy Cunningham (R-CA) was convicted for using his position as a member of the House appropriations and intelligence committees to earmark contracts for MZM Inc. with the Pentagon's Counterintelligence Field Activity (CIFA).<sup>84</sup> Cunningham was sentenced to eight years in prison.<sup>85</sup> In 2007 Kyle "Dusty" Foggo, then executive director at the CIA, was convicted for using his position to steer public money towards one of his friends' defence company.<sup>86</sup> Both cases suggested that mechanisms controlling the regularity of contracts and ethics within the Department of Defense and the CIA were imperfect. However, overall, they do not provide a satisfying rationale for the substantial intensification of public-private intelligence 'partnerships' in the twenty-first century. These two cases, whilst attracting considerable attention, remain relatively isolated.

An overview of the weight of some of these rationales was provided by the ODNI in 2008 during a conference held by the agency's Chief Human Capital Officer, Ronald Sanders.<sup>87</sup> The pie chart below is a declassified slide of the PowerPoint document on which Sanders based his intervention. The percentages presented in the pie chart confirm the unique character of some of the services provided by the private sector, with 56 percent of core

---

<sup>83</sup> For more detailed accounts of representatives earmarking intelligence projects to private companies, see: Shorrock, *Spies for Hire*, pp. 375-8. An earmark database can be downloaded on the website of Taxpayers for Common Sense, <<http://www.taxpayer.net/earmarks.php>> (accessed 6 October 2011). For information on private defense companies' support to congressional leaders, see: OpenSecrets.org, 'Money to Congress', <<http://www.opensecrets.org/industries/summary.php?ind=D&cycle=All&recipdetail=A&sortorder=U>> (accessed 6 October 2011); Project on Government Oversight, 'The Politics of contracting', 29 June 2004, <[http://www.pogo.org/pogo-files/reports/government-corruption/the-politics-of-contracting/gc-rd-20040629.html#Executive\\_Summary](http://www.pogo.org/pogo-files/reports/government-corruption/the-politics-of-contracting/gc-rd-20040629.html#Executive_Summary)> (accessed 6 October 2011). For a specific case in which a company's contribution to a congressman is followed by the congressman earmarking a project to that company, see: Herbert A. Sample, 'Firms that donate to Inouye receive his earmarks', *Seattle Times*, 2 November 2009, <[http://seattletimes.com/html/business/technology/2010186198\\_apusearmarkkinghawaii.html](http://seattletimes.com/html/business/technology/2010186198_apusearmarkkinghawaii.html)> (accessed 10 September 2011).

<sup>84</sup> Shorrock, *Spies for Hire*, pp. 375-6.

<sup>85</sup> Randal C. Archibold, 'Ex-Congressman Gets 8-Year Term in Bribery Case', *New York Times*, 4 March 2006, p.1, A1.

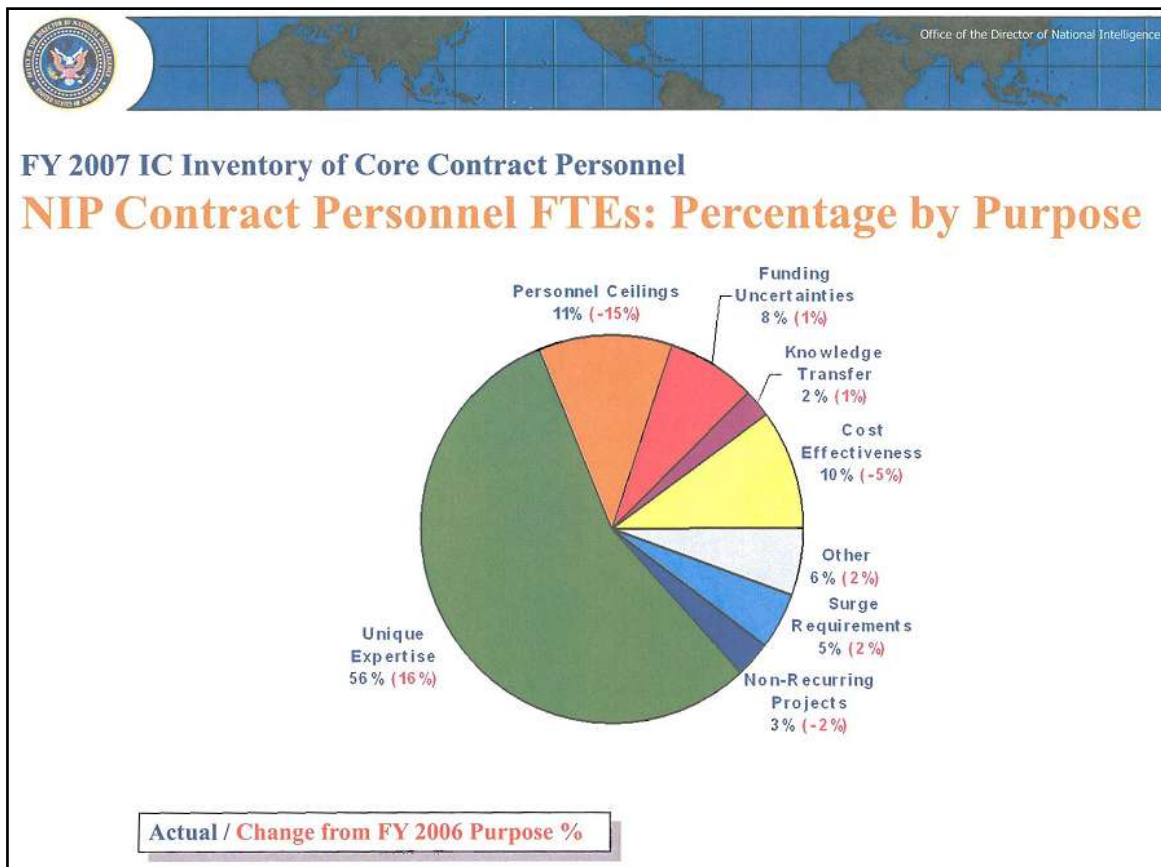
<sup>86</sup> Debbi Baker, 'Foggo pleads guilty to fraud', *San Diego Union-Tribune*, 29 September 2008, <<http://legacy.signonsandiego.com/news/politics/cunningham/20080929-1220-bn29foggo.html>> (accessed 13 October 2011); Kravitz, Derek, 'CIA officer was a 'Con Man,' Prosecutor Say', *Washington Post*, 25 February 2009, <[http://voices.washingtonpost.com/washingtonpostinvestigations/2009/02/cia\\_foggo\\_favors\\_sentencing\\_t.html](http://voices.washingtonpost.com/washingtonpostinvestigations/2009/02/cia_foggo_favors_sentencing_t.html)> (accessed 10 June 2011).

<sup>87</sup> Sanders, Results of the Fiscal Year 2007 U.S. Intelligence Community Inventory of Core Contractor Personnel.



contract personnel providing ‘unique expertise’ to the intelligence community in 2007.<sup>88</sup> This percentage corroborates arguments that the private sector is essential to the IC. The chart (below) also confirms that some of the decisions to privatise are based on: cost-effectiveness; the uncertain nature of intelligence activities; and surge requirements related to the GWOT.

**Figure 1 – NIP Contract Personnel FTEs: Percentage by Purpose (FY 2007)**



Source: Office of the Director of National Intelligence, Letter to the Author, FY 2007 Results, US Intelligence Community, Inventory of Core Contractor Personnel, p.5.<sup>89</sup>

In his presentation, Sanders explained the meaning of some of the categories used in this chart. Funding uncertainties consists for example in year-to-year emergency supplemental funding. Surge requirements occur when the government hires contract personnel to fill the gap, while civilians are being trained and developed to be eventually deployed instead of contract personnel. According to Sanders, the percentage for surge requirement was higher in the years directly following the 9/11 attacks. Non-recurring projects are defined as work with very specific and definite duration. Further explanation about other categories was later

<sup>88</sup> Sanders, Results of the Fiscal Year 2007 U.S. Intelligence Community Inventory of Core Contractor Personnel, p.3. This percentage is based on the budget for the National Intelligence Program for FY 2007.

<sup>89</sup> For a further break down of some of the categories, see: Appendix 8.

provided by the Intelligence Community Directive Number 612 which became effective on 30 October 2009. Among others, the directive describes transfer of knowledge as maintaining ‘critical continuity or skills in support of a particular mission or functional area in the face of skills gaps, the loss (anticipated or otherwise) of mission-essential USG civilian or military personnel, or other similar exigency’.<sup>90</sup> Overall, the information presented by the ODNI is revealing but incomplete. The ODNI figures are based on a part of the aggregate intelligence budget for 2007, the budget for the National Intelligence Program (NIP) and not its totality. They only account for core contract personnel and leave out other types of contractors. The category ‘Other’ on the pie chart remains unexplained.

There is strong evidence that the US intelligence community’s reliance on the private sector has so far been truly essential to US national security. Intelligence, because of its nature, could not function without the private sector. This explains why the relationship between the IC and the private sector is here to stay.<sup>91</sup> The fiercest opponents of the intelligence community’s reliance on the private sector, those who argue that intelligence (as a whole) should not be privatised,<sup>92</sup> do not properly take into account the fact that government bureaucracy is unable to provide all the innovation, flexibility and critical knowledge necessary for the craft of intelligence.<sup>93</sup> Public-private coordination is essential to intelligence because the government needs the expertise of the private sector to carry out its mission and for intelligence agencies not to rely on the private sector, government would have to grow so significantly that the United States may transform into a burdensome and undemocratic security state.

---

<sup>90</sup> Office of the Director of National Intelligence, Intelligence Community Directive Number 612, Intelligence Community Core Contract Personnel, 30 October 2009, p.2.

<sup>91</sup> For a similar argument in the literature on private military and security companies (PMSCs), see: David Isenberg, *A Fistful of Contractors: The Case for a Pragmatic Assessment of Private Military Companies in Iraq* (London: British American Security Information Council 2004) p.11; Caroline Holmqvist, ‘Private Security Companies. The Case for Regulation’, *SIPRI Policy Paper No.9* (2005) p.58; Kathleen M. Jennings, ‘Armed Services: Regulating the Private Military Industry’, *Fafo-report No.532* (2006) p.8; Deborah Avant and Lee Sigelman, ‘Private Security and Democracy: Lessons from the US in Iraq’, *Security Studies* 19/2 (2010) pp. 233-5. Nevertheless, most authors fail to recognise that the conditions in which PMSCs developed are not immutable. The historical and ideological underpinnings behind the privatisation of security may well disappear in the future.

