

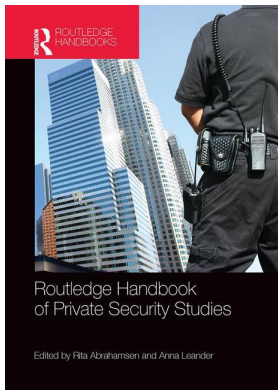
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PRIVATIZING INTELLIGENCE

Hamilton Bean

This chapter describes why and how private sector corporations assist governments in intelligence collection, analysis, and operations. It explains the actual and potential benefits and risks associated with private intelligence, maps the terrain of private intelligence scholarship, and points to pathways for future investigations that draw upon developments in private security studies (PSS) research. The dramatic expansion of intelligence contracting and outsourcing – ‘private intelligence’ – has accompanied the rapid growth of private security. However, the study of private intelligence has received far less scholarly attention. Despite its growing significance, only a handful of academic monographs concerning private intelligence have appeared over the last decade, and intelligence educators have mostly avoided the topic. Investigations of private intelligence mainly focus on US developments, and similar to the early study of private security, the literature includes a considerable amount of non-academic work by journalists, think tanks, and security professionals and is still mostly concerned with identifying, denouncing, or defending its practices. Academic explanation and understanding of the drivers, forms, and outcomes of private intelligence is lacking. Nevertheless, recent analyses within the fields of political science, history, philosophy, law and communication have highlighted three inter-related focal points for discussion:

- the historical continuity or discontinuity of private intelligence structures and practices;
- individual morality versus institutional integrity; and
- the values of organizational efficiency and effectiveness on one hand, versus the values of transparency and accountability on the other.

This chapter engages those focal points by first describing the twenty-first century expansion of private intelligence. It concentrates on US developments due to dearth of examples from other countries (although this situation is changing). The chapter then summarizes and synthesizes scholarship that investigates why and how private sector actors assist governments in intelligence collection, analysis, and operations, as well as identifies the actual and potential benefits and risks associated with private intelligence using the case of the Pentagon’s Capstone programme. The chapter argues that dissolving the public/private distinction in terms of the work that intelligence collectors, analysts, and operators perform may be appropriate, but equating the underlying drivers of business and government is not. The deepening

enmeshment of the public and private sectors, and their associated logics, creates significant challenges for intelligence stakeholders in terms of understanding, oversight, and accountability. The conclusion describes pathways for future investigations of private intelligence that draw upon developments in PSS.

The contemporary expansion of privatized intelligence

This section charts the development of private intelligence and identifies two major waves of public debate concerning its practices. From one perspective, private intelligence is as old as private security. Advancing armies often paid outsiders to supplement their knowledge of the enemy or local conditions. In the United States, companies and individuals aided government officials long before the establishment of the modern US intelligence community in 1947, and private intelligence played a pivotal role in the Revolutionary War, Mexican–American War, Civil War, World Wars I and II, and Cold War conflicts (Cohen 2010). But in modern parlance, contracting refers to the process of integrating a company’s employees into a government agency’s existing staff, while outsourcing, by contrast, entails turning over entire business functions to an outside vendor. While paid sources provide raw information to intelligence agencies, contractors and vendors generally produce finished intelligence products (reports, analyses, briefings, etc.) or advise agencies on how to improve technological or organizational processes. While sometimes described as a new phenomenon, it is more accurate to view the rise of private intelligence as a logical expansion of the military–industrial complex into related domains.

The dramatic rise of private intelligence, and the associated public debate over its appropriateness, can be traced to the surge in US intelligence contracting and outsourcing in the wake of the 11 September 2001 (9/11) terrorist attacks. The simultaneous proliferation of new and diverse threats, the legacy of agency downsizing in the aftermath of the Cold War, the liberalization of the US defence sector under the Clinton administration, and numerous reports and recommendations of defence industry associations had left intelligence officials eager for outside expertise that could cost-effectively supplement and enhance their agencies’ collection and analytical capabilities. With 9/11 serving as the catalyst for a massive expansion of private intelligence, by 2009, the US Office of the Director of National Intelligence acknowledged that private sector contractors constituted nearly one third of the US intelligence community’s workforce. Within specific agencies, the percentage of contractors was much higher. At that time, contractors of all types consumed an estimated 70 per cent of the US intelligence community’s overall budget for goods, services, and personnel (Shorrock 2008).

