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# W.A.D. beyond GLOBAL

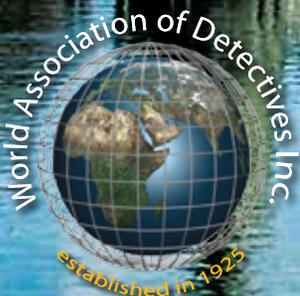
*A Quarterly Journal for Investigators and Security Professionals*

**CONTRABAND DETECTION CANINE**

**CYBERCRIME:  
THE CHALLENGE FOR THE LEGAL PROFESSION**

**PIPE DREAM OR POSSIBILITY?**

**ARE YOU WORKING IN YOUR BUSINESS  
OR ON YOUR BUSINESS?**



*"A Global Alliance of Investigators and Security Professionals"*

# COUNTDOWN TO



**86TH ANNUAL  
W.A.D CONFERENCE**  
WELCOME TO *HONG KONG*

11<sup>TH</sup> – 15<sup>TH</sup>  
OCTOBER, 2011

WORLD ASSOCIATION OF DETECTIVE INC.

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# Editor's Pen

## Beyond

*listserv, love it or hate it. Time and again listserv etiquette cannot be overly emphasized. In today's world, the most convenient way of forcing an audience is through a listserv. It is only norm for people to want an audience.*

*Emails have changed how we communicate and with whom we communicate. A medium for the vocal and those who are shy at speaking, finally found voice through the email. Listserv is a communication vehicle opening doors to colleagues and strangers, providing opportunity to integrate with peers across the globe.*

*Listsrv communications are meant to stimulate discussions with one exercising tact, diplomacy, thoughtfulness and respect for other's opinion. It is possible to agree to disagree. Good intentions sometimes have different interpretations in e-mail conversations.*

*Where do we then draw the line between what is admissible on the listserv and what is not in allowing freedom of communication. Open communications on listserv is encouraged however it should remain focused and relevant as group conversation, with private postings going off-line.*

*We can only develop a fully interactive listsrv discussion forum within W.A.D by self-regulating listsrv etiquette avoiding the deadly acts of deception, personal attacks, diatribes and challenging the rule. The option of "reply" or "reply all" is at our fingertips, failing which we have the option of "delete" or "unsubscribe".*

*Listsrv has come of age and is here to stay in this rapidly changing global landscape of internet communication. Enjoy it!*

*Siti Naidu*  
Editor

*We welcome readers' comments. You may email to the Editor your contributions. A reminder, the WAD Members Directory will be published in the 3rd issue (June-August 2011) of WAD Beyond Global, please ensure your listing in the website [www.wad.net](http://www.wad.net) is accurate.*

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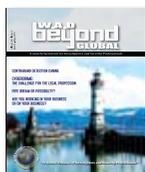
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2009  
Prestigious "Suraksha Sewa Puraskar" was awarded to Mr. Ajit Singh by Ex Home Minister - Sh. Shivraj V. Patil

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Not too long ago we bid farewell to 2010 and welcomed 2011. People of different nations around the world celebrate New Year with hopes of happiness, prosperity and peace. In Russia, New Year celebrations used to continue till mid-January with the entire country enjoying the beauty of winter holidays.

Sadly, 2011 brought with it unpredicted severe weather phenomena and natural disaster conditions affecting many countries in almost all continents. All central regions of Russia were exposed to unprecedented ice rain destroying decorated trees, power poles were pulled and wires ripped. Hundreds of small villages and towns were left without electricity for several weeks. It was a gloom and dark New Year, in freezing temperatures of below 20-25 degrees Celsius. Only the light of candles and heating stoves kept people warm, depicting scenes of Russia during the 19th century.

On the other side of the globe, Australia, Brazil and Pakistan were not spared of natural disasters caused by cyclones, storm and torrential rain. Huge territories were destroyed, lost of lives and thousands were made homeless. The state Queensland of Australia was practically "downunder", submerged with flood waters. Land slides in Rio de Janeiro killed more than 1000 people. Pakistan saw their worst floods in centuries devastating its already poor population.

Unfortunately natural disasters were not last on the New Year's list. Tragic events of human organized terrorism continue to plague the world. Terrorist threat has become part of our lives. In Moscow, the suicide bomb attack at the airport killed 35 innocent people of different nationalities and more than 200 were injured. Ordinary Muscovites were shocked and depressed. In North Africa and the Middle East, the growing socio-economic and political problems led to mass demonstrations and protests overturning ruling regimes. The upheaval in Egypt, the toppling of Tunisia's dictatorial regime and the revolt in Libya made recent headlines. Riots spread to other Arab countries, and people were killed and thousands were injured in clashes with police and army. As I am writing this message I can not imagine what might happen next and the challenges that lay in front of us as nations are destroyed by political unrest.

We can only pray for mankind, for people who are suffering current turbulent times, trying to survive. Thank God, we

have not received any news of any victims from within our WAD membership. There were anxious moments overwhelmed by world mass media of the happenings and developments in these countries, which one way or the other affect us all. Who knows how many natural disasters, terrorist attacks, social and economic unrests and other unexpected events will follow.

Let us be united and ready to meet upcoming challenges of 2011. Let us hope for the best and perhaps, through our business and association, we could influence some positive changes in the

world. In the nature of our business, we have to be prepared to assist and service our clients to deal with these arising challenges. Corporate clients rely on security professionals during critical situations to safeguard their employees and their business.

We are fortunate to have exceptional resources among our WAD membership in almost 80 countries who provide a range of quality services to Fortune 500 companies, multinationals, large corporations and litigation support to law firms. I hope some day WAD members will be recognized for their security and investigative abilities and talents to provide services in countries all over the world. WAD membership is well placed geographically to provide global support. Being united we are able to achieve great results and make

our business really profitable. In order to bring more business to our members we need to be proactive in our thoughts and professionalism in our business not only for ourselves but for our potential clients, showing them the value of our services.

Respectfully yours

*Vladimir*

Vladimir Solomanidin,  
President



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# UKRAINE

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## EXECUTIVE DIRECTOR'S BRIEF

Dear Members,

I look forward to meeting many of you in Austria soon. Lake Constance is one of the most beautiful locations in Europe, and how fortunate we are that we will be able to have our Board Meeting and luncheon while cruising its waters. Our meeting in Austria was planned to honor our dear friend and President Emeritus Werner Sachse. Sadly, Werner passed late last summer. I know Werner's presence will be felt by many of us as we meet not far from his home.

This meeting will mark one year since we transitioned to our new Executive Management Team (EMT) and I once again accepted the honor of serving this association as your Executive Director. I am very pleased with all that has been accomplished. Our new system of management has allowed us to move forward in an organized fashion and make membership more valuable to all of you. There have been some very positive discussions behind the scenes within the Board of Directors, the Executive Committee, and the EMT.

We have witnessed some positive changes, and we have ideas in place to improve further as we move forward. Dues payments by the January 1st deadline were far ahead of where we were in several prior years, our finances are in good order, and we are accountable to all members. The new W.A.D. journal, *Beyond Global*, is a tremendous success.

Membership applications have been coming in at a record pace. Rest assured we screen every applicant carefully, and unfortunately several have been rejected. Most of the nagging issues that faced us in early 2010 have been resolved, and we are pleased to answer your correspondence promptly. Your satisfaction as a member is our priority.

We have faced some ongoing problems with our website. Although vastly improved, it seems the connection between our member database and the website was flawed, and it was the remaining issue that has taken some time to correct. By the time you receive this journal we hope to have everything sorted so that you are able to check your dues status and make future payments online. If you have moved or changed other information lately, please be sure to go to our online directory at [www.wad.net](http://www.wad.net) and make sure your information is listed properly. Should you have a change, please contact us at [wad@wad.net](mailto:wad@wad.net) with the new information.