<sup>92</sup> See for example: Christopher M. Caldwell, ‘Privatized Information gathering: Just War Theory and Morality’, *International Journal of Intelligence Ethics* 1/2 (2010) pp. 32-45; James E. Roper, ‘Using Private Corporations to conduct Intelligence Activities for National Security Purposes: An Ethical Appraisal’, *International Journal of Intelligence Ethics* 1/2 (2010) pp. 46-73.

<sup>93</sup> Moshe Schwartz, ‘The Department of Defense’s Use of Private Security Contractors in Iraq and Afghanistan: Background, Analysis, and Options for Congress’, Congressional Research Service report to Congress, 29 September 2009, p.5; David Strachan-Morris, ‘The Future of Civil-Military Intelligence cooperation Based on Lessons Learned in Iraq’, *Intelligence and National Security* 24/2 (2009) p.259. On all-source fusion and all-source workforce, see: Office of the Director of National Intelligence, The US Intelligence Community’s Five Year Strategic Human Capital Plan, p.8; Sims, ‘Intelligence to Counter Terror’, pp. 38-56.

## Proliferation and diversification

### The government's consumption of private intelligence

The strengthening of the rationales for privatising intelligence in the GWOT generated a quantitative proliferation and qualitative diversification of the relationship between the IC and the private sector. In May 2007 Terry Everett, a senior procurement executive at the ODNI, revealed that 70 percent of the intelligence budget was spent on private contracts<sup>94</sup> and based on the budget for the NIP in 2006, it appears that \$28.63 billion were spent on private contracts that year.<sup>95</sup> Another slide used by Everett during the ODNI presentation suggests that the spending on intelligence contractors roughly doubled from 1996 to 2006.<sup>96</sup> However such aggregate budget figures typically conflate the provision of supplies and services. In this context, expensive goods such as satellites are likely to constitute the lion's share of the 70 percent spent on private contracts. Considering human capital, the ODNI revealed in 2008 that 27 percent of the intelligence community's workforce, that is to say 37,000 contractors, was engaged in 'core' intelligence tasks.<sup>97</sup> Among these, several

---

<sup>94</sup> This money was spent on private contracts and not contractors. In other words, the private workforce on whom the intelligence community relies does not account for 70 percent of the total workforce of the intelligence community. The PowerPoint presentation revealing this figure was first obtained and presented in: Tim Shorrock, 'The corporate takeover of U.S. intelligence', Salon.com, 1 June 2007 <[http://www.salon.com/news/feature/2007/06/01/intel\\_contractors/index.html](http://www.salon.com/news/feature/2007/06/01/intel_contractors/index.html)> (accessed 20 September 2011). Tim Shorrock found the document on the DIA website. The PowerPoint document remains accessible on Steven Aftergood's document vault on the Federation of American Scientists (FAS) website See: Terri Everett, Office of the Director of National Intelligence, Presentation, Conference organised by the DIA, Boulder, Colorado, 14 May 2007, <<http://www.fas.org/irp/dni/everett.ppt>> (accessed 10 November 2011).

. A copy of the PowerPoint slides is available in the Appendix 1, slide 10. The 70 percent figure was confirmed by the ODNI in a press release issued in reaction to *The Washington Post* series on Top Secret America. See: Office of the Director of National Intelligence, 'Key Facts About Contractors', p.1.

<sup>95</sup> The ODNI is only in charge of the NIP budget. For the FY2006 NIP budget, see: John F. Hackett, Director of the Information Management Office, Letter to Steven Aftergood, 28 October 2010, <[http://www.dni.gov/electronic\\_reading\\_room/response\\_letter.pdf](http://www.dni.gov/electronic_reading_room/response_letter.pdf)> (accessed 27 September 2011). Another calculation, based on Everett's PowerPoint presentation and the FY 2006 budget, gives the approximate figure of \$42 billion. See: Shorrock, 'The corporate takeover of U.S. intelligence'. Shorrock estimates that the total value of intelligence contracts more than doubled, from about \$18 billion in 1995 to \$42 billion in 2005. See also: Raelynn J. Hillhouse, 'Exclusive: Office of Nation's Top Spy Inadvertently Reveals Key to Classified National Intel Budget', 4 June 2007, <[http://www.thespywhobilledme.com/the\\_spy\\_who\\_billed\\_me/2007/06/exclusive\\_offic.html](http://www.thespywhobilledme.com/the_spy_who_billed_me/2007/06/exclusive_offic.html)> (accessed 20 September 2011). The figure put forward by Hillhouse and the methodology she relied on were run down by the ODNI. See: Office of the Director of National Intelligence, Statement by Ellen Cioccio, Acting Director of Public Affairs, 19 June 2007. For a milder criticism, see: Steven Aftergood, 'ODNI Document Suggests a Larger Intelligence Budget', *Secrecy news*, 5 June 2007, <[http://www.fas.org/blog/secrecy/2007/06/odni\\_document\\_suggests\\_a\\_large.html](http://www.fas.org/blog/secrecy/2007/06/odni_document_suggests_a_large.html)> (accessed 20 September 2011). For a criticism of the ODNI's statement, see: Shorrock, *Spies for Hire*, p.392 (note 18).

<sup>96</sup> Appendix 1, slide 11.

<sup>97</sup> This calculation is based on the information given by Dr. Sanders in his conference call. It is based on an estimation of the ODNI according to which the intelligence community workforce is composed of 100 000 US

thousands were individual contractors who, by definition, do not depend on a company.<sup>98</sup> According to a national security expert, in 2007, in the most sensitive division of the CIA, the National Clandestine Service, ‘over half of the workforce is made up of industrial contractors’.<sup>99</sup> At the NSA, procurement spending doubled from 2000 to 2004 and was forecast to double again in the following decade.<sup>100</sup> According to an account of a briefing by Harry Gatanas, the Senior Acquisition Executive for the NSA from 2004 to 2005, in 2003 alone, the NSA executed some 43,000 contracts, and in 2004 the Agency used as much as 2,690 businesses.<sup>101</sup> In a Senate hearing, James Clapper noted that when he served as director of the National Geospatial-Intelligence Agency (NGA), from 2001 to 2006, ‘half of the labor force was contractors’.<sup>102</sup> In 2007, the Director of the DIA stated that contractors represented about 35 percent of his agency’s workforce.<sup>103</sup> In sum, these figures confirm that contractors constituted a significant part of the intelligence community’s workforce between 2001 and 2009.

Since 2007, further disclosures clarified the proportions of the 70 percent of the intelligence budget that were spent on private contracts.<sup>104</sup> The document on which Ronald Sanders based his presentation reveals that collection and operations take most of the budget, and that management and support, and analysis and production are also significantly outsourced. According to the release, a significant part of the budget for the NIP (22 percent)

---

government employees (military and civilian, excluding contractors). The result (37000) was obtained by solving the following function where X is the number of contractors [ $.27(100000+X) = X$ ]. For the source, see: Sanders, Results of the Fiscal Year 2007 U.S. Intelligence Community Inventory of Core Contractor Personnel, pp. 12-4; Office of the Director of National Intelligence, ‘Questions and Answers on the Intelligence Community Post 9/11’, p.4. The .27 percentage is confirmed by the declassified document the author received from the ODNI. See Appendix 9. In another conference call, Dr. Sanders claimed that almost half of the intelligence community’s workforce has been hired since 9/11. See: Sanders, Media Conference Call, p.6. According to a recent report released by the ODNI, 1 088 725 private contractors held clearances as of 1 October 2009 and 1 066 087 as of 1 October 2010. However, that does not mean that all of them were directly involved in intelligence activities. For example, an intelligence agency may need to grant a janitor a top-secret level security clearance. See: Office of the Director of National Intelligence, Annual Intelligence Authorization Act, Report on Security Clearance Determinations For Fiscal Year 2010, September 2011, pp. 2-3.

<sup>98</sup> Sanders, Results of the Fiscal Year 2007 U.S. Intelligence Community Inventory of Core Contractor Personnel, p.6.

<sup>99</sup> Raelynn J. Hillhouse, ‘The Achilles’ Heel of the US War Effort’, *The Spy Who Billed Me*, 4 October 2007, <[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)> (accessed 2 October 2011).

<sup>100</sup> George Cahlink, ‘Security agency doubled procurement spending in four years’, *Government Executive*, 1 June 2004, <<http://www.govexec.com/defense/2004/06/security-agency-doubled-procurement-spending-in-four-years/16825/>> (accessed 20 October 2010).

<sup>101</sup> Ibid.

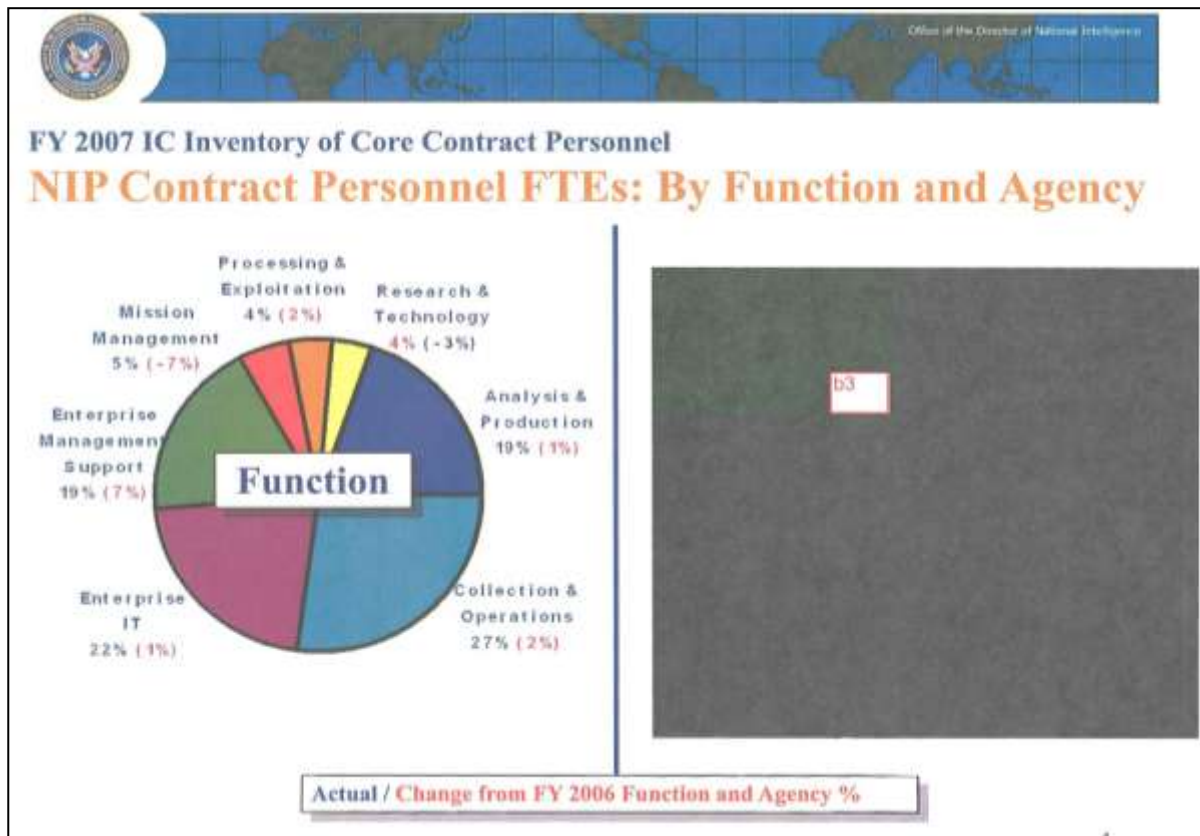
<sup>102</sup> US Senate, Select Committee on Intelligence, Nomination of Lieutenant General James Clapper, Jr., USAF, Ret., To Be Director of National Intelligence, p.17.

