H.P. Board Monitored To Find Leak

By DAMON DARLIN

SAN FRANCISCO, Sept. 5 — Hewlett-Packard's chairwoman ordered monitoring of its directors' phones to determine the source of news leaks, prompting a furor in which one director quit and another rebuffed efforts to oust him, the company said Tuesday.

The dispute is to be laid out in documents that Hewlett-Packard is filing with the Securities and Exchange Commission on Wednesday.

The concern over leaks began in the months preceding Carleton S. Fiorina's ouster as chief executive last year, the company said. But the confrontation within the board unfolded this year after an internal report identified George A. Keyworth II, the company's longest-serving director, as a source of disclosures.

The company said the report was based on monitoring of board members' calls from home phones and cellphones in January, an effort authorized by Patricia C. Dunn, the chairwoman.

When the report was presented at its meeting in May, the board asked Mr. Keyworth to resign, but he refused, saying he had been elected by the shareholders, a company spokesman said.

The company also said that the attempt to oust Mr. Keyworth had prompted Thomas J. Perkins, the founder of the venture capital firm Kleiner Perkins Caufield & Byers, to

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resign. A company spokesman, Michael Moeller, said that because Mr. Perkins did not say that he was resigning out of disagreement with the board, the company did not disclose the events relating to the investigation when it reported his resignation to the S.E.C.

"He’s changed his mind," the spokesman said of Mr. Perkins, and because he has a dispute with the company, that prompted a further disclosure to the S.E.C.

The company, which is expected to hold board elections in March, said Mr. Keyworth would not be renominated for his seat.

Mr. Keyworth and Mr. Perkins did not respond to requests for comment Tuesday evening.

The Hewlett-Packard board began an investigation into news leaks after forcing Ms. Fiorina to resign in February 2005.

The board dispute was reported Tuesday in an article on Newsweek’s Web site by David A. Kaplan, who is writing a book about a yacht that Mr. Perkins recently had built. The article said Ms. Dunn, who was named chairwoman after Ms. Fiorina’s ouster, had authorized a team of independent electronic-security experts to monitor the phone communications of the 10 other directors.

H.P. said its legal counsel had advised her that the surveillance was legal and proper. The company said it began the investigation last year after news reports quoted directors about dissatisfaction with Ms. Fiorina’s management.

But The Wall Street Journal’s Web site reported Tuesday evening that it was a January 2006 report on the CNET Web site about an off-site management meeting that provoked Ms. Dunn’s ire.

The Newsweek article said that Mr. Perkins had provided documents to the S.E.C. revealing how the investigation was conducted and that he had not been allowed to review and approve the S.E.C. filing the company made in May regarding his resignation. The article said Mr. Perkins had asked other government agencies to investigate the surveillance of H.P. directors.

Mr. Keyworth was the science adviser to President Ronald Reagan and director of the White House’s Office of Science and Technology Policy from 1981 to 1986.
Leak, Inquiry and Resignation Rock a Boardroom

By DAMON DARLIN

SAN FRANCISCO, Sept. 6 — As corporate intrigue goes, it is hard to beat this: an uproar over news leaks from the boardroom, a cloak-and-dagger investigation, allegations of spying and double-dealing, and a clash involving some of Silicon Valley's best-known names that could end in lawsuits and possibly criminal charges.

The furor at Hewlett-Packard, the giant personal computer and printer company, began unfolding when Thomas J. Perkins, a pioneer venture capitalist, quit the board after an investigation pointed to a friend on the board as a source of the news leaks.

Mr. Perkins's pique turned to outrage when he learned that investigators working for the company had posed as the directors themselves, armed with at least part of their Social Security numbers — a method commonly used by hackers and identity thieves — to obtain the directors' personal phone records.

Those tactics are now the focus of a criminal investigation by the California attorney general — and the heart of the corporate intrigue.

It is the latest episode in a soap opera that began in early 2005 with the board's ouster of its chief executive, Carleton S. Fiorina, after press reports surfaced about directors' dissatisfaction with her. Ms. Fiorina, for a time the country's most prominent female executive, will have her own say in a much-anticipated memoir arriving next month.

Mr. Perkins, in a letter to his former board colleagues, said the whole affair amounted to "probable unlawful conduct, improper board practices, breakdowns in corporate governance" and general disarray at a company with which he was long associated. His anger seemed directed in particular at the chairwoman, Patricia C. Dunn, who ordered the investigation.

That he was the only one of 11 directors to resign suggests that the case for an ethical and legal breach is not clear cut.

But Silicon Valley — and much of the rest of corporate America — was nonetheless agog Wednesday at the dysfunction within a boardroom's normally clubby confines.

"Once a board has gotten to the point when people are hiring private investigators to snoop on other directors, you have a big problem," said Mitchell Kertzman, a partner at Hummer Winblad Venture Partners, a venture capital firm in San Francisco. "What we are learning about now is more of a symptom of the tearing apart of that board. It shows you how bad things got."

Mr. Perkins, who was briefly married to the best-selling author Danielle Steel and recently wrote a racy novel titled "Sex and the Single Zillionaire," did not respond to requests for comment. A representative said Mr. Perkins was in the Mediterrane-
nean on his new $100 million 287-foot yacht, the Maltese Falcon, and did not want to be disturbed.

For Hewlett-Packard, the quintessential Silicon Valley company, the upheaval comes at an improbable time: as the troubles that preceded Ms. Fiorina’s dismissal have given way to strong growth in revenue and profits under her successor, Mark V. Hurd. (Who is to thank for that turnaround is expected to be a central theme of Ms. Fiorina’s book.)

The company concern over leaks from its board began while Ms. Fiorina was chief executive. She asked the Silicon Valley law firm of Wilson Sonsini Goodrich & Rosati to interview board members to discover the source of the leak. But nothing came of that investigation. After Mr. Hurd succeeded Ms. Fiorina, the leaks stopped.