Another ongoing problem we find troubling is that several members continue to have problems receiving mails from us. It seems whether we mail invoices, newsletters, or other mail from the USA or Malaysia, some of you aren't receiving them. In some cases we have sent new member packets up to 3 times only to have them returned with no explanation. Sometimes mail just goes missing. If you did not receive your December – February issue of *Beyond Global*, please be sure to email us at [wad@wad.net](mailto:wad@wad.net). You can also find past issues of our newsletter and your 2011 member's Handbook on our website.



It is not too early to make plans now to attend our Annual Conference in Hong Kong October 11 through 15. You will find additional details within this journal, and of course we will be making announcements through our list serve.

Sincerely,

*Bob Heales*

Association Manager and Executive Director

## W.A.D EXECUTIVE OFFICERS 2010 - 2011



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# CONTRABAND DETECTION CANINES

ISLAND ENTERPRISE

## Another tool in your bag of services.



By: Michael J. Canaan

**THE** use of detection canines in the private sector is intended to provide a further deterrent to the possession, use, or sales of contraband in nearly any environment.

A contraband detection program policy provides for routine inspections of areas such as lockers, offices, common areas, tool rooms, work areas, classrooms, and parking lots. These inspections, conducted randomly, ensure consistency to the program.

United States civil law denotes that canines used for detection are permitted to “sniff” objects, not people, thus minimizing the level of intrusiveness.

Contraband detection canines are ideally trained to detect all of the following:

**Illegal Drugs:** Typically include Marijuana, Opium, Heroin, Cocaine, Crack Cocaine, and Methamphetamine.

**Alcohol:** Specifically, Ethanol alcohol commonly found in beer, wine, and drinking liquors.

**Nitrates:** Smokeless, black and flash powders typically found in ammunition, firearms, fireworks and flares. Whether clean or dirty, all firearms are contaminated by nitrates contained in gunpowder.

**Legal Drugs:** Commonly abused prescription narcotic medications.

Typically, when detected, the canine will sit and stare at the source of the contraband’s greatest concentration. Sometimes the canine “alerts” at a seemingly contraband-free area, but in fact, the canine is detecting a site whereon contraband previously rested or was present. The canine may be able to detect these residual odors for a significant period of time after the contraband had been removed.

**The Workplace.** According to recent U.S. Department of Labor statistics, drugs and alcohol (contraband) in the workplace cost American society an estimated \$120 billion a year in reduced or lost productivity. Further, it is estimated that one in every eight workers, ages 25 to 35, possesses, uses or sells contraband on the job. Several national drug-testing companies cite on average 20% of the U.S. workforce would test positive for illicit narcotics.

We also know from experience that contraband exists in the workplace. In support of a company’s philosophy of a contraband-free environment, one must seek new approaches and methodologies that are efficient yet cost effective. Contraband detector dogs are an effective tool to best promote those programs. Evidence obtained from

a proper inspection allows you to take action against and discipline any employee who elects to ignore company policy.

**Schools.** As educators, parents, psychologists and law enforcement officials search for answers as reports of continuing violence in our schools escalate, contraband detection canines are one of the most successful deterrent programs available.

Principals of more than half of the nation's public schools have reported an incident of crime or violence to law enforcement authorities during past school year. It is believed that each day more than 100,000 students bring weapons into U.S. schools. Fearing victimization, over one-fifth of the students in our nation's schools are afraid to use school restrooms.

Students are not alone in experiencing fear. Yearly, students threaten over 6,000 public school teachers. Violence is not unique to public schools or our urban centers. 9% of public, 7% of private and 6% of non-sectarian school students reported being victims of violent acts or property crimes. Residences. Should parents be concerned that their children may be using drugs or hiding alcoholic beverages? Are your housekeepers or nanny's bringing contraband into your home? There is no more effective or efficient way to know than that of a detection dog.

**Vehicles, Vessels, and Aircraft.** Planning on a trip to a foreign country? Will your vehicle, vessel, or aircraft be seized as a result of a routine border inspection? Was your vehicle recently stolen? Did the thieves leave a hidden controlled substance? What is in that used vehicle you just purchased? Are employees on your ship bringing contraband on board?

## INSPECTIONS

Canine contraband inspections are generally well received. These inspections are less intrusive, faster, and more effective than human searches. Canines used in this program are not those generally associated with "police" work. Rather, they are typically non-aggressive hunting breeds to which people can easily relate.

In the civilian market, handlers should wear unobtrusive street clothes. If off-duty police officers are used in this capacity, they should not give the impression they are acting in an official capacity as they are really serving as "health and safety inspectors". Your company can benefit from the handler's knowledge, training and expertise in identifying controlled substances. Handlers should carry presumptive narcotic test kits to verify the identity of suspected narcotics.

## CONTRABAND DETECTION PROGRAM COMPONENTS

The contraband detection program consists of four parts.

1. Information. An "Employee Awareness" program will dispel myths, rumors, and misinformation regarding search procedures. It promotes employee acceptance of the program. Employees learn that to be effective, unannounced searches will be conducted. Your company has a legal right to search and searches will be conducted courteously, diplomatically and as rapidly and unobtrusively as possible. It will be stressed that individuals are neither touched nor detained against their will, and that detection canines are not allowed to sniff people.



Employees will also be informed that refusing an inspection of personal items brought on company property is potentially a very serious offense as he/she may be immediately suspended from work without pay, and thereafter may be subject to disciplinary action, up to and including employment termination.

2. Notification. Every employee, contractor, vendor or visitor will be cognizant of your Company’s right to conduct inspections. Contracts, education and signage are best laid plans.

3. Inspection. Just as it is with “for cause” drug or alcohol testing, company management may request a contraband inspection of the workplace if contraband possession, use or sale is suspected.

4. Follow-up. A written report from the contraband detection service company should be submitted to management for appropriate action and record keeping as required.

**LOCATION**

Initially, all company facilities should be inspected and on a random effort thereafter. Inspections are typically coordinated by the client. The dates and sites of such inspections are known only by the Program Coordinator and canine handler. In addition to facilities, all company vehicles should also undergo such inspections. This would include privately owned vehicles as covered in company policies and procedures and vendor vehicles covered by contractual agreements. During the introduction of the canine program, employees may be included in a demonstration on how the program works. The provider may offer separate demonstrations to management and union officials as required. Any questions will be asked and answered in an open forum.

**PROGRAM LOGISTICS**

The Program Coordinator should be the only person aware of the scheduled visits. The coordinator then assigns company locations to be inspected during that time without the knowledge of the employees.

This maintains the integrity of unannounced visits by the canine team. The canine team will check in with the Program Coordinator at the time of each inspection.

**SUMMARY**

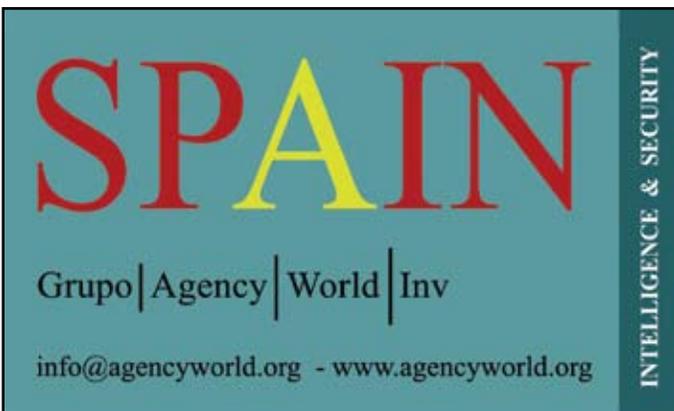
Canine detection programs are increasing in popularity. They are not only cost-effective and efficient, but the outcome of such inspections is infinitely more credible. In fact, the validity of canine methodology has withstood the ultimate test before every State Supreme Court and the U.S. Supreme Court.