<sup>103</sup> Michael D. Maples, ‘Consolidating Our Intelligence Contracts’, *Washington Post*, A.14.

<sup>104</sup> Sanders, Results of the Fiscal Year 2007 U.S. Intelligence Community Inventory of Core Contractor Personnel, 27 August 2008.

is spent on technology. In a follow-up interview, Sanders further specified that there were no particular reasons for this overall repartition.<sup>105</sup> The outsourcing of intelligence activities expanded in a relatively unplanned fashion and this is not surprising. As Wilbur Jones observed in his seminal history of US acquisition, the overall precept followed by the US government has been ‘to act now, worry later’.<sup>106</sup>

**Figure 2 – NIP Contract Personnel FTEs: By Function and Agency (FY 2007)**



Source: ODNI, Letter to the Author, Inventory of Core Contractor Personnel, p.4.<sup>107</sup>

Although this chart gives an idea of contractors’ contribution to intelligence activities, it remains limited by a broad and debatable view of what intelligence agencies do. Contractors’ provision of goods and services to the intelligence community can be divided in six sub-sets

<sup>105</sup> Ronald Sanders, cited in Greg Miller, ‘Spy Agencies Outsourcing to Fill Key Jobs’, *Los Angeles Times*, 17 September 2006, <<http://articles.latimes.com/2006/sep/17/nation/na-contractors17>> (accessed 24 September 2011). Sanders is quoted, saying ‘I wish I could tell you it’s by design. But I think it’s been by default’.

<sup>106</sup> Wilbur D. Jones Jr., *Arming the Eagle: A History of U.S. Weapons Acquisition Since 1775* (Fort Belvoir, VA: Defense Systems Management College Press 1999) p.ix.

<sup>107</sup> See also: Sanders, Results of the Fiscal Year 2007 U.S. Intelligence Community Inventory of Core Contractor Personnel, pp. 2-3. Information and Technology (IT) consists in running computer systems, information security etc. Enterprise management and support are the formal term for administrative functions (e.g. processing travel vouchers, personnel actions). Mission management is understood as a coordinating function. The right side of this slide remains classified and was therefore excised by the ODNI.

of activities: collection, covert action, analysis, dissemination, management and support, and counter-intelligence.<sup>108</sup> When carrying out these tasks, contractors have worked from places ranging from offices in Washington DC area to the frontlines in Afghanistan and Iraq.

Since the beginning of the GWOT private contractors have been involved in all the types of intelligence collection from the most mundane tasks to the most sensitive. Companies have contributed to the collection of signal (SIGINT), imagery (IMINT) and measurement intelligence (MASINT) when they developed and built satellites or drones.<sup>109</sup> Drones have been remotely controlled by private contractors sitting in an office somewhere in the US or abroad, providing timely imagery intelligence and 24-hour surveillance of sensitive areas on the frontlines of the GWOT. Contractors worked in the National Counter Terrorism Center to collect and maintain intelligence to feed its terrorist database.<sup>110</sup> They also worked closer to the field. For example, the intelligence community contracted out linguists and social scientists to join teams collecting human intelligence (HUMINT) in Afghan and Iraqi villages.<sup>111</sup> The US Army Intelligence and Security Command used contractors to conduct ‘overt and controlled HUMINT operations in support of deployed U.S. and coalition forces’ in Iraq and Afghanistan.<sup>112</sup> Contracted linguists also worked directly in the interrogation room,<sup>113</sup> and contractors devised sets of techniques to interrogate detainees and some interrogated detainees.<sup>114</sup> In the course of a congressional hearing in 2008, Michael

---

<sup>108</sup> The term national security intelligence has been used to describe processes, products and institutions. In this case, the focus is on the intelligence process, or intelligence as a set of activities. For a similar definition of intelligence, see: Mark M. Lowenthal, *Intelligence: From Secrets to Policy* (Washington DC: CQ Press 2006) p.9.

<sup>109</sup> Shorrock, *Spies for Hire*, p.16. Shorrock refers to a speech by Donald M. Kerr, director of the NRO from 2005 to 2007.

<sup>110</sup> Ibid, p.11. Shorrock refers to The Analysis Corporation for the maintenance, and to CACI International for the collection. See also: Miller, ‘Spy Agencies Outsourcing to Fill Key Jobs’.

<sup>111</sup> Keith B. Alexander, Army Deputy Chief of Staff for Intelligence, Statement before the Committee on Armed Services, subcommittee on Strategic Forces, Fiscal Year 2005 Joint Military Intelligence Program (JMIP) and Army tactical Intelligence and Related Activities (TIARA), Hearing, 108<sup>th</sup> Congress, 2<sup>nd</sup> sess., 7 April 2004, pp. 9, 13; Business Wire, ‘L-3 Communications’ Government Services, Inc. Subsidiary Awarded Potential \$426.5 Million U.S. Army Intelligence Support Services Contract’, 13 July 2005, <<http://www.businesswire.com/news/home/20050713005224/en/L-3-Communications-Government-Services-Subsidiary-Awarded-Potential>> (accessed 10 February 2011); Pratap Chatterjee, *Outsourcing Intelligence in Iraq. A CorpWatch Report on L-3/Titan*, December 2008, pp. 12, 18-9; Former national security contractor, interview with author, 1 August 2011, Washington DC.

<sup>112</sup> Jacob B. Gale, ‘Intelligence Outsourcing in the U.S. Department of Defense: Theory, Practice, And Implications’, Thesis submitted to the Faculty of the Graduate School of Arts and Sciences of Georgetown University in partial fulfilment of the requirements for the degree of Master of Arts in Security Studies, 15 April 2011, Washington DC, p.74.

<sup>113</sup> Chatterjee, *Outsourcing Intelligence in Iraq*, pp. 13-22. According to Dana Priest and William Arkin, more than 56 commercial companies compete for the linguist business. See: Priest and Arkin, *Top Secret America*, p.182.

<sup>114</sup> Jane Mayer, ‘The Black Sites’, *New Yorker*, 13 August 2007, <[http://www.newyorker.com/reporting/2007/08/13/070813fa\\_fact\\_mayer](http://www.newyorker.com/reporting/2007/08/13/070813fa_fact_mayer)> (accessed 20 October 2011). Mayer

Hayden suggested some contractors may have been involved in waterboarding<sup>115</sup> and recognised that the CIA used contractors to conduct espionage, although ‘by and large, these were individual contractors’.<sup>116</sup> In the CIA Iraq station, contractors reportedly worked as case officers, recruited informants and supervised government agents supporting combat units.<sup>117</sup> In Afghanistan, contractors reportedly gathered ‘intelligence on the whereabouts of suspected militants and the location of insurgent camps’.<sup>118</sup> Finally, commercial companies collected and provided open source intelligence (OSINT) to the intelligence community.<sup>119</sup> Some of these companies specialised in the aggregations of data on other companies’ customers.<sup>120</sup> This type of arrangement reportedly allowed the government to circumvent the Stored Communications Act which prohibits companies, such as Internet Service Providers, from turning over some information directly to the government.<sup>121</sup>

Contractors have also been involved in some of the most offensive intelligence activities led by the IC. According to Robert Young Pelton’s account of his field research in Afghanistan, some contractors worked on a ‘CIA-paid covert hunt for Bin Laden in the border region of Afghanistan’.<sup>122</sup> This use of contractors for paramilitary operations, a type of covert action, was indirectly confirmed by the CIA in a press release in which it stated that two contractors ‘died while tracking terrorists near Shkin, Afghanistan, on October 25, 2003’.<sup>123</sup> Commercial companies have also been an essential part of the drone war – in which

---

describes how the CIA hired a group of retired military psychologists to devise interrogation techniques. See also: Chatterjee, *Outsourcing Intelligence in Iraq*, pp. 6-12.

<sup>115</sup> US House of Representatives, Permanent Select Committee on Intelligence, Annual Worldwide Threat Assessment, 110<sup>th</sup> Congress, 2<sup>nd</sup> sess., 5 February 2008, p.26.

<sup>116</sup> Hayden, interview with Frontline.

<sup>117</sup> Robert Baer, ‘Just Who Does the CIA’s Work?’, *Times*, 20 April 2007, <<http://www.time.com/time/nation/article/0,8599,1613011,00.html>> (accessed 26 March 2011); Miller, ‘Spy Agencies Outsourcing to Fill Key Jobs’; Mark Mazzetti, Ashley Parker, Jane Perlez and Eric Schmitt, ‘American Held in Pakistan Worked With C.I.A.’, *New York Times*, 21 February 2011, A1. Allegedly, Raymond A. Davis, a retired Special Forces soldier and contractor for the CIA, carried out scouting and other reconnaissance missions as a security officer in Pakistan.

<sup>118</sup> Dexter Filkins and Mark Mazzetti, ‘Contractors Tied to Effort to Track and Kill Militants’, *New York Times*, 14 March 2010, A1.

