

Contractors Write the Rules



Army policy governing use of contractors omits intelligence restrictions

By Jonathan Werve

WASHINGTON — A private military company that has won contracts to assist the U.S. military in Iraq wrote the Pentagon rules for contractors on the battlefield.

Since 1997, Military Professional Resources Inc., which has two contracts worth a total of \$2.6 million related to reconstruction in Iraq, has also produced Field Manual 100-21, also known as Contractors on the Battlefield. The manual “established a doctrinal basis directed toward acquiring

and managing contractors as an additional resource in support of the full range of military operations,” according to the company’s Web site.

Michael B. Williams, the MPRI employee who is the primary author of the most recent edition of the manual, said the company started “with some basic guidelines” from the Army. “For the most part, however, this was a clean slate,” he told the Center for Public Integrity.

The Army reviewed MPRI’s draft, submitted revisions to the company and published the manual on January 3, 2003.

While the new manual contains detailed instructions on how deployed commanders should use contractors—from force protection measures to what kind of shoes contract employees should bring—it makes no mention of intelligence gathering or restrictions on contractor roles.

In a December 2000 memo, previously posted by the Center, Assistant Secretary of the Army Patrick Henry sharply restricted the use of private companies in intelligence work, stating that the tactical intelligence gathering could not be contracted because it was “integral to the application of combat power.” At the strategic level, he wrote, contracting out intelligence work posed unacceptable risks to national security.

His memo concludes: “Field Manual 100-21, Contractors on the Battlefield (March 2000) should be modified and clarified to reflect these determinations.”

Despite the directive from Henry, the prohibition on contractors performing intelligence work never made it into the Army’s official contracting doctrine. In recent months, reports on the use of contractors in Iraq have disclosed that private-sector employees have been performing sensitive intelligence work in and around combat zones. A report

continued on page 6

Voter Turnout Group Focuses on Ohio

By Derek Willis

WASHINGTON — America Coming Together, a political non-profit group opposing the re-election of President Bush, spent more than \$1.1 million and deployed at least 700 people in Ohio in the six months ending in April, heavily focusing its early efforts on that battleground state, according to a Center for Public Integrity analysis of federal records.

Bush himself made his 18th trip as president to Ohio in mid-June, just days after Massachusetts Sen. John Kerry, his likely Democratic opponent in November, visited the state.

Groups like ACT, known as 527 organizations after the section of the tax code that governs political committees, have raised nearly \$184 million since the end of 2002 to use for get-out-the-vote operations, political advertising and contributions to state and local candidates. Many of the largest such committees oppose Bush’s re-election, although conservatives have a

continued on page 5

LETTERS to the EDITOR

Freedom of speech

It is a sad day in American history, when the government, once again, tells me what I need to listen to. The indecency bill that was passed recently can fine individual broadcasters up to \$3 million, yet corporations do not get fined for numerous, daily illegal infractions. This hypocrisy is beyond sickening. In a day and age when we are at war to “protect the rights of others,” we are having our basic rights, aka Freedom of Speech, taken away. Our politicians lost credibility once again. Just another sad day in American history.

Shawn Lee Peters, Lancaster, PA

Holy war?

I saw tonight an interview of Chuck Lewis on TV. The subject was related to Bush, his money, his “associates” in the dirty business he is involved in, and the war in Iraq.

I am not an activist but I just wanted to thank your organization for your reports. Since 9/11, a lot of people in France and Europe are afraid of the “Holy war” Bush is waging. Around me, a lot of people are afraid of such a situation. Europe paid a heavy price for such behavior in the past. I hope your people will understand that they will pay for mistakes and not their government.

I am glad to hear that some people are speaking out against Bush in the United States.

Fabrice Pepin, Le Mans, France

What happened to Dean?

Two comments:

One, I'm disappointed that your Web site does not have up-to-date information regarding presidential candidates, and is not more timely in it's content.

Second, I read your book *The Buying of the President 2004* and found the statistic that the leading fund-raisers in the year prior to each election have had their parties' endorsement in the election year since 1976. Based on that, I was surprised with what happened to Howard Dean, the leading fund raiser in 2003. The U.S. Media and Press, along with the fickle general public sure turned on him.

Victor Frazier, Spokane, WA

Editor's note: We welcome readers to share their thoughts. Letters should be addressed to Letters to the Editor, Center for Public Integrity, 910 17th Street NW, 7th Floor, Washington, DC 20006. Email can be sent to newsletter@publicintegrity.org.

On Money & Politics

Kerry Raising a Million a Day

Since early March, when he locked his party's presidential nomination, Democrat Sen. John F. Kerry has raised more than \$100 million, the *Washington Post* reported on June 17. The furious pace of fundraising—\$1 million a day—broke all presidential campaign records, including the ones set by President Bush, the paper noted: “... Kerry led Bush in fundraising from March through May almost 2 to 1: \$100.4 million to Bush's \$55.2 million.” However, Bush has an overall edge in money: throughout the campaign, the president has out-raised Kerry by an estimated \$214 million to \$145 million.

Record Fundraising for RNC Gala

The New York City Host Committee for the Republican National Convention is planning to raise \$64 million; in fact, by mid-June, it already had tens of millions of dollars in contributions and commitments, the *New York Times* reported. The donors range from “an Indian tribe that runs a casino in Connecticut to real estate agents, financiers and drug manufacturers,” the paper said. New York City Mayor Michael R. Bloomberg and David Rockefeller each gave \$5 million. Los Angeles raised \$36.1 million for the Democratic convention in 2000. The aggressive fundraising “will effectively signal an end to the effort to make conventions publicly financed,” the paper said quoting campaign finance experts. (*For more on presidential fundraising, visit www.bop2004.org.*)

From Congress to K Street

As many as 272 former members of Congress have registered to lobby since 1995, the *Washington Post* reported on June 20, citing PoliticalMoneyLine.com. Among the factors influencing the lawmakers to take up lobbying jobs are the “sky-high lobbying salaries” and “the tendency of lawmakers to move their families to the D.C. area.” Even relatively unknown “legislators can easily double their \$158,100 annual salaries when they become lobbyists-for-hire,” the paper noted.