Whereas the use of undercover operatives or hidden cameras tends to create a tense atmosphere, a canine can perform the same functions much less intrusively while providing a visible reminder that possession, use, or sale of contraband is prohibited. It also should be pointed out that the canines have no bias towards race or gender.

The contraband detection canine program should be openly presented to alleviate any anxiety associated with negative beliefs.

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WAD Member Michael J. Cnaan, CPP LPI PPS, is a former United States Marine serving with HMX-1, the Presidential Helicopter Squadron and later with 3rd Marine Division as a Military Police Watch Commander, Narcotic/Patrol Dog Handler, Kennel Master and Trainer. Mike is president of investigation service, Inc, Based in Washington, USA. – mike@tridentseattle.com



**With** the phenomenal growth of the Internet, cyber crimes have become a matter of national interest. Consumers, businesses and governments are embracing e-commerce, social networking and the other powerful tools made available by online technologies. This uptake has highlighted the importance of investigational and subsequent prosecutorial aspects of cyber crime and associated electronic evidence. There is a technology-enabled element in the majority of criminal matters investigated by law enforcement agencies worldwide. Measuring the impact of cybercrime and putting an accurate dollar value to it is also difficult. Cyberspace is one of the great legal frontiers of our time.

# CYBERCRIME

## The Challenge For The Legal Profession

By: Nigel Phair

From 2000 to 2008, the Internet expanded 336% on a global level. The rapid development of the Internet, with global computer-based commerce and communications that cut across traditional territorial and state boundaries, continue to create a new realm of criminal activities among the cyberspace social, economic and political groupings. The emergence of new varieties of criminal activity has posed unique challenges for investigators, legal officers, the judiciary and the legal system when prosecuting cyber crime. The perpetrators of cyber crimes are difficult to identify as they often use aliases and stolen or false identities when operating online. They hide their identity by means of anonymous services, by encrypting communications, and/or by committing crimes in geographical locations far from where they reside. The result is that it is difficult to identify, investigate, arrest and prosecute such people. To be successful, prosecutors must provide a court with evidence, which proves that a suspect was at the keyboard at the time of the offence.

Any upsurge in cybercrime must be considered in the context of the continuously expanding use of digital technologies. With increased complexity, storage devices, such as hard drives grow exponentially in size while, at the same time, computer resources become quicker. Additionally, network attacks have become more voluminous and sophisticated while law enforcement investigative mechanisms are often slow and cumbersome, with not all jurisdictions having competent law enforcement capacity and capability or legislative frameworks for addressing these matters. The need for computer forensic expertise is acute in cases where evidence to a wide range of criminal activity may be held on computers, other electronic devices or computer networks. This situation has given rise to the task of electronic discovery (also called e-discovery) which refers to the process by which electronic data is sought, located, secured and searched often with the intent of using it as evidence in a civil or criminal legal case. Electronic evidence can be volatile and in some circumstances e-discovery may be court ordered to obtain critical

evidence in a timely manner. For example, electronically searched digital data may reveal far more evidence than the printed documents from computers, due to the existence of meta-data. Such retrieval may also reveal deleted files and the history of Internet surfing activity.

The presentation of electronic evidence in court as electronic data is not directly observable by the finder of fact and this puts it into the category of latent evidence. It should, therefore, be presented through expert witnesses who can explain the tools and techniques they used to reveal its existence, the content and its meaning. Additional challenges to the presentation of electronic evidence include issues surrounding its admissibility and the weighting it is given by the court. For example, electronic evidence is classed as hearsay evidence in that it is presented by an expert who asserts facts or conclusions derived from what the computer recorded. In order for hearsay evidence to be admitted, it may have to come in under the normal business records exemption to the hearsay evidence prohibition or by way of admission of documents produced by computers. Such admission rules are of course, dependant on each jurisdictions requirement.

Computer crimes should be investigated and prosecuted using the same methodologies adopted for any other type of traditional investigation. Punishing cyber criminals requires a legal structure that will support detection and successful prosecution of offenders. Yet the laws defining computer offences, and the legal tools needed to investigate criminals on the Internet, often lag behind technological and social changes, creating legal challenges to law enforcement agencies.

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This publication analyses the issues and more. It is available via Amazon Books. Author Nigel Phair, Superintendent - Australian Federal Police is a specialist in the intersection of society, technology and crime.

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# A Co Operative and Coroborative Working Model Between Police and Private Sector Investigators and Access to Particular Governmnet Held Data Pipe Dream or Possibility?

By: Warren Mallard



It is important for readers to understand that my article is not directed at denigrating Government Law Enforcement Agencies, nor is it driven by some long held avarice. It is not the disgruntled opinion of an investigator that always longed to be a police officer but, for some reason, didn't become one. Moreover, this is an impassioned plea for common sense to prevail in an era where Government Law Enforcement can use all the assistance they can get. Coming from a Police background (11 years)

and with a further 29 years as a licensed private investigator I believe that I am well placed to not only talk about the benefits of police and private investigators working together but also to speak about the problems that have arisen in the past that seem to have made it all but impossible for this to ever come about.

## The problems

As a former police officer, specifically one who has since retirement from the police received commendations on three occasions for going to the assistance of police under attack who were all in grave risk of injury, I believe my position regarding police is clear. I am supportive of the best interests of the police department and its members. However my concerns now rest upon the interests of the private investigation industry and a better more cohesive and complimentary working relationship between both parties.

Many of the past problems between police and private investigators have arisen in the main because of a lack of understanding on the part of the police as to just what investigators do. This is even more frustrating when you take into account that the police are the very people charged with the responsibility of regulating the private investigation industry.

It is apparent to me that police receive little or no training or instruction regarding private investigators. The old entrenched stigma associated with private investigators, in the main driven by the media, crime writers and those who will have us portrayed as a dishevelled and disgraceful bunch has in fact lingered despite the fact that Private Investigators are now competency accredited, Government licensed and fingerprinted just like police. Early attempts at conciliation / education/ breaking down the myths. In an attempt to educate the police about our industry and the problems private investigators face every day in the detection and prevention of crime I made contact with the NSW Police Commissioner's office and was able to speak with and work with Superintendent Brain Kerlatec, a well informed senior police officer. We spoke about the difficulties

and frustrations private investigators faced on a day to day basis and together we constructed a document based upon those problems and the work of private investigators so that the police might become better informed and more considerate of the work of a private investigator. Perhaps in time I thought, Government Law Enforcement Departments would come to have greater confidence in the ability of private investigators and become more co operative and in time work with investigators corroboratively.

Arising out of these meetings with the Superintendent an emasculated document was produced that was eventually published in the Police Weekly March 2008. I was given permission to distribute that article despite it being a restricted document. I use the word 'emasculated' as the Superintendent himself appeared disappointed in what had been cut from the article we had together drafted and certainly any negativity towards police and past experiences had been removed. It seems that politics had already crept in. Interestingly since that article was published I have canvassed dozens of police and none that I have spoken with had ever read that article. So much for education being the pathway to co operative investigation and policing. That published article is below. (Full article is available on request).



