



# INTELLENET NEWSLETTER

## DECEMBER 2010

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#### **Carino's Corner**

*James P. Carino, CPP, VSM  
Executive Director*

Planning, publicity and hotel bookings are already well in progress for our April 2011 Intellenet Conference in Washington DC. Quite a few have already booked their hotel rooms and by the time this Newsletter is out, the Conference Website [www.intellenetagm.com](http://www.intellenetagm.com) should be up and the speaker program announced. Our agenda is well balanced with an array of great presenters and subjects.

While fortunately not a problem in the Intellenet membership, so frequently we hear spoken words to the effect "There is nothing on that agenda that appeals to me" or "I don't do that kind of work so that seminar/conference is of absolutely no interest or benefit to me".

When I hear talk of that nature, I can't help but think how myopic a view. Looking past the missed networking opportunities – spreading the word of your specialties and expertise and meeting others with supplemental skills or geographically dispersed contacts – by not attending conferences, one limits him/herself from knowledge growth, remaining current on knowledge, and missed opportunities for billable time.

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Picture for example, an opportunity to conduct investigative leads to assist a court certified expert in an arson investigation or premises liability matter. If you had some training exposure and general knowledge in these subjects might you not be a more desirable resource to assist the Expert? To only attend seminars or presentations where your interest and current aptitude lie, can seriously limit your billable time opportunities.

Intellenet conferences, which are open to any interested individual, are structured to offer a balance in subject matter while maximizing one-on-one networking opportunities through the program agenda and social events and at a cost that offers a terrific return on investment – new ideas, new business opportunities, maintaining subject/knowledge currency and expansion of your networking pool.

So, next time you look at a program Agenda, think of it in terms as to how it can expand your knowledge and opportunities and not judge it only in terms of “more of the same” regarding your comfort level.

## Members in the News

**Brian Ingram**, Waxahachie, Texas, was a speaker at the FAPI Conference, Orlando, Florida, September 30-October 2; **Nicole Bocra**, Arlington, Virginia, **Eileen Law**, Kennett Square, Pennsylvania, **Peter Psarouthakis**, Chelsea, Michigan, and **Ed Spicer**, Beverly, Massachusetts were speakers at the PALI Seminar, Harrisburg, Pennsylvania, on September 28-29; **Tanya DeGenova**, Boston, Massachusetts, was recent elected to the Board of Directors of CII in Cardiff, Wales; **Peter Grant**, Lyttelton, South Africa, was recently married; **Sandra Stibbard**, Aurora, Colorado, was a speaker at the Open Source Intelligence seminar in Washington, DC, on October 13-14; **Harvey Morse**, Daytona Beach, Florida was the investigator “spotlighted” in the September 2010 IRB Newsletter; **Jim Carino**, Gladwyne, Pennsylvania, and **Fred Bornhofen**, Elverson, Pennsylvania, were on the speaker program at the Harrisburg, Pennsylvania Chapter Infragard meeting on September 10; **Jeff Bedser**, Princeton, New Jersey, was a presenter at the High Technology Crime Investigations Association Conference In Hong Kong, December 8-10; Mulholland Forensics, LLC is pleased to announce the hiring of **Vicente Rosado**, a retired FBI agent who recently relocated to Jacksonville from the Miami area. Rosado will serve as the firm's Executive Director, providing his expertise in computer forensic investigations and offering unparalleled forensic analysis and data recovery services. Rosado has worked in the Miami field office for the past twenty one years. He served as a special agent with the Computer Analysis Response Team (CART) for the past eighteen years, working on cases running the gamut from espionage, terrorism, and white collar crimes, to bank robberies, kidnapping and child pornography.

**Pawan Ahluwalia**, India, **Bill Asher**, Texas, **Jack Chu**, China, **Jim Dallas**, Pennsylvania, **Jerry DeFatta**, Louisiana, **Jacob Lapid**, Israel, **Rich Marquez**, Texas, **Reggie Montgomery**, New Jersey, **Peter Psarouthakis**, Michigan, **Stan Schwartz**, California, and **Dave Williams**, California, attended the Intellenet mixer organized by **Allen Stidger**, Texas, at the ASIS Conference.

**Bruce Hulme**, New York, NY, was re-elected to serve on the IASIR (International Association of Security and Investigative Regulators) Board of Directors to represent private investigators. **Lynn Oliver**, Dulles, VA, was re-elected to represent the security industry.

**Carrie Kerskie** received the Florid Association of Private Investigators (FAPI) Award for the “Individual who exemplifies outstanding service to FAPI, its members and the PI Profession. She was also a presenter at the 2010 FAPI Conference. **Reggie Montgomery**, RJ Montgomery Associates, Allendale, New Jersey, was a last minute add on speaker at the New Jersey State PI Association one day seminar on November 12, 2010.

We are saddened to report the recent passing of **Richard Isaacs**, a former longtime member based in New York and editor of the prestigious AEIS Journal, after a long illness.

**More Than 50 Private And Public Sector  
Candidates Take First CSAR Exam**

*David Quinones*

*International Association for Asset Recovery  
Miami, Florida*

The days when fraudsters are comforted in the knowledge that persons who are expert at tracing and recovering their stolen loot are indistinguishable among investigators, forensic accountants, and lawyers are at an end.

On Saturday, November 6, in Las Vegas 52 diverse professionals in the private and public sectors took a four-hour exam that earns for those who pass the overdue financial crime credential, Certified Specialist in Asset Recovery (CSAR). The CSAR credential was developed over the course of six months by the International Association for Asset Recovery, an Intellenet affinity partner.

**Exam covers range of hot-button investigative, asset recovery topics**

The CSAR candidates took the proctored exam after attending a four-track exam preparation seminar that was part of the program of the Annual International Association for Asset Recovery Conference, at Planet Hollywood. In addition to the preparation classes, the program included an entire learning track on computer forensics presented by Intellenet members Kevin Ripa and Brian Ingram.

The exam, which follows psychometric exam-construction principles, was put together by more than 30 asset recovery experts who devoted hundreds of hours to its development. The exam tests knowledge in subjects like asset freezing, legal and ethical considerations, international tools and financial investigative techniques.

"Asset recovery is the endgame of all financial crime and fraud. If you don't take back the assets that the fraudster and criminal took, you have lost the game," said Charles A. Intriago, president of IAAR and former federal prosecutor. He also founded the Association of Certified Anti-Money Laundering Specialists (ACAMS), which grew to worldwide acclaim and today has nearly 10,000 members in the investigative, compliance and other realms, including 8,000 certified anti-money laundering specialists in the private and public sectors.

**First time unique, special asset recovery skills are demarcated**

"For the first time ever, IAAR has demarcated the special and unique skills required to effectively trace and recover assets domestically and internationally," he said. "Professionals in both the private and public sectors must have these skills to improve the minute percentage of financial crime and fraud proceeds that is recovered from fraudsters and other criminals. CSARs can help turn the tide by demonstrating to fraud victims, employers and potential employers that they possess the special skills that are needed to recover assets. "

The 51 persons who took the first exam were a diverse group coming from federal law enforcement and regulatory agencies, private investigators, forensic accountants and bankruptcy specialists. They included current and former Special Agents of the IRS Criminal Investigation Division agents, a Special Agent of the FBI, private investigators, and forensic accountants from top firms.

**Proctored exam offered at 530 worldwide Testing Centers**

Those that were not able to sit for the exam need not fret. It is offered at more than 530 secure CSAR-Kryterion Testing Centers worldwide, including 325 in the US and 30 in Canada. (See [www.iaaronline.org/certification](http://www.iaaronline.org/certification) for more information)

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Crafting a unitary exam for the private and public sector asset recovery specialists was not easy. IAAR Assistant Executive Director Patricia Valdes was among the IAAR staff and Advisory Board members who faced that challenge during the six months it took to create the exam.

"IAAR believes strongly that the tools and weapons used by asset recovery team members in both private and public sectors are very similar and universal. The CSAR certification is unitary and speaks to the skills specialists in both sectors should have," said Valdes.

"It is a hard exam for a reason: It's intended to be hard," said Wayne Klein, a receiver who is principal of Klein and Associates in Salt Lake City. Klein was one of the 51 persons who took the exam. "This way, it truly tests experts, and it means more. People shouldn't be surprised that it was difficult." He added that any exam that hopes to further the work of asset recovery professionals can't be an "easy pass."

### **CSAR credential will provide career advantage**

"Becoming a Certified Specialist in Asset Recovery (CSAR) can provide a competitive career advantage," said Alphonse V. Ristuccia, a CSAR exam preparation seminar instructor and former Special Agent of IRS-CID and now a private investigator at Larsen AVR Group in Los Angeles. "Being able to conduct a successful fraud investigation is just the beginning of the effort to provide complete service to your client. Being able to identify, locate and successfully recover the assets that were fraudulently taken from the client is the end game."

Effective asset recovery is a worldwide challenge," Intriago said. "We are committed to extending the reach of the CSAR credential to all corners of the world and to improving the lines of cooperation between public and private sectors so we can take back from fraudsters and other criminals more of the proceeds than the small amount that private and public sectors now recover in the US and the world."

Detailed information about the CSAR certification is available at [www.iaaronline.org/CSAR](http://www.iaaronline.org/CSAR).

### **Did You Know?**

There have been several requests for one-page résumés from the members to assist in identifying members' expertise and experience to potential clients. To date, about 175 résumés have been received out of over 400 members. Recently a potential client requested assistance in a city where there was a resident member. The client requested some background information on the member because of the sensitive nature of the investigation. There was no one page résumé for the member in that city and the client refused to accept the member for lack of information. As a result, the client accepted the services of a member although significant travel time was required to reach the target area. This resulted in an invoice in excess of \$1500 for the member having the one page résumé on file. The time and cost required to prepare a one page résumé did not justify the loss of billable hours.

If you have not done so, it is suggested that a one page résumé, using the following restricted format—Heading (Individual name and certifications; business name; city and state, telephone number and e-mail address); Professional Experience; Special Expertise; Education; Professional Associations; and Notable Accomplishments. Résumés in excess of one page or failure to follow the required format will not be accepted. Referrals will not be provided without a one page résumé being on file.