<sup>119</sup> LexisNexis, ‘Why LexisNexis? *Your Partner for Intelligence Community Work*’, <<http://www.lexisnexis.com/government/osint/home.html?access=JCM134585>> (accessed 17 October 2011). See also: Shane Harris, ‘Intelligence Incorporated’, *Government Executive*, 15 May 2005, p.40.

<sup>120</sup> Ryan Singel and Noah Shachtman, ‘Army Admits Using JetBlue Data’, *Wired News*, 23 September 2003, <<http://www.wired.com/politics/security/news/2003/09/60540>> (accessed 20 October 2011). The authors describe how the defence contractor Torch Concepts gathered data on Jetblue’s passengers’ records.

<sup>121</sup> Michaels, ‘All the President’s Spies’, p.930. See also: Suzanne Spaulding, interview with Frontline, 15 February 2007, <<http://www.pbs.org/wgbh/pages/frontline/homefront/interviews/spaulding.html>> (accessed 20 August 2012); Woods, interview with Frontline.

<sup>122</sup> Pelton, *Licensed to Kill*, pp. 6, 17-8, 30-2; Mark Mazzetti, ‘CIA sought Blackwater’s Help to Kill Jihadists’, *New York Times*, 19 August 2009, <<http://www.nytimes.com/2009/08/20/us/20intel.html>> (accessed 21 October 2011).

<sup>123</sup> Central Intelligence Agency, ‘Killed in line of Duty’, 21 May 2004, <<https://www.cia.gov/news-information/press-releases-statements/press-release-archive-2004/pr05212004.html>> (accessed 7 October 2011).

remotely controlled unmanned aerial vehicles have allowed the CIA to conduct targeted killings. Private contractors developed, built, maintained, loaded and operated drones.<sup>124</sup> Reportedly, ‘management and training responsibility for CIA’s “targeted killing” efforts’ was handed to Blackwater USA.<sup>125</sup> Within the military intelligence community, contractors have been in charge of ‘selecting targets for assassination in Iraq and Afghanistan’.<sup>126</sup> However, according to Dana Priest and William Arkin:

They had to hand the joystick controls over to a federal employee – either a CIA officer or someone in uniform – once the vehicle got inside the kill box, meaning within the range of launching its missiles. Government and military lawyers insisted that a service member or agency officer sworn first and foremost to act in the United States’ interest, and not some corporate interest, push the launch button.<sup>127</sup>

Commercial companies have been extensively involved in intelligence analysis. They provided data harvesting and mining services to the IC in order to make sense of large databases.<sup>128</sup> Furthermore, companies developed software programmes ‘used to manipulate and visualize data’.<sup>129</sup> Besides these relatively uncontroversial services, contracted analysts briefed senior intelligence officials or policy-makers, a significantly sensitive task given the influence experts can have in government.<sup>130</sup> Hillhouse claimed in 2007 that the President Daily Brief, arguably the most important intelligence product, heavily relied on private contractors,<sup>131</sup> but this claim seems to be based on reasoned guesses rather than evidence. Commercial companies have also disseminated intelligence. In a 2004 testimony, General

---

See also: Risen and Mazzetti, ‘Blackwater Guards Tied to Secret Raids by the C.I.A.’, A1; Matthew Cole, ‘Same Blackwater, Different Names’, <<http://abcnews.go.com/Blotter/blackwater-names/story?id=9634372&page=2>>, (accessed 20 January 2013).

<sup>124</sup> Jane Mayer, ‘The Predator War’, *New Yorker*, 26 October 2009

<[http://www.newyorker.com/reporting/2009/10/26/091026fa\\_fact\\_mayer](http://www.newyorker.com/reporting/2009/10/26/091026fa_fact_mayer)> (accessed 10 October 2011); James Risen and Mark Mazzetti, C.I.A. Said to Use Outsiders to Put Bombs on Drones’, *New York Times*, 21 August 2009, A1.

<sup>125</sup> R. Jeffrey Smith and Joby Warrick, ‘Disclosure of ‘Targeted Killing’ Program comes at Bad Time for CIA’, *Washington Post*, 21 August 2009, <<http://www.washingtonpost.com/wp-dyn/content/article/2009/08/20/AR2009082004064.html>> (accessed 26 January 2013).

<sup>126</sup> Joshua Foust, Statement before the U.S. Senate Committee on Homeland Security and Governmental Affairs, p.18.

<sup>127</sup> Priest and Arkin, *Top Secret America*, p.210.

<sup>128</sup> Shorrock, *Spies for Hire*, pp. 178, 212.

<sup>129</sup> Ibid, p.12.

<sup>130</sup> Former national security contractor, interview with author. Foust recalled briefing Admiral Mike McMullen who was Chairman of the Joint Chiefs of Staff, when he was a Department of Defense contractor. See also Video: Michael Hayden, C-SPAN, ‘Privatization of U.S. intelligence’, 20 August 2009, <<http://www.c-spanvideo.org/program/288482-1>> (accessed 10 September 2011). Hayden notes that CIA contractors have been sent to brief representatives.

<sup>131</sup> Raelynn J. Hillhouse, ‘Corporate Content and the President’s Daily Brief’, 23 July 2007, <[http://www.thespywhobilledme.com/the\\_spy\\_who\\_billed\\_me/2007/07/corporate-conte.html](http://www.thespywhobilledme.com/the_spy_who_billed_me/2007/07/corporate-conte.html)> (accessed 10 October 2011).



Miller, the former commander of Joint Task Force Guantanamo, pointed out that contractors were ‘developing processed intelligence from raw intelligence and feeding our computer systems’.<sup>132</sup> Raytheon Corporation designed and built the Distributed Common Ground System, which allowed the US military to fuse ‘tactical intelligence from military units with signals intelligence and imagery from the national collection agencies’.<sup>133</sup> Commercial companies have also provided the US government with report officers ‘who act as liaisons between officers in the field and analysts back at headquarters’.<sup>134</sup>

Contractors have provided all sorts of management and support tasks. In most cases, these tasks do not constitute an intelligence activity per se. However, they are essential to the functioning of intelligence. For example, a company called Antheon has reportedly trained instructors at the Army’s intelligence school in Fort Huachuca, Arizona.<sup>135</sup> Commercial companies and non-profit organisations advised intelligence agencies on the efficiency of their structure and workforce management.<sup>136</sup> They have also been involved in outside reviews and auditing of intelligence community programmes or activities.<sup>137</sup> At the CIA, companies acted as travel agents and planned international trips for the Agency’s employees. Some companies were involved in the planning of the extraordinary rendition flights, transporting high value detainees around the world.<sup>138</sup> Companies have also been involved in procurement processes. According to Tim Shorrock, Northrop Grumman subcontractors managed ‘DIA’s system for processing bids and awarding contracts’<sup>139</sup> and various sources

---

<sup>132</sup> Geoffrey D. Miller, in US Senate, Armed Services Committee, Hearing, 108<sup>th</sup> Congress, 2<sup>nd</sup> sess., 19 May 2004, <<http://scvhistory.com/scvhistory/signal/iraq/sasc051904.htm>> (accessed 22 February 2012).

<sup>133</sup> Shorrock, *Spies for Hire*, pp. 12, 155, 253.

<sup>134</sup> James Bamford, ‘This Spy for Rent’, *New York Times*, 13 June 2004, A.13.

<sup>135</sup> Shorrock, *Spies for Hire*, pp. 5, 267.

<sup>136</sup> See for example: Intelligence and National Security Alliance, ‘Critical Issues for Intelligence Acquisition Reform’, INSA report, 2008; Business Executive for National Security, ‘Pay for Performance at the CIA: Restoring Equity, Transparency and Accountability’, January 2004; Shorrock, *Spies for Hire*, pp. 137-8.

<sup>137</sup> Senator Daniel Akaka (D-HI), US Senate, Committee on Homeland Security and Governmental Affairs, Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee, Government-wide Intelligence Community Management Reforms, Hearing, 110<sup>th</sup> Congress, 2<sup>nd</sup> sess., 29 February 2008, p.22.

<sup>138</sup> Jane Mayer, ‘Outsourcing. The C.I.A.’s Travel Agent’, *New Yorker*, 30 October 2006, <[http://www.newyorker.com/archive/2006/10/30/061030ta\\_talk\\_mayer](http://www.newyorker.com/archive/2006/10/30/061030ta_talk_mayer)> (accessed 20 October 2011). For the involvement of commercial companies in the rendition program, see: Priest, ‘Jet Is an Open secret in Terror War’, A1; Ian Cobain and Ben Quinn, ‘How US firms profited from torture flights’, *Guardian*, 31 August 2011, <<http://www.guardian.co.uk/world/2011/aug/31/us-firms-torture-flights-rendition>> (accessed 3 September 2011). Cobain and Quinn’s article is based on: New York Supreme Court, Appellate Division – Third Department, *Richmor Aviation, Inc. v Sportsflight Air, Inc.* Columbia County Clerk’s Index No. 2171/07 [on file with author].

<sup>139</sup> Shorrock, *Spies for Hire*, p.175.

have also confirmed the involvement of commercial companies in drafting government agencies budgets and writing statements of work.<sup>140</sup>

Finally, companies have provided services in the area of counter-intelligence and information security, protecting intelligence sources and methods against enemy intrusions. Contractors compartmentalised secret information and made sure compartments were respected by intelligence producers and consumers.<sup>141</sup> In order to hide some programmes, companies such as Abraxas Corporation have reportedly devised nonofficial covers for case officers overseas.<sup>142</sup> Other companies have physically protected and stored secret documents, or provided security tools to protect classified computer networks.<sup>143</sup> The defunct Blackwater company has been reported to physically protect personnel in and around some the most dangerous CIA stations and during field officers missions.<sup>144</sup> Commercial companies also provided investigative support and vetted intelligence agencies employees and contractors.<sup>145</sup> Finally, private contractors have reportedly acted as counterintelligence officers, overseeing clandestine meetings between agency officers and their recruited spies.<sup>146</sup>

## **The organisation(s) of public-private intelligence interactions**

### *A variety of statuses and incentives*

In the twenty-first century, public-private intelligence interactions have been characterised by a variety of statuses and incentives. Regarding the status of the actors, the public side of the relation can be defined as one of the 16 government agencies constituting the intelligence community. The status of the private entity acting in support of the intelligence community

---

<sup>140</sup> A statement of work is a document that describes the needs and requirements of an agency in concise way. For the definition, see: General Services Administration, 'Statement of Work', <<http://www.gsa.gov/portal/content/195713>> (accessed 20 March 2013). See also: Foust, Statement before the U.S. Senate Committee on Homeland Security and Governmental Affairs, pp. 3-4. Shorrock, *Spies for Hire*, p.12; Government Accountability Office, Department of Homeland Security: Improved Assessment and Oversight Needed to Manage Risk of Contracting for Selected Services, GAO-07-990, Report to Congressional Requesters, September 2007, p.11; Department of Homeland Security, Office of Inspector General, Better Oversight Needed of Support Services Contractors in Secure Border Initiative Programs (OIG-09-80), June 2009, p.4.