Many times investigators on surveillance are detected by persons, not necessarily the target of an investigation and because these persons are alert and prudent they call police regarding suspicious vehicles or actions. When the police arrive they have traditionally immediately approached the vehicle, ordered the investigator out and often exposed his/her activities to the target of the lawful investigation. Some would argue that if the investigator was doing the surveillance in a competent fashion this would not occur however no matter the skill of the investigator in remaining covert, we now have a much more well informed and alert population, particularly since September 11.

The fact of this matter is that police have the in-field ability to check the registration of a vehicle and on the COPS computer system, run a search of that owner and determine immediately that the owner is a licensed private investigator.

This information ought to immediately place police on an alert and to consider a discreet approach. This never happens. Unlike licensed security professionals, particularly those who guard, patrol and protect, private investigators are not in uniform and if we are doing our job well, blend in with the local demographic. Often our vehicles are disguised to appear like those of tradesmen, not dissimilar to those of the police surveillance team. Thus the problem is further exacerbated. Additional problems have arisen where police have advised victims of crime that the evidence of investigators is not admissible in court which of course is a nonsense. Again this is a matter of education or more importantly the lack thereof. Statistics re police, security and Private Investigators It is important here to talk about the current crisis within the police, the difficulty the police departments have in retaining police, the average age of police and the pro-rata number of police per head of population. More importantly we should not forget the work of police today as opposed to 40 years ago when compared to the pro rata numbers that existed then and the number of private security persons there are in Australia. Thirty years ago there were no licensed security persons.

Police attended to alarms, served summonses, executed warrants and writs, guarded premises, escorted payrolls, patrolled business premises as well as undertaking all the other duties that they traditionally undertook. If we are to believe the politicians, the crime rates over all are dropping. I personally don't believe this at all. Many crimes that used to be reported are now not reported because the population has been conditioned to understand that the police will not be interested in certain matters because in the scheme of things they are just not a high priority. I refer here to corporate crimes, domestic crimes, minor thefts and break ins, neighbourhood disputes and malicious damage.

Many of these matter go unreported for the reasons previously mentioned and thus do not appear on statistics. Things have come to a stage where we are now conditioned to believe that if our car is stolen or house is broken into then we did not take all the security precautions we should have. Anyone that believes that police immediately go out and search for your car that was just stolen is deluding themselves. Police of course will claim they recover almost all stolen cars. They don't, you and I report them as a possible stolen car, the police check the register and the police take the credit for the recovery. The very same applies with missing persons. Most of these recover themselves or are recovered by family members. There is a great gap between what the police currently investigate and what the community believes should be investigated. There is a massive shortfall of skilled experienced police. The difference being between the government sector and the private sector is that governments fund police and

the private sector is funded by the community directly. The community is caught up between the inability of governments to adequately fund the public sector and the victims being unable to fund the private sector. Thus we have the inequality of the present system.

### What can investigators do?

If you were to ask the general public this question you would be surprised. Most members of the public have a perception of the investigation industry similar to that which is portrayed ad nauseam by the media. Of course we all drive around looking conspicuous, live on coffee from foam cups, wear trench coats, wear deer stalker hats and have two shots of Bourbon before breakfast and probably carry a .357 magnum hand gun..... NOT! Most members of the public believe our industry members break the law and pay bribes to Government Officials to get access to restricted information. Some industry members still do this I am sure, however in the main Investigators are law abiding members of the community who have no more privileges for their license to practice than someone without one. There are very few if any, investigators that have been convicted of criminal offenses or served penal servitude.

In fact in Australia where licensing has been in force for over 50 years, there is only one event where a private investigator who impersonated a Federal Police Officer was convicted and sentenced. The police had no hand in detecting this person, a member of the public reported him. In that same country, many politicians, police, lawyers and other persons who hold public responsibility are currently serving gaol sentences. What investigators can do that members of the public can't do is charge someone for their services and nothing more.

### Why competency test and license private investigators?

If private investigators have no special privileges then why license them? The present licensing regime is there for one reason only, to regulate the industry. In Australia the police are charged with that responsibility. In 31 years of continuously holding a private investigators license I have never been called upon to have my business or records audited. In fact I don't know anyone in the investigation industry that has. Police are not proactively regulating the private investigation industry in Australia, they are reactive and often that reactivity is based upon little or no knowledge of the Act Of Parliament or the Regulations.

If Private Investigators are competency accredited, finger printed and licensed then why doesn't the Government take advantage of a complimentary and parallel group of reputable persons to assist them in the detection and prevention of crime or at least give them the tools via which they might assist members of the public who often come to private investigators because the police are either disinterested or just don't have the resources to respond to the public's needs. The needs of the public and business are there, otherwise we wouldn't have thousands of licensed private investigators. If the government won't allow private investigators to access locator information or criminal

history data for a lawful purpose, then why? None of our members are serving time in gaol and we are all deemed to be persons of good fame and character by the police themselves which is attested to by the license held. It is a prerequisite of a license that the license holder be a person of good fame and character.

### **Why do we have private investigators at all one might ask?**

Of course, we are here because of public demand, a gap between what police do and what the public expects the police to do and to assist members of the public and businesses to get justice. That justice might relate to locating a debtor, locating a missing person, placing a building under surveillance to obtain video evidence of stealing, detecting illegal listening devices, installing hidden cameras to catch people committing unlawful acts etc. All of these things and much more that investigators do every day save the police forces of the world countless millions of hours of work and allow them to focus on the work that they believe is most important. If the private security and investigation sectors were to immediately cease, there would be mayhem.

### **Is the current private investigator legislation working?**

Many would argue that the current Commercial Agents and Private Inquiry Agents Act is working and I suppose that because very few investigators come under adverse attention by the police that it could be argued that it is working, but it's not. The reason it's no working is in the main the facts that I have already demonstrated, the police don't understand the legislation nor what we do and thus are inept at the regulation. We currently have a Government Regulated model and despite the preferred model of the investigation industry being a co regulated model, the government paid no attention and perhaps believed we were incapable of assisting in that regulation.

A well known and infamous Sydney Private Investigator has managed to defeat the police at several attempts to have him struck off the licensing register because they have failed miserably to detect both his offences and breaches of the legislation and even when advised by the industry members have failed to act in time.

The only model that works and is a proven model currently being enjoyed by members of many professions such as lawyers and psychologists, is a co regulatory model, one where government and industry jointly have the power through an industry representative body where mandatory membership, meeting attendances and Continued Professional Development (CPD) to ensure members behave lawfully and appropriately and if they don't, they can't remain.

### **Why should governments allow investigators accountable access to certain data and direct police to co-operate with investigators?**

The text preceding this heading of itself explains why, but to get to the nub of it, there is a competent and qualified force of expert investigators that are being underutilised and disadvantaged by the very same group of persons who licensed and regulated them. It just doesn't make sense at all! Millions of

crimes are solved by private investigators every year. It makes sense for both parties to co-operate. Many more millions could be solved and a lot of heart ache saved if we had the support of law enforcement and regulated accountable access to certain Government held and protected data such as Roads and Traffic address data and criminal history data. Police currently have access to and use this data effectively in the detection and prevention of crime and it is generally a first up approach for expediency and early detection and prevention.

### **We all know just how valuable that data is in the detection and prevention of crime so why not make better use of it?**

The argument that investigators will abuse that access to that information is just not good enough. Police are regularly reprimanded and prosecuted for the abuse of access to this information for other than lawful reasons. Does the government then deny them access? Of course not. The fact that police do this of itself demonstrates a much broader need for this data. It also demonstrates that the checks and measures that are currently in place to detect unlawful access are effective.