## Know Your Fellow Members



**Stefan Salmonson, PPS**  
*PROtective Services, Inc.*  
Mora, Minnesota

Mr. Salmonson has extensive experience providing personal protection services to corporate clients and is a certified Personal Protection Specialist. He has experience as an investigator, pilot and training officer for a sheriff's department. Additionally, he has received training as an Emergency Medical Technician; hostage negotiator, defensive tactics instructor, scuba diver, firearms instructor and national incident management instructor. He is a nationally recognized speaker on multiple security related subjects.

## New Members

**Bill Cage**, Cage Associates, Las Vegas, Nevada; **Anne Styren**, Profile Intelligence AB, Stockholm, Sweden; **Javier (Gus) Vasquez**, Swift Intervention, Laredo, Texas; **Steve Benton**, Intellisec Asia, Melbourne, Australia; **Ed Rodriguez**, Eors Consulting, Olney, Maryland; **Julie Russell** Diversified Investigations, Appleton, Wisconsin, **Harvey** and **Stuart Thomson**, HT Consultancy, Barcelona, Spain; **Beville May**, Prevent Claims LLC, Exton, Pennsylvania.

**Tom Martin**, Crime Scene Forensics, Red Hook, New York, and **Joseph Harford**, Reclamere, Tyrone, Pennsylvania, has been added to the Supplemental Support List.



# COMING SOON

Through the efforts of 33 Intellenet members, two new books based on personal experiences and years of professional effort will be available to the public during the first quarter of 2011. Both books will be published by Charles C. Thomas Publisher of St. Louis ([www.ccthomas.com](http://www.ccthomas.com)), a major publisher of security management and law enforcement manuals. Although unknown at this time, the price for each book will be kept to a minimum, with Intellenet getting the royalties on all sales.

**Basic Private Investigation: A Guide to Business Organization, Management and Basic Investigative Skills** is based on the experiences the authors had when they attempted to start a private investigation business. They relate the unnecessary costs and other difficulties encountered during their attempts to develop a successful business. The topics discussed include:

- The unique differences between public and private investigation.
- Personal factors to be considered before starting a business.
- Developing marketing strategies and partnerships for profit.
- Developing a niche business.
- Professionalism and ethics.
- Interviewing techniques and report writing.
- International investigations.

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- Investigator liability.
- Surveillance and using subcontractors.

**Advanced Private Investigation: A Manual of Advanced Investigative Skills for the Private Investigator** discusses specialized skills that can assist the private investigator in developing a niche business for increased profits. The skills discussed include:

- Asset search and recovery
- Competitive intelligence
- Polygraph
- Maritime issues
- Forensic accounting
- Investigating employment claims
- Capital defense investigations
- Criminal defense
- Locating missing heirs
- Executive protection
- Product diversion
- Internet profiling
- Threat assessments and interventions
- Computer forensics
- Workers' compensation investigations
- Insurance investigations
- Electronic resources in due diligence inquiries
- Accident investigation and reconstruction
- Employee theft investigations

**THESE BOOKS WILL PROVIDE A PLETHORA OF INVALUABLE INFORMATION, A GREAT RETURN ON YOUR INVESTMENT, AND BENEFIT INTELLINET.**

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**Supplemental Support List  
Member**

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Kuty & Associates is full service marketing and sales consulting agency that offers marketing and sales related services exclusively to the private security industry. We provide sales and management recruiting, industry specific sales training, marketing plan development and implementation procedures. Our Sales Health Checkup program will provide a total review of your marketing and sales efforts and develop recommendations on how to improve market share.

Other services include e-newsletters, marketing campaigns such as e-blasts, postcards, press releases as well as printed brochures, sales slicks and trade show booths. We also offer an outsourced lead generation

system referred to as Secure Lead as well as Executive Coaching for owners and senior level staff members in the private security industry.

## Book Project Update

Both books are in the copy editing stage by the publisher who will also prepare an index for each book. The books should be available to the public in February 2011.

### Legal Issues Employee Polygraph Protection Act *William F. Blake, CPP, CFE* *Blake and Associates, Inc.* *Littleton, Colorado*

The Department of Labor administers and enforces the Employee Polygraph Protection Act of 1988 (the Act) through the Wage and Hour Division of the Employment Standards Administration. The Act generally prevents employers engaged in interstate commerce from using lie detector tests either for pre-employment screening or during the course of employment, with certain exemptions. The Act, signed by the President on June 27, 1988, became effective on December 27, 1988.

Under the Act, the Secretary of Labor is directed to distribute a notice of the Act's protections, to issue rules and regulations, and to enforce the provisions of the Act. The Act empowers the Secretary of Labor to bring injunctive actions in U.S. district courts to restrain violations, and to assess civil money penalties up to \$10,000 against employers who violate any provision of the Act. Employers are required to post notices summarizing the protections of the Act in their places of work.

#### Definitions

- A *lie detector* includes a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator or similar device (whether mechanical or electrical) used to render a diagnostic opinion as to the honesty or dishonesty of an individual.
- A *polygraph* means an instrument that records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory and electrodermal patterns as minimum instrumentation standards and is used to render a diagnostic opinion as to the honesty or dishonesty of an individual.

#### Prohibitions

An employer shall not:

- Require, request, suggest or cause an employee or prospective employee to take or submit to any lie detector test.
- Use, accept, refer to, or inquire about the results of any lie detector test of an employee or prospective employee.
- Discharge, discipline, discriminate against, deny employment or promotion, or threaten to take any such action against an employee or prospective employee for refusal to take a test, on the basis of the results of a test, for filing a complaint, for testifying in any proceeding or for exercising any rights afforded by the Act.

#### Exemptions

Federal, state and local governments are excluded. In addition, lie detector tests administered by the Federal Government to employees of Federal contractors engaged in national security intelligence or counterintelligence functions are exempt. The Act also includes limited exemptions where polygraph tests (but no other lie detector tests) may be administered in the private sector, subject to certain restrictions:

- To employees who are reasonably suspected of involvement in a workplace incident that results in economic loss to the employer and who had access to the property that is the subject of an investigation; and
- To prospective employees of armored car, security alarm, and security guard firms who protect facilities, materials or operations affecting health or safety, national security, or currency and other like instruments; and
- To prospective employees of pharmaceutical and other firms authorized to manufacture, distribute, or dispense controlled substances that will have direct access to such controlled substances, as well as current employee who had access to persons or property that are the subject of an ongoing investigation.

### **Qualifications of examiners**

An examiner is required to have a valid and current license if required by a State in which the test is to be conducted, and must maintain a minimum of \$50,000 bond or professional liability coverage.

### **Employee/prospective employee rights**

An employee or prospective employee must be given a written notice explaining the employee's or prospective employee's rights and the limitations imposed, such as prohibited areas of questioning and restriction on the use of test results. Among other rights, an employee or prospective employee may refuse to take a test, terminate a test at any time, or decline to take a test if he/she suffers from a medical condition. The results of a test alone cannot be disclosed to anyone other than the employer or employee/prospective employee without their consent or, pursuant to court order, to a court, government agency, arbitrator or mediator.

Under the exemption for ongoing investigations of work place incidents involving economic loss, a written or verbal statement must be provided to the employee prior to the polygraph test which explains the specific incident or activity being investigated and the basis for the employer's reasonable suspicion that the employee was involved in such incident or activity.

Where polygraph examinations are permitted under the Act, they are subject to strict standards concerning the conduct of the test, including the pre-test, testing and post-test phases of the examination.

Civil actions may be brought by an employee or prospective employee in Federal or State court against employers who violate the Act for legal or equitable relief, such as employment reinstatement, promotion, and payment of lost wages and benefits. The action must be brought within 3 years of the date of the alleged violation.

### **Insurance Fraud Perpetrators Linked To Terror-Funding**

*Bill Marshall  
Veritas Intelligence  
Fairfax, Virginia*

As the threat of terrorism against the United States has become the principal concern of federal law enforcement authorities in this country, a key element of the strategy to combat it has been to look at the source of its funding. Enforcement officials recognize that much of this funding emanates from "white collar crimes," of which insurance fraud is one. Hence, Congress promulgated and modified various laws in the wake of the 9/11 attacks designed to address these crimes as they relate to terrorism, such as the USA PATRIOT Act, the Border Security and Visa Entry Reform Act and various federal fraud statutes.

As noted by experts studying the creation and use of these laws to combat terrorism: "Reasons behind this approach to counter-terrorism include the belief that terrorist activities require funding, not only for weaponry, but also for training, travel, and living expenses. In addition, the need for anonymity during the



planning stages of terrorist activities requires various acts of deception, such as the creation and use of false identifications.<sup>vi</sup> These observers note that the structure of international terrorist groups – organized as semi-autonomous, largely self-supporting cells, as opposed to having a hierarchical command-and-control structure, like a corporation – makes them dependent on white collar crime for funding. Indeed, training manuals discovered around the world for groups like al Qaeda and al Fuqra (discussed below) instruct their members in counterfeiting, forgery and other practices that lend themselves to white collar crime.<sup>ii</sup>

The scenarios in which insurance fraud is perpetrated by terrorist groups runs the gamut of the types of insurance available to individuals, whether Life, Worker's Compensation, Medical, or Property & Casualty. Examples abound.

In June 2010 a Lebanese-American couple, Hor and Amera Akl, were arrested in Ohio and charged with providing material support to a designated foreign terrorist organization, money laundering and arson related to an insurance fraud scheme. Hor Akl was also charged with bankruptcy fraud and perjury.

