



INTELNET *News*

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Peter's Posting

by

Peter Psarouthakis
Executive Director, Intellenet



Dear Intellenet Members:

I hope that everyone's spring was great and the beginning of summer has started equally well. Since our last newsletter was published, many of us gathered in Puerto Rico for our 2014 conference, which was a great success, as those who attended can attest. A big thank you to our local hosts Fernando Fernandez and Olga Cortes for making the conference a very special event. We now look forward to the 2015 conference in Las Vegas, Nevada. The conference will take place at the New York New York hotel. The pre-day training will take place on April 28th with the main conference dates from April 29-May 1, 2015. Information will be available on the Intellenet website soon.

Speaking of the website, we are in the process of creating a new one. An update on our site is long overdue. The Intellenet board addressed this at our meeting in San Juan. Details on the new web site should be available by the time we upload the 2015 conference information. Stay tuned.

"An update on our web site is long overdue. The board addressed this at our meeting in San Juan. Details will be available soon, about the time we upload information on our 2015 conference in Las Vegas."

As most of you are aware, we have several "initiatives" running presently that have brought billable hours to many members. Thanks to all who continue to support these programs and make them the success they've proven to be. If you are new to Intellenet, you can find more information on the initiatives program in the *Fall 2013* issue of this newsletter on our web site. The initiatives program is designed for the member who has a client in need of investigative services on a size that goes beyond the local level. Due to the geographical location of our members we can help in many ways. Members that want to find out more about how the association can help with setting up an "initiative" should contact yours truly or Jim Carino. We would be happy to provide information and support.

Also at our last Board of Directors meeting, an update on our bylaws was presented to the board. After a review process, those updates have now been approved and will be available on the new website. I encourage everyone to take a look at them.

If you have any questions regarding the annual conference, our initiatives programs or anything else, please do not hesitate to contact me directly. I wish everyone a successful and prosperous summer. ♦♦



Member News

Welcome New Members ...

Juan Carlos ARIAS - Seville, Spain

Verdi van BEEK - Christchurch, New Zealand

Michael BRANKS - Waukesha, WI

Alice CAMPBELL - Memphis, TN

James CRONAN - Colchester, VT

Tom LANCASTER - Odenton, MD

Bernhard MAIER - Vienna, Austria

Sam OHKOSHI - Tokyo, Japan

Jim SZELL - N. Olmsted, OH

Daniel TORENSEN - Auckland, New Zealand

Patrick WAINSCOTT - Lima, OH

Deborah WILLIAMS - Dublin, Ireland

Larry YAMAMOTO - Tokyo, Japan

These are our new members since we last published. Peter introduced each in a *Info Brief*, and all were invited to send an email with a brief biography. If you haven't sent your brief bio yet, please do; and, as a reminder to all of us, make sure your information in our web directory is accurate and up to date.



New Jersey PIs Honor Bob Rahn and Kim Anklin ...

The New Jersey Licensed Private Investigators Association awarded Intellenet members Bob Rahn and his partner Kim Anklin with its Investigator of the Year Award for 2014. Jimmie Mesis of PI Magazine explained why in a posting:

NJLPIA members Bob Rahn & Kim Anklin were awarded the 2014 Investigator of the Year Award for their outstanding investigative skills. As a result of their persistent efforts over the course of two years, these talented private investigators helped exonerate a

wrongfully convicted prisoner after 25 years of incarceration. They took on a case with a minimal retainer and invested more than \$100K of man hours to help free an innocent man ...

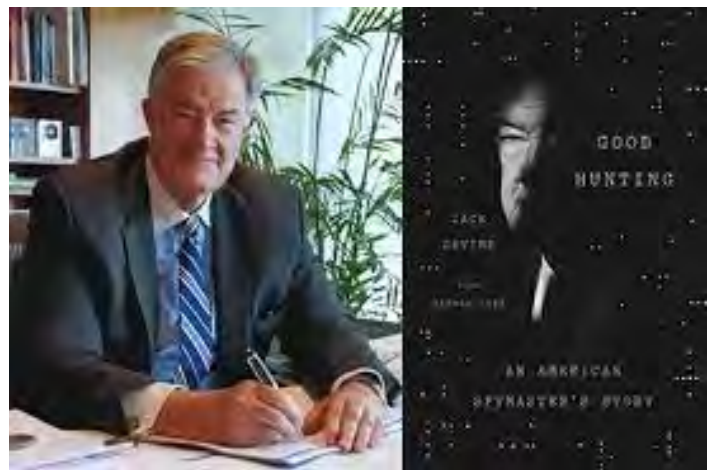
The case and Bob and Kim's investigation were profiled by author and investigative reporter Diane Dimond on her web site, in an article called, [Private Investigators as Heroes of Justice](#).

Jack Devine and His New Book Profiled Online by Time Magazine

Intellenet member Jack Devine is a CIA veteran and his new book is garnering good press. "**Good Hunting, An American Spymaster's Story**" was written with Vernon Loeb and published by Sarah Crichton. It went on sale June 3. Here's what the publisher has to say about the book:

Jack Devine is one of the legendary spymasters of our time. He was in Chile when Allende fell; he ran Charlie Wilson's war in Afghanistan; he had too much to do with Iran-Contra for his own taste, though he tried to stop it; he caught Pablo Escobar in Colombia; he tried to warn George Tenet that there was a bullet coming from Iraq with his name on it. Devine served America's interests for more than thirty years in a wide range of covert operations, ultimately overseeing the Directorate of Operations, a CIA division that watches over thousands of American covert operatives worldwide.

To view the Time Magazine profile go to <http://time.com/tag/10-questions/>.



Member News continues on next page...

Member News, continued ...

Phil and Yin Johnson of the United Kingdom and many other parts worldwide send greetings to Intellenet members. In a note to the editor, Phil comments that all many of their clients ever hear "... is bad news about UK private investigators. We are often asked to comment about what is really going on and what can investigators in the UK do, since there is no licensing ... there is lots that can be done by UK private investigators using compliant methods and permissible purpose inquiries ..." Phil goes on to note that prospective clients needing investigative work in the UK need to know this. Phil shared this link to Global Investigator Media Group, <http://gimg.tv>, where hosts and guests from the investigative profession share information on the "real stories" about professional investigators.