User funded, lawful access to Government Held Data Governments around the world are cash strapped and in many cases under resourced. Despite what we are told by those governments, (that crime is on the decline) it's not. The way crimes are committed has changed and many members of the public have been driven away from reporting crimes. This is due to the mindset that the police have too many crimes to deal with and that in the scheme of things, certain crimes are not worthy of expending valuable resources upon investigating. It would be a reasonably simple matter to implement a system whereby Government Licensed Investigators could make application either in written form or on line via password and license number access, to this data. There is no reason why that data ought not have a fee attached and that fee ought to reflect at least the running and maintenance of that system. The public needs not only to be protected from criminals but also from people who abuse lawful access to Government data.

### **Fidelity bonding**

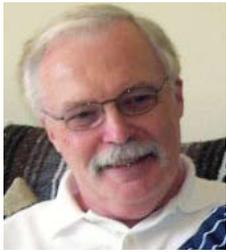
As a component of the Investigation licensing fee, a fee for a fidelity bond through an insurer would ensure that if any investigator offends or misuses that data that those that might be offended against are compensated. Abuse of access ought to bring a mandatory disqualification of the license holder responsible. Access to data would for the very first time give investigators the tools they need to investigate and at the same time give them a sense of receiving something for their licensing fees.

### **How do we bring about changes?**

Only through writing like I have and lobbying Governments and remaining persistent and alert and educating the police and the public about the value of a competent private investigator will there ever be changes as I have indicated are required. I am certain given time and good dialogue this will eventually come about.

# BAD FAITH – DETECTIVES' INSURANCE NIGHTMARE

By: Joseph McHale, CFE (Ret.)



The two surveillance detectives figured out the answer. Their target was an 'injured employee' on worker compensation disability. She had strained her back and right leg at the trucking terminal where she worked. Her co-workers were now on strike. Because of the injury, she was getting 80% of her salary, tax free. Beverly

Bagadonuts was still complaining that she could barely walk with a cane or walker.

The detectives heard from the Human Resource manager. Beverly was getting married this Saturday, with a big reception at the local legion hall. Everyone among her coworkers would be there with their families. The event would be catered with an open bar and live band. The job was to document what she could really do, on videotape. What would you do?

The decision was to join the group dressed as a well-wisher. They contacted the band and told them they were scouting bands for another bar. The band was delighted to have two videographers document their session. The bride's father asked for copies of the tape of his daughter's wedding. He was delighted when one 'videographer' said they would provide one copy free of charge. The mission was easy from this point on. The detectives videotaped the bride, without a cane or walker, dancing most dances that afternoon. She never gave any sign of pain or discomfort. There wasn't even a limp. Two hours of videotape later, two very happy detectives wrapped up the day and went back to the office.

The claims representative learned from the agency that they had two hours of videotape. She arranged for an Independent Medical Exam at a contract medical doctor's office. On the day of the exam, detectives videotaped her walking from her house to her car, carrying the walker and a cane. At the doctor's office, she could be seen on videotape appearing barely able to walk, now assisted by the walker.

When the claim rep got the videos, she proudly showed them to her supervisor and manager. Instead of denying the claim, the insurance company had to settle the claim. The manager and insurance company's attorney both agreed the wedding tape was in bad faith. They were in bad faith because the investigators went on her private property, the contracted hall, ate the food and enjoyed a couple of beers each. She was represented by counsel, but the detectives talked to her throughout the afternoon. To protect itself, the insurance company paid and settled. Two other detectives had a tip. Their target was an injured trucker with a low back injury. He had a 10-pound weight restriction. He couldn't ever lift more. The tip was that he was opening a bar and stocking the coolers every morning, while he tended bar. In this case,

the bar was open to the public. They decided to use one video camera in a man-bag. They went into the bar as tourists and sat at one end. While they talked, one detective took the camera out of the bag and started showing it to the other. He even asked the bartender if he knew anything about cameras. He didn't. While the two men finished their first beer, they ordered another. One detective turned the camera on record and set it on the bar.

In the following hour-and-a-half, they recorded the claimant as he carried two cases of beer at a time, set them on the floor. He then stocked the coolers. He also took buckets of ice to dump on the beer in the coolers. Finally he came over to the investigators and said, "Hey buddy. Your camera is turned on."

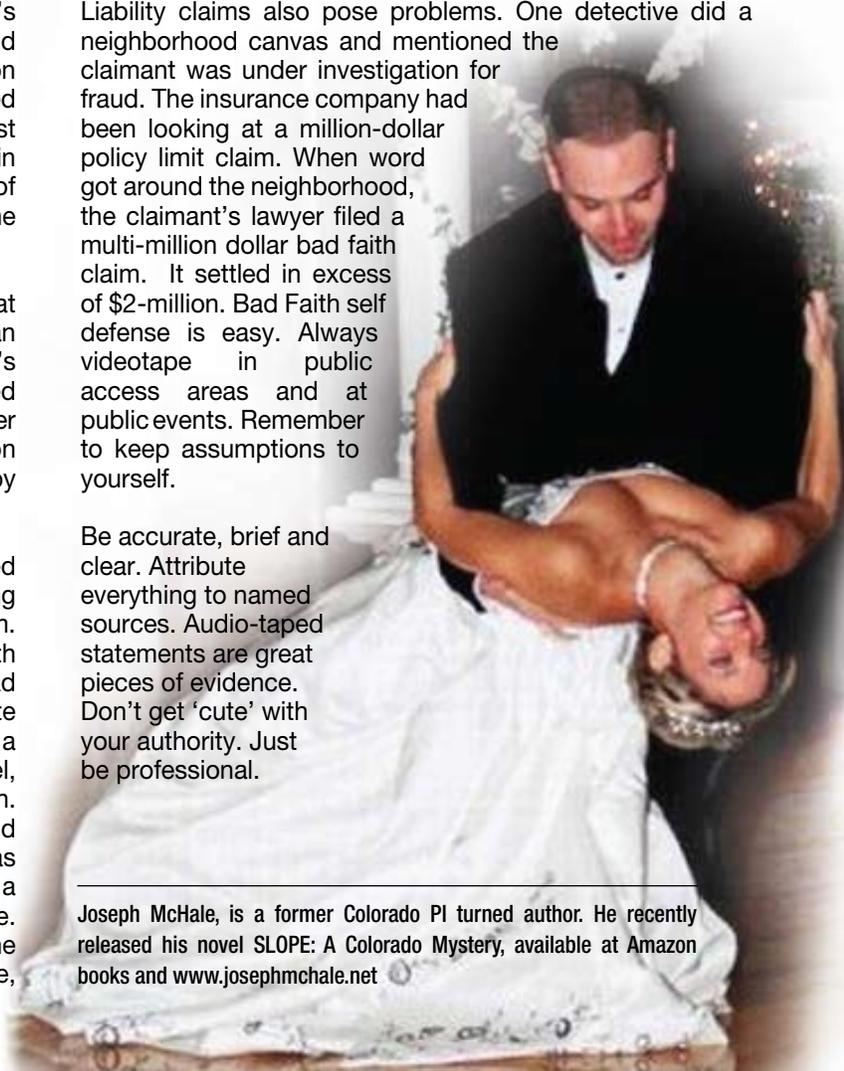
The detective with the camera said: "Thanks. It must have happened when we were talking about it."

When the bartender showed up for his worker comp hearing, he was shocked to see the video. It came in after he testified to what he couldn't do. His lawyer was upset. They lost their case and the claimant was arrested for insurance fraud.