But in January, an article appeared on the technology news Web site CNET about a management meeting. The report described the company’s strategy in dealing with the chip makers Intel and Advanced Micro Devices, as well as possible acquisitions. It struck a nerve among the top executives not only because strategy was revealed but because leaks could open the company up to charges of securities violations because of selective disclosure of information.

Ms. Dunn, who had been named chairwoman after Ms. Fiorina’s ouster, wanted to restore the trust among the board members — a trust that had been tested as the company

Miguel Helft contributed reporting from New York for this article.

Prying into the phone records of a company director stirs up some outrage.

vide to corporate managers. Stopping leaks, he said, “really is a noble motive here, but the techniques used is a separate issue.”

Ms. Dunn, the former head of Barclay Global Investors, ordered a further investigation in January. But this time, it was turned over to the company’s office of general counsel, which turned to a consulting firm with “substantial experience in conducting internal investigations,” as the company described it. Hewlett-Packard has refused to name the firm, but said it had used it before.

According to a Hewlett-Packard filing with the Securities and Exchange Commission on Wednesday, the consulting firm then subcontracted the work to another group of investigators to obtain information about phone calls between Hewlett-Packard directors and outsiders.

When the investigators were done, the results were presented to the full board, which includes Mr. Hurd. The evidence pointed to George A. Keyworth II, the board’s longest-serving member, with 20 years’ service. H.P. said that Mr. Keyworth admitted being the source of the leak and that the board, after discussion, asked him to resign. He refused.

At that point, Mr. Perkins announced his own resignation. Both Mr. Perkins’s representatives and company officials say Mr. Perkins accused Ms. Dunn of betraying him. According to Mr. Perkins’s spokesman, it was because Ms. Dunn had agreed to handle the matter privately and quietly. But Viet D. Dinh, Mr. Perkins’s lawyer on this matter, also said that Mr. Perkins was upset with the extent of the investigation. He was the sole member to object.

“It doesn’t surprise me at all,” said Sanford R. Robertson, a partner and founder of Francisco Partners, a technology leveraged buyout firm in Menlo Park, Calif., and founder of the investment banking firm Robertson Stevens. “He is very much a man of principle. If he thought something was not being done correctly, he would stand up and be counted in that regard.”

Mr. Dinh, who serves on the board of the News Corporation with Mr. Perkins, said, “When red flags go up in his mind, he asks questions.”

The company would not make Ms. Dunn available for comment.

Mr. Perkins’s resignation was reported by Hewlett-Packard, which gave no cause. Mr. Perkins took nearly a month off, spending most of the time on his yacht. When he returned to Silicon Valley in June, he pressed the company to amend its filing with the Securities and Exchange Commission to reflect the reason for his resignation — a request it rebuffed until Wednesday — and agitated for H.P. to investigate its methods. The Wilson Sonsini firm was asked by a board committee to do the job.

What Mr. Perkins did not know at the time — indeed, H.P. said no one on the board did — was that the leak investigators had used a form of subterfuge known as “pretexting,” or false pretenses, to obtain the directors’ official phone records. That was revealed in an e-mail response when Mr. Perkins directly asked Larry W. Sonsini, the chairman of Wilson Sonsini, about the investigative methods.

The Wilson Sonsini investigation concluded that the use of pretexting “was not generally unlawful.” But the law firm could not say whether
Larry W. Sonsini, the chairman of the law firm of Wilson Sonsini, which interviewed Hewlett board members.

the consulting firm that Hewlett-Packard hired, or the subcontractors it used, “complied in all respects with applicable law.”

Meanwhile, the relationship between Mr. Perkins and Mr. Sonsini’s firm has grown strained. A Wilson Sonsini lawyer, Boris Feldman, accused Mr. Perkins of discussing internal Hewlett-Packard deliberations with others last month. The lawyer went on to demand that he name those he spoke to and what documents he gave them.

Mr. Perkins’s response was just as rough. Mr. Dinh, who had served from 2001 to 2003 as assistant United States attorney general for legal policy, helping to draft the Patriot Act, accused the law firm of conflicts of interest. He accused the company of “sanitizing” the minutes of the board meeting in which Mr. Perkins resigned. He told the company that Mr. Perkins was a victim of possible fraud, identity theft and misappropriation of personal records.

“We have good reason to believe that H.P. and/or its agents were responsible for these activities,” he said in a letter to the company.

In the meantime, Mr. Perkins contacted AT&T, his phone carrier. The company investigated and revealed that, indeed, Mr. Perkins’s records had been hacked. The phone company said that someone had tricked an AT&T service representative into revealing the multidigit code that would allow a person to set up an online account for access to billing statements. The account was created using the last four digits of Mr. Perkins’s Social Security number, and his January bill was viewed.

A fake e-mail address was used to set up the account—redsox8855@yahoo.com — but AT&T did trace the actual Internet address.

As part of a criminal investigation, investigators with the California attorney general, whom Mr. Perkins had notified, discovered that the Internet address belonged to a subscriber of Cox Communications, an Atlanta-based cable TV and Internet provider. On Aug. 31, the attorney general filed a search warrant to obtain the name of the person using that address to gain access to Mr. Perkins’s records.

A spokesman for the attorney general said that two possible felony charges were being considered: the unauthorized use of personal identifying information for unlawful purposes and the unauthorized access of a computer database. Hewlett-Packard said it intended to cooperate fully with the criminal investigation.

The search warrant affidavit, on file in Marin County in California, where Mr. Perkins lives in an expansive hilltop home with ocean views, also reveals that the attorney general and AT&T are considering civil lawsuits as well.

George A. Keyworth II admitted being the source of a leak.
Tiny Firm’s H.P. Link Scrutinized

By MATT RICHTEL and DAMON DARLIN

SAN FRANCISCO, Sept. 13 — California prosecutors looking into the Hewlett-Packard spying case are focusing in part on a small private investigation firm in suburban Boston, operating out of a yellow house with black shutters in a quiet neighborhood.