Executive orders, institutional memoranda, and the United States Code generally prohibit private contractors or vendors from conducting intelligence operations or governmental activities that affect the life, liberty, or property of private persons. High profile cases, including the prisoner abuse scandal at Abu Ghraib prison in Iraq, and NSA contractor Edward Snowden’s monumental disclosures, have raised public concerns about whether this policy is routinely being violated. Commentators have questioned the activities and influence of core personnel contractors who work side-by-side their intelligence agency counterparts, as well as the specialized private intelligence firms that maintain their own staff and supply agencies with intelligence products or consulting services. Often led by former intelligence officials, private intelligence contractors include the subunits of major defence corporations such as Serco, General Dynamics, Boeing, BAE Systems, Sotera, Raytheon, Booz Allen Hamilton, Computer Sciences Corporation, CACI, Science Applications International Corporation, ManTech, Northrup Grumman, and Lockheed Martin. Smaller information brokers and specialized

intelligence shops including Oxford Analytica, Economist Intelligence Unit, Jane's Information Group, Chesapeake Strategies Group, Control Risks, iJet, Eurasia Group, International Intelligence, Kroll, Stratfor, OSINT Group, Strategic Insight Group and SITE Intelligence Group, among many others, also participate in the private intelligence market.¹

Figures concerning the size and scope of the private intelligence market are difficult to locate and vary depending on what kinds of activities are included. Most intelligence contracts are classified, and even non-classified contracts are often withheld from public disclosure. In 2008, the *Washington Post* put the number of US intelligence contractors at approximately 37,000 with a cost of roughly US\$50 billion (O'Harrow 2008). A subsequent *Washington Post* investigation in 2010 by Dana Priest and William Arkin identified 1,931 private companies working on programmes related to counterterrorism, homeland security, and intelligence in roughly 10,000 locations across the United States. In 2014, the US Government Accountability Office (GAO) determined that the government had no reliable way of knowing exactly how many core personnel contractors worked within US intelligence agencies. There has been no public disclosure of agency expenditures on information brokers, and publicly available figures for private intelligence expenditures in other countries are either non-existent or extremely difficult to find.

Two waves of public debate

The initial wave of public debate concerning the post-9/11 private intelligence boom occurred during the 2006–8 period. In a 2006 article, US Army Major Glenn James Voelz argued that private intelligence was valuable for analysis, collection management, document exploitation, production, and linguistic support. However, Voelz stressed that more could be done to improve managerial effectiveness and oversight. In *Outsourced*, Hillhouse (2007) offered a fictionalized account of intelligence outsourcing, and her blog and commentary drew international media attention. With public concern growing, in 2007, the US House and Senate required the Director of National Intelligence to report on the activities performed by private contractors. These developments gained significant momentum following the publication of journalist Tim Shorrock's (2008) book-length investigation of the topic, *Spies for Hire*. Shorrock's well-researched account generated institutional defensiveness and bolstered lawmakers' calls for improved agency transparency and accountability. Investigative journalists including Joshua Foust, Mark Mazzetti and Jeremy Scahill, among others, continued to reveal details of the private intelligence industry from 2009 to 2011.

A second wave of public debate concerning private intelligence began to swell in 2012 following what has come to be known as the Stratfor hacking incident. Founded in 1996, Stratfor is a US company that provides numerous types of analytical products to government and corporate clients. In February 2012, Wikileaks began posting copies of nearly 5 million Stratfor emails that had been obtained by the hacker group Anonymous. The group had broken into Stratfor's computer network in 2011, and through its disclosures, it aimed to reveal Stratfor's web of informers, pay structure, and collection methods. However, public debate concerning Stratfor's activities was soon overshadowed by the extraordinary disclosures in 2013 of Booz Allen Hamilton contractor Edward Snowden. Snowden's leaks of the details of NSA collection programmes revealed the immense scope and scale of US intelligence activities, many conducted with the assistance of private corporations. The revelations indicated possible illegalities, as well as the dangers of allowing private contractors to access the government's most closely guarded secrets. Snowden's revelations belied claims of sufficient government oversight of private intelligence, generating renewed calls from lawmakers for improved transparency and accountability.