Liability claims also pose problems. One detective did a neighborhood canvas and mentioned the claimant was under investigation for fraud. The insurance company had been looking at a million-dollar policy limit claim. When word got around the neighborhood, the claimant's lawyer filed a multi-million dollar bad faith claim. It settled in excess of \$2-million. Bad Faith self defense is easy. Always videotape in public access areas and at public events. Remember to keep assumptions to yourself.

Be accurate, brief and clear. Attribute everything to named sources. Audio-taped statements are great pieces of evidence. Don't get 'cute' with your authority. Just be professional.

Joseph McHale, is a former Colorado PI turned author. He recently released his novel *SLOPE: A Colorado Mystery*, available at Amazon books and [www.josephmchale.net](http://www.josephmchale.net)



# are you WORKING IN YOUR BUSINESS, or ON YOUR BUSINESS?

*By: Gary H. Kutty*

Our work week is hectic to say the least. Early mornings, late evenings, long days, grueling travel schedule; just to try and stay one step ahead of the game. We seem to manage our business, regardless of the all consuming effort it takes to do so, because as owners we know if we don't do it, "who will"? It is the first of many "land mines" we step on while attempting to grow our business. Most owners feel that if they don't do it personally, no one will or no one is able to do it as well as they do. We spend so much time and effort fighting fires and trying to get by, day by day, we have little or no time to think about growing our business. If you're caught in this trap, the question begs, "Are you working more in your business, than on your business?"

I find that many owners and/or senior managers of security service companies have a very difficult time differentiating the time they spend working in the business as opposed to working on the business. "Work is work", you say, and you're consumed daily with employee and client issues, governmental regulations and vendor issues to name a few. I have met very few leaders of security companies who do not work hard, day in and day out. What I have experienced is that many of those same individuals, while working hard, are not necessarily working smart. There is a dynamic difference between working hard and smart, and those who know the difference are typically the ones running the most successful companies.

Hard work is just that: work! It's toiling with the day to day issues that confront any business, making every decision, involved in every process and micro-managing employees at all levels. Working smart is the ability to delegate non-essential functions to subordinates and trusting their decisions, not second guessing them at every turn. Working smart is hiring the right people in the first place, training them to perform at your expectations and then allowing them the opportunity to perform their jobs without being encumbered. By taking time to develop key daily, weekly

and monthly reports, you can still have firsthand knowledge of everything happening in your business on a daily basis without being overburdened with constantly developing this information personally, (working in your business.)

So, if you can train yourself to let go and work smart, you will create the time and opportunity to now work on your business rather than in it. Working on your business includes the all important functions an owner or senior manager can perform, such as forecasting, developing marketing plans and sales initiatives, continuing to mentor and support key personnel and developing relationships that can turn into business, to name a few. The more time that you spend working on your business will pay rewards in the form of improved and more consistent management, growth and profitability for your company. The companies that are the most successful have owners that possess the ability to manage their business from "the outside looking in", not conversely.



So work hard to let go, then go and work hard to trust your key employees and spend more time developing future growth strategies. After all, as I have always stated in the security business, "thank God it Friday, only two more working days until Monday." Make those days work for you, don't work for them!

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Submitted by Gary H. Kutty, President & CEO of Kutty & Associates, LLC, a Dayton, Ohio USA based management, marketing and sales consulting agency exclusive to the security industry. [www.kutyassociates.com](http://www.kutyassociates.com)

# Concepts Of COMPREHENSIVE BACKGROUND INVESTIGATIONS

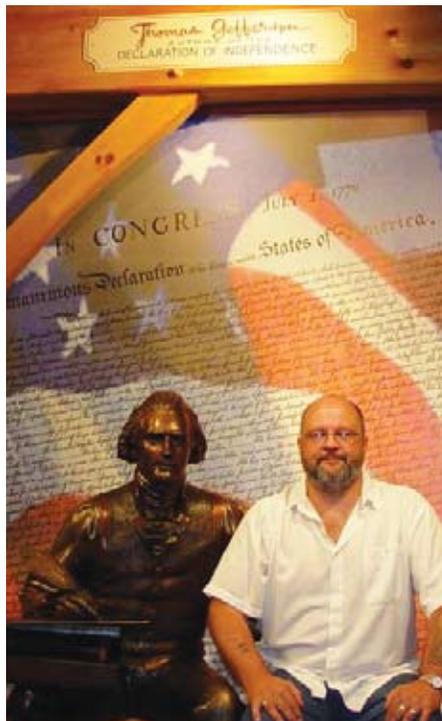
By: Dean A. Beers, CLI

This article follows the recent revelation – to the public – that the fingerprint identification method of conducting criminal background investigations in Colorado, through the Colorado Bureau of Investigation, is fallible.

“Johnnie Ray Bellington was arrested in Loveland on suspicion of two counts of sexual assault on a child by one in a position of trust, sexual assault on a child with a pattern of abuse and other charges. His record shows charges of sexual assault, aggravated incest, and various drug- and money-related charges dating back to the early 1980s. But that record didn’t turn up in a fingerprint-based background check conducted by the Colorado Bureau of Investigation, most likely because of problems with the decades-old ink-and-paper fingerprints from his previous arrests, a CBI spokesman has said.”<sup>0F1</sup>

This is not a surprise – any skilled and trained background investigator already works from the assumption that records, record repositories and responsible agencies will have mistakes and are fallible. To proceed otherwise would be negligent. In fact, had a professional investigator provided a report of no criminal history when one was so easily determined, would be negligent? When contacted by nursing school applicants, our agency has declined 100% of the requests to conduct background checks because they were only required to ask for a Colorado Bureau of Investigation background check. Our agency will not perform background checks in a manner inconsistent with our policy – developed with the best investigative practices and public safety as priorities.

Our agency works all investigations on a five step Investigative Protocol (Prepare, Inquire, Analyze, Document and Report) that I developed. The concept of the five key components of this Investigative Protocol is just as applicable to background investigations. An accurate and comprehensive background investigation is based upon information – existing, determined and verified information. Leaving no stone unturned and making every reasonable effort to find all of the information possible is the only the proper investigative method. When a child’s safety is the purpose of the background investigation, how could we expect or offer less? Most backgrounds are actually ‘records checks’ or ‘records searches’, meaning that only records are checked and a thorough investigation is not completed. For most



purposes the initial check of public and private records is sufficient. Depending on the information found, nature of the background, and intended use, a complete background investigation may be warranted. To be considered is the purpose of the background investigation: part of an ongoing case (i.e. involved person or witness), pre-employment, pre-tenant, personal relationship, curiosity, etc. The purpose will define both the records that should be check and those that can be checked, as well as how they are checked and what can be released to the background investigator and the client (attorney, business, individual, landlord, employer, etc.). Several federal and state rules and laws govern this and the methodologies available to the background investigator.

Everything is a record and creates the paper trail, or map, lending to the background of the subject. How that record is maintained, stored and possibly disseminated, varies and influences the accuracy of the information. Any record that is kept or provided is only as good as the chain of events involved. Remember: Garbage In Is Garbage Out. At the beginning is the person that provides the information. If the applicant lies or fails to provide accurate information, then the information subsequently received is consequentially inaccurate. Persons are known to have fibbed just a little on a credit or job application.

The next link is the person recording the information. Any typos, misprints or other related mistakes also affect the record. These mistakes are often seen on personal credit

histories, even civil and criminal histories – ‘official’ records. Following this would be the method of updating and record storage. All records are only as accurate as the frequency of updates. Some records are never updated. Finally, what about the provider of the information? Is the provider primary (the original record holder), secondary (bought the information from a primary record holder) or is the provider even more removed from the original record holder, such as an information provider (Consumer Reporting Agency)? Did they have accurate retrieval information and were they knowledgeable in how to obtain and verify the information?