How such a tiny firm ended up handling work for H.P., one of the largest technology companies in the world, as it tried to find out who had leaked company secrets is not clear. But other private investigators said on Wednesday that the situation was not surprising, because corporations in need of such services often end up relying on a chain of subcontractors.

Prosecutors will have to follow that chain as they pursue those responsible for gaining access to the phone records of journalists and company board members.

It is common practice for a company’s head of security, its general counsel or its outside law firm to hire a security consulting firm, which often hires smaller firms, like the one prosecutors say was involved in this case, Security Outsourcing Solutions in Needham, Mass.

Those firms then hire freelance investigators to do work like surveillance or the acquisition of phone records.

The H.P. investigation involved the use of a technique known as pretext-
ing — in this case, pretending to be a customer to obtain that customer’s records from the phone company.

The small firms provide skills that larger firms may not have, but they also offer another benefit. Using middlemen can insulate the company that has ordered the investigation from any shadowy activities, private investigators said.

“I’d be dumfounded if you could find a corporation the size of H.P. that turned directly to the pretexter,” said Rob Douglas, an information security consultant who has testified to Congress about illicit tactics used to obtain telephone records. He added that these investigations “have middlemen and are layered.”

Mr. Douglas said it was not clear whether the layering in this case was intended as a way to shield company executives, or was just the way the process worked, with one step leading to another until a specialist in obtaining phone records was needed.

Federal and state prosecutors are continuing to investigate what laws, if any, were broken in Hewlett-Packard’s hunt for directors who leaked information to the news media.

Hewlett-Packard has said the investigators it hired, whom it refuses to identify, did succeed in identifying a director as a source of leaks. That director, George A. Keyworth II, resigned Tuesday after the company accused him of giving details of a management meeting to a reporter.

The investigation into the leak resulted earlier this year in the resignation of another director, Thomas J. Perkins, an ally of Mr. Keyworth, over a dispute with Patricia C. Dunn, the board chairwoman who ordered the investigation. The company said on Tuesday that Ms. Dunn would give up her position in January.

“It’s a remarkable story because it is such an obvious inappropriate thing to do,” said Daniel E. Karson, an executive managing director and counsel at Kroll, the nation’s largest investigation and security firm.

People who were briefed on details of the company’s internal investigation have said that Security Outsourcing Solutions, which is run by Ronald R. DeLia, was one company involved.

But others who are investigating the company’s actions said Wednesday that there were most likely other firms involved. Security Outsourcing acts as a kind of temporary employment agency and rounds up people who can do a particular job, so it is likely that those who got access to the phone records were subcontractors. Legal filings in the California attorney general’s investigation show that one of the pretexters gained access to a phone company Web site using Internet service from Cox Communications, a cable company that does not operate in Boston.

State investigators have not said if there were any other middlemen involved. Several private investigators said one reason to think Security Outsourcing had help was that whoever did the actual work of obtaining the phone records of the H.P. board members and journalists had their Social Security numbers.

Attempts to contact Security Outsourcing on Wednesday by phone and e-mail and in person failed. No one answered the door at Mr. DeLia’s residence in Needham, a large home on a tree-lined street.

In addition to listing the Needham home as an address, Security Outsourcing Solutions shares a Boston phone number and address with the law firm of Bonner Kiernan Trebach & Crociata, although its name does not appear on a lobby directory. Calls to the firm were referred to a partner, John A. Kiernan, who said he had “a relationship that involves attorney-client privilege” with Mr. DeLia and could not talk about the matter.

Mr. DeLia, 56, is a licensed private detective in Massachusetts who, according to state police, has had no disciplinary actions against him. James Atkinson, a Boston-area private detective who specializes in preventing electronic surveillance and has worked with Mr. DeLia, described him as a “stand-up guy,” adding: “I’d be astonished if this involved Ron. This is not the kind of work he does.”

At the top of the hierarchy in the corporate investigations industry are firms like Kroll or Deloitte Touche Tohmatsu that work with large corporations. Firms like Security Source, specializing in security risk assessments, or SafirRosetti, which focuses on financial fraud and computer breaches, offer narrower services. Both are units of the GlobalOptions Group, which has been consolidating a number of small firms to gain influence with corporations.

At the very bottom, investigators say, are the shadowy information brokers, the so-called pretexters, who promote their ability to get phone and credit records.

“There is a huge subdivision of investigative skills,” said James Cawood, who runs a corporate investigations firm called Factor One in Oakland, Calif.

Terry Lenzner, the head of the Investigative Group International, a well-known Washington investigations firm, said that for a large company like Hewlett-Packard to contact a small firm directly would be unusual. “I would think it would be unheard-of,” he said.

Mr. Lenzner said he had never heard of Security Outsourcing.

Mr. Karson said a company’s decision on whom to hire for an internal investigation could sometimes be as casual as the head of security saying, “I know a guy.” He added: “That’s how a large company can end up working with a small firm.”

Katie Zezima contributed reporting from Boston and Needham, Mass.
Zeroing In
On Sources
H.P. Used

By DAMON DARLIN
and MATT RICHTEL

SAN FRANCISCO, Sept. 15 — Prosecutors looking into the internal spying operation at Hewlett-Packard are beginning to link together a chain of investigators from the company down to the detective agencies that may have been involved in obtaining the phone records of its directors and a number of journalists.

According to people briefed on Hewlett-Packard’s review of its internal investigation, prosecutors are focusing on the role of the Action Research Group of Melbourne, Fla. Congressional investigators identified the company this year as one of the most prolific users of subterfuge for obtaining phone records, a method known as pretexting.

Hewlett-Packard has said that it hired investigators who used such a technique in their search to identify a director who the company said was leaking information to the news media. California and federal prosecutors are investigating whether the internal investigation broke any laws, and the California attorney general has said indictments are likely.