Defenders and critics

Defenders of private intelligence present it as an unproblematic public–private partnership and a mere shift in the way that government fulfils its intelligence responsibilities (Hansen 2014). Private intelligence contractors and firms help intelligence agencies obtain valuable expertise and improve their efficiency and effectiveness. Defenders also emphasize the similarities between intelligence agencies and large corporations, noting how both often need to rapidly secure specialized skills on a temporary basis. The private intelligence market also enables agencies to tap experts who, presumably, would otherwise abandon the intelligence sector. Thus, for defenders, the actual and potential benefits of private intelligence include flexibility, unique expertise, improved coverage of diverse topics, innovation, dexterity and knowledge retention. While defenders concede that a few cases of private intelligence mismanagement and abuse have occurred, these are in no greater proportion than those occurring within government agencies or other corporations. Most defenders also acknowledge the higher cost of private intelligence, as well as that institutional secrecy, the vagaries of contracting and outsourcing, and the scope and scale of private intelligence make third-party oversight problematic or ineffective.

The arguments of private intelligence critics centre upon the risks of private sector actors performing inherently governmental functions, as well as the wastefulness, lack of oversight, and lack of accountability of the industry (Keefe 2010). Critics presume (and insiders confirm) that the fragmented and compartmentalized structure of the US intelligence community leads to wasteful duplication of effort and a lack of coordination and intelligence sharing. Instead of viewing private intelligence firms as a valuable resource, critics worry that the privatization of intelligence siphons off the best collectors and analysts from government agencies. Critics also presume that contractors may place profits over patriotism, leading to an ill-considered or nefarious influence on national security policy and strategic decision-making. In 2010, the philosopher Christopher Caldwell argued that private intelligence violates the Just War tradition and is a serious moral wrong because firms collect and analyse information not as an end in itself or to protect national interests, but as a means to accrue revenue and profit. Caldwell surmised that because private intelligence activities mostly occur outside the gaze of public oversight, the possibility for wrongdoing was increased. Likewise, the philosopher James Roper argued that private intelligence was unethical because it conflated the differing social functions of business and government. Democratic governments are obliged to give citizens a voice, protect rights and liberties, provide societal functions (security, public health, social services), and balance competing priorities. Such obligations generally are not required of private corporations. Roper thus concluded that private intelligence changed the very nature of the state. Some critics have acknowledged that private firms provide agencies with technical strengths, managerial expertise, and workforce flexibility. These critics are concerned, however, that the vast number of private sector personnel, their cost, and regulatory vagaries complicate officials and lawmakers' ability to oversee and evaluate private intelligence. The next section uses the case of the Pentagon's Capstone programme to pinpoint three focal points of disagreement between private intelligence defenders and critics intimated in this overview.

Core disagreements

Similar to the early study of private security, scholarly work explaining and understanding private intelligence has emphasized disagreements far more than it has produced consensus knowledge. This is due, in part, to institutional secrecy and the absence of empirical examples of private intelligence practice. However, instances of private intelligence practice occasionally

surface in the public domain, and using the case of the Pentagon's controversial Capstone programme, this section identifies three focal points that animate the private intelligence debate:

- historical continuity versus discontinuity;
- individual morality versus institutional integrity; and
- efficiency and effectiveness versus transparency and accountability.

Capstone was a human intelligence collection programme administered by the Pentagon from 2008 to 2010 that aimed to provide US military commanders in Afghanistan with descriptions of the social environment in which they operated. Details about Capstone first emerged in the *New York Times* in 2010 (Filkins and Mazzetti 2010). In 2008, Eason Jordan (a former news executive) and Robert Young Pelton (a writer) proposed creating a private subscription information service, AfPax, that would use company employees and informants to interview local Afghan officials, including militia leaders, and provide reports on the situation in the provinces. The bulk of the funding and subscribers, however, would come from the US military, which would also obtain exclusive access to a specialized database that would include tailored information based on the military's requirements. The incoming top US commander in Afghanistan at the time, General David McKiernan, endorsed Jordan and Pelton's proposal and introduced the two men to another US official, Michael Furlong, who arranged funding and contract management. General David Petraeus, then-Commander of US Central Command (CENTCOM), also wrote a January 2009 letter endorsing the proposed programme. However, while setting up AfPax, Furlong allegedly used some of the funding to hire other Capstone subcontractors, some of whom were former CIA or Special Forces operatives, to gather information about Afghan tribal structures and the workings of militant groups. In the process, these Capstone subcontractors occasionally gleaned detailed information about the location of suspected militants, and Furlong fed those reports directly into the military operations centre in Kabul for possible lethal military action. Some officials became concerned that Furlong was running an off-the-books spying operation, using private intelligence contractors for inherently governmental activities. The CIA alerted the Pentagon, which eventually ended Capstone and investigated Furlong.