According to the criminal complaint, the couple was approached in 2009 by a confidential informant working for the FBI, who claimed that he worked for an anonymous donor interested in aiding Hezbollah by shipping money to the Middle East terror organization. The Akl's allegedly then looked into various ways to ship cash to Hezbollah, in exchange for a commission, and proposed 10 different methods, which included concealing \$500,000 in hollow sections of an automobile to be shipped to Lebanon, where the money would be removed and distributed to the group. The plan appeared to advance when Hor Akl travelled to Lebanon in March 2010 to arrange delivery of the funds.<sup>iii</sup>

In the course of Hor Akl's discussions with the informant, he reportedly admitted to committing various crimes, including prior illicit shipments of cash to Lebanon, wire fraud, mail fraud, and arson-for-insurance. According to a published report, the arson case related to the couple's setting a 1998 Jeep Cherokee on fire in late 2001 to "destroy information," and submitting an insurance claim for the vehicle, for which they received \$17,296 in claim proceeds.<sup>iv</sup>

Medical insurance fraud has also been used by terrorist groups to fund their operations. In 2006, Karim Koubriti and Ahmed Hannon were found guilty of mail fraud, insurance fraud and material support of terrorism involving a scheme in which the two men claimed to have been injured in a motor vehicle accident. They submitted bogus medical bills, invoices for lost wages and mileage expenses to the Titan Insurance Company. Mr. Koubriti reportedly committed the fraud "in order to both support terrorist activities and to 'cause economic harm to US businesses.'"<sup>v</sup>

Authorities have investigated numerous cases of terrorism funding-related worker's comp fraud as well. One of the more prominent such cases studied by criminologists John Kane and April Wall involved a Colorado-based terrorist group called Jamaat al Fuqra (Fuqra), whose criminal activities were uncovered and investigated by Colorado state authorities in the 1990s. The successful investigation and prosecution of this group's members by authorities was analyzed in the aftermath of 9/11 in order to glean insights, which would be useful for other state and local authorities in spotting terrorism-related white collar crime.

Fuqra members were discovered to have been submitting fraudulent worker's compensation claims in connection with their purported employment by construction companies owned by other Fuqra members and co-conspirators. Prosecutors relied heavily for their case on evidence of forged signatures on the claims, the use of bogus Social Security numbers by various claimants, identity theft and tax evasion. The total fraud involved approximately \$430,000 of sham worker's compensation claims and four Fuqra members were ultimately convicted on various charges.<sup>vi</sup>

Life insurance fraud also presents an avenue for terrorism revenue-raising. In December 2007, three Arab men were convicted in Germany of attempting to claim \$6.3 million in life insurance proceeds on behalf of al Qaeda through nine separate life insurance policies by faking the death of an insured.<sup>vii</sup>

Insurance fraud is a particularly attractive crime for terrorists seeking funds, because Western insurance companies are well-heeled, rely for the processing of claims on documents which can be easily purchased

or fabricated, deal with customers who often travel (and occasionally die) overseas, and emphasize political correctness – avoiding “profiling” of customers, even when such profiling is warranted. From the perpetrators’ perspective, the crime offers a high likelihood of going undetected, and if detected, an even lower likelihood of resulting prosecution, particularly if a claim is not paid out.

Vigilance on the part of claim handlers and underwriters, as well as an awareness of likely indicators of fraud, both at time of application and claim, will go a long way toward hardening insurance companies against this pernicious menace. Cooperation with law enforcement will serve the interests of both insurance companies’ and national security. Such cooperation has been on the increase, as federal authorities increasingly welcome assistance from the private sector.



Rastafari represent a generally misunderstood population in today’s milieu. Often regarded as strange owing to their unique, matted dreadlocks, and the intensity with which most ply their convictions, their profound influence nonetheless exists in a multitude of today’s societal structures and steadily gains in prestige. From HipHop to Rap cultures and mainstream Rock ‘n’ Roll to spinoff hairstyles, and from political to spiritual forums, the influence of the Rasta can be seen, heard and felt.

The caricature of the Rasta promulgated by media and the entertainment industry fosters a confusion and ignorance of this sect. Broad-brushing it with an association to the violent criminal element of Jamaica (the birthplace of the Rasta culture), stereotyping its premises with the current cultural postures of the Reggae music with which it is associated, and focusing on the utilization of ganja (marijuana) as a spiritual vehicle misses the essence of *the Brethren*. A basic understanding of this cultural phenomenon and its adherents, followers and emulators may offer opportunities to investigators who encounter these individuals while in pursuit of facts, information and evidence.

#### Ancient in Perspective

The Rasta constitute a Messianic fundamentalist movement, rooted in the enslavement and forced dispersion of the populations of Africa, and in a vision of repatriation to a homeland in both a physical and spiritual sense.

While the Rastafari take their current incarnation from Ras Tafari Mokenen, the Emperor Haile Selassie I, they identify as ancient Israelites, utilize Hebraic theosophy to define ethnic progression and see the fact that prophets such as Solomon, Jesse and David were dark-skinned, born out by Biblical reference.

The scattering by the dynamics of slavery of the black populace represents a cultural identification and a ritual nationhood with its roots in the tribes of Israel for the Rasta. Because of this, they interpret the prophetic and apocalyptic books in the Bible in accordance with their historical experience. European society is seen as similar to the Babylonian and Roman Empires that conspired against the spirit of God, to enslave the children of God. Haile Selassie I being of direct Davidic descent is seen as the manifestation of the Messiah.

Twentieth Century Jamaica evolved from the cosmology of a slave trade which endured for approximately 250 years. Roughly 30 million slaves were brought to the New World from the African continent, many thousands destined for Jamaica. The first were brought circa 1517 from Angola by the Spanish. Virtually all were infused into the huge agricultural complexes owned in large part by British planters. Jamaica’s aboriginal societal structure that of the Arawak Indians had been destroyed by the Spanish. The British defeated the Spanish and took over the slave and agricultural activities, which they often exploited as

absentee landlords and to which they contributed no enduring societal fabric, resulting in a culture spawned and perpetuated by exploitation.

Jamaica became a massive conglomeration of colliding cultures. African nations and cultures melded together in the mesh of survival.

What survived were elements of cultures infused with the crushing experiences of the slaves.

Into this population seeking succor in the early 1900's arose Marcus Garvey, a leading force in the century's evolution of the remnants of the slave populations to establish a new identity. Garvey traveled extensively as a young man, and began to protest the yoke of racial oppression. His early attempts at establishing fraternal identity and political power in Jamaica resulted in a following. In 1916 Garvey went to the United States, soon establishing the Universal Negro Improvement Association, followed by *The Black Star Line*, a shipping line formed with the stated purpose of repatriating blacks to Africa.

In the U.S., Garvey was frequently rebuffed by much of the black intelligentsia, and was considered by many to be a huckster exploiting the very population he purported to free. Nonetheless, his doctrine of resettling blacks in Africa and of "Negro Renaissance" made him perhaps the most powerful influence within the black masses in the U.S., and throughout the New World. Huge crowds followed him, and grew, until a seemingly inevitable crash. Plagued by an inability to manage business affairs and in some cases harassed and maligned by government, he was tried, convicted and jailed for financial improprieties in 1923. His sentence was commuted by President Calvin Coolidge in 1927.

Garvey rallied his former power and glory to some extent for a period of time, during which he returned to Jamaica and is said to have exhorted his followers to, "Look to Africa when a King shall be crowned, for the day of deliverance is near. (1)" To the Jamaicans from whom Garvey had come and to whom he spoke eloquently, these words were prophesy.

A cornerstone of what was to become the Rasta foundation were the Biblical allusions to Ethiopia in Psalms 68:31, "Ethiopia shall soon stretch her hands unto God", and Apostles 8:27, "behold a man of Ethiopia."

The prophesy was fulfilled when in 1930 a tribal warlord was crowned Haile Selassie I, Emperor of Ethiopia. Ras Tafari Makonen could trace his heritage to King Solomon and Queen Makeda of Sheba, and claimed titles that included, *His Imperial Majesty the Conquering Lion of the Tribe of Judah*, and *Elect of God*, appellations which were associated with the Second Coming. This was a sign to many that the prophesy from the Bible that proclaimed "the Lion of Judah" was materialized, and Garvey's prophesy had foretold that it would be an African who was to redeem the black peoples of the Earth. Haile Selassie I, whose name translated as *Power of the Holy Trinity*, became the *Living God*, and the promise of redemption for those of African heritage.

To many, Garvey was considered in the same context as John the Baptist.

### The Advent of the Rastafar-I

Many in Jamaica began to worship Selassie, and came to be called Ras Tafari. As preachers began to represent that Haile Selassie was the *Living God*, they and their followers were frequently harassed and committed summarily to mental institutions. One such preacher, L. P. Howell, upon his release moved deep into the countryside with a significant number of followers, who eventually numbered in the thousands, and established an enclave known as Pinnacle. Emulating the manner of Massai and Somali warriors most of the men began to wear their hair plaited, extending the fashion seen in earlier coronation photographs of Ras Tafari and in concurrence with the Biblical admonition to not let scissor or razor cut their hair. Howell's following began to number into the thousands, and became violent as they began to range from their domain and plunder neighbors. Eventually they were shut down, jailed and evicted; large segments moved into towns and contributed to a crime wave culminating in confrontation and violence in the sixties.

Howell, and certain others, had proclaimed themselves to be, or to exclusively represent, the divinity associated with the ascension of the black *Conquering Lion of Judah*, and in certain instances inflicted their own excesses on those who had begun to embrace this glimmer of salvation. Nevertheless, the movement ignited in ever increasing masses as it spoke to the people, the *Roots*.

The perception of Rasta as a violent cult stemmed in large part from the migration of the Pinnacle constituency into cities, insofar as the cult attracted many from the large, generally disaffected slum populations and became a general forum for protest. At about the same time, a social culture that had been popular throughout Jamaica, a violent youth wave known generally as Rude Boys, began to dissipate and many "Rudies" adopted the vestiges of Rasta. Police began to identify all who had the appearance of Rasta as a problem resulting in confrontations with colonial authorities. Rastafari were viewed as racist fanatics with revolutionary, criminal propensities.

In 1959 riots involving Rastafari caused a study by the University of the West Indies and this is generally seen as a turning point in the history of the sect's socialization.

The Rastafari culture in large part was popularized by its artisans, the foremost being those who infused fundamentalist Biblical references and calls for social change with the popular Reggae music evolving at the time. Bob Marley, Jimmy Cliff, and "Toots" Hibbert were among the more well known artists to move Rastafarian culture into the worldwide mainstream, although the list of the respected, talented musicians who promulgated Reggae, and artists of other disciplines, is endless. This popularization of the Rasta sentiments and values extended the attraction throughout the world.