More Power to Millionaires

The number of House millionaires is swelling and, like the Senate, the chamber is fast becoming a rich man's club. “There are more than 120 millionaires in the House, according to financial disclosure reports filed with the clerk's office, putting the percentage of millionaires in the “lower body” much higher than that found in American society as a whole,” *The Hill* newspaper reported. “At least 28 percent of House members are millionaires, compared with 3.5 percent of American households, as estimated in *The Millionaire Next Door* by Thomas Stanley and William Danko.” ■

Privatizing Combat, the New World Order

By Laura Peterson and Phillip van Niekerk

In Making a Killing: The Business of War, released in 2002, the Center for Public Integrity detailed the increasingly prominent role private military companies and individuals have been playing in conflicts in the post-Cold War era. Since then the spotlight on PMCs has increased because of the Iraq and Afghanistan wars. We reproduce here excerpts from the book.

In 1998, the United States had a military presence in a remote African war that drew little attention from the media. There was international intervention aimed at stopping the bloodshed in Sierra Leone, in which the rebels of the Revolutionary United Front displayed a ghastly predilection for amputating the limbs and noses of their victims. Sierra Leone's demoralized and under-equipped national army was bolstered by Nigerian troops of the West African peacekeeping force ECOMOG, and a handful of South African mercenaries in helicopter gunships who made constant forays into the battle zones to attack the RUF. In Freetown, the country's capital, two large transport helicopters circled in the air, backing up the Nigerian troops. Painted on their fuselages were American flags.

This small U.S. contribution was not conducted by an elite unit of the Army, Navy or Marines, but by a private, Oregon-based company, International Charter Incorporated of Oregon, managed in part by former U.S. Special Forces operatives. ICI is one of several companies contracted by the State Department to go into danger zones that are too risky or unsavory to commit conventional U.S. forces.

ICI's deployment is part of a global trend of military outsourcing and foreign policy by proxy that has become far more common since the end of the Cold War. The nature of international conflict shifted from U.S.-Soviet competition in client states to regional and ethnic conflicts requiring peacekeeping or other engagement. The end of the Cold War resulted in reduced superpower defense budgets, forcing even high-ranking military officers to sell their talents in the public sector. This collision of supply and demand resulted in a new age of military and security services on the world market.

Most of these companies—defined as providing services normally carried out by a national military force, including military training, intelligence, logistics, combat and security in conflict zones—are headquartered in the United States, Britain and South Africa, though the vast bulk of their

services are performed in conflict-ridden countries in Africa, South America and Asia.

“Mercenaries” are officially outlawed under Article 47 of the Geneva Convention, which

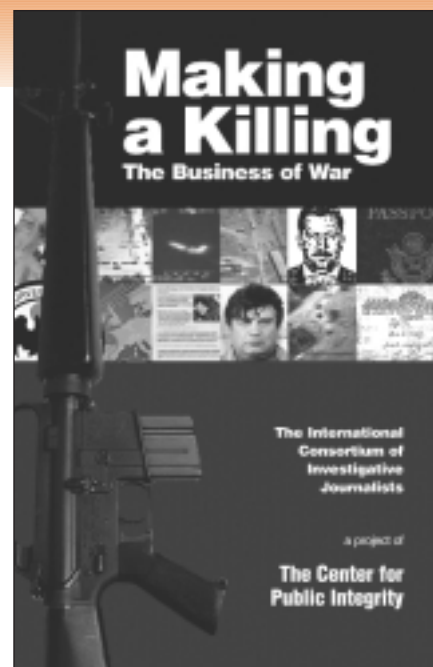
defines them as persons recruited for armed conflict by or in a country other than their own and motivated solely by personal gain. However, few modern PMCs fit that definition and spokesmen for such companies insist they rarely engage in combat and provide military skills only to legitimate, internationally recognized governments. A wide range of companies—from large corporations that offer military training, security, landmine clearance and military base construction to start-up entrepreneurs offering combat services and tactical training—are in what has become the complex and multibillion-dollar business of war.

Traditionally, the U.S. government provided military training to foreign governments directly. That changed in 1975, when Virginia-based military construction company Vinnell Corp. won a \$77 million contract to train the Saudi Arabian National Guard to protect oil fields. That was the first time a U.S. civilian company obtained an independent contract to provide a foreign government with military services—a development that was initially greeted by significant media skepticism and vitriolic debate. Since then, the contract has been renewed with far less attention.

The U.S. Defense Department has increasingly turned to outside vendors for logistical support, one of the most heavily out-sourced sectors for the armed forces in both peacekeeping and wartime. In Bosnia, the ratio of contractors to American soldiers has ranged from one in 10 to nearly one-to-one, according to various defense analysts. The trend gained momentum after the 1991 Gulf War, in which troops were heavily supported by a panoply of private contractors. The trend has persisted, as evidenced by a 2002 review in which Defense Secretary Donald Rumsfeld emphasized the success of the department's outsourcing of non-core responsibilities, stating that he would “pursue additional opportunities to outsource and privatize.”