Capstone is a good case for illustrating core points of debate concerning private intelligence. As already noted, the defenders of private intelligence assert that there is a lack of evidence that it contributes to waste, fraud, or abuse. Perhaps these defenders have ignored Capstone, let alone the 2004 Abu Ghraib prison debacle in Iraq, where private military intelligence contractors allegedly influenced members of the 372nd Military Police into committing acts that violated the Geneva Convention on the Treatment of Prisoners of War. Another example of the wastefulness of private intelligence is Trailblazer, a \$280 million NSA information technology contract established in 2000 that involved SAIC, Boeing, Computer Sciences Corporation, and Booz Allen Hamilton. Trailblazer was cancelled in 2006 due to cost overruns and mismanagement. Some private intelligence defenders argue that cases such as Capstone, Abu Ghraib and Trailblazer are rare and stem from US policy failures rather than the nature of private intelligence per se. Defenders of private intelligence, however, sanction institutional and corporate secrecy – a condition that obscures the forms and influence of private intelligence – and then treat the lack of evidence of organizational waste, fraud, abuse as if it were not contingent on that condition. Secrecy aside, as an example of private intelligence practice, the Capstone case highlights three focal points that run throughout debates about private intelligence more generally.

Historical continuity versus discontinuity

The Capstone case underscores the question of whether contemporary private intelligence activities qualitatively differ from their historical antecedents. As Cohen (2010) has explained, private sector organizations have long assisted government clients. One is tempted to trace a straight line between the US government's contracts with the Pinkerton company during the American Civil War to the US intelligence community's use of private contractors today. Cohen and others have shown that public criticisms of private intelligence are nothing new either – charges of war profiteering characterize both current and historical debates. Likewise, Robert Newman noted 40 years ago, in his article 'Communication Pathologies of Intelligence Systems', that when an intelligence system is run by an organization whose mission is being evaluated, the organization endeavours to please its evaluator – its intelligence product will inevitably be self-serving (Newman 1975). In other words, private companies have an incentive to produce intelligence products that conform to the expectations of their client in the hopes of obtaining continued and expanded funding. Intelligence products that challenge, undermine, or contradict a client's preconceptions are risky.

Contemporary critics tend to assert historical discontinuity, arguing that the 1990s liberalization of defence and intelligence sectors broke with prior practices and created both unprecedented conditions and unforeseen consequences. Liberalization accelerated and intensified the shift of intelligence expertise from public to private actors in ways that have made transparency and accountability much more difficult to obtain. The sheer number of private intelligence contractors and firms aiding government agencies represents a unique historical situation. As Peter Gill noted:

[P]ublic-private contracting and partnership are facts of any liberal capitalist economy, but the merging or symbiosis of interests in security and intelligence apparatus takes us into the realms of a corporatist state in which government takes place through private corporations. This raises profound issues about the nature of intelligence governance.

(Gill 2014: 14)

Some stakeholders may reluctantly recognize, yet find it difficult to accept, that private sector forces and logics have *already* transformed intelligence structures and practices in enduring ways, reflecting and reinforcing the state as a thoroughly hybrid form (Leander 2014). Scholars have only begun to explore the actual and potential benefits, risks, and consequences of this condition.

Individual morality versus institutional integrity

The Capstone case also draws attention to the debate over individual morality versus institutional integrity. Some commentators have depicted Furlong as a rogue intelligence official using private contractors to do his unethical bidding, while others find fault in the larger intelligence system that permits (and tacitly encourages) private actors to press ethical and legal boundaries. Defenders of private intelligence tend to assert that critics presume that it is 'inherently evil' (Cohen 2010: 250) or that intelligence contractors are 'motivated primarily by their paychecks' (Hansen 2014: 59). However, declaring that critics believe that private intelligence is an innate evil or that contractors lack professional or patriotic duty directs attention away from structural conditions that encourage practices that undermine democratic values.