### Spiritual Roots

A significant concept to the brethren is *anciency, roots*, their connection with Jah, Jehovah, in its original covenant. A direct link with one's *roots* represents what is *I-tal*, or vital. Each man is connected to Jah in his likeness, and, is therefore, a living root – the *I*. *I am one*, connected to the *one* Jah. Linked by this connection, *I* represent the living existence of Jah, which is exemplified in its penultimate form as Ras Tafari, a direct link to the Biblical line of David. Rasta take comfort in this ancient connection and vision of Jehovah in part because of the feeling of betrayal by the European version of a God who subjected them and their kind to such a heinous fate.

Rasta see their slave history as representing a fall from grace as a result of their own errors. They work to reconnect, to repatriate themselves to their original state, in literal and figurative terms. It behooves an investigator to understand that Rasta are by nature and design distrustful, even disdainful, of *Babylon*, which the judicial system represents; as does the investigator by extension.

To a Rasta the term *Babylon* encompasses both the Catholic Church and the state (government, police, etc.), edifices of enslavement, and is a term equivalent to its meaning in the Bible; an historical entity symbolizing offenses against the will of God.

The Rasta distrust of the general Catholic Christian status quo relates to the Church's and the Pope's condoning of the brutalizing of the African nations, and they remember that as recently as the 1930's Rome gave its blessing to the brutal pillage of Ethiopia by the Italian army.

This type of conduct, to rape, dominate and enslave others, is contrary to the Rastafari vision of oneness. It convinces them that the classically perceived Christian philosophy results from man having lost his root with Jah, and therefore connection with himself, with *I*. Christianity, particularly Catholicism, is seen as leading man out of himself, out of his natural, rooted and rightful place, into a place that is lost, disconnected and not *I-tal*.

Though rooted in racial renaissance, the Rasta philosophy does not exclude those of non-African heritage. The premise is that all of mankind should be repatriated to its root, and the Rasta see their ancient heritage as alive, and as an *I-tal* ingredient of the past, present and future.

## Rasta Reason

Words have particular significance to the Rasta, based on the aspiration to hear and live the word of God. Sounds convey the spirit of what a word addresses, and each syllable is relevant. The Rasta argot is infused with this concept, as it draws on its ancient heritage of Amharic, and the mingled Creole patois resulting from the mix of African dialects reflexed against the colonial English, Spanish and other idioms. The liberated first person pronoun *I* is at the heart of the language, as a responsibility to fulfill, and implies a presumed equality amongst all. *I 'n' I* are we, us. Ras Tafari-*I* is the *Supreme-I*, the *Living God*.

Rasta speech is redemptive in nature, and significantly stylized, creating an identity and implying providence. The idiom is at the same time termed an "anti-language" in that it is intentionally structured in opposition to an established norm and seeks to create a subjective reality, which then collectively socializes those who speak it. An investigator who speaks with a Rasta will receive *respect* (a very potent word in the dialect) and a vastly different level of acceptance (and information) if he/she can communicate in, or at least understand, the vernacular.

Reggae music, popularized initially outside of Jamaica by such groups as the Wailers, carries with it the import of the words coupled with spiritual chants. Though now ingested into the broader, popularized culture of world music, reggae has its roots deeply entwined in the churchical chants of the Rasta movement, drawing forth *word, sound and power*(1). Early Rasta music drew on revival hymns of the African-Christian cults such as *Pocomania*, which evolved into *Nyabingi* chanting and heartbeat drumming.

## Nyabingi

Rasta worship involves the communal activities of drumming, chanting and dancing, praising and "reasoning" (Biblical and logical discourses), and the smoking of herbs and sharing of food. The ceremony is often referred to as a Nyabingi; Nyabingi, in fact, is a broad term in today's Rastafari lexicon, covering aspects of sect organization and lifestyle.

The evolution of the word Nyabingi is in itself an historical portrayal. Believed to have originated in the Congo, Rwanda, Tanganyika and Ghana, the Nyabingi Order was initially an African secret society dedicated to the overthrow of the white/European colonization through racial conflict, and is said to translate as, "death to whites/Europeans." Early Rastafari aligned themselves with the Nyabingi concept, as a result of an article published in 1935, preceding the Italo-Ethiopian War, which was intended to enflame opinion against Selassie (1). The article alleged that Emperor Selassie was the head of the Nyabingi Order. The appellation "Nyabingi" evolved amongst the early adherents to mean, "death to oppressors", white or black, and was associated with the strident, violent ethos of the then-revolutionary "Rastaman" movement.

In time, the term came to reflect various aspects of the Rasta life, incorporating the reference to the Order, or House, itself, as well as to ceremonial worship/assemblies (*groundations*, or *I-ssembles*). As quoted in "Churchical Chants of the Nyabingi", a Rastafari elder described the communal Nyabingi as, "to bring universal cooperation, coordination and divine elements for all people which is of righteous good. (1)" Music, dancing and drumming, too, may be termed Nyabingi, as the word reaches a point wherein its meaning defuses to encompass that which is generally to the good of the Order.

While not a requirement of the Rasta culture, the smoking of herb, of ganja, is a part of most Rastafari rituals. Passed among devotees at a gathering, the herb occupies the same type of symbolism and communalism as the sacrament of wine, or incense, in other religious or philosophical pursuits, and is smoked from a *chalice* of one form or another. Concurrent with the consumption of herb is the intoning and chanting of *I-ses*, or praises, to Jah.

Not to be mistaken with the recreational use of marijuana, to Rastafari ganja is a serious sacrament, and is integral to prayer and Bible reading: Genesis 8, Psalm 18 and Revelation 232 are seen as consent and commandment toward this utilization.

## 'n' de Babylon

Among the more common clashes between Rastafari and Babylon are charges relating to the possession and use of marijuana.

In 1966, the 9<sup>th</sup> Circuit Court of Appeals allowed that Rasta can use their religious belief that marijuana is a sacrament as a defense in possession cases (2), in concordance with the 1993 Religious Freedom Restoration Act (RFRA), which dealt with defenses against criminal prosecution which interfere with religious practices. The RFRA was an outgrowth of the government's persecution of Native Americans for the use of peyote as a sacrament. The Act required that the government, which is recognized as having an interest in regulating, must have a compelling interest in prosecuting a particular defendant for possession of marijuana.

However, as a result of a recent case (*Boerne v. Flores*), wherein the City of Boerne, TX, refused to issue a construction permit to a church to expand into an historical district, the U.S. Supreme Court reviewed the case, and in June, 1997 declared the Act unconstitutional, opining that the law gave the practice of religion more protection than was constitutionally required.

Justice Anthony Kennedy, who prepared the majority opinion, wrote (in part):

*"RFRA is not a proper exercise of Congress'...enforcement power because it contradicts vital principals necessary to maintain separation of powers and the federal state balance...RFRA's legislative record lacks examples of any instances of generally applicable laws passed because of religious bigotry in the past 40 years. Rather, the emphasis of the RFRA hearings was on laws like the one at issue that place incidental burdens on religion. It is difficult to maintain that such laws are based on animus or hostility to the burdened religious practices or that they indicate some widespread pattern of religious discrimination in this country. RFRA's most serious shortcoming, however, lies in the fact that it is so out of proportion to a supposed remedial or preventive object that it cannot be understood as responsive to, or designed to prevent, unconstitutional behavior. It appears, instead, to attempt a substantive change in constitutional protections, proscribing state conduct that the Fourteenth Amendment itself does not prohibit. Its sweeping coverage ensures its intrusion at every level of government, displacing laws and prohibiting official actions of almost every description and regardless of subject matter. Its restrictions apply to every government agency and official...and to all statutory or other law, whether adopted before or after its enactment...It has no termination date or termination mechanism. Any law is subject to challenge at any time by any individual who claims a substantial burden on his or her free exercise of religion. Such a claim will often be difficult to contest. Requiring a State to demonstrate a compelling interest and show that it has adopted the least restrictive means of achieving that interest is the most demanding test known to constitutional law...All told, RFRA is a considerable congressional intrusion into the States' traditional prerogatives and general authority to regulate for the health and welfare of their citizens, and is not designed to identify and counteract state laws likely to be unconstitutional because of their treatment of religion." (3)*

Undoubtedly, this is not the last word on the subject, which evolves in relation to numerous other facets of perceived religious tenets.

Rastafari who face jail or are imprisoned, and those who work on their behalf, face certain unique obstacles. Among those is the Rasta's disdain for *Babylon* in the form of the state or judicial systems. Additionally, denial or impugment of Rasta rituals and accoutrements might contribute to problems, in that it makes for a difficult time for the institution and the defendant, and, might also translate as a difficult client for the defense team.

The Rasta concept of authority is Biblical in reference. They swear allegiance to Jah Ras Tafari, and see Ethiopia figuratively and/or literally as their nation. Therefore, the consequence of the laws of what is perceived as an oppressor is as a burden to them, and may be relevant only in that sense.

Respect is a major element of the Rasta philosophy, and humiliation suffered while incarcerated, including body searches, pillaging of space and possessions and disparaging of religious artifacts intrudes upon an individual's person and is an affront.

Rasta dreadlocks, which are a symbol of their covenant with Jah, are frequently considered in institutional environments to be unclean, or otherwise unacceptable. Having his locks shorn is a sacrilegious degradation to a Rasta man.

Many Rasta are vegetarian. Virtually all disdain pork. Incarcerated, they face the rigors of surviving without being able to eat a significant portion of the food provided because it often contains meat, frequently pork.

In any case or encounter involving Rasta, it serves the investigator to be clear on what he or she is attempting to accomplish. At the beginning of any case, the facts of the case and the theory of the case need to be reviewed in context with the client, and his or her beliefs.

As in any similar circumstance, there are those who are genuine Rasta, as well as those who will avail themselves of the Rasta accoutrements who are not, in reality, imbued with the Rastafari faith. These might be deemed popular culture Rasta, or those who comport with the form rather than the function of the philosophy. It is wise when calibrating a case strategy to remember the Rasta saying, "Him have dreads on his head, but not in his heart (4)", insofar as there would be those who would allege that their conduct is rooted in their religious or spiritual beliefs when in fact that is not the case. Conversely, in any instance where an individual's actions were religious in context, that element generally might be considered a necessary part of bolstering a case.