Intellenet counts among its diverse membership several published authors of fiction and non-fiction. **Fred Rustmann** of CTC International Group in West Palm Beach, Florida has two novels available on Amazon and at



DoubleTapBooks.com. In *The Case Officer*, "...told by a former CIA master spy, truth is woven with fiction to create a gripping yet authentic action packed tale of real intelligence operatives at war." The book the CIA tried to keep off the bookshelves, *Plausible Denial*, tells the story of when "... an unstable Thai drug lord declares war on the US Consulate in Chiang Mai and the CIA's response is hamstrung by regulations and political correctness ..." But "... unusual challenges sometimes require unorthodox methods."



Phil and Yin Johnson are with JJ Associates International, Keighley, West Yorkshire, UK, phone +44 (0) 7092 370829, or email jjassociatesinternational@gmail.com.



Intellenet members were in attendance at the 2014 Associations One Conference in Ann Arbor, Michigan in May, hosted by the Michigan Council of Private Investigators. Pictured here, left to right: Brandy Lord, S. Bend, Indiana; Don C. Johnson, Bloomington, Indiana; and Jim Sylvania, Columbus, Ohio. Not pictured is our Executive Director, who had to leave early. Next year's conference will be hosted by the Indiana Society of Professional Investigators in Indianapolis.

The Board Accredited Investigator Program (BAI)

by

Reggie Montgomery, BAI and Harvey Morse, BAI

The Florida Association of Private Investigators, Inc. is pleased to announce that its members and those of other associations and groups will be given the opportunity to earn the designation known as "BAI" (Board Accredited Investigator). Upon the submission of a white paper on any legitimate investigative subject -- which will be reviewed and most likely later published into a syllabus for research, protocol and teaching new licensees -- the designation will be awarded.

In an effort to continue to enhance the quality of the investigative services offered by our members through voluntary continuing education, the retention of the designation will require attending conferences and trainings, while the white paper submission will only be required

for the initial acquisition of the designation. If a member is unable to be present at a convention, seminar or training, credit will be given by attending seminars sponsored by other associations, which have been approved by BAI, and/or online training and examination offered by BAI.

At the present time, the Council of Association Leaders (COAL), which is comprised of officers (past and present) of many investigative organizations across the United States and elsewhere, is considering taking over this program under its auspices, and will most likely set an initial requirement of being actively licensed for 15 years or be a past or present officer in a recognized investigative organization. However, since this was a FAPI concept approved by its membership over two years ago, COAL recognized that FAPI will run with the program for now, work out the kinks and details and have a viable designation package should they wish to carry on.

We anticipate that there will be many benefits of attaining the designation. It may not be for everyone and that is why it is voluntary. For those who do become BAI's, we are instituting some of the following:

- Special training and events during the year for BAI members only;
- Discounts at various functions, conventions, trainings and seminars;
- A Certificate of Membership;
- A BAI email listserve;
- Promotional advertising such as: "Need a Private Investigator? Look for the BAI designation";
- Welcome events and recognition at other association meetings;
- The right to use the designation after one's name and in websites, advertising, and printed literature.



These are just a few of the ideas being discussed right now.

Initially, the BAI will be overseen by a governing board, but is initially being chaired by Reggie Montgomery and Harvey Morse. It will have

its own guidelines, which will be developed by its board and BAI members. We will need volunteers to assist with writing questions for the online exam. We anticipate about six categories and a pool of 25 questions in each. When accessing the exam, fifty questions will be randomly generated, equally from each category. We have been experimenting with the testing system, which is already in use by many Fortune 500 companies.

It is important for you to know that this is a work in progress. It is important and difficult work to make us better at what we do, and to establish a syllabus to help those experienced investigators as well as the newly licensed.

As of this writing, there are approximately 45 BAI members, with many being from Intellenet, and membership benefits already exist in the form of discounted training, private sessions with instructors, the membership certificate, press release and email list!

Please send an email to BAI@myfapi.org to let us know of your interest in participating if you are not already a part of this program.



In Memoriam ...

Continue to think about what is good and worthy of praise. Think about what is true and honorable and right and pure and beautiful and respected.
—Philippians 4:8 (ESV)

John MacIntire's Last FB Post
March 6, 2014 - 11:08 am



John MacIntire
October 9, 1947—March 6, 2014

Candace L. Parker, 69

July 17, 1945 – April 27, 2014
Islamorada, Florida ...

Candy and Intellenet member Bill Parker were married for 35 years. They moved to Florida from Zionsville, Indiana in 1998. Candy was a graduate of the Kent School of Law in Chicago. Candy and Bill traveled extensively throughout the U.S., the Caribbean and Europe. Bill is owner of SIGCO in Islamorada.

Harold (Bill) Child, 93

Honolulu, Hawaii, January 16, 2014 ...

Bill Child was a charter member of Intellenet. He was the FBI's legal attaché in the Far East from 1954 until his retirement in 1976. As Jim Carino noted upon Bill's passing:

Bill was our sole member in the early days of Intellenet in the Asian area. Though settled in Hawaii at that time his contacts were so immense that he literally could get leads accomplished anywhere in Asia and in a very short time frame.



The National Forensic Science Technology Center has revised and updated its 2000 publication, Crime Scene Investigation. The revision was conducted under cooperative agreements with the Bureau of Justice Assistance, the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice.

The new guide includes "... detailed procedural guides for the complete range of crime scene investigations ..." and "... provides law enforcement professionals and first responders step-by-step guidance in this crucial first phase of the justice process." For a copy of the guide, go to www.nfstc.org.

Thanks to Harvey Morse of Florida for forwarding information on the new guide.

Crime Scene Investigation

A Guide For Law Enforcement

The Art of Locating Individuals in Texas

By William C. Asher



On a recent case that an out of state private investigator was handling, I received a call about a part of the investigation in Texas. The investigator was trying to locate an oil and gas man with a somewhat common name, knowing only the name of his limited liability

corporation (LLC). Texas is an “open records” state, so we have a few tools that the investigator did not have in his state, specifically some very deep databases of driving-related records that are held in private hands.

For this discussion, I am going to pretend the subject of the investigation is in Dallas, Texas and that the subject’s name is William Knox and the LLC is Knox Oil and Gas. Here’s my approach to the Texas component of the investigation:

First, I make a call...