Wall Street has noticed the booming business of both

continued on page 4



*Privatizing Combat,
The New World Order
continued from page 3*

foreign and domestic PMCs. Security companies with publicly traded stocks reportedly increased in value at twice the rate of the Dow Jones industrial average in the go-go 1990s. Revenue from the global international security market was projected to rise from \$55.6 billion in 1990 to \$202 billion in 2010, an estimate that has risen sharply since the Sept. 11, 2001, terrorist attacks on the United States. Like the defense industry generally, the trend among PMCs has been toward mergers, acquisitions and consolidation. As the industry continues its rapid growth, foreign governments are trying to figure out how—or if—to regulate it, thereby deterring PMCs from becoming vehicles for clandestine foreign policy, arms trafficking or simply waste and mismanagement. The United States and South Africa

are the only countries that exercise some regulatory oversight of domestic PMCs; other governments have acknowledged the need for the services PMCs offer, but have yet to develop a structure to oversee them.

In 2002, the British government released a report titled “Private Military Companies: Options for Regulation.” The report argued that PMCs could actually aid in low-intensity conflicts and proposed regulating them as soon as possible rather than leaving them to operate unchecked. The report also pointed to the United States as the only place in the world where PMCs have become “major military corporations,” effectively licensed for over two decades “without apparently giving rise to major problems.”

The complete chapter, “Privatizing Combat, the New World Order,” can be found online at <http://www.publicintegrity.org/bow/> ■

Lobby Spending Up in States

Robert Morlino

WASHINGTON — Lobbyists in 41 states reported spending more than \$889 million wining, dining and influencing state lawmakers in 2003, the Center for Public Integrity has found. That figure is up from the \$720 million of lobbyist spending reported in 40 states in 2002.

Of the 37 states where lobbyist reporting is comparable to last year’s, twenty saw increases in spending of at least 10 percent, and eight of them—Delaware, Florida, Maine, Montana, Ohio, Oregon, Texas and Wyoming—saw increases of 30 percent or more.

The sharp increase in spending comes as some states have significantly weakened their reporting requirements for statehouse lobbyists.

Lobbyists’ time and money poured into a host of hot-button issues across the country. Two in particular—restrictions on medical malpractice lawsuit awards and further deregulation of the telecommunications industry—attracted special attention.

Of the 41 states reporting overall spending totals, 16 did not include information on salaries or fees paid to compensate lobbyists for their efforts. In Texas, lobbyists disclose salaries in a range. The Texas Ethics Commission reported that lobbyists earned somewhere between \$132,485,542 and \$516,155,477 for their efforts.

Nine states—Alabama, Arkansas, New Hampshire, New Mexico, North Carolina, Oklahoma, Pennsylvania, Rhode Island, and South Dakota—did not provide aggregate lobby spending figures for 2003.

In a report on state lobbying released one year ago, the Center for Public Integrity identified Pennsylvania as the only state in the nation with absolutely no lobbyist regulation or reporting requirements, an unfortunate distinction which still stands.

To read the full report, visit www.publicintegrity.org. ■



Data Update

Contractors in Iraq and Afghanistan — 2002 to June 2004

| Contractor | Amount |
|--|---------------------|
| Kellogg, Brown & Root (Halliburton) | \$11,475,541,371.00 |
| Parsons Corp. | \$5,286,136,252.00 |
| Washington Group International | \$3,133,078,193.00 |
| Shaw Group/Shaw Environmental, Inc. | \$3,050,749,910.00 |
| Bechtel Group Inc. | \$2,829,833,859.00 |
| Perini Corporation | \$2,525,000,000.00 |
| EOD Technology Inc. | \$1,546,900,000.00 |
| Tetra Tech Inc. | \$1,541,947,671.00 |
| USA Environmental Inc. | \$1,541,947,671.00 |
| Fluor Corp. | \$1,501,653,264.00 |
| Contract International Inc. | \$1,500,000,000.00 |
| CH2M Hill | \$1,500,000,000.00 |
| American International Contractors, Inc.” | \$1,500,000,000.00 |
| Odebrecht-Austin | \$1,500,000,000.00 |
| Zapata Engineering | \$1,478,838,958.00 |
| Environmental Chemical Corporation | \$1,475,000,000.00 |
| Stanley Baker Hill LLC | \$1,200,000,000.00 |

Voter Turnout Group Focuses on Ohio

continued from page 1

handful of 527 organizations, too.

Perhaps the best-known of the 527s focused on the ground game, ACT has raised more than \$19 million during 2003 and 2004, the third-largest amount of any 527 organization (the largest, the Joint Victory Campaign 2004, splits its money between ACT and the Media Fund, a related committee).

ACT has paid out \$778,829 in salaries in Ohio, accounting for about seven of every ten dollars it spent in the state. Although a majority of the nearly \$10 million spent so far by ACT came in the Washington, D.C., area, it has spent more on salaries in Ohio than on any other state in the nation. Excluding the capital area, Missouri, Pennsylvania and Florida have the next largest contingent of paid ACT employees, according to Federal Election Commission records.

Although 527 committees like ACT mainly file with the Internal Revenue Service, ACT also has a federal political action committee through which it does most of its spending, mixing federal “hard” money donations limited by federal law and money raised by its 527 account.

ACT’s role in registering and turning out voters could be crucial to Democratic candidates up and down the ballot in November, but especially to Kerry’s chances in swing states like Ohio. The combination of Republicans boosting their get-out-the-vote efforts in key states in 2002, along with a federal campaign finance law that banned national political parties from raising and spending unlimited “soft money” donations, led some Democrats to form groups like ACT to help candidates, particularly the party’s eventual presidential nominee.