An owner of the Action Research Group, Joseph DePante, when asked by telephone on Friday about the Hewlett-Packard investigation, said: “I don’t know anything about that. Thank you for calling.” He refused to comment further.

Mr. DePante, 59, started his busi-

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ness in 1989 and is a licensed private investigator. The firm’s Web site says it has databases of records that help collection agencies, lawyers and other private detectives collect debts. The site also advertises searches for criminal, financial and employment records. The company’s manager, Matthew DePante, 27, is described as “knowledgeable in all areas of telephone research.”

In addition to the Florida firm, prosecutors have been examining the role of Security Outsourcing Solutions, a tiny Boston-area private detective firm. The firm and its principal, Ronald R. DeLia, have ties to Hewlett-Packard through the company’s Global Investigations Unit, which is based in Massachusetts.

Anthony R. Gentilucci, manager of global investigations for H.P., is president of the New England chapter of the High-Tech Crime Investigation Association, an organization of law enforcement officials, private detectives and corporate security officers. Two of the five other elected officers, Glenn Tandy and Kevin Mazza, also work for H.P.’s security arm, and Mr. DeLia has been a member of the association.

John J. McLean, a police detective in Medford, Mass., and the second vice president of the association, said Mr. DeLia attended meetings and had “an impeccable reputation.” He said Mr. DeLia and Mr. Gentilucci knew each other, “but how close they were, I don’t know.”

Mr. DeLia did not respond to e-mail and telephone messages requesting comment, and Mr. Gentilucci’s office referred all inquiries to Hewlett-Packard’s headquarters.

The links between the men were personal. Mr. Gentilucci and Mr. DeLia were fellow groomsmen in a 1997 wedding in Boston, according to a wedding announcement in The Boston Herald. One of the two best men in the wedding was John Kiernan, a partner in the law firm of Bonner Kiernan Trebach & Crociata, which shares a Boston address and phone number with Security Outsourcing Solutions.

The House Committee on Energy and Commerce has sent a letter to Mr. DeLia requesting that he testify at a subcommittee hearing on the Hewlett-Packard matter on Sept. 28 in Washington. The subcommittee is expected to put Mr. Gentilucci on its witness list as well, a committee staff member said. It has already requested the appearance of Patricia C. Dunn, H.P.’s chairwoman; Larry W. Sonsini, Hewlett-Packard’s outside lawyer; and Ann Baskins, the company’s general counsel.

The same panel, the Subcommittee on Oversight and Investigations, held hearings this year on the use of fraud in obtaining phone records. The panel’s subsequent inquiries identified Action Research, the Florida firm, as “the biggest of the big” among companies using pretexts to obtain phone numbers, said Rob Douglas, an information security consultant who worked for the subcommittee. The company, he said, “is in the inner core” of pretexters.

Mr. Douglas said Action Research takes orders for phone records from hundreds, if not thousands, of private detective agencies, though it sometimes also works for lawyers and other clients. He said Action Research could receive as many as hundreds of orders a day for phone records and other confidential consumer data, charging perhaps $75 to $125 per request.

Deciding whether Action Research has any involvement, illegal or otherwise, in the Hewlett-Packard case is complicated by its location, in Florida.

Some of the records were gained by a computer user with an Internet address owned by Cox Communications, the cable company and Internet service provider, which does not provide Internet cable service in the Melbourne area or in Boston.

A search warrant obtained by California authorities said the Internet address used to obtain the phone records of at least one director and one reporter was 68.99.17.80, which a computer expert traced to a personal computer in Omaha or Council Bluffs, Iowa, the city across the Missouri River from Omaha.

Mr. Douglas said a firm like Action Research could have used a subcontractor or an employee based in the Midwest or employed a technique called spoofing to disguise the origin of its own computer address.

A Hewlett-Packard spokesman declined to comment Friday evening on any contractors that might have been involved.

The outcry over the methods used in Hewlett-Packard’s investigation has forced Ms. Dunn, who authorized it, to step down as chairwoman.

Hewlett-Packard has not publicly identified the investigators it used, though California officials said the company had been cooperative.

One question investigators have been asking is who at Hewlett-Packard was involved in hiring and supervising the investigators. That is one reason Ms. Baskins, H.P.’s general counsel, has been called by Congressional investigators.

In a June 19 e-mail message to Mr. Sonsini, the outside lawyer, Thomas J. Perkins, a director who resigned in May in a dispute over the investigation, raised the question of the legality of obtaining private phone records without a subpoena. Mr. Sonsini responded that Ms. Baskins had “looked into the legality of every step of the inquiry and was satisfied that it was conducted properly.”

Ms. Baskins, 51, has spent all but one year of her 26-year legal career at H.P. She was promoted to general counsel by Carleton S. Fiorina, the former chairwoman and chief executive.

Ms. Dunn has said she turned to the company’s security department in April or May 2005 for an initial investigation of the leaks, then asked Ms. Baskins’s help in a further investigation last January.

Mr. Gentilucci, the Boston-based investigator for Hewlett-Packard, said in an online résumé that he conducts investigations for the company to protect its “assets, people, property, information and reputation.” A fraud examiner, he worked for the Digital Equipment Corporation, and then for Compaq Computer after it bought Digital, and for H.P. after its merger with Compaq. He was the national president of the high-technology detectives’ trade group in 2003.

Katie Zezima contributed reporting from Boston.
Hewlett Review Is Said to Detail Deeper Spying

Direct Surveillance and Planting of Software

By DAMON DARLIN

A secret investigation of news leaks at Hewlett-Packard was more elaborate than previously reported, and almost from the start involved the illicit gathering of private phone records and direct surveillance of board members and journalists, according to people briefed on the company’s review of the operation.