Defenders of private intelligence attempt to steer the debate towards the character, motives, or loyalties of individual intelligence analysts – private or public. Conversely, critics attempt to steer the debate towards the question of how permanently embedding the profit motive within the deepest structures of the nation's intelligence apparatus affects the entire communication system that constitutes the intelligence enterprise.

For example, Hansen (ibid.) rightly observes that the profit motive may or may not influence the psychological tendencies of various intelligence stakeholders. However, the profit motive demonstrably shapes who is able to speak to national security officials (legitimacy); what those speakers are encouraged, permitted, or forbidden to say in order to establish, protect, or develop relationships; and what channels speakers are able to use to exchange information (Bean 2011). Given commercial imperatives, it is difficult to imagine private intelligence providers downplaying the significance of threats, supporting national security budget reductions that endanger their revenue streams, or championing stricter oversight, control, and accountability. While these actions may be desirable for the citizens of democratic states, the enmeshment of corporate and public interests generates tensions that are not easily reconciled. The profit motive also discourages public assessment of the effectiveness of private intelligence because companies are usually unwilling to submit their work to public scrutiny in order to protect proprietary information or sources and methods. Scholars have only begun to explore the concrete and specific ways that institutional structures shape private intelligence's forms and outcomes.

Efficiency and effectiveness versus transparency and accountability

Capstone illustrates that private intelligence can indeed be efficient and effective. Several Capstone participants remarked that it was a cost-effective way of supporting intelligence operations and US policy. Others remarked that using private contractors also was an effective way to skirt the Pakistani government's prohibition on US military personnel operating in the country. That the programme initially received multiple endorsements from high-ranking US military officials speaks to its perceived usefulness and value. In one sense, problems arose because Capstone became too effective. Its ostensibly benign 'atmospheric protection reports' were eventually used for lethal targeting of militants – a clear crossing of the line into inherently governmental activities. Capstone was only halted after the CIA alerted the Pentagon that the programme was in possible violation of the law. Capstone thus illustrates defenders' claim that private intelligence can improve efficiency and effectiveness. It also illustrates, however, critics' claim that sometimes those benefits come at the expense of other important values, especially transparency and accountability.

Transparency regarding the number of private intelligence contractors is lacking. In 2014, the US Government Accountability Office (GAO) released a report, *Additional Actions Needed to Improve Reporting on and Planning for the Use of Contract Personnel*, that found that civilian US intelligence community elements used various methods to calculate the number of contract personnel. These calculations did not maintain documentation to validate the number of personnel reported for 37 per cent of records that GAO reviewed, and 40 per cent of the records did not contain evidence to support the reasons given for contractor use. These records also did not provide insight into the functions performed by contractors, especially those that could potentially influence the government's control over its operational or policy decisions. In other words, GAO underscored that there is currently no way of adequately assessing whether or how private intelligence activities influence government decision-making. This situation supports Leander's (2014) argument that a socially constructed public/private dualism has contributed to the elusiveness of intelligence personnel, expenditures, and practices.

In terms of accountability, Capstone demonstrates that what constitutes inherently governmental activity is ill-defined and contentious, and even when guidance is available, private intelligence providers have a financial incentive to explore ethical grey areas and press legal boundaries in order to maximize their usefulness and value to their clients. Jon Michaels (2008) argued that ethical and legal unaccountability was, in fact, part of what made private intelligence appealing to government agencies in the first place. Task orders, statements of work, and other contracting documents can permit a great deal interpretive flexibility. The ambiguities of public-private collaborations often shield both the agency and its private sector partner from effective congressional, regulatory, and judicial oversight. In a novel twist, Michaels suggested that private intelligence providers could help hold government agencies accountable. Specifically, providers could be held financially or legally responsible for obtaining from their government agency client the proper authorizations that permit certain kinds of intelligence work. In this scheme, private corporations would serve as the agents of disclosure, providing government oversight committees evidence of prior legal authorization and descriptive accounts of their work to which they could later be held accountable. However, scholars have only begun to explore ways to align the (sometimes competing or even incompatible) values of intelligence efficiency, effectiveness, transparency, and accountability.