<sup>141</sup> Michael C. Hernandez, interview with author, 28 July 2011, Washington DC. Hernandez is a contractor for the US military and specialises on information security.

<sup>142</sup> Greg Miller, 'Spy Agencies Outsourcing to Fill Key Jobs'; Greg Miller, 'A Bold Upstart With CIA Roots', *Los Angeles Times*, 17 September 2006, <<http://articles.latimes.com/2006/sep/17/nation/na-abraxas17>> (accessed 1 September 2011). Apparently the need for fresh ideas to infiltrate terrorist networks provided the rationale for this contract.

<sup>143</sup> Priest and Arkin, *Top Secret America*, pp. 172-3; Shorrock, *Spies for Hire*, p.12.

<sup>144</sup> Pelton, *Licensed to Kill*, p .37.

<sup>145</sup> US Senate, Select Committee on Intelligence, Intelligence Authorization Act for Fiscal Year 2007, Report 110-2, 110<sup>th</sup> Congress, 2<sup>nd</sup> sess., 24 January 2007, p.34; Shorrock, *Spies for Hire*, pp. 179-80.

<sup>146</sup> Bamford, 'This Spy for Rent', A.13.

varies and the intelligence community usually contracts out to companies and individuals. At the most general level, the Department of the Army defines contractors as ‘persons or businesses, to include authorized subcontractors, who provide products or services for monetary compensation. A contractor furnishes supplies, services, or performs work at a certain price or rate based on the terms of a contract’.<sup>147</sup> One key distinction is between personal and nonpersonal services contracts. In the former type of contracts, the government retains control of and ‘full personal responsibility for the function’, and ‘contractor personnel are subject to the relatively continuous supervision and control of a Government officer or employee’.<sup>148</sup> In the latter type of contracts, the government delegates a function to a contractor and ‘the personnel rendering the services are not subject, either by the contract’s terms or by the manner of its administration, to the supervision and control’.<sup>149</sup> Furthermore, in its ‘IC contractor workforce assessment’, the ODNI has divided contractors into three groups.<sup>150</sup> Commercial contractors provide commercially available services such as food or janitorial services. Another group of contractors, commodity contractors, provide a ‘specified commodity, such as a satellite or information system’. Finally, core contractors:

provide direct support to IC mission areas such as collection activities and operations (both technical and human intelligence), intelligence analysis and production, basic and applied technology research and development, acquisition and program management, and management support to these functions. Core contractors perform staff-like work, often fully integrated with federal workers and working in federal workspaces. Furthermore, they produce work products such as reports, analyses, and intelligence estimates that are often indistinguishable from those produced by federal personnel.<sup>151</sup>

Commercial companies working for the intelligence community vary immensely in size along a continuum that stems from the well-established defence industry giants to small start-up companies relying on their rolodex to provide contractors to an intelligence agency. The biggest companies, such as Lockheed Martin, Raytheon, or Booz Allen Hamilton, employ ten thousands of cleared personnel to provide all sorts of services to the defence and

---

<sup>147</sup> Department of the Army, FM 3-100.21: Contractors on the Battlefield, January 2003, pp. 1-2.

<sup>148</sup> General Service Administration, Federal Acquisition Regulation (FAR), 19 September 2001, Title 48, Vol.1, Section 37.104.

<sup>149</sup> Ibid, Section 37.101. For more on types of contracts and contracts typology, see: Gale, ‘Intelligence Outsourcing in the U.S. Department of Defense: Theory, Practice, And Implications’, pp. 13-5.

<sup>150</sup> US Senate, Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Background: Intelligence Community Contractors: Are We Striking the Right Balance?, 112<sup>th</sup> Congress, 1<sup>st</sup> sess., 20 September 2011, p.75.

<sup>151</sup> Ibid. See also: Office of the Director of National Intelligence, Intelligence Community Directive Number 612, Intelligence Community Core Contract Personnel, 30 October 2009, p.4.

intelligence communities. They are so extensively involved with the government that they have arguably become semi-public organisations.<sup>152</sup> Legally speaking, most of these companies are actually public companies since they offer their securities for sale to the public.<sup>153</sup> As technology became more complex, these prime contractors, or ‘systems integrators’,<sup>154</sup> began to rely more heavily on smaller, more specialised, private companies to which they subcontract their work. At this second level, the government rely on a contractual relation between two or more contractors to obtain intelligence supplies or services. In the last decade, companies which were not historically related to the intelligence community shifted into the intelligence business. For instance, Google and AT&T, which are known for their achievement in information technology, greatly profited from greater public demand for intelligence.<sup>155</sup> Finally, a range of smaller companies focuses more exclusively on intelligence activities.<sup>156</sup> Shorrock estimates that their collective value exploded in the years following the 9/11 attacks from \$980.5 million in 2001 to \$8.3 billion in 2006.<sup>157</sup>

The public-private distinction can also be used to distinguish between different public and private incentives. In theory, the intelligence community’s main organisational incentive is national security. This public end is embedded in the secretive intelligence bureaucracy.<sup>158</sup> In practice, however, agencies often pursue their own organisational interest.<sup>159</sup> Moreover, their activities can be influenced at the political level by trade-offs between national security and liberal democratic values. Private entities supporting the intelligence community are usually considered as ‘partners’, which emphasises a commonality of goals. A former senior CIA officer even recalls ‘a very brotherly relationship’ with the company Blackwater, which

---

<sup>152</sup> Most of these companies can be found in the list of the top 100 federal contractors available in the Federal Procurement Data System. See: Federal Procurement Data system, Federal Procurement Report, <<https://www.fpds.gov/fpdsngcms/index.php/reports>> (accessed 21 October 2011).

<sup>153</sup> For example, Mantech International Corporation and CA Inc. are both on the Nasdaq stock market. See: Website of NASDAQ, ‘NASDAQ Companies’, <<http://www.nasdaq.com/screening/companies-by-industry.aspx?exchange=NASDAQ&region=North+America>> (accessed 18 October 2011). SAIC, Lockheed Martin, CACI International Inc., Titan International Inc., Booz Allen Hamilton are all on NYSE stock market. See: Website of NYSE, ‘Listings Directory’, <[http://www.nyse.com/about/listed/lc\\_all\\_name.html](http://www.nyse.com/about/listed/lc_all_name.html)> (accessed 18 October 2011).

<sup>154</sup> Shorrock, *Spies for Hire*, p.23.

<sup>155</sup> Ibid, p.25.

<sup>156</sup> Ibid, pp. 264-5.

<sup>157</sup> Ibid, pp. 268-9.

<sup>158</sup> US Congress, Pub. Law 80-253, National Security Act of 1947, 80<sup>th</sup> Congress, 1<sup>st</sup> sess., 26 July 1947, section 2.

<sup>159</sup> See for example: John Macartney, ‘Intelligence and Bureaucracy’, in David C. Kozak and James M. Keagle (eds), *Bureaucratic Politics and National Security. Theory and Practice* (London: Lynne Rienner Publishers 1988) pp. 28-41; George Edward Thibault, ‘The Politics of Intelligence’, in Kozak and Keagle (ed.), *Bureaucratic Politics and National Security*, pp. 46-7. See also: Philip H. J. Davies, ‘Intelligence and the Machinery of Government: Conceptualizing the Intelligence Community’, *Public Policy and Administration* 25/1 (2010) pp. 38-40.

he felt was ‘an extension of the Agency’.<sup>160</sup> Nevertheless, in most cases, the private partner is a company with a clear profit interest that is contracted for a particular task. In the market for intelligence, as in most other markets, public, private, small, or large companies, have in common an incentive structure that primarily aims to fulfil their owners’ main interest: profit. At the individual level, profit is rarely the sole incentive and ‘exchanging an official blue badge for the contractor’s green one does not automatically divest someone of a sense of professional dedication’.<sup>161</sup> In this sense, private actors are also driven by their national security mission.<sup>162</sup> Patriotism and self-reward are certainly key motivations but in some situations economic interests prevail more clearly. This is the case of informers who accept to work for an intelligence agency in exchange of monetary compensations.<sup>163</sup>

Commercial companies sometimes relate to the intelligence community for other motives and through other means than a contract. Sometimes a company is forced to cooperate. For example, this is the case when the FBI serves a subpoena to a company to obtain some of its proprietary information.<sup>164</sup> If a company fails to comply with this kind of legal requirement, the government can fine it.<sup>165</sup> In other cases, a company may be willing to disclose information to the government in a more informal way, without requiring a subpoena or a warrant. For example, as a part of the Terrorism Surveillance Program, the NSA obtained vast amounts of information from AT&T without a warrant.<sup>166</sup> In this particular programme, some companies even took a proactive approach, trying to extend the network of communications available to intelligence agencies.<sup>167</sup> Other companies acted in a more adversarial fashion and refused to collaborate with the government because it did not have a

---

<sup>160</sup> James Risen and Mark Mazetti, ‘Blackwater Guards Tied to Secret Raids by the C.I.A.’, *New York Times*, 11 December 2009, p.1; Scott Horton, ‘Blackwater’s Contracts’, *Harper’s Magazine*, 24 August 2009, <<http://www.hapers.org/blog/2009/blackwaters-contracts/>> (26 January 2013).

<sup>161</sup> Stephen Irving and Max Schwab, ‘We’re in It for the Money’, *International Journal of Intelligence and CounterIntelligence* 24/1 (2011) p.203.

<sup>162</sup> Morten Hansen, ‘Intelligence Contracting: On the Motivations, Interests, and Capabilities of Core Personnel Contractors in the US Intelligence Community’, *Intelligence and National Security* (iFirst 2012) pp. 1-24.

<sup>163</sup> For an example of relationship between the CIA and an informer, see: James Risen, ‘Propping Up a Drug Lord, Then Arresting Him’, *New York Times*, 11 December 2010, A1.

<sup>164</sup> See for example: John Schwartz and Micheline Maynard, ‘Airlines Gave F.B.I. Millions of Records on Travellers After 9/11’, *New York Times*, 1 May 2004, A10.