The effort received some degree of supervision from three officials — Patricia C. Dunn, the company’s chairwoman, along with its general counsel and another staff attorney — but was quickly farmed out to a network of private investigative firms early last year, according to descriptions of the findings. It is still unclear how much they knew of the details.

Those briefed on the company’s review of the operation say detectives tried to plant software on at least one journalist’s computer that would enable messages to be traced, and also followed directors and possibly a journalist in an attempt to identify a leaker on the board.

The revelations at Hewlett-Packard, the computer and printer maker that helped define Silicon Valley, have provided a rare glimpse of boardroom turmoil — resulting in Ms. Dunn’s agreement to step down as chairwoman in January, and two resignations from the board.

But they have also cast a harsh light on the questionable and possibly illegal techniques used in the episode, raising the possibility of criminal charges.

The account of those briefed on Hewlett-Packard’s review of the matter sheds new light on the scope and timing of the investigative methods, establishing that invasive and possibly illegal techniques were used far earlier than previously known and that the company’s chief ethics officer was among those providing supervision.

The hunt for a boardroom leaker began as early as January 2005, with a focus on disclosures immediately preceding the ouster of Carleton S. Fiorina as chairwoman and chief executive, with a second phase that began a year later. Hewlett-Packard has said that as a public company, it had a responsibility to stop unauthorized disclosures.

But the review reveals that the investigation by its detectives was notable for a lack of close supervision by company officials.

Those briefed on the internal review said that at various times, questions were raised about the legality of the methods used. They did not identify who raised the questions, when, or to whom they were addressed. But a crucial legal opinion, its origins previously undisclosed, was supplied by a Boston firm that shares an address and phone number with a detective firm on the case.

Those speaking about the company’s review would do so only if they were not identified. A Hewlett-Packard spokesman yesterday declined to comment on their account.

In addition to scrutiny by prosecu-

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tors, a House subcommittee has entered the case, asking for documents on the internal investigation to be delivered today in advance of a Sept. 28 hearing in Washington.

Some of those documents are expected to reveal that detectives made several attempts at direct surveillances of some directors, and were given photos of reporters to help identify them.

At least one reporter, Dawn Kawamoto of the online technology news service CNET, may have been followed as part of the 2006 investigation, said a person briefed on the investigation. Ms. Kawamoto was a co-author of an article on a senior management meeting in January.

The detectives also tried to plant software in the computer of an unspecified CNET reporter that would communicate back to the detectives, people briefed on the company review said. Ms. Kawamoto said in an interview this month that prosecutors had told her that such a ploy may have been used, but said she was not aware of any surveillance.

Ms. Davis said that as an anonymous tipster, the detectives e-mailed a document to a CNET reporter, according to those briefed on the review. The e-mail was embedded with software that was supposed to trace who the document was forwarded to. The software did not work, however, and the reporter never wrote any story based on the bogus document.

On Saturday, the company identified one of two employees who it said had been a target of scrutiny in the internal operation. It said the private phone records of the employee, Michael Moeller, director of corporate communications, were taken.

It is not clear why Mr. Moeller, whose job it is to speak with reporters, was included in the operation. Robert Sherbin, Hewlett-Packard’s vice president for external communications and Mr. Moeller’s boss, said yesterday, “Investigators’ suspicions were misdirected and were unfounded.” He would not elaborate.

Although the company said others outside the company were also targets of detectives, it has not identified those people.

According to those briefed on the internal review, the Hewlett-Packard investigation had two stages: from January to August 2005, when nothing of substance was turned up, and again in January 2006, after the CNET article appeared.

The first call for an investigation from the board came in January 2005 after The Wall Street Journal published an article that cited discussion of the board about a management reorganization and changes in the responsibilities of Ms. Fiorina, then chairwoman and chief executive.

An article in The New York Times on Feb. 10, recounting Ms. Fiorina’s ouster by the board, contained extensive details of a directors’ meeting and fueled the desire to plug leaks.

Reporters from those two newspapers, CNET and Business Week have been told by the California attorney general’s office that they were targets in the operation.

Within 60 days, the investigation into the leaks was up and running, according to those briefed on the company review. Responsibility for the investigation was delegated to the company’s global investigations unit, based in the Boston area. Those company officials turned the effort over to Security Outsourcing Solutions, a twowomen firm that hires specialists for investigations.

That firm hired Action Research Group, an investigative firm in Melbourne, Fla. The actual work of obtaining the phone records was given to other subcontractors, one of which is said to have worked in or near Omaha. The methods were said to have included the use of subterfuge, a practice known as pretexting, in which investigators pose as those whose records they are seeking.

Previous accounts of the Hewlett-Packard operation have focused on the use of such methods in the 2006 phase of the investigation, but not in its earlier phase.

Federal and California prosecutors, as well as the Congressional subcommittee, are examining the chain of detectives for possible criminal wrongdoing in obtaining phone records. The California attorney general said last week that he had evidence that people inside and outside the company.

Hewlett-Packard has steadfastly refused to identify any of the investigators it used, including its own.

People briefed on Hewlett-Packard’s review of its internal investigation say that it was authorized by Ms. Dunn, the chairwoman, and put under the supervision of Kevin Hunsaker, a senior counsel who is the company’s director of ethics. But it is not clear what level of supervision he gave to the project.

Ms. Dunn has said in recent interviews that she could not supervise the investigation because she was also a potential target. She has said she turned to the company’s security department in April or May 2005 for an initial investigation, then asked Ann O. Baskins, the company’s general counsel, for help in the further investigation last January. Ms. Baskins supervises a team of more than 100 lawyers around the world.

At least one point, the company’s lawyers sought a legal opinion. But it did not come from Hewlett-Packard’s own outside counsel, Larry W. Sonsini of Wilson Sonsini Goodrich & Rosati, an eminent Silicon Valley law firm.