#### Endnotes:

(1) Churchical Chants of the Nyabingi: Linear notes by Elliott Leib. Heartbeat CD HB 20, 1983. Church Triumphant of Jah Rastafari and Haile Selassie I Theocracy Government, copyright 1997, Poly-Rhythm, Ltd., One Camp Street, Cambridge, Mass., 02140.

(2) "Appeals court clears the air over use of marijuana by Rastafarians"; Bob Egelko, Associated Press; published in the San Diego *Union-Tribune* 2/3/96.

(3) (Re RFRA) [www.religious.freedom.org](http://www.religious.freedom.org)

(4) DREAD The Rastafarians of Jamaica: Joseph Owens. Published by Sangerster's Book Stores Ltd., Kingston, Jamaica. Copyright 1976, reprinted 1993.

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REGGAE BLOODLINES In Search of the Music & Culture of Jamaica: Text by Stephen Davis, Photographs by Peter Simon. Published by Da Capo Press, Inc. 233 Spring Street, New York, N.Y., 10013. ISBN 0-306-80496-4.

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**ISPLA UPDATE**  
*Bruce Hulme*  
*New York, New York*

Message from ISPLA, INTELLENET's Legislative Advocate

I am pleased to report that none of the bills affecting private investigators passed in the 111<sup>th</sup> Congress. They included numerous security breach bills, Internet privacy bills, surreptitious surveillance bills, anti-spoofing bills, and bills which might have conceivably banned the SSN and thus adversely affected our access to "credit headers." Although "it is not over until it is over", we doubt that the bills about which we are concerned will pass in the current "lame-duck" session. If so, we expect they will have exception language which was drafted by ISPLA.

This past November congressional election resulted in the greatest change of power in the House of Representatives in over seven decades, with many new faces elected to positions at both the state and national levels. What does this mean for INTELLENET's investigative and security professionals? It is too early to tell but, fortunately, ISPLA has been working hard to give our federal legislators the information they need when making decisions that may impact our profession. The new members of Congress that come into office in January 2011 are already being identified and contacted by ISPLA so that they receive our message from Day One!

One hundred percent of the candidates endorsed by and/or receiving PAC contributions from ISPLA were victorious during the November 2 elections. I have been told by lobbyists, who also administer PACS, that such a record is extremely rare, especially for a political action committee in operation less than two years. Candidates running for re-election included Congressman Pete Sessions (R-TX) and Governor Rick Perry (R-TX) re-elected as the Texas Governor.

We were pleased with the good work of INTELLENET member Jim Olsen, who also serves as TALI's federal legislative liaison, and is on the ISPLA executive committee. He arranged for the appearance of Congressman Sessions at the August TALI conference and also played an integral role in working with Governor Perry's campaign office regarding his endorsement by ISPLA. INTELLENET member and TALI president Kelly Riddle represented the investigative profession at Governor Perry's reception as the campaign week drew to a close. The TALI board recently joined ISPLA, offering us its financial support, thereby joining an ever growing list of associations supporting the legislative mission of ISPLA

Michigan State Senator Hansen Clarke also received the endorsement of ISPLA. In August he defeated seven-term incumbent Congresswoman Carolyn Cheeks Kilpatrick in the Democratic primary for the 13<sup>th</sup> Congressional District in Michigan. He went on to win the general election. Our Michigan colleagues have observed the excellent work of the Senator in Michigan over the years. They feel that he knows the problems facing the investigative and security professions and that his legislative experience in Michigan will serve us well in Washington starting 2011.

ISPLA discussed with the senator how we might serve as a resource regarding investigative and security matters in the private sector including: privacy issues, Social Security Number limitations, indigent defense, identity theft, infrastructure security, and public record access. Although still a young and fast-growing professional association, ISPLA's organizers have a wealth of knowledge and experience having testified on GLBA implementation, ID theft, and indigent defense issues before the House Finance, Ways and Means, and Judiciary Committees. We advised Senator Clarke that ISPLA is experienced in working with committee staff and regulatory agencies and providing testimony and public comment. We assured him that if ISPLA can ever lend him support on any public safety issues, he should feel free to call upon us.

Controversial Congressman Barney Frank (D-MA) was the recipient of ISPLAPAC funds. Very few private investigators realize that Barney Frank was perhaps the first member of Congress to recognize the fact that private investigators should have access to DMV records. He went on record, stating such in a letter to a colleague of mine prior to Congressional hearings held leading to the enactment of the DPPA of 1994.



Also, the House Financial Services Committee, where Representative Frank will return in 2011 as the Democrat Ranking Member, is one of very few committees which play a great role in preserving our profession's access to information such as credit headers that need the SSN to allow the major data providers to aggregate data from a myriad of sources.

In New York, ISPLA supported Republican Lee Zeldin in his successful run for the State Senate. Lee had previously been endorsed by NCISS in his 2008 candidacy for Congress, but failed to win that seat.

In September I attended the mid-term NCISS board meeting, where I am a past president, life member, and member of its board of directors. There I learned that the NCISS board has designated ISPLA as a "competing" organization. A wiser decision would be to utilize the experience and government relations savvy of an association that is devoting all its resources to the sole mission of lobbying for the investigative and security profession, especially since ASIS International, NASCO, Electronic Security Association and others have invited us to participate in lobbying coalitions. INTELLENET members who also serve on the ISPLA executive committee with legislative advocacy experience, in addition to Jim Olsen and me, are Ellis Armistead, Nicole Bocra, Jim Carino, Alan Goodman, Richard Horowitz, Paul Jaeb, Peter Psarouthakis and Ed Spicer. It just goes to show what happens when decisions are made without considering the unintended consequences, an elementary rule in making policy or laws, and in lobbying!

According to Federal Election Commission reports filed for the quarter ending September 30, ISPLA was the only investigative and/or security professional association PAC to distribute its funds to candidates in the 2010 general election up to that reporting time. NCISSPAC, for example distributed nothing to any candidate, still retaining its \$4000 which it received from three NCISS donors. In contrast, ISPLA distributed all of its PAC funds to worthy candidates having a record of supporting our cause.

In the past we have reported on bills affecting investigators. However, there are also some bills that affect security professionals and also have an impact on ISPLA's PAC and lobbying efforts. They may very well be re-introduced next year in the 112<sup>th</sup> Congress.

S 3806, the SECURE Facilities Act of 2010 had been introduced by Senator Joseph I. Lieberman (D-I) this past September. Section 244 of the bill concerns oversight of contract guard services. ISPLA favors this bill over the two House versions.

HR 5053, the Federal Protective Service Reform Bill had been offered by the Republicans.

HR 6122, the Federal Protective Service Improvement and Accountability Act of 2010" had been offered by the Democrats.

On several occasions ISPLA has conferred with Steven Amitay, Esq., federal legislative counsel for the National Association of Security Companies (NASCO) and Lynn Oliver, the security industry board member of IASIR, regarding the above three bills which are being closely watched by ISPLA. Hearings were held. ISPLA recently provided a comprehensive confidential report to its ISPLA membership on various provisions of these bills, which if passed, will impact security firms contracting with the Federal Protection Service.

ISPLA will again be visiting members of the new 112<sup>th</sup> Congress in 2011 in regard to these specific bills affecting some of our INTELLENET members. INTELLENET and ISPLA's contract security company members having Federal Protective Service contracts are not the only firms potentially affected by this proposed legislation. Contract security guards working on posts throughout the federal government are under scrutiny for "federalization" or "in-sourcing" by the Obama administration. We envision similar future legislation affecting the Department of Energy, Federal Court security officers, Department of Defense, along with Federal Protective Services.

H.R.5175 - DISCLOSE Act - Opposed by ISPLA - To amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes. This is the Democrats' response to the

Supreme Courts' Citizens United v. FEC ruling earlier this year. It seeks to increase transparency of corporate and special-interest money in national political campaigns. It would require organizations involved in political campaigning to disclose the identity of the large donors, and to reveal their identities in any political ads they fund. It would also bar foreign corporations, government contractors and TARP recipients from making political expenditures. Notably, the bill would exempt all long-standing, non-profit organizations with more than 500,000 members from having to disclose their donor lists.

Federal "Card Check" Bill - S.560 Opposed by ISPLA The Employee Free Choice Act of 2009, would amend the National Labor Relations Act to require the National Labor Relations Board (NLRB) to certify a bargaining representative without directing an election if a majority of the bargaining unit employees have authorized designation of the representative (card-check) and there is no other individual or labor organization currently certified or recognized as the exclusive representative of any of the employees in the unit. It sets forth special procedural requirements for reaching an initial collective bargaining agreement following certification or recognition. It revises enforcement requirements with respect to unfair labor practices during union organizing drives, particularly a preliminary investigation of an alleged unfair labor practice (ULP) which may lead to proceedings for injunctive relief. It requires that priority be given to a preliminary investigation of any charge that, while employees were seeking representation by a labor organization, or during the period after a labor organization was recognized as a representative until the first collective bargaining contract is entered into, an employer: (1) discharged or otherwise discriminated against an employee to encourage or discourage membership in the labor organization; (2) threatened to discharge or to otherwise discriminate against an employee in order to interfere with, restrain, or coerce employees in the exercise of guaranteed self-organization or collective bargaining rights; or (3) engaged in any other related ULP that significantly interferes with, restrains, or coerces employees in the exercise of such guaranteed rights. And it adds to remedies for such violations: (1) back pay plus liquidated damages; and (2) additional civil penalties.

Secret Ballot Protection Act Bill - S.478 – Supported by ISPLA This Legislation amends the National Labor Relations Act to make it an unfair labor practice for: (1) an employer to recognize or bargain collectively with a labor organization that has not been selected by a majority of the employees in a secret ballot election conducted by the National Labor Relations Board; and (2) a labor organization to cause or attempt to cause an employer to recognize or bargain collectively with a representative that has not been selected in such a manner.