<sup>165</sup> Western Union was fined millions of dollars for failing to report currency transactions and suspicious activities to the government. See: New York State Banking Department, ‘Banking Department Fines Western Union \$8 Million for Violating Bank Secrecy, USA Patriot, New York Banking Laws’, 18 December 2002, <<https://sentinel.truthtechnologies.com/mls?page=westernunion.html>> (accessed 10 April 2011).

<sup>166</sup> James Risen and Eric Lichtblau, ‘Bush Lets U.S. Spy on Callers Without Courts’, *New York Times*, 16 December 2005, A1.

<sup>167</sup> Shorrock, *Spies for Hire*, pp. 304-14.

warrant.<sup>168</sup> However, refusals to cooperate are probably rare and Jon Michaels notes that, when confronted by the government, ‘firms do not always have sufficiently strong incentives to ask a whole lot of questions or necessarily conduct their own legal research’.<sup>169</sup>

In some cases, the correlation between public-private status and public-private interest blurs. In 1999, the CIA established a non-profit venture capital firm called In-Q-Tel in order to invest in high-tech companies developing products and services of interest.<sup>170</sup> George Tenet, the former Director of the CIA, explained ‘the CIA identifies pressing problems, and In-Q-Tel provides the technology to address them’.<sup>171</sup> The CIA’s close relation to the firm ensured that public and private interests converge, and in practice, although In-Q-Tel is private by status, it is publicly led. Apart from companies, other public, private or semi-private organisations provide services to the intelligence community. The Defense Advanced Projects Research Agency, for example, awarded contracts to public and private universities to conduct research on surveillance projects.<sup>172</sup> The RAND corporation defines itself as a non-profit organisation that intends to ‘help improve policy and decisionmaking through research and analysis’.<sup>173</sup> Government agencies, as well as foundations and private companies commission RAND’s research, which makes it a sort of ‘non-profit’ contractor.

Moreover, a handful of trade associations - such as the Intelligence and National Security Alliance (INSA) and Business Executive for National Security (BENS) - aim to support relations between the intelligence community and the private sector in order to ‘provide solutions’ to the government.<sup>174</sup> These associations are ‘not-for profit’, and mostly funded by their member companies and, to a lesser extent, by individual donations. They organise networking events and produce reports for senior policy-makers on topics of

---

<sup>168</sup> Mark Hosenball and Evan Thomas, ‘Hold the Phone. Big Brother Knows Whom You Call’, *Newsweek*, 22 May 2006, <<http://www.thedailybeast.com/newsweek/2006/05/21/hold-the-phone.html>> (accessed 10 July 2011); Ellen Nakashima and Dan Eggen, ‘Former CEO Says U.S. Punished Phone Firm’, *Washington Post*, 13 October 2007, A1. For other examples of informal cooperation between the US government and companies see: Michaels, ‘All the President’s Spies’, pp. 914-6.

<sup>169</sup> Michaels, ‘All the President’s Spies’, p.928.

<sup>170</sup> Rick E. Yannuzzi, ‘In-Q-Tel: A New Partnership Between the CIA and the Private Sector’, <<https://www.cia.gov/library/publications/additional-publications/in-q-tel/index.html>> (accessed 20 June 2010).

<sup>171</sup> George Tenet, *At the Center of the Storm: My Years at the CIA* (London: Harper Press 2007) p.26.

<sup>172</sup> Adam Mayle and Alex Knott, ‘Outsourcing Big Brother: Office of Total Information Awareness Relies on Private Sector to Track Americans’, *Center for Public Integrity*, <<http://projects.publicintegrity.org/report.aspx?aid=106>> (accessed 11 October 2011). Mayle and Knott point out that Universities developed language translation softwares, translingual information detection, extraction, and summarization instruments and so on. Their article is based on documents obtained thanks to a FOIA request from the Electronic Privacy Information Center (EPIC). The primary sources can be accessed from the EPIC, <[http://epic.org/privacy/profiling/tia/contractors\\_table.html](http://epic.org/privacy/profiling/tia/contractors_table.html)> (accessed 11 October 2011).

<sup>173</sup> RAND Corporation, <<http://www.rand.org/about/glance.html>> (accessed 9 October 2011).

<sup>174</sup> INSA, ‘About us’, <<http://www.insaonline.org/index.php?id=79>> (accessed 11 October 2011); BENS, ‘About us’, <<http://www.bens.org/our-work/principles-tenets.html>> (accessed 11 October 2011).

interest.<sup>175</sup> In practice, they offer a platform for public and private sector elites to cooperate. Indeed, most of the staffs of these associations are former senior government employees with relevant experience in intelligence and national security. In the case of INSA, a government official serving at the DIA sits on the board of directors and an official serving at the NGA on its board of advisors.<sup>176</sup> The presence of serving senior officials on these boards blurs the private nature of INSA.

Senior intelligence officials and their private sector counterparts often conceive of the relationship between the IC and the private sector as a ‘partnership’.<sup>177</sup> Such rhetoric reinforces the idea that the intelligence community also encompasses the private entities augmenting US intelligence capabilities. Considering the intensification of public-private interactions in recent years, the term ‘partnership’ is not incorrect. In 1996, the IC21 Report called for ‘a government-commercial bridge’ in order to attempt ‘influencing commercial capabilities to encompass government requirements.’<sup>178</sup> For instance, INSA co-organised the ODNI industry days.<sup>179</sup> In May 2004, at its annual memorial ceremony, the CIA honoured two civilian contractors working for its Directorate of Operations who were killed in an ambush in Afghanistan.<sup>180</sup> The Director of National Intelligence (DNI) established an Open Source Center within the CIA in 2005, thereby recognising and establishing even more the importance of the private sector in acquiring information.<sup>181</sup> The ODNI launched the ‘Private Sector Engagement Initiative’ in 2006 in order to dialogue with the ‘corporate community’,<sup>182</sup> and a private sector office was established to reach out to the private sector, exchange information and institutionalise public-private ‘partnerships’. Public-private cooperation was further institutionalised with the creation of a deputy DNI for Acquisition in

---

<sup>175</sup> See for example: BENS, ‘Pay for Performance at the CIA’. In this case, the audit was gratuitously provided to the CIA.

<sup>176</sup> Shorrock, *Spies for Hire*, p.65.

<sup>177</sup> INSA, ‘About us’.

<sup>178</sup> US House of Representatives, Permanent Select Committee on Intelligence, IC21: The Intelligence Community in the 21<sup>st</sup> Century, VI. IMINT, 104<sup>th</sup> Congress, 5 June 1996, <<http://www.gpo.gov/fdsys/pkg/GPO-IC21/html/GPO-IC21-6.html>> (accessed 20 August 2012).

<sup>179</sup> INSA, ‘ODNI Industry Days’, <<http://www.insonline.org/index.php?id=559>> (accessed 12 October 2011).

<sup>180</sup> Central Intelligence Agency, ‘CIA Remembers Employees Killed in the Line of Duty’, 21 May 2004, <<https://www.cia.gov/news-information/press-releases-statements/press-release-archive-2004/pr05212004.html>> (accessed 20 September 2011); Douglas Jehl, ‘Two C.I.A. Operatives Killed In an Ambush in Afghanistan’, *New York Times*, 29 October 2003, A1.

<sup>181</sup> Hamilton Bean, ‘The DNI’s Open Source Center: An Organizational Communication Perspective’, *International Journal of Intelligence and CounterIntelligence* 20/2 (2007) pp. 247-9.

<sup>182</sup> Center for Strategic and International Studies (CSIS), ‘Director of National Intelligence Private Sector Engagement Initiative’, <<http://csis.org/programs/transnational-threats-project/transnational-threats-project-past-initiatives/director-natio>> (accessed 21 October 2011). The CSIS points out that the heart of this effort is a private off-the-record meeting with the DNI and selected CEOs to review conclusions from previous meetings and discuss forecasts on future threats.

2007. These efforts were supposed to help sharing the responsibility for national security across the public-private divide and build a common understanding of the partners' mission.<sup>183</sup>

However, the rhetoric of partnership does not convince everybody. Karen Lund Petersen argues it is problematic because it gives commercial companies 'the power to interpret what is best for society and then act on its behalf'.<sup>184</sup> Considering the profit incentive of companies, this 'power' may not always support the public end. The public sector is often defined by its capacity for disinterested judgment and decision-making.<sup>185</sup> A characteristic that is not necessarily present in the private sector. An ODNI report noted that acquisition has suffered from 'instances of noncompliance, cost and schedule overruns and poor process discipline', and that oversight efforts have been 'impeded by a perceived lack of trust, communication, and accountability in the IC acquisition community'.<sup>186</sup> Some commercial companies actually hesitate or even refuse to cooperate with the government for fear it may impact on their reputation or for fear they may engage in illegal activities.<sup>187</sup> Vice versa, government agencies sometimes distrust companies working for them and refuse to share sensitive information.<sup>188</sup> Even in the case of non-profit organisations such as BENS and INSA, the idea of a partnership can be contested since the existence of these associations is mostly guaranteed by commercial companies' funding, and is therefore captive to their private interests. Moreover, a sense of rivalry is emphasised by the existence of public-private competition. As the ODNI noted in its 2006 human capital plan, 'we find ourselves in a war for talent, often for the most arcane and esoteric of skills, sometimes between ourselves and/or with our own contractors'.<sup>189</sup> In turn, the variation of incentives explains why public-private intelligence interactions should not always be considered as 'partnerships' but rather as a set of interactions, a more neutral characterisation. Eventually, the profit incentive of the

---

<sup>183</sup> Ackerman, 'Intelligence Tries A New Public-Private Partnership', p.55. For an account of the institutionalisation of the public-private intelligence interactions in the case of the Department of Defense operations in Iraq, see: Strachan-Morris, 'The Future of Civil-military Intelligence Cooperation', pp. 261-9.

<sup>184</sup> Petersen, 'Terrorism: When Risk Meets Security', p.183.

<sup>185</sup> See for example: Walter F. Baber, 'Privatizing Public Management: The Grace Commission and Its Critics', in Steve H. Hanke (ed.), *Prospects for Privatization* (New York: The Academy of Political Science 1987) p.136.

<sup>186</sup> Office of the Director of National Intelligence, Office of the Inspector General, Critical Intelligence Community Management Challenges, 12 November 2008, p.10.

<sup>187</sup> Shorrock, *Spies for Hire*, pp. 309, 323. This point is also suggested in Hayden in the following video: C-SPAN, 'Privatization of U.S. Intelligence'.