“ACT’s goal is to beat George W. Bush and elect Democrats up and down the ticket,” said Sarah Leonard, a national spokeswoman for the group. “Based on our research and other variables, it looks

like Ohio could be the deciding factor in the general election.”

ACT began paying employees in Ohio on Oct. 15, 2003, according to FEC records, about two months after it set up operations in Washington. Ohio was the first state outside the Beltway area with ACT workers and more than 700 individuals have drawn salaries or consulting payments from the organization since last fall. A number of ACT’s workers have come from an earlier voter turnout program funded by labor unions, but others have come from local organizations. To date, the group has registered more than 55,000 Ohio voters, Leonard said.

“ACT’s goal is to beat George W. Bush and elect Democrats up and down the ticket,” said Sarah Leonard, a national spokeswoman for the group.

A small group of about 15 individuals in Ohio who work for ACT have each been paid more than \$10,000 by ACT, and independent consultant Jill Harris received \$49,494. More than 100 people received less than \$100. Jess R. Goode, a former Democratic congressional aide who serves as ACT’s Ohio spokesman, earned the most of the salaried employees, \$28,460.

Nearly 50 of ACT’s workers in Ohio also received payments from the Partnership for America’s Families, a labor union affiliated 527 group run by Steve Rosenthal, ACT’s CEO and the former political director of the AFL-CIO from 1996-2002.

In all, the group has paid workers in 27 states and the District of Columbia, although several states, including Kansas, Nebraska and New York, have seen little paid in wages. ACT paid less than \$1,200 in salaries to workers in Colorado, which could be a key electoral state in November.

ACT has paid at least \$228,520 for canvassing in Missouri, \$116,222 in Pennsylvania and \$91,061 in Florida,

three battleground states. Florida also has an open U.S. Senate seat.

The largest individual donors to ACT are financier George Soros, who has given \$5 million; insurance executive Peter B. Lewis, who has contributed nearly \$3 million, and RealNetworks Inc. founder Rob Glaser, who has given \$745,000. (The Center for Public Integrity has received funding from Soros’ Open Society Institute, although not for its 527 project.)

Although ACT is primarily recognized as a 527 committee, it does the bulk of its spending through its affiliated federal PAC, mixing federal and non-federal money. To do so, ACT must declare a spending ratio of federal to non-federal money, which the group has set at 2 percent federal and 98 percent non-federal—because the group claims that its work will benefit federal and state candidates. ACT has reported spending \$205,366 in federal “hard” money and more than \$10 million in non-federal money transferred from its 527 committee.

On June 22, Democracy 21, The Campaign Legal Center and the Center for Responsive Politics filed a complaint against ACT with the FEC, charging that the group’s spending ratio “has resulted in ACT spending more nonfederal funds than is permitted by law to fund its voter drive activities, its administrative overhead and its other allocable disbursements.”

ACT isn’t alone among 527s in focusing on Ohio. The Partnership for America’s Families, a group backed by the Service Employees International Union and other AFL-CIO unions, has also been active in Ohio, but its 2003-04 cycle activities have focused on Pennsylvania, where the group registered thousands of voters for last year’s mayoral race in Philadelphia. The Partnership spent nearly \$600,000 in Pennsylvania in 2003, and through the first three months of 2004 has spent about \$44,300 in Florida and another \$5,030 in Ohio. ■

Contractors Write the Rules, continued from page 1

by Major General Antonio Taguba on the alleged abuse of prisoners at the Abu Ghraib Prison noted the involvement of civilian contractors at the Baghdad facility.

In his December 2000 memo, Henry raised serious concerns about the Army's ability to control contractors as a reason for barring them from intelligence gathering. "The contract administration oversight exerted over contractors is very different from the command and control exerted over military and civilian employees," Henry wrote. "Therefore, reliance on private contractors poses risks to maintaining adequate civilian oversight over intelligence operations."

The field manual written by MPRI acknowledges that Pentagon oversight of contractors is uniformly ambiguous. It notes, "Currently, there is no specifically identified force structure nor detailed policy on how to establish contractor management oversight within an AOR [area of responsibility]."

The manual continues, "Consolidated contractor

management is the goal, but reality is that it has been, and continues to be, accomplished through a rather convoluted system."

Dan Guttman, a government contract expert and fellow at Johns Hopkins University's Center for Study of American Government, states that the use of a contractor to prepare the Army field manual on contracting "should not be a surprise; official documents are routinely prepared by contractors and presented to the world as official work products. The public is entitled to disclosure of the contractor role and relevant further interests served by the contractor."

Omission has no author

When asked about the lack of specific restrictions on contractor roles in intelligence work in *Contractors on the Battlefield*, Williams said that an earlier manual that gave guidelines to commanders hiring contractors, *Contracting Support on the Battlefield*, was the more appropriate location for that information. But that manual was published by MPRI in 1999, before Henry's

Behind the Story

How We Documented Iraq and Afghan Contracts

By André Verlöy

The Center's report, "*Windfalls of War*," which was released last October, aimed to provide the most comprehensive list to date of American contractors in the two nations attacked in Washington's war on terror and to document the contracts' accessibility (or lack thereof) and details for the American public.

The Center's investigation revealed that more than 70 American companies and individuals had been awarded up to \$8 billion in contracts for work in postwar Iraq and Afghanistan over the last two years. (The media attention had, hitherto, focused almost exclusively on just two major contractors.) The groundbreaking investigation examined the companies in detail, profiling their backgrounds, campaign contributions, ties to government and past history of contracting. It found that some 60 percent of the contractors had high-level ties to the

executive branch under Republican and Democratic administrations, members of Congress from both parties, and, in some cases, the highest levels of the military.

This six-month long report, led by project manager Maud Beelman, involved 20 writers, researchers and editors.