In November I attended the International Association of Security and Investigative Regulators (IASIR) on behalf of ISPLA. There, I gave a presentation on "Law and Ethics in Investigations" and presented updated ISPLA reports on federal legislation during the plenary sessions. Other topics of concern were also discussed – licensing of digital forensic investigators, legal and ethical guidelines for cyber vetting, and other policy and regulatory issues. INTELLINET members Rick Payton, Lynn Oliver, Jimmie Mesis and Peter Psarouthakis were also in attendance.

The U.S. Department of Justice, Bureau of Justice Statistics outlined their plans to evaluate the strength of the private and public sectors of security, information that currently is widely diverse and somewhat suspect for accuracy as to just how many security officers are in the U.S. Their estimate suggests that employment in the private sector is nearer to three times that of law enforcement. However, some colleagues have indicated such to be as low as two times and as great as ten. Other DOJ agencies have also funded research on the private security industry – National Institute of Justice, Bureau of Justice Assistance, and Office of Community Oriented Policing Services. In October 2009 they awarded a contract to the Research Triangle Institute to prepare what is referred to as the National Private Security (NPSS) design Project.

I also had the opportunity of hearing the concerns of the Security Industry Alarm Coalition, the Electronic Security Association, the National Association of Security Companies and their respective lobbyists with whom ISPLA has and will continue to be working with on issues of mutual concern.

Additionally, I have been reelected to serve a third two-year term as the sole private sector board member representing the licensed private investigative profession on the IASIR Board of Directors. The new NCISS legislative chairman and PI Magazine editor, Jimmie Mesis, stated he had been instructed by the present NCISS leadership to challenge my candidacy and pursue his own run for the position. This

tactic surprised the industry caucus as I have represented the investigative profession in a manner that brought credit to NCISS, and now ISPLA, over the many years I have attended their meetings. In a "friendly" caucus, he secured one vote. Thus, as the sole representative voicing concerns of private investigators before state regulators, I will also still continue to work with the industry spokespersons for the alarm, contract security, and armored car industries.

In closing, I thank the members of INTELLENET who are supporting ISPLA's lobbying efforts in Washington. Without the support of organizations such as INTELLENET we could not easily continue our work in DC. That said ISPLA also needs the support of individuals as well as professional organizations. Although we are all volunteers, our state and federal legislative tracking systems are costly as are the regulatory, legal and accounting requirements for operating a 506(C) non-profit corporation and a non-partisan federal PAC. All members of INTELLENET are welcome to join. We also need to replenish the funds which we expended during the past two-year 111thCongress in ISPLAPAC.

Bruce Hulme  
ISPLA Director of Government Affairs  
[www.ISPLA.org](http://www.ISPLA.org)

What kind of donations are allowed for the ISPLA-PAC?

Donations to the non-partisan federal ISPLA-PAC must be in the form of personal checks. Corporations MAY NOT contribute to the federal ISPLA-PAC. Cash donations cannot be accepted.

Why is ISPLA-PAC important to you?

As an Investigative or Security professional, you want your profession to be supported, protected and improved. Investigative and Security Professionals must become politically savvy and lobby for legislation that ensures their concerns and problems are addressed. And, with so many people with competing interests clamoring to get to the lawmakers, it is imperative that Investigative and Security Professionals band together through ISPLA-PAC to make sure their voice is heard loud and clear.

How does it work?

Because PACs are able to contribute larger amounts of money than individuals, legislators give these organizations more attention. While this money does not buy votes, it does buy access. Contributors play an important role in the political process, and politicians recognize the ability PACs have to educate them on significant issues.

Who can contribute?

Investigative and Security Professionals and others interested in improving the investigative and security professions. *To join and support the work of ISPLA go to: [www.ISPLA.org](http://www.ISPLA.org)*

*The annual \$99 membership dues may be paid by credit card on-line or application with business check may be mailed to the address below.*

*To support ISPLA-PAC, under law only contributions paid by personal check or personal credit card may be accepted. They may be sent to the address below.*

ISPLA  
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**Data Protection in France**  
**Graham Dooley**  
*Anglo-French Paralegal & Investigative  
Services*  
*Saint Brieuc, France*

The D.P Laws that apply in the UK under the Data protection Act 1998 and in Europe generally they are a sharp contrast to the privacy and data protection polices in the USA

Where the U.S. approach has been to provide specific and narrowly applicable legislation, in Europe there are unified supra-national policies for the region. For example Data Protection Act 1998 (UK), CNIL (France), Federal Data Protection Act ( Germany )

Most countries have implemented these policies with omnibus legislation. The European legislation outlines a set of rights and principles for the treatment of personal data, without regard to whether the data is held in the public or private sector.

Back in the 1970's a French governmental plan was disclosed which aimed at identifying each citizen with a number and, using that unique identifier, to interconnect all government files. This plan, known as SAFARI, led to much debate and controversy amongst the public in France. They still identify everyone through their social security number.

It underlined the dangers inherent in certain uses of information technology and it made people fear that the whole French population would soon be put on files. This fear led the Government to set up a commission to put forward solid rules and regulations that would guarantee that the development of information technology would ever remain respectful of privacy, personal and public liberties.

After broad debates and public consultation, this commission recommended that an independent authority be set up which would be entrusted with the mission of checking that these guarantees were implemented. Such was the purpose of the January 6, 1978 Act, setting up the **Commission nationale de l'informatique et des libertés (CNIL)**. Anyone wishing to take a look at the legislation can go to <http://www.cnil.fr/> where there is a link to the English version. It is a relatively simple process to apply and is free and done on line.

This has broad ranging implications especially for investigators in France – at a recent European meeting in Romania a French PI informed me that they had recently had a control by the CNIL Inspectors. The PI also stated that French PI's could not keep or store personal information for more than 12 months. This is subject to confirmation and I am still in the process of researching this statement but I am aware that there is a time limit.

This is fine—but imagine a case some two to three years hence and you are called as a witness or indeed a defendant – no notes or original information to refer to or jog your memory so it's back to the hard copies?

**The Deposition**  
**George Michael Newman**  
*Tactical Investigative Services*  
*San Diego, California*

Other than actual trial, a deposition is probably the single most important exposure an investigator must endure during a case, and this event significantly influences the final outcome of litigation. In this moment the opposition is allowed the opportunity to carefully evaluate the investigator's ability to testify accurately, their degree of truthfulness and their ability to withstand cross-examination.

In the majority of instances, the deposition will take place in the opposing counsel's office, often in a conference room, committing the investigator to unfamiliar, "foreign" surroundings dominated by opposition. Individuals percipient to the opposing side may well be present during the deposition, as well as at least one counsel from each side of the case. While all of this lends itself to distraction, the primary focus of the investigator throughout the deposition should be the attorney's questions, their own counsel and the court reporter who is memorializing the deposition.

Generally, depositions are associated with civil litigation. However, in certain circumstances, and in certain states, depositions are a normal component of criminal cases as well. Additionally, the protocol for a deposition is similar to that which is appropriate for testimony during a trial.

Demeanor is a very important part of the presentation. Sitting calmly, focused and maintaining eye contact while not moving nervously portrays assurance. Avoiding defensive activities and speaking clearly, in a straightforward manner similar to the way one would speak to acquaintances also indicates a lack of inhibition.

Decorum should be maintained at all times, irrespective of abuses opposing counsel may be extending. A forthright composure is inspiring. One must at the same time ensure that the attitude portrayed is not casual or cavalier, as this might be perceived as arrogant.

Emotion is both an asset and a liability in a deposition. While it is important to maintain as calm a demeanor as possible, one must nonetheless emote genuineness, demonstrating a capability of feeling. Acting too rigid or rehearsed, arrogant or nonchalant is in most instances counterproductive.

Attire ought to be appropriate. As a general rule, comfortable clothing that is not too formal or too casual is the rule for depositions. One should dress in the manner they normally dress; someone who routinely works in Levi's and a t-shirt should dress up from that standard for a deposition, but probably would neither look nor feel comfortable in a suit. A balanced, middle ground approach is generally the most appropriate level of attire. Ostentatious clothing, make up or other accoutrements can be detrimental to the image portrayed by the deponent.

Prior to the deposition ground rules should be discussed and understood, ensuring that all present comprehend their rights and responsibilities. Taking a moment to talk with legal counsel in private, a break to use the restroom or to take required medication, and limitations on the length of the deposition is among topics to discuss before the deposition begins.

Also prior to the deposition stipulations to be entered into with opposing counsel should be discussed and understood, so as to not open up any areas or reveal any information that is not necessary, and so as to benefit from the reduced ordeal afforded by these stipulations.

One of the primary requisites not only of surviving the deposition, but of putting forth the best effort on behalf of the client is to tell the truth. The *ideal* of the judicial process is a search for the truth. Any lying about anything in all likelihood will be exposed and all credibility is lost when caught in a lie. While juries and judges might accept honest mistakes and innocent ignorance most are thoroughly intolerant of deception, which in and of itself might lose even the best of cases.

Even though it is often thought that it is important to keep answers as brief as possible, it is dangerous to slip into a straightforward, monosyllabic "yes" or "no" mode. In all likelihood the questioning attorney may attempt to illicit "yes" or "no" answers because it will often preclude broader interpretations and information. Frequently, an appropriate answer to a question is simply not so straightforward. In order to adequately and correctly answer a question a brief explanation may be necessary. In many such instances it is important to append a statement to a response to a question indicating that one is testifying from memory, and what is being provided is accurate to the best of one's ability in that moment (only, perhaps).

It is not necessarily an appropriate moment to explain a fact or circumstance in abundant detail for tactical reasons, if the deposing counsel's question(s) did not address the detail. However, it is often

important to support conclusions being expressed with adequate descriptives, explaining the emotions, pain, fear, depth or other details generated by or relative in the circumstance that is the subject of the question.

It is important to answer only the question asked which is difficult because human beings have a tendency to "free-spool", and want to put things in an illustrative context or tell a tale. While one-word answers are very often inappropriate, the response should nonetheless be as brief as possible. Usually, keeping an answer to one succinct sentence is a good rule so as to avoid free-spooling. This, then, compels the opposition attorney to ask more specific questions, and reverses the onus for accuracy.

It is further important to not volunteer information beyond the scope of the question as this affords the opposition a better opportunity to see evidence and the presentation of the evidence and allows the opportunity to plan a counter.