In this recent failure to connect multi-agency records, it has been reported that the dots were not connected - individualized personal identifiers (fingerprints) were not associated to the individual. It is important to note that in this example the state criminal repository can be searched by fingerprints, or name and date of birth – or both; only fingerprints were checked. Fingerprints are checked as a means of penetrating the use of alias names and fake personal identifiers. Anybody can find information and present it, but is it reliable? Any error in this chain of record keeping will impact the ability to search the records, as well as the accuracy of the record and ultimately the investigation and findings. After the information is received, it is usually a simple and inexpensive task to verify any relevant information through a primary source or provider of primary source information.

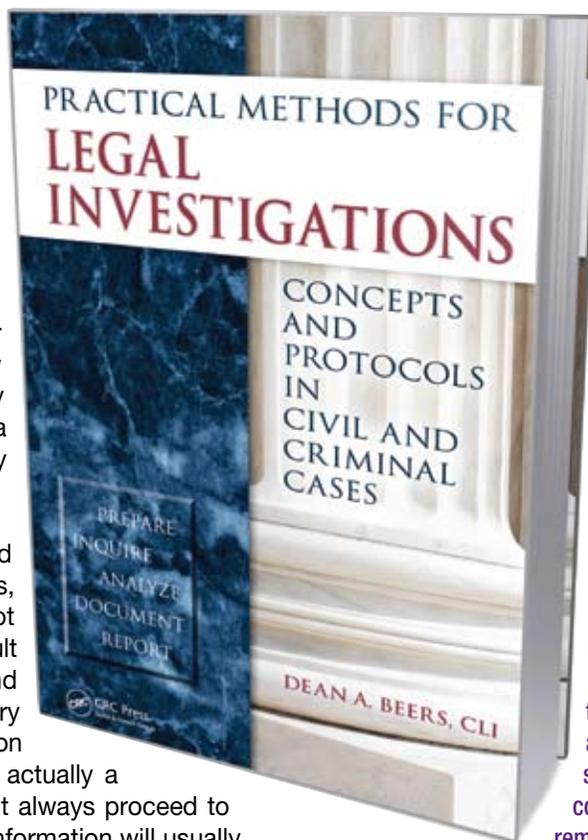
Although suitable for searching and conducting only records checks, database and online records are not detailed or suitable as the end-result for a comprehensive background investigation. This is only summary information and detailed information is necessary. There is no harm, and actually a great benefit to summary records, but always proceed to detailed records if available. Current information will usually lead to finding historical information (a current arrest record will have prior history). Most background investigations only require – or are legally restricted to – reporting only convictions. However, most persons do not have a conviction record; but, many have been contacted, which is reported and is a record. It is highly recommended that background investigators include any office that permits public access to the records.

All background investigations require the verification of the accuracy of the information provided and developed through our Investigative Protocol – Prepare (gather the preliminary known subject data), Inquire (conduct the background

investigation), Analyze (review the known and obtained subject information and records), Document (ensure all official documents are obtained) and Report (compile the investigative report and supporting documentation). If at any stage of the Investigative Protocol there is any question, doubt, or concern – start over and do so before submitting any report that may contain factual or procedural errors, or is otherwise incomplete. For background investigations, more than any other type, it is important to fully understand the development and storage of records and information.

Specific to the recent case of an undetected felony history of a subject by a school district, the subject’s history was easily found via available public records – online and inexpensively.

“The Coloradoan was able to find Bellington’s criminal record through a \$6 search of the state’s courts database and a \$7 search through CBI’s website using his name and date of birth.”<sup>2</sup>



No single record or repository, or single method of searching, should be relied upon. Background investigations – including simple records checks – are not cursory. The safety of our public, our children, demands that thorough background checks be conducted by trained and professional background investigators. Presently Colorado does not regulate or license private investigators – including background investigators. The Professional Private Investigators Association of Colorado conducts thorough background investigations of all member applicants. “The PPIAC, founded in 1978, was formed to improve the credibility of private investigators, and to provide guidelines for a licensing statute in the State of Colorado. Our continuing efforts to strive for licensure remain undaunted.”

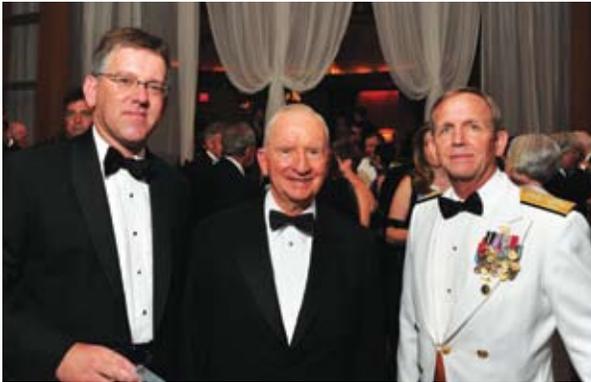
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Forensic Investigators of Colorado, LLC

This article is adapted from Mr. Beers’s two books: ‘Professional Locate Investigations’, a self-published book, and ‘Practical Methods for Legal Investigators: Concepts and Protocols in Civil and Criminal Cases’, released through CRC Press in January 2011.

1 <http://www.coloradoan.com/apps/pbcs.dll/article?AID=201011170333>  
(published in The Coloradoan 11/17/2010)

2 <http://www.coloradoan.com/apps/pbcs.dll/article?AID=201011170333>  
(published in The Coloradoan 11/17/2010)

## William J. Donovan Award



(l to r) WAD member Charles Pinck, President of The OSS Society, Ross Perot, and Admiral Eric T. Olson, USN, Commander of the U.S. Special Operations Command

Latest US  
**Report: Russia, U.S. Exploring Massive Spy Swap**  
 Jul 8, 2010 • 4:55 • Charles Pinck on America's Newsroom



Charles Pinck of The Georgetown Group, Inc appeared on Fox News related to the arrest of the Russian "Sleeper" spies.

The Office of Strategic Services (OSS) Society presented the William J. Donovan Award to Ross Perot in Washington, DC on October 2, 2010. OSS was the World War II predecessor to the Central Intelligence Agency and U.S. Special Operations Forces, founded and led by the legendary Major General William "Wild Bill" Donovan, a World War I Medal of Honor winner and the only person in American history to receive the nation's four highest military honors.

The William J. Donovan Award is named in honor of the OSS founder. First presented to Allen Dulles in 1961, its recipients include Presidents Eisenhower, Reagan, and George H.W. Bush; Sir William Stephenson, Prime Minister Margaret Thatcher, Admiral Lord Mountbatten, William Casey, William Colby, Richard Helms and, most recently, General David Petraeus and Ross Perot. to implement a centralized system of strategic intelligence and the predecessor to the [www.ossociety.org](http://www.ossociety.org).



(l to r) His Excellency Shri Shivraj V Patil, Governor of the States of Punjab & Rajasthan, W.A.D. Director & Ambassador Kunwar Vickram Singh. Chairman of CAPSI & APDI and V.M. Pandit.

## Congratulations!

WAD Member V.M. Pandit, M.Sc (Criminology & Forensic Sciences), LL.B, CEO of VMP Academy of Investigation & Intelligence Management, received the Life Time Achievement Award In Investigation And Intelligence for his 43 years of cumulative experience in the field of investigation and intelligence management, at the 2010 Global Security Leadership Summit, New Delhi.