My Austin, Texas investigator knows the resources in Austin much better than I do. Yes, many of these records are online, but hand searches by someone doing them daily at the Secretary of State’s office can be more in-depth. I always prefer to have copies (at times, certified), and to examine the back pages of the documents. My man in Austin does searches on the subject’s name and the LLC. We’ll pretend that all I get back is results on the LLC “Knox Oil and Gas.”

The packet coming back from Austin confirms the correct name of the LLC and the Registered Agent’s name and address. The name of the attorney initiating the LLC may come back, along with the initial corporate officers. In this case, I get William Knox and Knox Oil and Gas at an address in Dallas.

Next, I hop a train...

I head downtown on the rail to do a physical courthouse search. The train costs \$5 and is cheaper than parking fees. Yes, I know much of this can be done online, but I want to examine files and original documents. The backs of pages are often not scanned online, and I know what may be found when you flip over a page: bail bondsman notes and return addresses. For this case, I’m going to run Dallas’ various courthouses stem till stern, but I am especially interested in the “Grantor/Grantee Indices,” which in Dallas contain land records, oil leases, and a lot of odd-ball filings. As our William Knox is an oil and gas guy and there is fracking in Dallas County, Texas, I suspect our subject will have some recordings in this system.

This time, two clues are developed...

Examination of original records at the various courthouses and governmental offices may yield better results than online searches.

The grantor/grantee index turns up Knox Oil and Gas purchasing rights to drill out by the airport. I get a copy of this document which has a few additional clues – an address and a signature of William Knox from the 1970’s. I also see that William Knox appealed a traffic ticket to the county courts. This was often done to “beat” a traffic ticket in Dallas back in the days prior to Dallas City having “courts of record.” I order up this file from the

archives, which takes a few days and involves a small fee.

Once I have the appeal in hand, I know a bit more about the subject, and see that the address for the driver’s license matches one of the historical addresses found earlier involving Knox Oil and Gas. Bingo, I now have enough information to pin down a specific William Knox as being the one involved in oil and gas ventures, and I can work the addresses going forward to do a proper locate so that our man can be served.

When I say “proper locate” I am now looking for a home-steaded property in our William Knox’s name in Dallas County and adjacent counties. This may be done by examining property tax records that are usually online and of ...

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... sufficient quality to be helpful. This search will also be helpful for locating business property tax accounts so we may find something for Knox Oil and Gas. These property tax records are good but can be confounded when we are dealing with triple net leases and the like -- the true owners on tax records may not be revealed.

We found our man ...

The above scenario is the general approach to a case like the one the out-of-state investigator was dealing with. As always, there are more records. There are City of Dallas records for building permits, traffic courts and water accounts. The oil and gas company may have had dealings with our Railroad Commission, which handles state oil and gas extraction issues. Water quality issues may have arisen, and there may be additional research at the state capitol in Austin – so I would call my Austin investigator and cut him loose again. ♦♦♦



Intellenet's Texas Resources

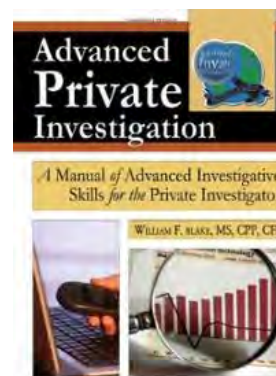
Kee in mind that Texas has 254 counties and not all consistently report criminal histories into the Department of Public Safety system in Austin. Hand searches are best, but may involve quite a bit of driving between the various courthouses. Clerks in the big cities may not be as friendly and helpful as those in the rural areas. Quite a bit of West Texas requires a day of driving to handle a courthouse check.

Intellenet has a member in Texas who has been to nearly every courthouse in the state, so we have unique resources. **Intellenet has a few “oddball” investigators** handling arcane records like cattle brands and butcher bonds. In addition, we may have an ace up our sleeve by knowing the individual who collects Texas motor vehicle information. Take a moment to call upon **Intellenet's Texan resources** should your case be heading this way. We can provide a discriminating search, saving your firm from taking a more scattershot approach.

“The Intellenet Books”

Intellenet recently received a Royalty Statement and a check in the amount of \$1,410.66 for the sale of the three professional books produced by Intellenet members, edited by Bill Blake and published by Charles C. Thomas, Publisher. A total of 220 copies of Basic Private Investigations (Book #1), 294 copies of Advanced Private Investigation (Book #2) and 109 copies of Manual of Private Investigation Techniques (Book #3) were purchased by individuals and educational institutions.

The project started as a one-book deal following numerous conversations with members. We realized that our members had an unlimited amount of valuable investigative and security consulting information that should be shared with others. During the initial effort, there was some reluctance based on “I’m not a writer,” but we worked with those to help develop their chapters. The procedure worked very well and we actually got more chapters than we needed for the first book. Following this, we added two more books with more valuable information. The first book was written to apply to generalized knowledge on private investigations that was applicable to all areas of investigation and the strategies for starting of a PI business. The second and third books were oriented more on specific skills and information. The books can be purchased through Jimmy Mesis and the [PI Store](#) for less than the publisher's prices.



Foundation's Folly

By Ed Wunsch

On Monday, May 19, 2014, I was contacted by a woman who identified herself as Deb Lund-Werner, the person in charge of a newly formed Minnesota branch of a Florida based non-profit organization, The Defender Foundation. She was given my name and phone number by fellow Intellenet member, Stefan Salmonson. Ms. Lund-Werner had attended an insurance licensing continuing education class taught by Stefan.

Ms. Lund-Werner explained that The Defender Foundation was based in Florida and was a non-profit organization -- made up of ex-police officers, ex-green berets, etc. -- that rescued women trapped in prostitution and sex-trafficking. I inquired as to what role she anticipated I could play for the group, as I was too old to be breaking down doors and removing women from angry pimps. She responded that her group was aware that private investigators had many ways to get information, and were more efficient at it than their own organization.

I told Ms. Lund-Werner that the offer sounded interesting, and I'd like to do a little more research on the organization. She identified their website as www.thedefenderfoundation.org and suggested I should contact Dan Benedict (904-240-4587) with any questions.

My initial research on the website indicated that in order to "volunteer," I had to complete a five page "application," include four personal references -- including a "spiritual leader" -- and submit a \$100 application fee. If I was accepted, I then got to pay an additional \$480.00 "membership fee" for the first year of "volunteering." After the first year, the annual membership fee is reduced to \$50 a year.