Instead, the company asked one of its competitors, Security Outsourcing Solutions, which turned to a Boston lawyer, John Kiernan of Bonner Kiernan Trebach & Crociata, for the opinion. Mr. Kiernan’s office shares a Boston address and phone number with Security Outsourcing Solutions.

The company, in a recent filing with the Securities and Exchange Commission, said it has received an outside counsel’s opinion that the investigative methods were legal, but it did not identify the source.

It is also not clear whether company lawyers were aware of the close business and personal ties between Mr. Kiernan, Ronald R. DeLia, the owner of Security Outsourcing Solutions, and Anthony R. Genovese, the Boston-based manager of global investigations for Hewlett-Packard.

Executives and lawyers back in the company’s Palo Alto, Calif., headquarters remained in the dark even after a summary report was produced for them about each of the two phases of the operation, according to those briefed on the review. Neither of the reports, they said, outlined the methods used.

There were discussions of phone numbers and calls in the report. But it is not clear why that fact apparently did not raise alarm among any Hewlett-Packard lawyers about the means used to gain the information.

The findings were presented to the board at a meeting in May, with George A. Keyworth II, the board’s longest-serving member, identified as a source of leaks. He refused an initial request to resign, though he ultimately agreed to do so last week. But a fellow director, Thomas J. Perkins, a Silicon Valley venture capitalist, resigned immediately over the handling of the investigation.

It was only through subsequent inquiries to Mr. Sonsini that Mr. Perkins learned more about the methods used. It was his determination to get the company to acknowledge the reasons for his departure that brought the internal investigation into the spotlight this month.

In an e-mail message to Mr. Sonsini on June 19, Mr. Perkins asked about the legality of obtaining private phone records without a subpoena. Mr. Sonsini responded that Ms. Baskins had “looked into the legality of every step of the inquiry and was satisfied that it was conducted properly.”

According to those briefed on the company’s review of its investigation, there is no indication that Mr. Sonsini, considered the most powerful lawyer in Silicon Valley, was in—

Kurt Eichenwald contributed reporting.
Hewlett-Packard’s chairwoman, Patricia C. Dunn, top, and general counsel, Ann Baskins, were said to have provided some supervision of a secret investigation of board members and journalists.

Mr. Sonsini has said that his direct involvement in helping the board trace news leaks was limited to interviews with directors in early 2005.

Mr. Sonsini told the board in August, after his firm’s investigation of the detectives’ methods, that the use of pretexting “was not generally unlawful.” The law firm could not say whether the detective agencies hired by Hewlett-Packard, or the subcontractors any of them used, “complied in all respects with applicable law.”
H.P. Is Said To Study Infiltrating Newsrooms

By DAMON DARLIN and KURT EICHENWALD

Hewlett-Packard conducted feasibility studies on planting spies in news bureaus of two major publications as part of an investigation of leaks from its board, an individual briefed on the company’s review of the operation said yesterday.

The studies, referred to in a Feb. 2 draft report for a briefing of senior management, are said to have included the possibility of placing investigators acting as clerical employees or cleaning crews in the San Francisco offices of CNET and The Wall Street Journal.

It is not clear whether the plan described in the documents, which were read to a reporter, was ever acted upon.

The report was sent on Feb. 1 by Anthony R. Gentilucci, Hewlett-Packard’s Boston-based manager of global investigations, to four others, including Kevin T. Hunsaker, a senior counsel in Hewlett-Packard’s legal department and the company’s chief ethics officer.

“Feasibility studies are in progress for undercover operations (clerical) in CNET and WSJ offices in SF bureaus,” the memo said, referring to two publications in which reports of the company’s board discussions had appeared.

Under a section labeled “Investigation Activity Update,” with the subtitle “Covert Operations,” it also

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called for examining the use of cleaning employees at those locations.

Another document, undated but said to be a briefing for the company’s chairwoman, Patricia C. Dunn, is less explicit but refers to plans involving “placement of agent in close proximity to person of interest.”

A Hewlett-Packard spokesman had no comment last night when asked about the documents.

The consideration of undercover agents inside news organizations adds a new element to what is known of the Hewlett-Packard investigation, which prominently included the use of subterfuge to gain the phone records of company directors, employees, journalists and others.

An e-mail message obtained by The New York Times from someone with access to the company’s investigative material shows that leading members of the team supervising the investigation knew of the use of the phone ruses as early as January 2006 and raised questions about their legality.

The disclosure came as investigators examined the role of a man from the Omaha area, Ronald R. DeLia, whom the company had hired, he asked: “How does Ron get cell and home phone records? Is it all above board?”

Mr. Gentilucci responded that Mr. DeLia, the owner of Security Outsourcing Solutions, had investigators “call operators under some ruse.”

He also wrote: “I think it is on the edge, but above board. We use pretext interviews on a number of investigations to extract information and/or make covert purchases of stolen property, in a sense, all undercover operations.”

Mr. Hunsaker’s e-mail response, in its entirety, said: “I shouldn’t have asked . . .”

It is unclear who, if anyone, in the company was then briefed on what he had been told. People who have seen other material from Hewlett-Packard’s investigation said that Mr. Hunsaker, in supervising the operation, communicated frequently with Ms. Dunn, the chairwoman, about its progress. But they said it was not clear when Ms. Dunn, who ordered the investigation, learned of the methods used.

Mr. Hunsaker did not respond to a request for comment. Mr. Gentilucci referred all inquiries to Hewlett-Packard’s corporate offices, where a spokesman had no comment.

The Hewlett-Packard investigations were initiated in early 2005, around the time of Carleton S. Fiorina’s ouster as chairwoman and chief executive, and then resumed in January 2006. The two phases — each begun after accounts of board members’ discussions appeared in news articles — were code-named Kona I and Kona II, according to several people who saw the company’s investigative records. The names are intriguing; Ms. Dunn’s vacation home is in Kona, Hawaii.