<sup>188</sup> Strachan-Morris, 'The Future of Civil-military Intelligence Cooperation', p.259. Strachan-Morris points out that some military units in Iraq have refused to provide information to contractors.

<sup>189</sup> Office of the Director of National Intelligence, The US Intelligence Community's Five Year Strategic Human Capital Plan, p.5.



private sector is not problematic as long as the government stays in charge and ensures the market logic contributes to a more cost-effective as well as democratic national security.

### *An imperfect market for intelligence*

The free market logic, which was behind the origins of the privatisation movement, hardly applies to the specificities of the US market for public, or governmental,<sup>190</sup> intelligence. On the demand side, this market is characterised by a main buyer of services and goods, the US government.<sup>191</sup> It is the government, and not the company's managers, which typically determines the type of product or service and the quantity that is needed.<sup>192</sup> Arguably, the government is constituted of various agencies with different types of requirements constituting various buyers. However, in the case of the intelligence community, most of these agencies are now following a common set of policies and regulations developed by the ODNI and, more generally, by the US government.<sup>193</sup> As a whole, the government is therefore both buyer and regulator. On the supply side, the situation is oligopolistic. In other words, a few prime contractors dominate the market. This situation is not new and in 1978 a CIA report on competition in contracting already noted that given the unique nature and requirements of the supplies or services being procured 'the number of firms in America capable of handling major systems contracts in the very specialized areas of technology of concern to National Programs is few'.<sup>194</sup> Since then, the biggest contractors have diversified their offer and specialised on a customer - the US government - rather than on a type of

---

<sup>190</sup> To be distinguished from the private market for intelligence in which commercial companies are the main buyers. For a description of the growth of the market for corporate spying, see: Arthur S. Hulnick, 'Risky Business. Private Sector Intelligence in the United States', *Harvard International Review* 24/3 (2002) pp. 68-72; Eamon Javers, *Broker, Trader, Lawyer, Spy. Inside the Secret World of Corporate Espionage* (New York: Harper 2010).

<sup>191</sup> For a similar argument concerning the defence industry, see: John Driessnac and David King, 'An Initial Look at Technology and Institutions on Defense Industry Consolidation', *Acquisition Review Journal* 35 (2004) p.68.

<sup>192</sup> J. Ronald Fox, *Defense Acquisition Reform, 1960-2009. An elusive Goal* (Washington DC: Center of Military History 2011) p.13.

<sup>193</sup> See for example: Office of the Director of National Intelligence, Intelligence Community Directive Number 801, Acquisition, 15 August 2006; Office of the Director of National Intelligence, Intelligence Community Policy guidance Number 801.1, Acquisition, 12 July 2007; Office of the Director of National Intelligence, Intelligence Community Policy guidance Number 801.2, Contracting and Procurement Policy, 20 September 2008.

<sup>194</sup> National Archives and Records Administration: CIA Records Search Tool, Maryland: James H. McDonald, director of Logistics, 'Competition in CIA Contracting', Memorandum for Deputy Director for Administration, 19 May 1978.

product or service. Overall, this situation has generated particularly strong market imperfections and a lack of competition.<sup>195</sup>

When outsourcing intelligence, the government faces number of hidden costs. Government employees need to administer the contracting process, that is to say identify and assess suitable contractors, and then negotiate and write the contracts. Management costs, such as monitoring the agreement, sanctioning the vendor and negotiating changes to the contract when necessary are also involved.<sup>196</sup> The government often faces difficulties to determine accurate costs and anticipate performance because of the unpredictable nature of intelligence activities such as surveillance or personnel security abroad.<sup>197</sup> Similarly, the history of defence procurement provides countless examples of requirements changes after the initial bid, a situation called spiral development.<sup>198</sup> That is why the government often relies on specific types of contracts, such as cost-reimbursement contracts. These contracts ‘provide greater flexibility’ to the companies but force ‘the government to assume financial risk as the vendor has less incentive to perform its work on or under budget’.<sup>199</sup> In other words, the competition between contractors is based on promises of performance rather than performance itself.<sup>200</sup> Finally, transaction costs arise, for example, when vendors’ fail to deliver a good or service. The need to ensure contract compliance, since contracting out does not eliminate public responsibility, is another type of transaction cost. In turn, all of these costs question the economic rationale for privatising national security.

The market for intelligence has developed under the veil of secrecy that pervades the US national security apparatus. Commercial companies, wary about their proprietary secrecy which is supposed to protect their competitiveness, have embraced this veil. However governmental secrecy acts as a structural limit on the market. Following the Federal Acquisition Regulation (FAR), full and open competition, including the advertisement of

---

<sup>195</sup> Driessnac and King, ‘An Initial Look at Technology and Institutions on Defense Industry Consolidation’, pp. 65-6; Zoe Szajnfarder, Matthew G. Richards, Annalisa L. Weigel, ‘Implications of DoD Acquisition Policy for Innovation: The Case of Operationally Responsive Space’, American Institute of Aeronautics and Astronautics, San Diego, CA, September 2008, pp. 3-4, <<http://web.mit.edu/mgr/www/Portfolio/Implications%20of%20DoD%20Acquisition%20Policy%20for%20Innovation.pdf>> (accessed 17 October 2011).

<sup>196</sup> Jérôme Barthélemy, ‘The Seven deadly sins of outsourcing’, *Academy of Management Executive* 17/2 (2003) p.93.

<sup>197</sup> Jon D. Michaels, ‘Beyond Accountability: The Constitutional, Democratic, and Strategic Problems with Privatizing War’, *Washington Law Review* 82/3 (2004) p.1100.

<sup>198</sup> Gansler cited in Lisa Singh, ‘Jacques Gansler: “Global war” on contractors must stop’, 15 January 2010, <<http://blog.executivebiz.com/2010/01/jacques-gansler-global-war-on-contractors-must-stop/>> (accessed 20 June 2011).

<sup>199</sup> Gale, *Intelligence Outsourcing in the U.S. Department of Defense: Theory, Practice, And Implications*, p.41.

<sup>200</sup> Fox, *Defense Acquisition Reform*, p.13.

contracting actions, can be avoided for national security reasons.<sup>201</sup> An official from the Government Accountability Office specialised on defence and national security points out that the National Reconnaissance Office (NRO) makes frequent use of such exceptions.<sup>202</sup> Likewise, section 3 of the Central Intelligence Agency Act of 1949 authorises the Agency to conduct ‘negotiated procurement without advertising’.<sup>203</sup> Ginger Ann Wright, a CIA lawyer, explains that ‘the Agency’s duty to protect intelligence sources and methods overrides the FAR requirement for agencies to publish proposed contract actions and awards’.<sup>204</sup> In order to preserve secrecy, contract officers within the intelligence community often use no-bid, or sole-source, contracts according to which only one company can satisfy the government’s demand. When so doing, the government supports the absence of competition in order to maintain secrecy. Secrecy can also lead to unnecessary competition. For example, Hayden points out that the CIA was ‘bidding up the cost’ of contracts, ‘because different pockets of the agency were trying to buy the same services.’<sup>205</sup>

More generally, the compartmentalisation of data creates information asymmetries between private competitors. Security clearances, which are granted by the government, constitute a significant barrier to entry for would-be competitors. In order to access the (secret) knowledge and capabilities necessary to obtain contracts, companies hire former government employees with security clearance. This commodification of security clearances has had negative consequences on the market for intelligence. According to Joshua Foust, ‘if two candidates are competing for a job with a contractor, and one has deep relevant experience but no clearance, she will most likely lose to a candidate with less relevant experience but a current and active security clearance’.<sup>206</sup> In such situations, government requirements truncate the market logic. In turn, well-established companies with large number of cleared employees obtain more contracts than newcomers. Their continuing reliance on the government’s demand allows them to further their knowledge of the difficult and evolving set of procurement regulations that apply to the intelligence community. This

---

<sup>201</sup> General Services Administration, Federal Acquisition Regulation, Vol.1, Subchapter B, Part 6, Subpart 6.3, 6.302, 6.302-6. For more details on national security exceptions in this domain, see: Kate M. Manuel, Competition in Federal Contracting: An Overview of the Legal Requirements, Congressional Research Service Report for Congress, 30 June 2011, pp. 11, 13, 28.

<sup>202</sup> GAO official, interview with author, 7 June 2011, Washington DC.

<sup>203</sup> US Congress, Pub. Law 81-110, Central Intelligence Agency Act, 81<sup>st</sup> Congress, 1<sup>st</sup> sess., 20 June 1949, Section 2 (c)(6).

<sup>204</sup> Ginger Ann Wright, ‘Procurement Authorities of the CIA’, *Administrative Law Review* 53/2 (2001) p.1229.

<sup>205</sup> Hayden, interview with Frontline.

<sup>206</sup> Joshua Foust, Statement before the U.S. Senate Committee on Homeland Security and Governmental Affairs, p.4.

situation partly explains why smaller companies have associated with them in order to work for the intelligence community.

In sum, the market for intelligence is not an independent and free market and is unlikely to become so considering the nature of its goods and services, the environment in which they are traded and, in particular, the central role of the government. Government reports have also pointed to problems of efficiency in the domain of intelligence outsourcing. According to a report of the Senate intelligence committee, ‘the average annual cost of a United States Government civilian employee is \$126,500, while the average annual cost of a “fully loaded” (including overhead) core contractor is \$250,000’.<sup>207</sup> Furthermore, the House intelligence committee has pointed out that many of the major acquisition programs at the NRO, the NSA, and the NGA ‘have cost taxpayers billions of dollars in cost overruns and schedule delays’.<sup>208</sup> In such an imperfect market, privatisation manifestly did not generate the levels of performance some of its proponents envisaged.