Before I made a decision that this was a scam, I decided to check with my fellow Intellenet members to see if any of

them had ever heard of this organization. Within just a few hours, I heard from several members. The "big red flag" was a newspaper article provided by several members pointing out that Dan Benedict has been previously convicted of a felony child sex abuse crime and served time in federal prison for federal weapons charges involving stockpiling military weapons by a white separatist movement.



Since Ed's investigation and the investigative report in his area newspaper, the domain name for the Defender Foundation has expired and the web site is no longer available.

With this and other information developed, I contacted Ruben Rosario, a columnist for the St. Paul Pioneer Press newspaper. I convinced him to write a story exposing the issues surrounding the background of the organization and its founder. During the course of Ruben's due diligence on the story, he did speak with Intellenet's fearless leader, Peter Psarouthakis. However, due to space limitations, that conversation did not get any space in the story.

On May 29, 2014, Ruben Rosario's story about The Defender Foundation ran in the St. Paul Pioneer Press (http://www.twincities.com/crime/ci_25861073/rub-n-rosario-volunteering-good-cause-it-never).

Way to go, Intellenet! Another fine example of one of the many reasons that I belong to this exceptional group of professionals!



Ed Wunsch is owner of Commercial Reports, Inc. in the Twin Cities, Minnesota area. Ed is known for his work in missing persons and abduction cases. He can be reached at ed@commercialreports.com or by phone at (952) 935-5361 x209.

See the following article by Bill Blake on the Sovereign Nation, a white separatist movement.

—Ed.

The Sovereign Citizen¹

By William F. Blake, CPP, CFE

“Sovereign citizen” refuses to talk to (Colorado) Springs officer, is arrested. Police arrested a man who identified himself as a sovereign citizen after they said he refused to comply with officer’s orders.²

The sovereign citizen movement is a loose grouping of American litigants, commentators, tax protesters and financial scheme promoters. Self-described sovereign citizens take the position that they are answerable only to common law and are not subject to any statutes or proceeding at the federal, state or municipal levels, or that they do not recognize U.S. currency and that they are “free of any legal constraints.” They especially reject most forms of taxation as illegitimate. Participants in the movement argue this concept in opposition to “... federal citizens, who, they say, have unknowingly forfeited their rights by accepting some aspect of federal laws.”

The United States Federal Bureau of Investigations (FBI) classifies “sovereign citizen extremists” among domestic terror threats. In 2010 the Southern Poverty Law Center (SPLC) estimated that approximately 100,000 Americans were “hard-core sovereign believers” with another 200,000 “... just starting out by testing sovereign techniques for resisting everything from speeding tickets to drug charges.”

History...

The concept of a sovereign citizen originated in the Posse Comitatus movement in the late 1980s as a teaching of Christian identity minister William P. Gale. The concept



has influenced the tax protester movement, the Christian Patriot movement and the redemption movement—the last of which claims that the U.S. government uses its citizens as collateral against foreign debt.

Gale identified the Fourteenth Amendment of the United States Constitution as the act that converted sovereign citizens into federal citizens by their agreement to a contract to accept benefits from the federal government. Other commentators have identified other acts, including the Uniform Commercial Code, the Emergency Banking Act, the Zone Improvement Plan, and the alleged suppression of the Titles of Nobility Amendments³. Some of those in the movement consider the term “sovereign citizen” an oxymoron, preferring to view themselves as sovereign individuals “seeking the Truth.”

Legal status of theories...

Variations of the argument that an individual is “sovereign” have been rejected by the courts, especially



in tax cases. In *United States v. Hart* 701 F.2d 749 (8th Cir. 1983) Hart’s response to a lawsuit against him for filing false lien notices against IRS personnel were that the U.S. District Court had no jurisdiction over him because he was a sovereign citizen. His claim was rejected by the court. Several lawsuits filed by sovereign citizens have been rejected by the courts as frivolous.

In a criminal case in 2013, the U.S District Court for the Western District of Washington in *United States v. Kenneth Wayne Leaming*, 12-CR 5039-RBL, noted:

Defendant Kenneth Wayne Leaming is apparently a member of a group loosely styled “sovereign citizens.” The Court had deduced this from a number of Defendant’s peculiar habits. First, sovereign citizens are fascinated by capitalization. They appear to believe that capitalizing names has some sort of legal effect. For example, Defendant writes that “the REGISTERED FACTS appearing the above Paragraphs evidence the uncontroverted and uncontrovertible FACTS that the SLAVERY SYSTEMS operated in the

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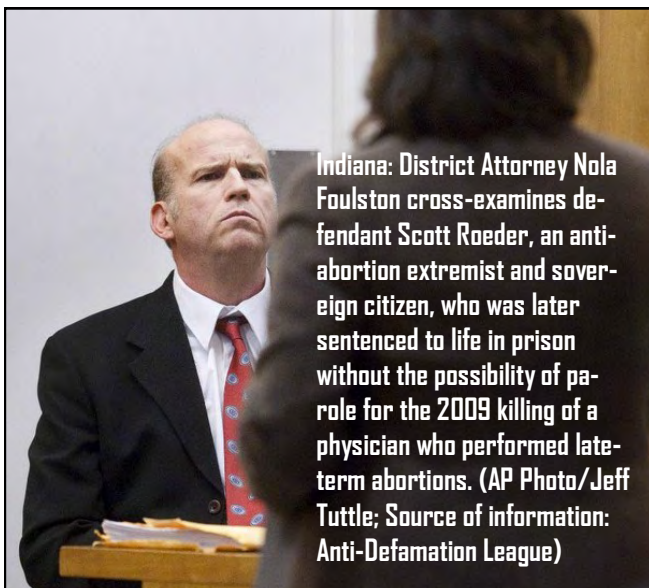
UNITED STATES OF AMERICA, and United States of America...are terminated nunc pro tunc (permits action to be taken after the point when it should have been performed, giving the action retroactive effect).

Sovereign citizens like Mr. Learning love grandiose legalese. "COMES NOW, Kenneth Wayne, born free to the family Leaming constitutes to The People of the State of Washington, constituted in 1878 and admitted to the union 22 February 1889 by Act of Congress, a Man, "State of Body" competent to be a witness and having First Hand Knowledge of the FACTS...

Leaming, like other sovereign citizens, evinces a belief that the federal government is not real and that he does not have to follow the law. Leaming argues that as a result of the "REGISTRED (sic) FACTS," the states of body, persons, actors and other parties perpetuating the above captioned transaction(s) [the Court and prosecutors] are engaged...in acts of TREASON, and if unknowingly as victims of TREASON and FRAUD.