Not all board members were targets in the investigation, according
to people who had seen some of the company’s investigatory materials. The detectives seemed to focus on allies of Thomas J. Perkins, Ms. Dunn’s board antagonist.

In the first phase, the targets were Mr. Perkins, George A. Keyworth II and Robert E. Knowling Jr., a director who stepped down last September. Ms. Fiorina was also a target, the documents show.

In the second phase, Mr. Keyworth, his wife, Mr. Perkins and two other directors — Lucille S. Salhany, a former television executive, and Richard A. Hackborn, a former H.P. executive — were targets. Both phases used pretexting, according to documents the company has given various investigators.

Another target was Shane Robison, an executive vice president and chief strategy and technology officer. Mr. Robison is not on the board but was a liaison to its technology committee, on which Mr. Keyworth and Mr. Perkins served. A company memo, described to a reporter, instructs detectives to obtain the records of Ms. Dunn and Mr. Robison for the sake of completeness.

Mr. Perkins resigned in June in protest over the investigation. Mr. Keyworth, identified as having given information to reporters, agreed last week to resign from the board after Ms. Dunn said she would step down as chairwoman in January.

In addition to Hewlett-Packard directors, nine journalists and two employees, those whose phone records were obtained included Larry W. Sonsini, the outside counsel, a spokeswoman for his law firm, Wilson Sonsini Goodrich & Rosati, said yesterday, confirming a report in The Wall Street Journal.

The identification of a man from the Omaha area as a possible participant in the operation provides a potentially critical link in the investigative chain. The man, Brian Wagoner, has spent several years working for the Action Research Group, a Florida detective agency, according to a relative of Mr. Wagoner.

The Florida agency has been identified by people briefed on Hewlett-Packard’s review of its operation as a contractor for Security Outsourcing Solutions, Mr. DeLia’s firm.

An e-mail message to Mr. Hunsaker, the Hewlett-Packard ethics officer, indicates that he was aware of the involvement of the Action Research Group in the operation. On Feb. 7, Mr. DeLia informed Mr. Hunsaker that he had sent an e-mail message to “my source in FL and asked him if there were any state laws prohibiting pretexting telephone companies for call records.”

Mr. DeLia gave the response from that firm, presumably Action Research: “We are comfortable there are no Federal laws prohibiting the practice.” He added that he had been using the firm for 8 to 10 years.

Mr. DeLia did not respond yesterday to requests for comment.

Action Research and Mr. Wagner, the Omaha man, had been linked before. His name appeared in connection with Action Research in April, when Congressional investigators studying pretexting interviewed James Rapp, a Denver man convicted in 2000 of illegally obtaining phone records. Rob Douglas, an information security expert who was a consultant to the Congressional investigation, said Mr. Rapp had disclosed his employment for years with the Action Research Group.

Mr. Rapp told investigators that after his own conviction, which led to the shutdown of his business, some of his employees went to work for Action. Among them was Mr. Wagner, whom Mr. Rapp identified as his nephew during the interview with Congressional investigators, Mr. Douglas said.

Mr. Rapp said yesterday that Brian Wagoner split his time between the Omaha and Denver areas. “I know for a fact there’s been correspondence between he and Action for many, many years,” Mr. Rapp said.

Mr. Rapp said he had spoken with Mr. Wagoner twice yesterday. “He keeps trying to tell me that Action doesn’t do that kind of work anymore,” Mr. Rapp said. But he said Mr. Wagoner had told him that he did believe he had worked on H.P. case. “He did do the work,” Mr. Rapp said. “He does remember that.”
Hewlett’s Hunt for Leak Became a Game of Clue

By MATT RICHTEL

SAN FRANCISCO, Sept. 28 — They were looking for an academic. The suspect was conversant in computer chip technology. And he would have to be the kind of person who used the word “pooped” to mean tired.

In a case right out of CSI: Corporate America, a team of private investigators spent months obsessive-ly hunting the source of a news leak from inside Hewlett-Packard about the company’s corporate strategy.

By the time they had finished their search, the team had solved the mystery of what eventually became the most notorious investigation in Silicon Valley. And the way they did it seemed to resemble a bureaucratic version of a Dan Brown thriller.

But in building a clue-heavy reconstruction — part dossier, part “Da Vinci Code” — the detectives ended up wreaking the havoc that has forced out Hewlett-Packard’s chair-woman, led to the resignation Thursday of its general counsel and spawned a series of criminal investigations that are far from over.

The Hewlett-Packard scandal turned into a spectacle Thursday as a House committee brought all those involved to a packed hearing room on Capitol Hill so that lawmakers could chastise them before the television cameras for the series of subter-fuges used in the company operation that spied on its own directors, journalists and others.

“As I reviewed all of the documents for this hearing today,” said Representative Diana DeGette of Colorado, the ranking Democrat on the House Energy and Commerce Committee, “I felt like I was looking at a proposal for a made-for-TV movie, and maybe this will be a made-for-TV movie. But I think it’s awfully, awfully sad.”

While many of those brought before the committee declined to an-swer questions, invoking their Fifth Amendment rights against self-in-crimination, those who did testify were at pains to distance themselves from the details of the internal in-vestigation.

Mark V. Hurd, the chief executive, apologized for what he termed a “rogue operation.” And he accused the investigators of being “so focused on finding the source of the leaks that they lost sight of the values of this company.”

The company’s sleuths produced an 18-page report, released Thurs-day by the Congressional committee, that reads at times like a whodunit, at other times like a dissertation. They created a profile of the leaker by studying phone records and e-mail message trails, even delving into physical mannerisms and speech patterns.

In the end, the investigation fingered George A. Keyworth II, who recently resigned as a member of the board.

Mr. Keyworth acknowledged that he talked to a reporter from CNet, an online technology news service, but insisted that nothing he discussed was confidential or damaging to

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guns broke any laws by using pre-texting, a technique in which an investigator lies about his own identity to obtain phone calling and other personal records.