At the same time it is imperative to answer every question fully and completely. Relevant details need to be provided so that later, at trial, when the same question is asked one will not be accused of embellishing facts or information, or criticized during trial as being deceptive or untruthful.

Answering in absolutes in most contexts may be hazardous and is often avoidable. For instance, if at the end of any questioning about a specific or particular subject the question, "Is that all?", or, "Have you told me everything about this?" is asked, avoiding absolutes such as, "That's all" or "That's everything" is usually advisable. This is, obviously, a trap, and the deponent will be held to that exact answer at trial. It potentially voids the opportunity to present additional information one might recall or discover at a later time. An appropriate response is the caveat, "At this time," indicating the inability to provide or recall any further information in that immediate moment. This insinuates that there may be additional information which may be recalled or provided at a different or later time.

Words like "never", "always" or phrases such as "without a doubt" are additional ways to become boxed in, and vulnerable.

Another absolute-type answer to generally avoid is providing exact descriptions or measurements. Instead, use approximations, and define them as that.

As an example of the dangers of single answers to a question, a very popular question asked during a deposition or at trial is, "Have you ever told a lie?", which is a minefield for most people to try and answer. Needless to say, there is virtually no human being who exists without telling lies of varying degrees, and so a direct answer to the question would seem to be, "yes." However, such an answer will usually illicit insinuations and innuendoes to the effect of the fact that one therefore cannot be trusted, and may be lying at the time of the deposition or in trial. Often such a simple question flusters the deponent, who thereafter is on the defensive.

Keeping things in context is always important. In this instance, realize that most people in their day-to-day conversations are not under oath, nor is there a particular requirement to be succinctly on target as far as "the truth". As an example, the question, "How are you?" does not usually call for an astutely truthful response, but, instead, is generally a societal greeting. Rarely do we truthfully, honestly and completely describe to people how we feel when asked that question. Therefore, it could be said that we are "lying" in the majority of our responses to that and similar questions.

However, a contextual response to the question, "Have you ever told a lie" might be, "I have never lied under oath."

Note that this answer was to the point and relative to the question asked, but avoided the trap the opposition counsel was attempting to create.

At all times, wait for opposing counsel to ask for, to complete, their question. Be very careful to not anticipate the question and rush recklessly in with an answer.

While it is occasionally thought that a person who hesitates at every question is being deceptive, it may be important to pause momentarily to register and think about the question asked. Not only does this allow the question to sink in so that one is able to respond rather than react, it also gives counsel an opportunity to object, if necessary.

Being sure an answer is specific to the question asked is of vital importance. Guessing at an answer is potentially fatal, as is speculating, unless one is very clearly indicating that the answer is speculation. Even this is usually not advisable, and can be dangerous because it opens questions as to why, or based upon what, one is speculating.

Generally, there are rules which indicate that once a questioned is asked during deposition, the deposing counsel is entitled to an answer prior to the deponent asking for or getting advice from their legal counsel, or the attorney for whom they are working. Many attorneys will try to rapidly ask questions, prohibiting the deponent from seeking counsel from the attorney. This is particularly true when opposing counsel senses any confusion, consternation or weakness. It is important to be alert to this activity. If one needs to seek counsel, insure that the opposing counsel is stopped from asking their next question as a means of throwing a deponent off guard, when and if it is necessary to seek clarification from counsel regarding procedural or similar questions on proprieties.

In most instances wherein an investigator is subjected to deposition, it entails them having conducted an investigation percipient to the case at hand and they are being called upon to explain, validate and justify their actions and results.

In a majority of cases, one can expect to have every iota of their file and every action undertaken microscopically examined. Every opinion expressed and result, fact or tidbit of information or insight that the investigator has proffered will be subject to scrutiny. Where the information came from, how it was obtained, what validity factors were applied to it, how it was transmitted, what opinions were formed and which actions were taken as a result of it will be queried. Even the amount of time invoiced can and may be questioned.

Each and every document, to include handwritten notes, will in all likelihood be raked through and a thorough explanation demanded; in many instances every single nuance that might be inferred or reflected will be questioned, challenged, alleged and otherwise belabored.

Here again, truthfulness and forthrightness are the life ring. The key to survival is preparation.

Incumbent upon each deponent as they anticipate and prepare for a deposition is a complete and thorough review of the file, ensuring that every effort, step and procedure effected on behalf of a client as an ingredient to the investigation and case is represented and documented. Each, then, will require an explanation, as will anything perceived as relevant that for whatever reason is no longer or never was actually in the file. Astute counsel should go over the file with the investigator prior to a deposition.

A majority of attorneys noticing or subpoenaing an investigator for deposition do so with boilerplate requests for files and documentation. It is imperative to review the request carefully and judiciously; in many cases opposing counsel is so dependant upon boilerplate materials, they do not tailor them and might miss making a demand for particular items. Therefore, those items should not be presented or surrendered. An investigator or attorney might actually be held liable for revealing information which damages the client's case without just cause.

It is always a good idea for the investigator to prepare a file as demanded by opposing counsel. The file should be presented to the lawyer for whom they are working, who should review it and ensure not only that it comports with the demand but also that materials which they might, in fact, have a right and opportunity to block are not capriciously turned over.

A memo should be sent to counsel along with the file requesting they review the file, concur with its contents or take whatever steps necessary to reconstruct the file as are appropriate. Naturally, at some level they must be made aware that if they inappropriately manipulate the file, having done so will be on them; that the investigator is not going to lie or otherwise cover for counsel.

Often counsel assumes that they will be able to influence certain aspects of the deposition testimony, which they later find they are unable to accomplish. This may create chaos or confrontation at the threshold of, or during, the deposition. The more prepared the investigator is, the less likely they are to find themselves thrown off balance, and they are more able to maintain equilibrium.

Probably one of the better ways to prepare for a deposition is to retain an experienced, trusted investigator and have that person review the file. In the infamous "devil's advocate" role, that investigator should be allowed to grill, interrogate and otherwise "depose" the case investigation. This procedure in a majority of cases will thoroughly prepare the investigator who is to be deposed for the "investigation" by opposing counsel, which is in effect what a deposition of the investigator actually is; an investigation of the investigation.



In today's economy, many businesses are experiencing trouble and great anxiety as the profit margin decreases. Many businesses have been forced out of business and the owner's dreams of a financially secure retirement are now just an illusion. Many of these businesses got into financial trouble because they continued to do business in the 1950's format without adapting to changes in the economy or their business market.

To paraphrase William Shakespeare, "The old order changeth, yielding place to new." Change can pose a threat to some individuals, but it is a fact of life that if the business doesn't change to meet modern demands, it will cease to be a viable entity in the market place and will eventually be consigned to the trash can.

| <b>What Business Services Do You Offer the Market Place?<br/>Which Company is Yours?</b> |  |
|--|--|
| The Traditional Security Company<br>Business Services                                    | The Modern Security Company<br>Business Services |
| Security Officer Services  | Security Officer Services                        |
|  | Investigations                                   |
|  | Risk Assessments                                 |
|  | Development of Policies/Procedures               |
|  | Training   |
|  | Security Device Services                         |
|  | Litigation Support                               |
|  | Background Investigations                        |
|  | Executive Protection                             |

A major question is how to make this change and how costly will it be? These additional business services can be provided without an increase in personnel or financial cost. All that is necessary to achieve change is to develop a strategic alliance with a company or individual who has the necessary skills.

The strategic alliance concept allows the business to provide additional services using sub-contractors while maintaining control of the project as the project manager. This allows for a project management fee for the security business owner while the sub-contractor performs the necessary tasks in the same manner as if he/she was an employee of the project manager.



Let's use an example to help clarify how this alliance would function. ABC Security Company provides security officer services to the Ajax Corporation, a large major manufacturing firm. The security site manager is asked by the firm owner if the security company can assist them in determining the facts of a workplace violence issue that occurred in the shipping department. The security site manager has only one viable answer—"Yes, we can." The security company does not have in-house investigators but has developed an alliance with the Professional Investigation Network (PIW). The security manager obtains the basic details of the incident from the client and determines that the owner desires that the matter be comprehensively investigated for a possible outcome of termination of the employee or referral to law enforcement.

The security company manager then refers the matter to their alliance partner for investigation, providing the security company with an hourly or fixed price fee for managing the matter. The investigator and the security company negotiate an investigation fee and mutually determine the goals and requirements for the investigation. At this time, a management fee may be assessed to cover the time and expense for coordinating requirements with the alliance partner. Upon completion of the investigation, the investigator provides a completed report and invoice to the security company. The security company manager reviews the report to determine if it adequately meets the client's needs. The manager can assess a management fee for reviewing the report for adequacy and then forward the report and a consolidated invoice to the client. On the security company invoice, the investigator's fees and expenses are identified as a single entry for investigative services. The management fee can be determined at an hourly rate, fixed rate or as a percentage of the outsourced investigation costs.

The primary advantage of the "Yes, we can" model is that the client views the security company as a valuable resource to whom the client can come for resolution of any security-related problem or question. If the client is referred directly to a third party, there is a probability that your client will refer other matters to the third party due to a belief that the security company has very limited services to offer.

In many cases, business owners do not thoroughly understand their security situation and the potential liability. Therefore, as a marketing strategy, the security company should discuss these issues with their clients. This action may result in additional business opportunities. The most important marketing theme is not to be the lowest bidder but convince your clients that there is a more valuable return on their financial investment. To be able to utilize this marketing theme, the security company must first be aware of what services can be provided and the positive return on investment for each ancillary service.

A basic service that should be provided at the onset of the contract and on an annual or bi-annual basis thereafter is a risk assessment. Many business owners do not appreciate the risks that may influence their business until they become a defendant in premises liability or negligent security litigation. These risks are influenced by many issues in the community and internal to the business. Crime occurring in the vicinity of the business, traffic patterns, neighborhood demographics and law enforcement capabilities influence the degree of risk to a business. Internal risks arise from facility design, products or services provided and security controls and procedures have an identical impact on the potential problems.

The risk assessment may also identify locations where additional security officers could be assigned. It may also identify where consolidation of security posts may be in the best interests of the client. This should not be considered an adverse action for the security company but will result in good will as it shows the client that you as a business person recognized that control of expenses is an important value of your company.