The Court therefore feels some measure of responsibility to inform Leaming that all the fancy legal-sounding things he has read on the internet are make-believe...

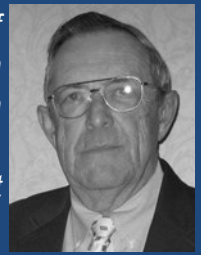
The *New York Times*⁴ reports that cases involving so-called sovereign citizens pose "a challenge to law enforcement officers and court officials," in connection with the filing of false notices liens—a tactic sometimes called "paper terrorism." Anyone can file a notice of lien against property such as real estate, vehicles, or other assets under the Uniform Commercial Code and other laws. In



Indiana: District Attorney Nola Foulston cross-examines defendant Scott Roeder, an anti-abortion extremist and sovereign citizen, who was later sentenced to life in prison without the possibility of parole for the 2009 killing of a physician who performed late-term abortions. (AP Photo/Jeff Tuttle; Source of information: Anti-Defamation League)

most states of the United States, the validity of liens is not investigated or inquired into at the time of the filing. Notices of liens (whether valid or not) are a cloud on the title of the property and may affect the person's credit rating. Notices of releases of liens generally must be filed before property may be transferred. The validity of a lien is determined by further legal procedures. Clearing up fraudulent liens may be expensive and time consuming. Filing fraudulent notices of liens is both a crime and a civil offense, a tort. ♦♦♦

Bill Blake is President of Blake and Associates, Inc. in Littleton, Colorado. He can be reached at 303-683-3327, on the web at www.blakeassociates.com.



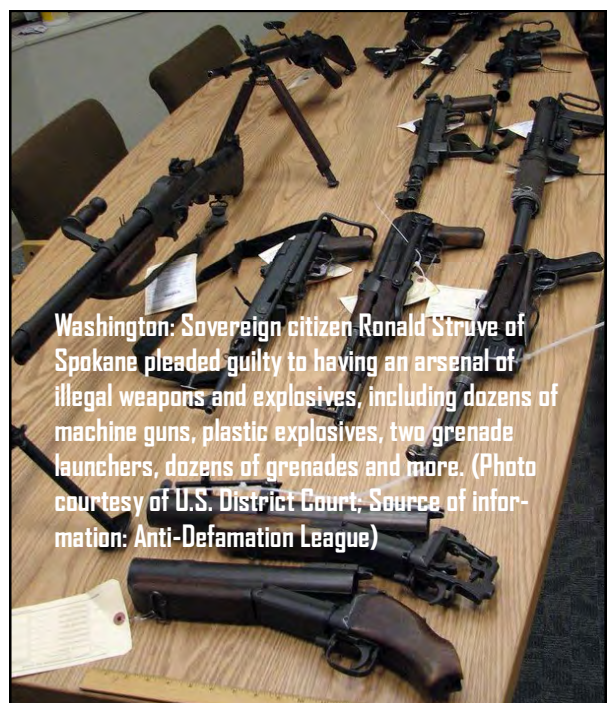
Endnotes:

¹ <http://en.wikipedia.org/wiki/sovereign-citizen-movement>, Internet download 01/09/2014, available under the Creative Commons Attribution-Share Alike License.

² <http://kwgn.com/col4/01/08/sovereign-citizen-refuses-to-talk-to-police>, Internet download 01/09/2014.

³ http://en.wikipedia.org/wiki/Titles_of_Nobility_Amendment: a proposed amendment to the U.S. Constitution approved by the 11th Congress on May 1, 1880 to strip citizenship from any citizen who accepts a title of nobility from a foreign country.

⁴ Erica Goode (August 23, 2013. "In Paper War, Flood of Liens is the weapon" <http://nytimes.com/2013/08/24/us/citizens-without-a-country-wage-battle-with-liens.html>.



Washington: Sovereign citizen Ronald Struve of Spokane pleaded guilty to having an arsenal of illegal weapons and explosives, including dozens of machine guns, plastic explosives, two grenade launchers, dozens of grenades and more. (Photo courtesy of U.S. District Court; Source of information: Anti-Defamation League)

South Africa's Ombudsman - The Public Protector

By Peter Grant

The release by the Public Protector, Thulisile Nomkhosi Madonsela, of her report on the building upgrades made at State President Jacob Zuma's private residence at Nkandla, Kwa Zulu Natal, South Africa has been eagerly awaited by elements of society, including the press, foreign media and the various opposition political parties. Right now, and given the timing of the release of the report and the length and complexity of the report, commentary on the report itself is not possible.

However, what has become increasingly apparent is that there is a general lack of understanding and a real lack of appreciation of the role and status of the Public Protector.

The office of the Public Protector was established out of the pre-1994 negotiations between the role players on setting up the constitution via the convening of Convention for Democratic South Africa (CODESA). Various oversight bodies were established to secure ongoing political democracy and human rights and included the South African Human Rights Commission, the Commission for Gender Equality, the Auditor-General and the office of the Public Protector; all of these bodies are Chapter 9 institutions and are mandated to act independently and impartially. Being a juristic person, the Public Protector can only act in terms of enabling legislation and here the Constitution and Public Protector Act operate in tandem with the former requiring organs of the State to assist and protect the Public Protector in the discharge of the duties associated with the office.

It is highly probable that, based off prior experience, the drafters of CODESA wished to avoid the position whereby individuals could again be involved in arbitrating in issues that involve their own interests and make decisions in this

regard. Having said this, however, the Public Protector cannot act other than in respect of complaints received from or made by members of the public against government agencies or officials, including central and provincial government, state departments and local authorities.

Given that the Public Protector can investigate alleged irregular acts, the office is vested with the power to recommend corrective action and to issue reports recom-

mending changes to the particular system as well as reporting the matter to Parliament, which is then required to debate the matter and ensure that the recommendations made and reported are complied with. The extension of the ambit of investigation beyond central and provincial government is interesting as entities such as Telkom, the telecommunications utility, and Eskom, the national electric power utility (although the former is quoted on

“... there is a general lack of understanding and a real lack of appreciation of the role and status of the Public Protector.”

the Stock Exchange), statutory councils such as the Council for Scientific and Industrial Research and Human Sciences Research Council can be investigated. It should be noted that the common denominator across all of the above is access to public funding and the disposition of these funds as well as the discharge of official functions.