The annual event is organized by the Central Association of Private Security Industry (CAPSI) and the Association of Private Detectives and Investigators (APDI) of India.



## ..on Voice of America...

W.A.D. member from Israel, Jacob Lapid of Lapidim Projects Ltd, was interviewed on Voice of America Radio on December 30, 2010. Lapid shared his 30 years of experience of global investigations from investigating the Dutch connection to the Enron Corporation fraud, his tales of finding two abducted American children in Tunisia and a Swiss bank fraud involving 90 million pounds.

# The Law Of Chance

NEW YORK, UNITED STATES, 1982

*Although Friess is undisputed king of the realm of strange decision making, there are a number of other documented cases where outcomes have been subjected to the law of chance.*

*It was the Greek philosopher Socrates (470-399 bc), heralded as one of the wisest men ever to walk on this earth, who arguably put into word most succinctly the qualities required of a good judge: 'To hear courteously, to answer wisely, to consider soberly, and to decide impartially.'*

*Many judges have passed the Socrates test with flying colours but New York's Alan Friess wasn't one of them. His philosophy in one famous but otherwise insignificant case was altogether of a different sort and it ensured he'd be for ever remembered as the judge who flipped. If it was going to happen anywhere, then Manhattan Criminal Court was a good bet as any. It was February 1982 when eighteen-year-old Jeffery Jones stood before Judge Friess charged with a pickpocket offence. He pleaded guilty and Judge Friess sentenced him to thirty day's imprisonment.*

*Instead of accepting this favourably short sentence with good grace, the defendant railed at the judge that it was excessive. The judge, in turn, rather than dismiss the cheeky brat forthwith, rose to the bait: 'So what do you think would be fair?' he asked. 'More like twenty days.' Came the prisoner's reply. Judge Friess then steered the case proceedings down the road to immortality: 'Is your client a gambling man?' he asked Michael Muscato, the defence lawyer. When the reply came back in the affirmative the judge asked John Jordan, the Assistant District Attorney, for a 25-cent coin and ordered the defendant to toss and call. The pickpocket called tails and won and Judge Friess promptly imposed the reduced twenty-day jail sentence as his prize.*

*This is only known modern case where the outcome of a trial has been decided on the flip of a coin and it served as a prelude to Judge Friess being barred from office by the New York State Commission on Judicial Conduct just a year later. In ousting him from office they took into account his somewhat impetuous earlier conduct in 1982, when he released a woman murder suspect without bail and gave her a lift home. Nor did they entirely ignore his 1983 rush of blood to the head when he asked courtroom spectators to vote on which of two conflicting witnesses to believe. Surely there's a germ of a cult TV game show in there somewhere.*

*It might be argued that they know no better in 1677 when, in Foster v. Hawden, it was the jury who cast lots to decide the verdict. Similarly, in 1737, it was the jury again who reduced the law to a game of chance when they decided the outcome of Langdell v. Sutton by drawing halfpennies from a hat. No modern juror, surely, would countenance such methods of chance. Unless he was at the trial of Trevor Lynch for grievous bodily harm at Newcastle upon Tyne Crown Court in July 1988.*

*On that occasion Judge Esmond Faulks received a note from a young ponytailed juror asking for the defendant birth's date so he could draw up a star chart to help him decided his fate. Needless to say, he was removed from the jury but seemed deeply wounded and genuinely puzzled by this unexpected turn in his own fate, which he had evidently not seen in the tea leaves that morning. Just as bizarre as resorting to gambling or astrology to decide an outcome was the methodology prescribed by a US Court of Appeals judge, Richard Posner, in 1986. In deciding whether to grant preliminary injunctions pending trials of civil actions he used what he maintained was a simple method, albeit one fully understood only by himself. The injunction would be granted only if  $P \times Hp$  exceeded  $(1 - P) \times Hd$ . I forget the precise meanings of the algebraic notations but I think P may have been the price of monkfish on the last Friday in March.*

*Who's to say, though, that hours of head-scratching, weeks of deliberation and application of some of the world's best legal intellects are any more effective in making truly 'right' decisions than the fates? Could there yet be a place in the modern legal system for sheep's entrails and the ouija board?*

*Just what might Socrates have made of all these shenanigans? At the age of seventy he was tried in Athens, under an indictment sworn by Meletis, of 'refusing to recognise the gods the city recognises' and of 'introducing other new divinities', and for 'corrupting the youth', as reported by Plato in his Apologia. Despite conducting his own brilliant and witty defence a jury of 500 found him guilty by an estimated majority of 280 to 220 votes and he was condemned to death by drinking a dose of poison hemlock. Socrates never did say 'the law is a lottery' but if he were alive today it's odds on he might.*

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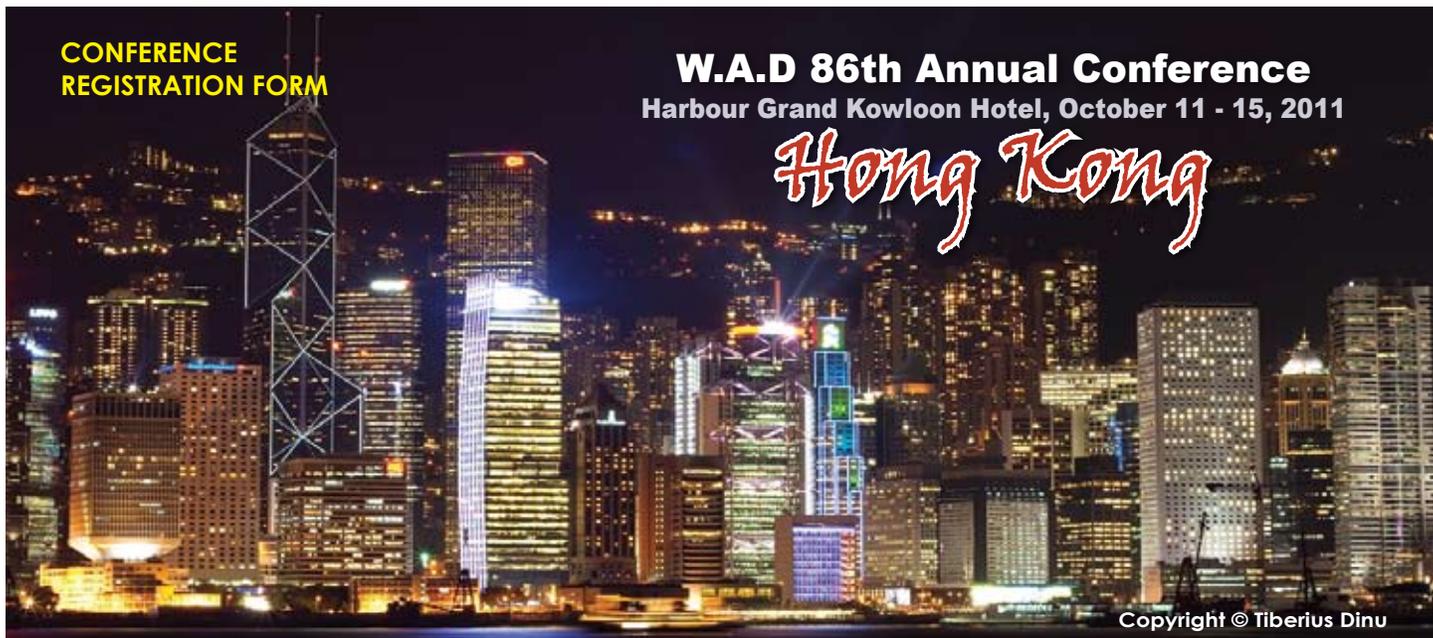
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