Investigative services can be a very profitable security service. When your client has issues where legitimate facts must be determined, there are some potential issues when they are investigated by in-house personnel. One factor will be whether or not they have the requisite skills to properly conduct an investigation. The unskilled or inexperienced investigator can be more of a liability than an asset. When an investigation is conducted by an in-house employee there will be accusations that the employee conducted an investigation that was not impartial, that it was influenced by his or her relationships with other employees and the fear of being terminated if the owner does not agree with the facts developed during the investigation.

During the risk assessment, there should always be a review of policies and procedures to determine whether or not they complement each other and are workable under current conditions. Many times the policies and procedures are not adequate to effectively control their area of importance. Often they are untested and are not adequately known by those expected to enforce them. When this occurs, it provides an opportunity for the security company to assist in revising them and inserting security concerns.

Security related training is another area where the security company can provide an additional service. This training should include execution of emergency plans, compliance with policies and procedures, personal security, travel security and crime prevention.

Many businesses rely on physical security devices such as intrusion, fire and duress alarms and CCTV for protection. These devices have great value but only to the extent that there is a human response to each alarm. These systems can be expanded to cover executive residences. A major discrepancy found in many cases is the inability to prove that the devices were working properly at a particular time and date. This requires periodic testing of the devices and documentation of the testing, including test photographs where appropriate. Also, it is necessary to document that technical inspections were made of each device on a periodic time schedule.

Background investigations of employees and third party vendors are an important safeguard. It is critical to know the integrity and background of each person with whom you have a business relationship. Many businesses rely on database searches, erroneously expecting that the information provided is accurate and complete. In many cases this is nothing more than fiction. Many criminal records checks only list the initial charge against the individual and not the true circumstances at the time the charge is adjudicated. Local area criminal record checks are the norm for most companies but this does not provide information from each area where the applicant or vendor has lived or conducted business. Some states limit the use of financial credit checks during the application process. Obviously, an alternative measure such as a reference interview are necessary to determine if an applicant is financially responsible and probably would not be tempted to embezzle company assets.

Another service that is becoming of greater need is protection of executives, their families and their residences. They could be the target of kidnapping, harassment or bodily harm by outsiders as well as from employees with a complaint they feel was improperly adjudicated against them. Protection of company executives is increasingly important in international areas where kidnapping for ransom is a cottage industry, such as in Mexico and third world countries. As you know, Americans are not universally held in high esteem in all parts of the world.

Litigation support is absolutely necessary when your client is a defendant in a civil court action. The in-house or outside attorney frequently requires assistance in preparing a court action. The outside attorney may have a preferred investigator but that does not allow your client to control costs. In some cases the outside attorney will inflate the investigator's costs without allowing their client to know the actual costs. The investigator can conduct comprehensive interviews and examine records to aid attorneys during the discovery phase of the litigation. Based on prior experience, the investigator may be able to identify additional productive leads for inquiry.

The key to being able to provide these additional services is the identification of a professional and competent alliance resource. Because of the varying state laws, the qualifications of private investigators are hard to identify. Some states have extensive experience requirements to be licensed as a private investigator. At least five states currently have no restrictions or requirements for private investigators; convicted sex offenders and other felons can provide investigative service without a license.

Where to find a private investigator or other business resource can be a major problem because membership in a private investigators' association is not a guarantee of professionalism or competence. In some cases, membership only requires that you pay an annual membership fee.

Intellenet ([www.intellenetwork.org](http://www.intellenetwork.org)) is a national and international private investigation and security consulting association with the highest minimum membership qualifications. Prospective members must

have a minimum of ten years of verifiable experience and be able to successfully pass a background investigation. This has resulted in a membership with an average of about 35 years of progressive experience. Many members have many years of experience in technical investigative processes, such as computer forensics and forensic accounting as well as experience as expert witnesses in civil litigation matters. Intellenet has resources in virtually every major United States City in addition to international locations.

In summary, security companies can expand the services provided to their clients without additional personnel or financial obligations. The key to success is an alliance which has an unquestioned reputation and experience. The alliance is effectively an additional source of revenue with no additional expense. To remain viable as a company, change is necessary to meet current and future client needs.

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Mr. Blake has over 50 years of investigation and security consulting experience as a military criminal investigator, training instructor, private investigator and security manager.

**Subcontracting—Fortune or Curse?**  
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For most private investigators, sub-contracting assignments are like stepping off into the proverbial black hole. Many have had bad experiences, while some have never sub-contracted to other PI's and instead simply turn away the client. There are several points-of-view that frame the idea of subcontracting, one being "the best thing I can do for my client is to pass them on to a PI who will do a good job." Another viewpoint often found circulating includes, "I hate to subcontract. The last guy I sent a client to ended up stealing the client from me." Let's face it, we are a world economy and to play in the game, your clients expect you to be able to help them wherever the assignment may be geographically located.

To get down to the basics of business, sub-contracting is a practical method to help your clients while adding additional income into your pocket. You spend a lot of time, effort and resources cultivating and marketing clients so why would you simply hand them over to someone else? Your client called YOU because you have built a rapport with them and have gained their trust.

This is often where skeptics jump in and say, "Exactly, I don't want to be blamed if something goes wrong with the case when I refer them to another PI." In the unlikely event that does occur, you stand to lose anyway because you gave them the referral and they trusted your judgment and contacts. If you simply told your client you are not comfortable making referrals, they will be disappointed and may feel like you threw them to the wolves by having to go out and find a PI on their own.

Marketing is an intricate part of any successful business. Whether by word of mouth, media advertising or other avenues, you have achieved your client list. You should therefore watch over your clients like a mother hen waiting on the egg to hatch. I have a good friend who is a claims adjuster for a large insurance company. He will often call me and tell me that he had four or five PI's market him in a single day. Why leave the door open for another to step in and side-swipe a client from you?

Unfortunately, not all PI's subscribe to the proper etiquette of subcontracting fundamentals. When calling other investigators to arrange to subcontract, I often state right up front that my advertised hourly rate is \$80 and follow that with "but we always cut our rate for other PI's to \$50 an hour. I hope you will extend the same courtesy so that we can all make some money." I have had many investigators laugh and respond that they charge \$125 an hour and aren't about to discount their rates. Usually they follow that up with "I would rather not work at all as to work for \$50 an hour." Most likely this is the case – they aren't working.

If you are in the industry to operate a successful business, this is a short-sided view. You may be a semi-retired investigator and this view may fit your lifestyle better. A good sales person knows that taking a smaller portion of a large volume of deals is often more lucrative than waiting on the one large score. Statistics vary to some degree, however, based on numerous polls by trade associations; somewhere

between 70% – 83% of investigative agencies are one or two person operations. The obvious question is why? Does the majority not want to grow any larger or are they still navigating the path to more business?

A common practice within the industry is to have part-time investigators that you can call upon when you have an overflow of business. If you are the principal of the business, it truly may not pay for you personally to work at a lower hourly rate. It may, however, be a good opportunity to assign the case to one of these other investigators. You give them much appreciated work and you can still take a portion of the hourly rate billed to the client.

Another fundamental of subcontracting etiquette is the “turn-about is fair play” concept. If you call an investigator who agrees to work a case for you and they cut their rate, expect to do the same for them in return. Realistically, this is a great avenue of marketing. Once other investigators understand you can be trusted to not steal their client and you will provide a professional discount, you will be their point of contact for case assignments in your area.

When working for other investigators, you should also provide a “Vendor Agreement” that details what you expect as part of the agreement and often includes:

- The hourly rate, mileage and other expenses agreed upon
- When the case is to be initiated and any deadlines for completion
- Method of supplying updates and reports
- Special instructions or circumstances
- Instructions pertaining to a “no contact” with client clause. Typically, your client should receive updates from you, not the subcontracted PI
- Obtain copies of the PI’s license and insurance

In some cases, the field investigator is asked to communicate directly with your client. In these cases, the investigator should never indicate that they work for anyone other than you and should not use this as a time to market your client. This is generally not a problem, but once your client has a direct number for the other PI, they may feel that it is appropriate to call them directly with any additional assignments. Again, the proper etiquette is for the investigator to simply take the information and then turn around and call the original PI. All cases pertaining to the particular client should go through the originating investigative agency, no exception. Of course, the originating agency should also advise their client that all assignments must originate in their corporate office to insure proper file handling and billing.

Once the investigation is completed, the investigator should email you the final report followed with a hard copy. The emailed report allows you to cut and paste into your report format that your client has become accustomed to seeing and understands more readily.

This brings you to the next topic of sales tax. In most instances, the investigator doing the actual case needs to provide a resellers certificate to the original PI agency, thus alleviating the need to charge the originating PI sales tax since it is their responsibility to charge and collect this from the ultimate client.

So what about those times when something goes wrong? Although unlikely, a client may become disillusioned with the investigation. Often this is because the end results were not what they had anticipated. When this occurs, whether you subcontracted the case or not, all you can do is try to work through it and resolve the issue. The process of investigations is not a mathematical problem where you can add A + B and get C. They used a PI because the information could not be obtained any other way and although everyone involved may try their best attempts, it just didn’t turn out to the client’s satisfaction. Resolve it best you can like you would one of your regular cases that you didn’t subcontract.

How do you go about finding other PI’s to subcontract work? Look to state associations and their websites as a starter. Many allow you to type in geographic areas and specialized types of investigations to find those adept at the services you require. Call, talk and agree. It is better to make \$10 - \$30 an hour on work you don’t have to do than to not make any money at all.

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<sup>iii</sup> Agence France Press. "Lebanese-American Couple Charged with Supporting Hezbollah." June 3, 2010.

<sup>iv</sup> Toledo Blade. "West Toledo Couple Indicted in Terrorism Case." June 8, 2010. Available at <http://toledoblade.com/article/20100608/NEWS02/100609743/-1/NEWS>.

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<sup>vii</sup> Financial Services Authority. "The Small Firms Financial Crime Review." May 2010. Available at [http://www.fsa.gov.uk/smallfirms/pdf/financial\\_crime\\_report.pdf](http://www.fsa.gov.uk/smallfirms/pdf/financial_crime_report.pdf).