The Public Protector is also empowered to investigate breaches of the Executive Ethics Code which dictates the behavior and requirements for action by members of the Executive, which includes the President and members of the Cabinet. As an aside: in other jurisdictions the equivalent office to South Africa's Public Protector would be referred to as an Ombudsman. Locally, there are a number of industries and areas where there is an Ombudsman in place.

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The office of Public Protector is held for a period of seven years in an appointment made by the State President on the recommendations of the National Assembly, which in turn follows the recommendations of a special parliamentary committee appointed for the review of candidates. Historically there have been three Public Protectors. The present Public Protector, Advocate Thulisile Nomkhosi Madonsela, was appointed by President Zuma in 2009 and succeeded Advocate Lawrence Mushwana and Advocate Selby Baqwa, the first Public Protector. In terms of appointment the Public Protector holds a position equivalent to that of a High Court judge. The enabling legislation prohibits any person or organ of state from interfering with the functioning of the Public Protector and provides criminal sanction for failure to comply with the requirements of the Public Protector's investigation.

The Public Protector has wide powers of search and seizure in terms of warrants that may be obtained by the Protector in the course of investigations and it is again an offence to refuse to comply with lawfully issued warrants. It is also an offence to impede any investigation or to comment or act in a manner that demonstrates contempt towards the office of the Public Protector. Having said this, any decision of the Public Protector can, in the same manner as judgments of any court, be criticized on the basis of disagreement with findings of either fact or law.

The Nkandla Report...

The Public Protector spent some two years in the preparation of the report and faced a number of challenges in obtaining the documentation required by her office, including

accusations from the security cluster that the Public Protector was not an expert and therefore not qualified to comment on the security aspects, as well as the report being a potential risk to the ongoing security of the State President.

A parallel report on the security upgrades was submitted by ministers within the security cluster and the Department of Public Works for consideration by the National Executive Council. It is likely that the overlap between the reports will be contentious on an ongoing basis.

The current Nkandla report would need to be submitted to the National Assembly for debate and decision, given the acceptance of the earlier report made by the security cluster. As has been well demonstrated of late, procedurally and politically, it is proving very difficult for the Public Protector to make these submissions. Any breach of the Executive Ethics Code requires the matter be referred to the President, who would then be in a situation where he would be required to censure himself. Going forward with the Nkandla report, the disposition and resilience of the Public Protector will be of great interest.

References and Sources...

- Legal Brief
- Institute of Security Studies
- Security Review
- South African Broadcasting Corporation

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South African Public Protector Thuli Madonsela

Advocate Madonsela holds a position equivalent to that of a High Court Judge. The enabling legislation prohibits ... interfering with the functioning of the Public Protector and provides criminal sanction for failure to comply with the requirements of the Public Protector's investigation.



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Recent Decisions by the Public Protector Created Additional Disquiet...

A number of recent decisions by the Public Protector have caused disquiet, have been rejected by the officials involved and have been the topic of debate. Reference here is made to two of these. Fisheries Minister Tina Joemat-Pettersson's conduct in respect of the award of a tender for the operation of fisheries patrol vessels amounted to maladministration, improper and unethical conduct, and recommended disciplinary action against the Minister for recklessly dealing with state money, not dealing with fishing allocations timely, causing wasteful expenditure and a loss in confidence within the fishing industry, resulting in the decimation of fish stocks. The Minister has filed papers with the North Gauteng High Court to correct and/or set aside the Public Protector's findings, although, as the report has not been referred to the National Assembly, ap-

-plying to the courts for relief is premature and procedurally flawed.

Next, Acting South African Broadcasting Corporation's Chief Operations Officer, Hlaudi Motsoeneng, has, through his attorney, indicated that he intends referring the finding of the Public Protector to the courts. He disagrees that the action should be taken against him stating that he had fabricated the existence of his educational qualifications, purged staff from within the organisation -- which resulted in inflated salary pay outs -- and received three salary increases in one annual period. Both requested reviews of the findings of the Public Protector allege that the Public Protector erred in findings of fact and law. ♦♦♦

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Preventing fraud starts with thinking ahead

By IAN HARVEY

Chances are more than 80 per cent of your employees would steal from you given the opportunity, according to forensic accountant Bashir Rahemtulla.

"They say 20 per cent of your employees can't wait to steal from you, 20 per cent would never steal from you and 60 per cent would if they could," Rahemtulla, president of Intelysis Corp., said at the CGA 2014 Controllers' Congress in Mississauga, Ont. "In my experience it's more like 10 per cent plus 10 per cent and 80 per cent."

The other acronym for fraud is GONE, he said — Greed, Opportunity, Need and Expectation, the latter meaning they don't expect to get caught.

Stopping fraud before it starts is a better strategy than trying to root it out and find the guilty parties once it's happened, he said, noting every manager and financial officer must be vigilant and put aside personal biases in ensuring red flags on accounts are properly investigated and followed up.

Better yet, he said, put processes and controls in place before it starts.

The triggers for fraud in the workplace are well documented going back to the 1950s, when sociologist Donald Cressey created his theory of the three elements always present in the "fraud triangle" — pressure, opportunity, and rationalization.

"It could be personal failures, business failures, personal isolation, the pressure to gain status," he said, noting that the opportunity usually revolves around being in a position of trust and rationalization completes the loop. "They say, 'oh, I'm just going to do it once' or 'I'm just borrowing' or 'they owe me' or 'I deserve this.'"

Never rule out greed as the overriding factor, though, he said: "Of course the first flag in fraud is looking at your employees' lifestyle. Look and see if there's a red Ferrari in the parking lot."

All kidding aside, it's not always that simple because fraudsters aren't that stupid, he added quickly, telling a story about an investigation into a bookkeeper who raised suspicions when she announced she was going on a \$5,000 vacation to Hawaii.

"We checked and it turned out her boyfriend, who she hadn't talked much about, was putting up the money," said Rahemtulla, a CA, CPA and CFE who opened Intelysis about 17 years ago and serves a global client base.

In reality the onus is always going to be on the company and its management team to watch for fraud and investigate it. For the most part, police aren't interested.

"Unless it's a granny being



"It could be personal failures, business failures, personal isolation, the pressure to gain status [which drives the pressure]."