The report was prepared by Kevin T. Hunsaker, a senior lawyer and the director of ethics who is leaving the company, and was delivered May 24 to Mr. Hurd; Ann O. Baskins, the general counsel who resigned Thursday; and the company’s board.

The report focuses on the relationship between Mr. Keyworth and Ms. Kawamoto, the CNet reporter; Investigators determined they met

Mark V. Hurd, Hewlett’s chief, accepted blame for the “mess.”

at the beginning of 2001. They did so, curiously enough, at the behest of Hewlett-Packard’s chief executive, then, Carlton S. Fiorina, whom the report concluded instructed Mr. Keyworth to establish a relationship with Ms. Kawamoto to spread word of the company’s new exploits.

Sarah Cain, a spokeswoman from CNet, said the news organization would not comment on Ms. Kawamoto’s sources, nor discuss whether Mr. Keyworth was a source. Ms. Cain said the organization was distressed over the investigation into the activities and lives of reporters. “We feel it’s a huge violation to our reporters’ personal and profession privacy,” she said.

The team of investigators — which included Mr. Hunsaker, members of the company’s internal global security operation and outside detectives — found that Ms. Kawamoto had written 10 articles since 2002 about the company that cited a confidential source.

“One of the first things the investigation team noted is that Kawamoto always cites just one ‘source’ rather than citing ‘sources’ or ‘people familiar with the situation,’ like other reporters who more frequently cover H.P. do,” the report theorized.

And unlike some other reporters, the investigators noted, Ms. Kawamoto did not contact the company’s media relations department to confirm her articles. Investigators concluded the reporter must have found the source so highly credible and well placed that she did not believe it was necessary to nail down the information.

Then there were the phone conversations. By studying calling records, the investigators determined that on Jan. 18, just before a CNet article was published, a call was made from Ms. Kawamoto’s cellphone to Mr. Keyworth’s home in Piedmont, Calif. The call was placed at 5:25 p.m. and lasted approximately one minute. (In the final report, the notation about the call is in bold type, highlighting significance.)

“It should be noted that the phone is listed in Keyworth’s name,” the report states. “There is no document 411 call from Kawamoto’s cellphone prior to the call. This indicates that Kawamoto likely knew the home phone number.”

The sleuths determined that another call, for 10 minutes, was placed on Feb. 5, at 2:21, from Mr. Keyworth’s cellphone to Ms. Kawamoto’s office. Again, the report notes, there was no 411 call, suggesting to the investigators that Mr. Keyworth knew the number.

Meanwhile, the report suggests that the tension was getting to Mr. Keyworth and Thomas J. Perkins, a friend and compatriot on the board. The report says that during a break at a March board meeting — as the scrutiny from the investigation was mounting — Mr. Keyworth and Mr. Perkins were overheard in a heated discussion.

According to the report, “The arguments were mainly one-sided, with Keyworth intently speaking and even pointing his finger at Perkins’ chest several times. At the very end of the second argument/ heated discussion, Keyworth was overhead saying: ‘They don’t have enough to go there.’”

The investigators also drew a link between Mr. Keyworth and Stephen Shankland, a reporter who collaborated with Ms. Kawamoto on three articles in which a confidential source was used. The report indicates that Mr. Keyworth worked for six years at Los Alamos Labs with Thomas Shankland, Stephen Shankland’s father.

“Stephan and Keyworth’s son, George, who are just two years apart, likely attended the same elementary school,” the report states.

But now that all their work has been exposed to the light of day, the investigators are unlikely to be taken up on the offer they presented in the final sentence of the report. “The investigation team,” they wrote, “would be pleased to participate in any discussions regarding proactive measures designed to reduce the likelihood of similar incidents occurring in the future.”

Andrew Councill for The New York Times

Hewlett-Packard.

Before the investigators even confronted Mr. Keyworth this May, they had gone through more than 10,000 articles about Hewlett-Packard, they said, trying to determine which ones included secret information and whether Mr. Keyworth had spoken to reporters around the time of sensitive articles.

The inquiry included intricately parsing the language of a Jan. 23 CNet article in which Dawn Kawamoto, a reporter for the service, described a board meeting that month. The article quoted an anonymous source as saying, “By the time the lectures were done at 10 p.m., we were pooped and went to bed.”

Like Kremlinologists (or maybe Encyclopedia Brown), the investigators for Hewlett-Packard drilled in on the use of the word “pooped.”

“This is also an unusual term,” the report reads. “A number of key witnesses interviewed indicated that contrary to a number of members of the board, Keyworth often uses casual, colloquial terms in conversation, so this is a term he may use.”

The investigators also focused — in that same CNet quote — on the use of the word “lectures.”

“This is an academic term, rarely used in the business environment. Keyworth is the only board member with an academic background.”

The level of detailed scrutiny shows the depth to which the investigators inside and outside Hewlett-Packard went to connect the dots and to expose a high-level board member who some at H.P. believed was a highly disruptive force. Not all of the investigation involved wordplay; much of it entailed detailed and highly sophisticated surveillance.

Above all, the corporate sleuths unearthed numerous personal and professional details about Mr. Keyworth, a former White House science adviser to Ronald Reagan who had worked earlier at the Los Alamos National Laboratory in New Mexico.

The report is “both childish and chilling,” said Reginald J. Brown, Mr. Keyworth’s lawyer. The analysis “piles inference on innuendo to reach a predetermined and hopelessly flawed conclusion.”

“It was developed through illegal and invasive means.”

“Dr. Keyworth did not reveal confidential or damaging information about CNet, and spoke with the reporter with H.P.’s best interests in mind,” Mr. Brown added. “More importantly, neither Dr. Keyworth and his family, nor any journalist and his or her family, deserved to have their records purloined, homes monitored or trash picked through by private investigators.”

State and federal prosecutors are now trying to determine if the methods used by Hewlett-Packard’s hired