As the Iraq war approached, Center staff began discussing how Afghanistan had become the forgotten front in the war on terror. We decided to find out who had received U.S. government contracts for postwar work in Afghanistan. Shortly after we started the reporting process, it became clear that to get the full picture we needed to look at Iraq as well, especially since the only contractors anyone was talking about or reporting on in Iraq were Halliburton and Bechtel. We knew from what we were learning about the Afghan contract process that there must be more companies involved in Iraq than those two.

In the true Center tradition, the

project drew on a combination of sources. Our researchers sifted through thousands of pages of documents, among them government contracts, correspondence between the government and contractors, government reports, court records and public documents—many of them secured through Freedom of Information Act requests. There were plenty of human sources, too. We interviewed dozens of contractors, current and former company executives, current and former government officials, and experts in fields such as contracting law and the federal procurement process. Employing computer-assisted reporting, we analyzed General Services Administration database of government contracts from 1990 through fiscal year 2002—more than 7 million federal contract actions in all. In the end, we were able to paint a complete picture of the contracting process, describing in detail who has received reconstruction contracts in Afghanistan and Iraq and, possibly, why.

memo, and has not been updated since.

“For the manual we’re discussing [Contractors on the Battlefield], there was no intent of even addressing those issues,” Williams told the Center.

When contacted, officials of the Army Training and Doctrine Command [TRADOC], which hired MPRI to write the manuals, could give little explanation of why MPRI was not instructed to include the restrictions on contracting intelligence, as required by Assistant Secretary Henry’s 2000 memo.

“Memos aren’t to my knowledge Army policy,” said TRADOC spokesman Major Kevin Inglin.

Yet Henry’s memo reads, “Accordingly, [this document], as a matter of Army policy, bars the contracting of the intelligence function,” outside of the “limited circumstances” where a contractor is the sole available source of information, analysis, or technology. And Army spokeswoman Lt. Col. Pamela Hart told the Associated Press on June 12, 2004, that the ban on contractors engaging in intelligence work is current Army policy.

Public affairs officers at the U.S. Army Intelligence and Security Command, the office of the Secretary of the Army, and the Combined Armed Services Command were unable to explain why the information was not included in the field manual. One TRADOC officer was instructed by his public affairs officer to stop answering questions on the matter.

Six days after being contacted by the Center for comment, Inglin could neither confirm nor deny that TRADOC had been instructed to revise the doctrine according to Henry’s instructions, nor could he confirm or deny that TRADOC passed those instructions to MPRI.

Williams acknowledges knowing “there was some memo or some comment that in a future revision, field manuals should be updated to reflect” limitations on the functions that should be contracted. But he maintains that MPRI received no specific or definite instructions to do that.

“It’s sort of a moving train in regards to the decisions on what can or cannot be performed by a contractor,” said Williams. ■



André Verlöy

The investigation focused on the three agencies that had awarded the bulk of the Iraq and Afghanistan contracts in 2002 and through September 2003—the Pentagon, the State Department and the U.S. Agency for International Development. Most of the 10 largest contracts went to companies employing former high-ranking government officials or individuals with close ties to those agencies or Congress. We also found, to our surprise, that no single agency super-

vised the contracting process for the government, and no one in the government or Congress had a full picture of the contracting process.

The Center filed 73 Freedom of Information Act requests and appeals to USAID, the Pentagon and its various uniformed services and the State Department. Response to our FOIA requests was sporadic, at best. On Oct. 29, 2003, the Center filed two lawsuits in the U.S. District Court in Washington, D.C., against the State Department and the Army after both agencies failed to respond fully to our request as outlined under FOIA law. The Center withdrew both suits after the State Department and the Army eventually provided us with the contracts requested.

The project has elicited responses from the general public and received attention from media outlets and nonprofit organizations across the globe, many seeking advice on how they might continue to cover this subject. The report was picked up by the major wire services, broad-

cast networks and key U.S. and foreign newspapers.

The Center was also contacted by a senior Pentagon official, who was joining the newly created Program Management Office in Baghdad, which is now overseeing the contracting process, for input on the issues. The Program Management Office now lists companies, solicitations, contract numbers and the initial value and the obligated amount on its Web site, though not the contracts themselves.

We realized throughout the process that the “Windfalls of War” was a work in progress and we have done four major updates since October 2003. To date we list more than 150 companies and 90 contracts and task orders worth more than \$48 billion on the site. See Data Update, page 4. And we will continue to update the report. ■

André Verlöy is the Associate Director of the International Consortium of Investigative Journalists.

Baby Bells Paying to Play

Bells paid two-thirds of fines and settlements since January 2000

By John Dunbar

WASHINGTON — The four regional Bell operating companies remaining from the break-up of AT&T accounted for roughly two-thirds of all Federal Communications Commission fines and settlements paid since January 2000, according to a Center for Public Integrity investigation.

The majority of the total was paid by companies that ran afoul of rules written to create competition in local telephone markets. Since a 1996 rewrite of federal communications law, the so-called Baby Bells have battled to hang on to their dominance of the local telephone service market in the United States.

The three companies that have paid the most fines or settlements since January 2000 are all Bells. On top of the list is Denver-based Qwest Communications International Inc., which has forked over \$17.1 million, including a \$9 million fine paid recently. Second is Verizon Communications with \$12 million, and third is San Antonio, Texas-based SBC Communications Inc. which has paid \$11.5 million. (BellSouth Corp. is ninth overall with \$2.15 million.)

Thanks largely to the agency's aggressive enforcement of competition rules and a creative approach to increase fines related to indecent broadcasts, proposed fines and settlements have increased dramatically so far this year, researchers discovered. The average amount proposed per infraction in 2003 was \$119,933 compared with \$362,282 through June 9.