Bashir Rahemtulla, Intelysis Corp.

defrauded out of their life savings they really don't want to bother," he said. "Maybe if you do all the investigation and wrap it up with a bow and take it to them, they might act."

Generally, he said, U.S.-based companies want jail time, which isn't always easy given the lack of police interest. In Canada they want to terminate quickly, recover the money and move on.

Most frauds are fairly simple and usually leave a trail a decent forensic auditor can pick up on;

the victim wasn't the company as such — though it folded — but the shareholders, whose stock plummeted from \$75 to zero when the ruse was discovered.

"They were enriching themselves with bonuses tied to the stock price," Rahemtulla said.

Such large-scale fraud isn't unusual. The Committee of Sponsoring Organizations of the Treadway Commission (COSO), a thought-leadership organization in the U.S., looked at 347

Enron was similar in that it was an accounting fraud designed to cover the company's real expenses and revenues and make margins seem more attractive to pump the stock price. One of the patterns Enron used was to reduce reserves, with management signing off to the auditors that the funds "were no longer required."

Satisfied, the auditors didn't question the logic of such decisions, or others such as \$500 million of computers that were

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Bashir Rahemtulla, Intelysis Corp.



RAHEMTULLA

Generally, men steal more in bold schemes while women take less in a series of more actions.

Enron, for example, was a complex, massive-scale fraud involving a series of shell companies with bad assets buried and other assets overstated or simply fraudulently classi-

public company frauds over 20 years from 1998 to 2007 accounting for some \$120 billion in misappropriated funds, though Enron and WorldCom skewed the numbers because they were so outrageously large. It found the CEO and/or CFO was complicit in at least some level of participation in 89 per cent of the cases. They also found that within two years of a Securities and Exchange Commission investigation, some 20 per cent of CEOs/CFOs had been indicted and over 60 per cent of those indicted were convicted.

in one case shifted from being a capital expense to an asset, for example.

It was similar, albeit on a smaller scale, to a fraud he encountered at a Canadian computer company which had about \$100 million a year in sales but a profit margin of only \$2 million.

"That's how paper-thin margins are in the computer industry," he said.

The company had millions in a warranty-provision reserve fund but wrote it down, saying they didn't really need the money because generally the

products failed only within the first 90 days and they could easily handle those repairs from cash flow.

"I was acting for (a prospective lender) and we investigated further and found warranty invoices showed computers were failing a year into a two-year warranty," he said. "My client walked away but another lender stepped up. Six months later the company folded."

In most of the cases he sees, the common theme is a lack of internal controls, with managers delegating sensitive tasks to "trusted" employees, like the CFO who gave his secretary his password and had her enter and set up approved vendors.

"It was very hard to become an approved vendor but once approved all invoices would be paid without question," said Rahemtulla. "But she set up her brother-in-law as a vendor."

It usually comes down to trusted employees, he said. He finds that when he identifies the culprit in his investigations the company managers recoil in disbelief and horror citing the suspect "as our best employee" or "my friend" or "most trusted person we have."

Tighter controls and more cameras in retail stores and warehouses, along with some basic common sense, usually stops internal theft at the floor level, he said.

At the executive level, legislation in the U.S. such as *Sarbanes-Oxley* in reaction to WorldCom and Enron have tightened things up, he said, creating and strengthening corporate controls, requiring enhanced financial disclosures and setting new standards for corporate accountability, along with new penalties.

Companies now have to "dig deep to examine the effectiveness of their control but it's very time-consuming and a drain on manpower."

For private companies and those which don't have to comply with *Sarbanes-Oxley*, internal controls are the better options, pointing to the COSO Internal Control — Integrated Framework (at www.coso.org) as a good template. He said it's efficient, reliable and effective, but stressed it's a process which in the end relies on people more than manuals and policy statements.

Most important is ongoing action to control the environment, assess risks constantly, develop a matrix and control activities related to those risks, gather relevant information and clearly communicate internally and externally where needed.

Finally, Rahemtulla said, monitoring is critical to ascertain whether the controls in place are working effectively.



ISPLA News for INTELLENET

By Bruce Hulme, Director of Government Affairs

As ISPLA completes its 5th year of lobbying on behalf of our profession, we thank our INTELLENET colleagues who have supported our legislative program. They have contributed greatly to the success of our non-profit government affairs organization and nonpartisan political action committee activities. ISPLA's sole mission is limited to representing our profession in legislative and regulatory matters. We do not focus our activity on merely monitoring and reporting issues affecting these professions; ISPLA proactively lobbies the sponsors of bills of concern, meets with committee staff to point out potential unintended consequences of proposed legislation and, depending on the likelihood of passage, either mounts opposition -- while also seeking like-minded stakeholders as allies -- or lobbies for an appropriate exception to ill-conceived provisions of pending legislation and proposed rule-making.

As we now prepare for the 2014 mid-term congressional elections, it becomes necessary for ISPLA-PAC to replenish its campaign-contribution funds to support candidates who recognize the important role of investigative and security professionals in the administration of justice and public safety; and, it is equally important that our colleagues join a professional organization such as ISPLA, which has the sole mission of making sure Congress and federal regulators do not put us out of business.

Since ISPLA's formation in 2009, not one bill of concern to the investigative and security professions has been enacted into law in the past three Congresses. For that matter, not one bill of concern passed Congress during the five-year period prior to 2009 while I chaired the NCISS Legislative Committee and led a legislative program in which most of my committee members became founders or are

now active members of ISPLA. Neither one organization nor one person can be tasked with effectively protecting the interests of this profession; it takes a team of experienced and committed individuals. I'd like to introduce ISPLA's executive committee team to those of you who may not be aware of their continuing good work. Except for one contract security professional, Al Cavasin, who is currently ISPLA's executive committee chairman, all are also members of INTELLENET.

“Since ISPLA’s formation in 2009, not one bill of concern to the investigative and security professions has been enacted into law in the past three congresses.”

As some of you may know, two former NCISS presidents, Al Cavasin and myself, NCISS first vice president Peter Psarouthakis, NCISS secretary Alan Goodman, and four NCISS board members -- Ellis Armistead, Nicole Bocra, Jim Carino, and Jim Olsen -- all recognized the need for a political action committee, a program which NCISS leadership rejected over many years, until ISPLA formed one. In fact, ISPLA offered its PAC services free to NCISS before that association rejected our offer and finally decided to create one of its own. ISPLA also saw the need for an organization that would limit its mission to only government affairs -- legislation and regulation. Our motto reflects that premise: *Educate to Legislate*. Other INTELLENET members on ISPLA's 12-member executive committee are Paul Jaeb, Paul Dank, Reggie Montgomery and attorney Richard Horowitz.