In sum, the interrelated debates concerning historical processes, individual morality and institutional integrity, and competing organizational values constitute much of the terrain of private intelligence scholarship. These three themes are by no means a definitive list. Many additional issues are ripe for research, and the final section of this chapter indicates how PSS can inform future investigations.

Conclusion

A historical view of private intelligence suggests that in the modern era corporations and government agencies have always been linked in some way and will continue to be. However, the type and number of private actors participating in national intelligence have varied considerably. Some place the peak for private intelligence in the United States in the first decade of the twenty-first century. Others see only superficial abatement of the trend towards intelligence contracting and outsourcing in recent years. Despite the questions that these conditions pose for the way that intelligence is understood, organized, and conducted, private intelligence remains poorly researched (Hansen 2014). Indeed, this chapter has focused almost exclusively on US developments, but commentators have identified similar developments emerging in the United Kingdom (Ortiz 2013), South Africa (Butt 2010), and Australia (Palmer 2013). Comparative investigations are needed of private intelligence in other countries. Because of its overwhelming US focus, scholarship concerning private intelligence has also developed somewhat independently of the broader discourse of PSS.

For example, while private intelligence scholars have, to date, mostly focused on the role and ethics of intelligence contracting and outsourcing, PSS has expanded its inquiries to include the broader phenomena of commercialization, commodification, governance, and governmentality. PSS investigations also increasingly focus on the enmeshment or simultaneity of the public and private realms, which undermines the notion that a pristine domain of intelligence – one free of private influence – is even possible. As Leander writes, separating these domains is ‘a formalistic exercise that hides more than it reveals and blinds itself to the hybrid and its implications’ (Leander 2014: 201). Leander calls for the dissolution of the dualism and the development of a practice approach in order to capture elusive and powerful phenomena. Leander’s (2011) related discussion of the paradox of accountability also has relevance for the

study of private intelligence. Specifically, Leander demonstrates how attempting to politicize military markets is necessary for adequate public debate, yet doing so sparks reactionary legal and technocratic attempts to downplay, silence, or discredit such efforts. In the context of intelligence, politicization is often depicted as an affront to professionalism and objectivity. It is therefore worthwhile to consider how the politicization of the intelligence market might proceed similarly or differently from its military cousin.

As a gesture towards increased public understanding of intelligence, I have investigated how stakeholders manage competing ethical principles underlying private enterprise and national security. My analysis of the discourse surrounding Capstone (Bean 2013) revealed how advocates of market-based government used particular discursive resources to shield themselves from charges of immorality. I employed an ethics-as-practice perspective that may be useful for other PSS investigators who analyse organizational dilemmas that require moral agency. Actors strategically and opportunistically draw upon discursive resources to persuade themselves and others of the ethicality of their practices. Communication serves as the site where advocates of market-based government are able to manage, dismiss, or refute charges of immorality. Future private intelligence research ought to focus on comparative investigations, the broader role of commercialization, commodification, governance, and governmentality, the enmeshment of public and private realms, politicization of the intelligence market, and the interconnections among, discourse, ethics, and practice.

Finally, defenders of private intelligence rightly distinguish between the work of production-focused analysts and their sales-focused counterparts, but in emphasizing the similarities between analysts, defenders of private intelligence tend to elide the influence of the principle driver of private sector decision-making: organizational continuance and resource accumulation. While this driver is also present in public organizations, intelligence agencies cannot become insolvent in the traditional sense, and businesses and states do not 'fail' in the same way. Business and government also are not subject to equal measures of public scrutiny and accountability. Underlining these distinctions, however, risks reinforcing the public/private dualism that sustains the elusiveness and power of the intelligence sector. Therefore, there is much work for PSS scholars to do in examining why, how, and with what effect intelligence stakeholders assert or challenge the public/private distinction. As a trans-disciplinary and reflexive enterprise, PSS is well positioned to generate knowledge of the reciprocal influence of business imperatives and intelligence practice.

Note

- 1 This chapter does not examine the related topic of corporate espionage or the phenomenon of current and former intelligence agency personnel assisting private sector corporations in surveilling and influencing governmental and non-governmental organizations. On these topics, see Eamon Javers (2013), Gary Ruskin (2013) and [Chapter 12](#) of the present volume.

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