Center researchers focused on both proposed fines and actual payments submitted to the government. The survey shows that a total of \$64.6 million has been paid by companies regulated by the FCC to settle disciplinary actions, with \$42.8 million, or 66.2 percent of the total, paid by the four Bell operating companies. Of that amount, \$41 million is attributable to rules created following the Telecommunications Act of 1996.

The study is believed to be the first-ever comprehensive examination of both fines proposed by the FCC and fines or settlements paid to the FCC by all the compa-

nies the commission regulates.

The Center spent more than a year collecting and analyzing enforcement actions by the agency, a task made difficult due to the complex process involved in fining

agency-regulated companies and weaknesses in the FCC's method of tracking proposed fines and payments, particularly those issued prior to 2000.

Researchers identified a total of \$101.3 million in proposed fines and settlement agreements and \$64.6 million in payments.

One of the prime selling points of the Telecommunications Act of 1996 was the promise of competition in local telephone markets and lower bills for consumers. At the time, local telephone service was monopolized in most parts of the country by the regional telephone companies that emerged following the breakup of AT&T in 1984.

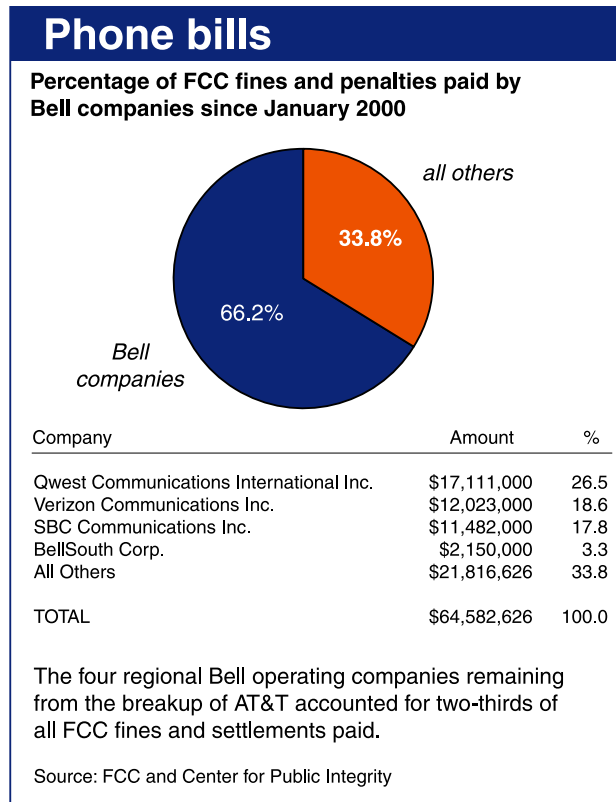
Rather than require new competitors to build new systems to compete with the Bells,

the Act required the existing phone companies to open up their networks to competitors. Once a local phone service provider has opened its system to competitors to the satisfaction of the FCC, it is permitted to compete in the lucrative long-distance phone service market.

Thus far, the rules have allowed about 19 million customers to buy local telephone service from a company other than their traditional local provider, according to published reports.

Since the 1996 law passed, Bell companies like SBC Communications, Verizon and Qwest have been at war with AT&T and MCI as both sides have sought to gain a competitive advantage. The bitter business-versus-business battle has attracted the attention of lawyers in Washington and investors on Wall Street. But the technical nature of the issues involved has kept it on the financial page rather than on the front page.

For example, while the agency's crackdown on shock radio has gotten a tremendous amount of attention, one fine—the \$9 million paid by Qwest—is *twice* as much



as all the fines proposed by the FCC for broadcast indecency since 1990 combined.

David Solomon, chief of the FCC's Enforcement Bureau since its formation, told the Center that the bureau was created in part to make competition enforcement one of the commission's "high priorities."

In fact, the four largest penalties in the history of the FCC are all against Bell-operating companies and are all related to competition. Qwest was fined for failing to disclose business agreements it made with local competitors. The concern is that secret agreements with selected competitors may not be offered to larger companies like MCI and AT&T which pose a much greater competitive threat.

Qwest rejects any notion that the company has been anti-competitive. "Qwest has been and remains a leader in competition policies," company spokesman Skip Thurman told the Center in a prepared statement.

As for the \$9 million fine, the company maintains it did nothing wrong.

"At all times the terms and conditions of the agreements in question were available to carriers through the Qwest website and through other filings with state commissions," Thurman said. "In the more than two years since these agreements were first made available, not one carrier has chosen to adopt any of them. Finally, these agreements have long since expired or been terminated."

Qwest, which reported \$14 billion in revenue in 2003, also was fined \$20.7 million by the Arizona Corporation Commission for the same issues that generated the \$9 million fine.

Qwest also was responsible for the second-largest enforcement bureau payment. In May of 2003, the company agreed to pay \$6.5 million for violating a federal ban on providing long distance services in its 14-state region before receiving permission from the FCC.

The third-highest fine was issued to SBC for \$6 mil-

lion for "violating a competition-related condition" that the FCC imposed when it approved the 1999 merger of SBC and Ameritech Corp. "Such unlawful, anticompetitive behavior is unacceptable," FCC Chairman Michael Powell said at the time the fine was announced.

SBC paid the fine, but is appealing it in court. The company disagrees with the FCC's contention that it acted in an anti-competitive fashion. "We believed and we still believe this action was unjustified," said Paul Mancini, senior vice president and assistant general counsel at the company.