### Public-private mobility

In the two last decades, public-private mobility has notably increased. Since the early 1990s an increasing number of government employees have quit intelligence agencies to work for private companies carrying out similar tasks.<sup>209</sup> According to Julie Tate from the *Washington Post*, ‘at least 91 of the [Central Intelligence] agency's upper-level managers have left for the private sector in the past 10 years’.<sup>210</sup> Since the US government is the biggest buyer of intelligence services and goods, in many cases, former government employees work for private companies on governmental contracts. The ODNI itself has pointed out that:

---

<sup>207</sup> US Senate Select Committee on Intelligence, Intelligence Authorization Act for Fiscal Year 2009, Mr. Rockefeller Report To accompany S. 2996, Report 110-333, 110<sup>th</sup> Congress, 2<sup>nd</sup> sess., 8 May 2008. For a similar estimate see: Sanders, Results of the Fiscal Year 2007 U.S. Intelligence Community, p.8 (\$107,000 for a government employee and \$207,000 for a contractor). However, discussions about the right methodology to compare the cost-effectiveness of contractors and government employees are ongoing. See for example: David Berteau et al., ‘DoD Workforce Cost Realism Assessment’, pp. 12-9; Acquisition Advisory Panel, Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress, January 2007, pp. 7-8, 19. According to a report, the existence of public-private competition itself achieves savings. See: Christopher Snyder, Robert Trost, Derek Trunkey, *Bidding Behavior in DoD’s Commercial activities Competitions* (Alexandria, VA: Center for Naval Analyses 1998) p.2; Mohab Tarek Khattab, ‘Revised Circular A-76: Embracing Flawed Methodologies’, *Public Contract Law Journal* 34/3 (2005) pp. 469-520.

<sup>208</sup> US House of Representatives, Permanent Select Committee on Intelligence, Subcommittee on Oversight, Initial Assessment on the Implementation of the Intelligence Reform and Terrorism Prevention Act of 2004’, 108<sup>th</sup> Congress, 2<sup>nd</sup> sess., 27 July 2006, p.14.

<sup>209</sup> See: Rostker, *A Call to Revitalize the Engines of Government*, p.12.

<sup>210</sup> Julie Tate, ‘CIA’s brain drain: Since 9/11, some top officials have moved to private sector’, *Washington Post*, 13 April 2011, <[http://www.washingtonpost.com/world/cias-brain-drain-since-911-some-top-officials-have-left-for-private-sector/2011/03/25/AF3Nw1RD\\_story.html](http://www.washingtonpost.com/world/cias-brain-drain-since-911-some-top-officials-have-left-for-private-sector/2011/03/25/AF3Nw1RD_story.html)> (accessed 30 September 2011).

increasingly, the IC finds itself in competition with its contractors for our own employees. Confronted by arbitrary staffing ceilings and uncertain funding, components are left with no choice but to use contractors for work that may be borderline “inherently governmental” – only to find that to do that work, those same contractors recruit our own employees, already cleared and trained at the government expense, and then “lease” them back to us at considerably greater expense.<sup>211</sup>

This phenomenon raises questions about the intelligence community’s employment retention policy. It begs the question of whether individuals trained at taxpayers’ expenses should be allowed to use the knowledge they gained in government to further private interests. Arthur Hulnick uses the example of commercial airline pilots who learned to fly in the military to point out that ‘the precedent was long ago established that skills acquired in government service belong to the individual and not the government’.<sup>212</sup> In order to prevent its officers from decamping for the private sector, the CIA has allowed its officers to ‘moonlight’ in the private sector.<sup>213</sup> This long-established practice gives a chance to CIA employees to offer their expertise to private companies on the side of their work for the government. In sum, government employees can work for or move to the private sector, and private sector employees can work for or move to the public sector.

At the senior level, the career path of many officials in the intelligence community is marked by this mobility. The career of Mike McConnell, a former vice admiral in the US Navy, epitomises the revolving door phenomenon. McConnell was successively head of intelligence for the Joint Chiefs of Staff during the first Gulf War of 1991, Director of the NSA from 1992 to 1996, Senior Vice President at Booz Allen Hamilton, Chairman of INSA from 2005 to 2007, Director of National Intelligence from 2007 to 2009, and now (2013) Executive Vice President and leader of the Intelligence Business at Booz Allen Hamilton. In addition, the senior managers of some private companies working for the intelligence community have also served as advisers for the executive branch. A Vice President at AT&T served on George W. Bush President’s Foreign Intelligence Advisory Board.<sup>214</sup> Inderjeet Parmar notes that public and private leaders are often ‘intimately connected through their

---

<sup>211</sup> Office of the Director of National Intelligence, *The US Intelligence Community’s Five Year Strategic Human Capital Plan*, p.6.

<sup>212</sup> Arthur S. Hulnick, ‘The Uneasy Relationship Between Intelligence and Private Industry’, *International Journal of Intelligence and CounterIntelligence* 9/1 (1996) p.25.

<sup>213</sup> Eamon Javers, ‘CIA moonlights in corporate world’, *Politico*, 1 February 2010, <<http://www.politico.com/news/stories/0110/32290.html>> (accessed 19 October 2011).

<sup>214</sup> White House, Office of the Press Secretary, Nominations and Appointments, 5 October 2001, <<http://georgewbush-whitehouse.archives.gov/news/releases/2001/10/20011005-8.html>> (accessed 27 October 2011).

social and educational backgrounds, as well as their numerous shared or interlocking corporate directorships'.<sup>215</sup>

The growth of public-private interactions and the circulation of personnel across the public-private divide appear to weaken the distinction between public and private interests. McConnell himself raised this issue in an op-ed for the *New York Times* in which he recognised that during his time at Booz Allen, in many respects he 'never left' the government.<sup>216</sup> On the margin, the rapprochement between public and private interests and organisations creates an environment that fosters conflicts of interests<sup>217</sup> and can lead to unethical practices and abuses of power. In such an environment, the logic of private interest supported by individuals, companies and trade associations can take precedence over the public interest in national security. For Michael Scheuer, a former CIA officer, the revolving door phenomenon 'prevents senior officials to remain truthful during their service'.<sup>218</sup> From this perspective, privatisation risks conflating profit with national security at the loss of effective national security. The key issue behind the reconfiguration of the public-private distinction is therefore to determine the role of the government and public officials in the twenty-first century as carefully as possible.

## Conclusion

From 2001 onwards, public-private intelligence interactions did not fundamentally change,<sup>219</sup> but significantly intensified in a relatively short period of time. For a variety of reasons, the US intelligence community increased its reliance on the private sector in the decade following the 9/11 attacks. With hindsight, the economic rationale and the set of negative

---

<sup>215</sup> Inderjeet Parmar, 'Conceptualising the State-Private Network in American Foreign Policy', in Helen Laville and Hugh Wilford (eds), *The US government, Citizen Groups and the Cold War. The state-private network* (London: Routledge 2006) p.24.

<sup>216</sup> Mike McConnell cited in Mark Mazzetti and David E. Sanger, 'Bush Announces Pick for Intelligence Post', *New York Times*, 5 January 2007, < <http://www.nytimes.com/2007/01/05/washington/05cnd-intel.html?ex=1168664400&en=6d2e7b8c69a33511&ei=5123&partner=BREITBART> > (accessed 19 September 2011).

<sup>217</sup> Conflicts of interests can be defined as situations 'where employment or financial relationships impair an individual employee's or a corporation's ability to act impartially, objectively, and in the best interest of the government'. See: US Senate, Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Background: Intelligence Community Contractors: Are We Striking the Right Balance?, 112<sup>th</sup> Congress, 1<sup>st</sup> sess., 20 September 2011, p.79.

<sup>218</sup> Michael Scheuer, *Imperial Hubris. Why the West Is Losing the War on Terror* (Washington DC: Potomac Books 2005) p.249.

<sup>219</sup> Scott Lucas, 'Introduction. Negotiating freedom', in Laville and Wilford (eds), *The US government, Citizen Groups and the Cold War*, p.11.

rationales behind the privatisation of intelligence are not so convincing. Moreover, the rationales behind privatisation have sometimes been contradictory. For example, the need to ramp-up following the 9/11 attacks has conflicted with the longer-term logic of improving government effectiveness. Overall the proliferation and deepening of public-private intelligence interactions was necessary given the conditions that prevailed at the time in the US. However, in a situation of emergency, the privatisation of intelligence was too hastily endorsed by the US government.

The evolution of public-private ‘partnerships’ in the market for intelligence is problematic, not the least because this market is deeply imperfect. In turn, the unbridled expansion of public-private intelligence ‘partnerships’ raises legitimate concerns about the fading relevance of the public-private distinction and its potential impact on the nature of the government. Ultimately, when privatising intelligence, the government keeps bearing some significant responsibilities. When intelligence activities are outsourced, the government still decides whether or not to produce the good or service and then consumes it.<sup>220</sup> Although the reliance on the private sector presents certain advantages, the outsourcing of intelligence is not a silver bullet. The prominent influence of the US government on its private ‘partners’ sometimes encourages the private sector to emulate well-known intelligence pitfalls. In this context, the continuing importance given to secrecy by the American security apparatus threatens the market for intelligence ‘to fade into irrelevance’.<sup>221</sup> Similarly, the threat of foreign intrusion<sup>222</sup> or the unpredictable nature of intelligence requirements, processes and operations is a challenge for both public and private intelligence providers. In turn, the privatisation of intelligence reconfigures state boundaries but it does not necessarily lead to a transfer of competence and authorities. In this particular sector where performance is barely quantifiable and competition is hardly free, privatisation is a perilous choice that must be carefully implemented.

---

<sup>220</sup> Tingle, ‘Privatization and the Reagan Administration’, p.232.

<sup>221</sup> James R. Sutton, *Subversion of a Government Monopoly: The Privatization of Intelligence Services* (Research Intelligence Consortium, Inc. 2000) p.69.

<sup>222</sup> On this, see: Henry, Intelligence Exemption, p.2; Government Accountability Office, Information Security: Improving Oversight of Access to Federal systems and Data by Contractors Can Reduce Risk, Report to Congressional Requesters, GAO-056-362, April 2005; Government Accountability Office, Industrial Security. DOD Cannot Ensure Its Oversight of Contractors under Foreign Influence Is Sufficient, GAO-05-681, Report to the Committee on Armed Services, US Senate, July 2005. For some evidence of counter-intelligence risk, see: Department of Justice, Press release, ‘U.S. army translator Charge with Theft of classified documents concerning Iraqi insurgency’, 30 March 2006; US House of Representative, Committee on Oversight and Government Reform, Press Release, ‘New Documents Reveal Problems with Alaska Native Contracts’, <[http://democrats.oversight.house.gov/index.php?option=com\\_content&view=article&id=2550&catid=44:legislation](http://democrats.oversight.house.gov/index.php?option=com_content&view=article&id=2550&catid=44:legislation)> (accessed 25 October 2011). According to data used by Raphael Cohen 67 percent of the espionage cases recorded since 1940 involve US government employees, and 24 percent contractors. See: Raphael S. Cohen, ‘Putting a human and Historical Face on Intelligence Contracting’, *Orbis* 54/2 (2010) p.249.