ISPLA's leadership is comprised of some of the most widely recognized industry practitioners, each also having lengthy experience addressing regulatory and legislative issues. In addition to their past affiliations with NCISS, its founders include four former NALI directors, the founder of INTELLENET and its current executive director, three members of ASIS International's Investigations Council, the private investigator sector's representative to the ...

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International Association of Investigative and Security Regulators (IASIR), and seven former presidents of state professional investigative or contract security associations.

Last fall, ISPLA was asked to submit articles to *PI Magazine* regarding legislative and regulatory issues affecting its readers. We are pleased to have been afforded such an opportunity by that well-regarded trade publication. Its chief editor and publisher, INTELNET member Jimmie Mesis and his wife Rosemary, have also joined ISPLA. In their April issue we wrote about our work before the Department of Commerce and our submission of testimony to the National Technical Information Service regarding the Death Master File access issue on behalf of professional investigators. ISPLA was the only investigative professional association to submit testimony on this issue. *See following article.*

The recent matter regarding the SSN Death Master File matter is just one of many issues handled by ISPLA. ISPLA is working for you on legislative and regulatory issues 24/7/365. Issues such as sealing of court files, redaction

and destruction of public records, restrictions on GPS use, limiting access to data broker information, excessive search fees and revenue enhancement are ongoing and continually being addressed.

To support the mission of ISPLA, become a member now by going to www.ISPLA.org. Annual dues are just \$99 with every dollar going to the operation of our lobbying and political action activity.

To contribute to ISPLA-PAC, one must send a personal check or use a non-business credit card and donate any amount -- not less than \$50 nor more than \$5,000 -- to the address below. Thank you for your support.

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ISPLA Submits Position to the National Technical Information Service on Why Access of the Social Security Administration Death Master File by Private Investigators Should be Continued

At a March 4, 2014 NTIS hearing held in Virginia addressing questions set-forth in the *Federal Register* on March 3, ISPLA pointed out that the private investigative and security sectors are three times the size of public law enforcement and that the DMF has been an important investigative tool used for many purposes, including but not limited to those enumerated in the *Federal Register* below:



-ance companies, security firms and State and local governments are better able to identify and prevent identity fraud, and identify customers who are deceased. Other current users include clinicians and medical researchers tracking former patients and study subjects, law enforcement and genealogists.

ISPLA expressed concerns that private investigators had been omitted from the above user list:

"Bear in mind that in many states, licensed private investigators also serve in a quasi-

It is used by pension funds, insurance organizations, Federal, State and Local government entities and others responsible for verifying deceased person(s) in support of fulfillment of benefits to their beneficiaries. By methodically running financial, credit, payment and other applications against the Death Master File, the financial community, insur-

law enforcement investigative and security role, the relevance of which has been heightened in the post 9/11 era. Licensed private investigators are vetted, have to pass written examinations, undergo state and federal criminal background checks, are insured and bonded, and for the most part receive ongoing continuing education and ...

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... training. They are an integral part of the Justice system and have a key role in ensuring public safety.

“Congress in its wisdom recognized the need of state-licensed private investigators and security firms to have access to States’ department of motor vehicle records when it provided them an exception in the Drivers Privacy Protection Act of 1994. Regarding Identity Theft and fraud prevention, the private sector has been investigating and working to protect the public in these important issues long before law enforcement seriously undertook such missions. Government investigation and prosecution in this area has been limited due to a lack of funding and an inadequate allocation of trained human resources. Most of the prosecution of these crimes has been undertaken by the private sector with State-licensed private investigators, corporate in-house investigators and certified fraud examiners gathering evidence to turn over to criminal prosecutors, or to attorneys to proceed with civil litigation. Thus, the DMF serves not only the purposes mentioned in the *Federal Register*.

“There are also legitimate reasons to access the Death Master File within the three-year period of an individual’s death other than solely fraud prevention, exercising a fiduciary duty or a fulfilling a legitimate business interest pursuant to a law, governmental rule or regulation. The DMF provides leads to help solve other crimes, such as the concealment of ill-gotten gains and helps light a path to their recovery. State licensed private investigators and, for that matter, attorneys and genealogists require timely access to the DMF in order to provide heir-ship documents and probate court evidence, determine the location and availability of potential witnesses, and search for missing heirs. Private investigators need to be able to differentiate between subjects for many purposes, including court proceedings. Denying current access to Social Security numbers in the DMF limits the ability to differentiate the thousands of individuals having similar names and identical birth dates.”

In response to congressional concern that Social Security number information obtained from the DMF is used to facilitate identity theft, another investigative and security trade association of which I’m a life member, past president, and former legislative director, wrote to the Subcommittee on Social Security opposing legislation that would restrict access to the DMF ---

The SSDI (Social Security Death Index) is one of the strongest tools in the arsenal used to fight identity theft. When we conduct background checks, due diligence, or investigate fraud, the SSDI reveals instantly

if someone is using the Social Security number of a deceased individual. It is the best defense we have against the misuse of the identity of deceased persons. A proper use of the SSDI should lead directly to the arrest of identity thieves.

Many investigative reports are confidential attorney work product and privileged. Their contents are protected and secured. Notwithstanding daily accounts in the media of security breaches in the financial services and retail industries, medical and educational facilities and the government, there are no reported breaches of SSN and

other personal identifying information acquired by state-licensed private investigators. Security is maintained whether offices are located in a commercial building or in the home office of the investigator.

Sanctions of a \$1,000 fine for each improper disclosure of DMF information, not to exceed up to \$250,000 in any calendar year, should serve as reason enough for one granted full access to the DMF to properly use and protect the information obtained. ISPLA successfully pressed for a manner in which individual or “ad hoc” access be proscribed with the use of a duly executed DMF Certification Form for a legitimate fraud prevention interest, or a legitimate business purpose pursuant to a law, government rule, regulation, or fiduciary duty.

“Notwithstanding daily accounts in the media of security breaches ... there are no reported breaches of SSN and other personal identifying information acquired by state-licensed private investigators. Security is maintained whether offices are located in a commercial building or in the home office of the investigator.”