Mancini also noted the fact that the Bells are the most fined companies only makes sense, given how heavily regulated they are. "The vast majority of FCC rules deal with landline local business," he said.

By comparison, long distance, cable television and satellite have been largely deregulated, he added. "Where they (the commission) focus most of their enforcement action is local service."

The fourth-highest payment was \$5.7 million by Verizon. The company, in a March 2003 consent decree, admitted it violated a federal ban on marketing long distance services prior to FCC authorization.

Jeff Ward, senior vice president/compliance with Verizon said the dispute was a result of Verizon "inadvertently doing some marketing of long distance before approval," which he deemed "hardly anti-competitive."

Overall, Ward said the fines assessed to Verizon are old news. "Most of the action, most of the concerns that make up that \$12 million (total) occurred as our networks were being opened up to competition. They were start-up issues," he said. "Now most of our discussion is business to business, not over startup issues." ■

Researchers Morgan Jindrich, Katie Mills and Alexander Cohen contributed to this report.

On Our Web Site

The following, recently-released reports are available on the Center for Public Integrity's Web site. Visit www.publicintegrity.org.

The Party's Party

DNC demands boost cost of convention, paid for by special interests.

(Posted July 8, 2004)

Winning Contractors: An Update

As the number of contracts rises, problems continue to plague the contracting process.

(Posted July 7, 2004)

Private Contractors

As early as December 2000 the Army was aware of the risks of calling on the private sector for intelligence work.

(Posted June 13, 2004)

Dim Chance for Global Cloning Ban

Diplomats cite U.S. overreach for stalemate on banning reproductive cloning.

(Posted June 2, 2004)

Lobbyists Bankrolling Politics

Bush gets nearly four times as much as Kerry from lobbyists.

(Posted May 6, 2004)

Foreign Lobbyist Database Could Vanish

Justice Department claims merely copying its foreign agents database could destroy it

By Kevin Bogardus

WASHINGTON — Justice Department officials say a huge database that serves as the public's lone window on lobbying activities by foreign governments has been allowed to decay to a point they cannot even make a copy of its contents.

Responding to a recent Freedom of Information request from the Center for Public Integrity, the Justice Department's Foreign Agent Registration Unit said it was unable to copy its records electronically because their computer system was "so fragile." In a letter, the head of the unit's Freedom of Information office said that simply attempting to make an electronic copy of the database "could result in a major loss of data, which would be devastating."

The database details millions of dollars spent on lobbying activities by foreign governments, companies, and foundations.

Those activities include everything from wining and dining lawmakers to broadcasting issue ads on American television and radio stations.

Unlike foreign governments and political parties, foreign companies can file their lobby forms with the Senate Office of Public Records on Capitol Hill. Under the 1995 Lobbying Disclosure Act, private companies based outside the United States need only to fill out much shorter forms for Congress instead of the substantial information required by FARA.

As the primary collecting point of information on foreign lobbying, the database is vital to tracking the actions of foreign governments in Washington. Yet the system remains susceptible to "a crash that cannot be fixed" if its files were to be copied, according to Justice's Criminal Division Freedom of Information/Privacy Act office.

"The information itself still is very accessible," said Bryan Sierra at the Department of Justice's Office of Public Affairs. "The basic mandate of the office is to provide information to the public."

Sierra and other officials at the Justice Department public affairs office refused to answer follow-up questions on the state of the FARA database. Sierra, through his receptionist, said he would not discuss the subject any further.

It's true that the information contained in the database can be obtained, as long as those seeking it know the precise files they want and have a substantial copying budget.

As the primary collecting point of information on foreign lobbying, the database is vital to tracking the actions of foreign governments in Washington.

The Justice Department's Foreign Agent Registration Unit, which is responsible for the records, has a public documents room located in a windowless office on New York Avenue in downtown Washington.

Congress's investigative branch, the General Accounting Office, has looked into the FARA office over several decades, culminating in their last report in 1998. More than once, the GAO has found that FARA lacks the resources to fulfill its responsibilities. As a result, several former high-level federal officials lobbying for foreign interests have not adequately disclosed their activities.

The ancient computers the public and staff use often break down, however, and the printers malfunction. The system's document handling software, itself an antique, operates on Microsoft Windows 95.

Copying charges are also incomprehensibly high—50 cents a page for documents that can easily include hundreds of pages each.

Further, none of the actual filings are available online, although a bare-bones index of registrants does appear on the office's website. However, the most current index posted on the site is 18 months old.

Asked why the database had been allowed to deteriorate so badly, Sierra did not provide an explanation.

"I do know every effort is being made to improve it," he said. "That office is dealing with a large amount of data."

One Freedom of Information Act expert called the situation with the FARA database unprecedented and baffling.

"I have never heard of anything like this," said Rebecca Daugherty at the Reporters Committee for Freedom of the Press in Washington. "It sounds crazy. They have an obligation to give you this information. It's as simple as that."

Counterespionage to lobbying

As part of Justice's Criminal Division, the Foreign Agent Registration Unit is tasked with maintaining the records. Created by the 1938 Foreign Agent Registration Act, the office was originally intended for counterespionage against Nazi agents. By tracking their activities within American borders, the United States government felt it could better combat propaganda.

These days, FARA registers lobbyists who act on the behalf of a "foreign principal," such as a government or a political party. All individuals and firms who represent a foreign interest and engage in political activities before a U.S. official or conduct public relations are required to register with the office.

The firms and individuals appearing in the database read like a who's who of the Washington lobbying machine. It includes powerhouse law firms, such as Patton Boggs (representing Saudi Arabia, Qatar and Angola, among many others). The Livingston Group, a government affairs shop headed by the former chairman of the House

Appropriations Committee, Bob Livingston, is listed representing the governments of Turkey and the Cayman Islands. Giant public relations shop Hill & Knowlton Inc. is shown representing SABIC Core Communications, which is part of a Saudi-controlled international petrochemical company based in Riyadh.

Despite its importance, Justice Department officials describe the database itself as virtually on life support. Even attempting to copy the database could irretrievably damage it, they say.

Saudis spent millions

While the FARA office may be under-funded, the lobbying activity it is supposed to track and make freely available to the public is extravagant.

One of the chief beneficiaries of the Saudis' largesse has been Qorvis Communications L.L.C., a public and government affairs consulting firm located in the Washington, D.C. area.

Qorvis's Saudi business has spiked since the 9/11 terrorist attacks as the kingdom and its ruling royal family have battled against negative public opinion.

In 2002, Qorvis was given at least \$14.6 million to raise awareness "of the Kingdom's commitment to the war against terrorism and to peace in the Middle East." Qorvis representatives then fanned out to Capitol Hill, the White House, as well as to major newspapers and television networks to spread the kingdom's message.

"We help them manage a public affairs and government affairs program in design to support the U.S.-Saudi relationship," said Michael Petruzzello, managing partner at Qorvis. "We are in an environment now where the pillars of this relation-

ship need to be reinforced."

The breadth and intensity of the PR campaign is remarkable. From April to September 2002, Adel Al-Jubeir, an advisor to the Crown Prince and chief Saudi spin doctor, made more than 80 media contacts, appearing more than 50 times on television.

Petruzzello and a colleague met with the White House communications staff as well as aides to the House Government Reform Committee. Pat Roush, whose daughters were allegedly abducted by their father to Saudi Arabia, believes the firm's representatives coached her children through a television interview that aired while Rep. Dan Burton, R-Ind., visited the kingdom in 2002.

Qorvis also produced issue ads and conducted focus groups. Broadcast during weekend talk shows, commercials showed a variety of Saudi royals shaking hands with American presidents, past and present. The ads were fronted by the Alliance for Peace and Justice, which was funded by the Saudi Royal Embassy and the Council of Saudi Chambers of Commerce and Industry's Committee for the Development of International Trade in Riyadh.

Justice's refusal

Nearly all of the information above was gleaned from records in the FARA database. Yet according to DOJ officials, any attempt to copy the database could cause irreparable damage, rendering it unusable.

Justice officials say they are working to upgrade the document handling software for the FARA database. According to Justice's response letter to the Center's FOIA request, the FARA database is in the process of being transferred to a more modern system by information technology contractors hired by the department. They say the completion date for the upgrade is December 2004.

Until then, the database cannot withstand a "mass export" as requested. The Center has appealed Justice's refusal to honor its Freedom of Information request and is considering taking the matter to court. ■

Since opening its doors in downtown Washington in 1990, the Center for Public Integrity has served as a mechanism through which important issues are investigated and analyzed by talented, responsible journalists, without the traditional time and space limitations.

The Center for Public Integrity

The Public i

910 17th Street, N.W.

Seventh Floor

Washington, DC 20006

www.publicintegrity.org

Telephone: (202) 466-1300

Facsimile: (202) 466-1101

FOUNDER AND
EXECUTIVE DIRECTOR

Charles Lewis

BOARD OF DIRECTORS

Charles Lewis

Susan Loewenberg

Paula Madison

John Newman

Charles Piller

Allen Pusey

Ben Sherwood

Marianne Szegedy-Maszak

MANAGING EDITOR

Bill Allison

DEPUTY MANAGING EDITOR

Teo Furtado

EDITOR,

THE PUBLIC i

M. Asif Ismail

FOUNDING EDITOR,

THE PUBLIC i

Marianne Szegedy-Maszak

E-MAIL

Contact@publicintegrity.org

LETTERS TO THE EDITOR

letters@publicintegrity.org

910 17th Street, NW
7th Floor
Washington, DC 20006

NON-PROFIT
ORGANIZATION
U.S. POSTAGE
PAID
PERMIT #70
WOODBIDGE
VA 22193

From the CENTER

Summer Visitors Enliven Center

The annual arrival of Center interns each June always energizes the office and enlivens our soft ball team; this year was no exception. We have 14 dedicated students from universities all over the country who are busy learning about the Center and plunging into various projects.

On July 8, the Center hosted a one-day seminar on Global Integrity—our massive, 750,000-word report that measured corruption in 25 countries—with over 30 social scientists and journalists from around the world.

The number of foreign journalists coming to the Center

has increased substantially this year. Just in the past month we have had reporters from Macedonia, Bosnia, India, South Korea, Peru, Norway and several African countries.

For those of you in New York on July 23, or Los Angeles and Washington, D.C., on July 30, go to the film debut of *Orwell Rolls in His Grave*, a critical examination of the media which features the Center's executive director Charles Lewis. The film traces the process by which the media has distorted and often dismissed actual news events. For more information, go to www.orwell-rollsinhisgrave.com ■

For Center Members and Friends

Learn about Planned Giving

Please consider contributing to the Center for Public Integrity through a planned gift, ensuring the future financial security of this organization.

Almost any asset may be used to fund one of the many types of planned gifts: stocks, bonds, mutual funds, real estate, life insurance or other properties.

Many donors make outright gifts in several different ways during their lifetimes. For example:

- Bequests
- Charitable remainder trusts
- Charitable lead trusts
- Retained life estates

We recommend consulting your attorney or accountant to find out how to receive the maximum tax benefits for your planned gift.

Please call Barbara Schechter at (202) 466-1300, Option 2, or e-mail her at newsletter@publicintegrity.org for further information.