



# The Councillor

Newsletter of the Council of International Investigators



Editor: Jimmy Gahan

August 7, 2004

Issue #2 Editorial Assistants: Nancy Barber & Lois Colley

## Regional Directors: An Underused Resource

By **Robert A. Dudash**, CFE, CII  
CII Central USA Regional Director

Did you know that the Council of International Investigators has a total of 22 Regional Directors which covers all areas of the populated world? As a recently appointed Regional Director, I am still learning my duties and responsibilities in this new assignment.

One of my goals is to attempt to contact each of the members of my Region, primarily to introduce myself and ask for their assistance in keeping me informed of the various matters of interest that is occurring in their immediate area. I also need your help in identifying potential new members.

The role of the Regional Director is covered in Article VIII-R in the Rules and Regulations Section of our Official Directory. Among the numerous functions detailed for the Regional Director, is to keep abreast of proposed changes or effected changes in legislation which could affect the aims and objectives of the professional investigator and the ethical standards of the profession. Sounds simple enough but in my Region, I have a total of

19 states which could turn into a full time job just keeping up with the various states legislatures. We are all volunteers, both to being a Council member and some take the next step by volunteering to serve on the various committees.

Another role that the Regional Directors has to comply with is submitting a detailed report regarding membership, legislative changes and membership comments. We, the Regional Directors, do this twice a year, each time prior to the mandated meetings (AGM and MYM). I am requesting the members of my Region, and certainly the members of other Regions, maintain contact with their Regional Director and help in the recruitment of new members. You can also assist your Regional Director by passing on information regarding any enacted or pending legislation which could have a bearing on our profession. I would also request you share your comments and if any, concerns about our association with your Regional Director. Regional Directors are appointed to assist you, the individual member and also the association as a whole. We also need your help in identifying potential new members.

I would like all of our members to keep their Regional Director informed of any newsworthy items occurring within that Region and particularly of matters which relate directly to the accomplishments of our mem-

bers. We also need your help in identifying potential new members.

As a Regional Director I stand ready to assist any member of my Region and

for that matter, the Association, so all you have to do is ask. One of the things we constantly encounter is this statement referred to as, "Monday morning quarterbacking." If you have a question, a comment, a complaint, a need or know of a member who



CII conference attendees are all smiles in Perth

## AGM-Don't forget Sept 7!

**It's NEVER too late to register for the 50th AGM**  
**www.cii2.org or register p. 12**

may be in need of assistance, please contact your Regional Director and inform the Regional Director so the matter may be acted upon.

As Regional Directors, we are encouraged to arrange regional meetings within our area, whenever feasible. If you have a comment or suggestion regarding this topic, I would encourage you to contact your Regional Director and share your comments. While we have two Association meetings a year, not everyone can attend these meetings and if you feel a "mini-meeting" in your area might be useful, then by all means let the Regional Director know and who knows, it just might happen. We could also discuss

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## Friendly Reminders:

Tom Herder's membership status changed from AFII to CII. Register on page 12 for AGM

ways to identify potential new members.

One last thing, Regional Directors are appointed by the Executive Regional Director, who is appointed by the Executive Board. Our current Executive Regional Director is Ponso Kalastree, C.I.I. We have had excellent Executive Regional Directors who have provided wisdom and guidance to the Regional Directors. We serve in this position for a two year period. In closing, I ask that you help us to better help you.

Oh, I almost forgot, the Regional Directors could sure use your help in identifying potential new members. Check 'em out and let us know you have identified a potential new member. The application form is on the web site so applying is just that simple. ■

## A Great Wall

By Michael Sylvester

14 April 2004.  
ShenZhen, People's Republic of China.

"Yes, your idea would conform to the technical requirements of Chinese law, but we would advise against it..."

The client rose, thanked us for our time and excused himself so he could report back to the home office in Palo Alto. He was relieved, contented and almost smug. The Hong Kong based Asia VP for a Silicon Valley high tech company was going to be able to do things in China the way he wanted and was not going to violate Chinese law. Several times a month this happens. A potential client approaches us to ensure their business plans; choices and preferences for doing things in China are not going to run afoul of local legislation.

Then our advice not to engage in a proposed course of action, even if legal, is brushed over like a day old newspaper and we are excused. As a boutique transactional firm in Mainland China we are used to being brushed off--especially since moving out of that tall chrome and silver building last year--but we are attorneys from California and are used to being manhandled. We nod and smile, exchanging business cards and promising to stay in touch in the future.

A few months later the phone call

comes. "Can you help us put the cat back in the bag? Our Chinese partners have stolen all our IP and filed a Chinese patent in their own names. They are now suing us for ownership of a design we gave them to manufacture for us."

In such a situation there are of course remedies and solutions that can be put in place. But it would have been much more cost effective to apply a Chinese approach to a Chinese business deal in the first place. Now, why would counsel that is paid by the hour ever advocate a more cost effective way to do business? The answer is simple.

Successful clients are happy clients. The client's life is kept much more simple and our practice remains able to focus on forward-looking solutions instead of remediation. And in general, it is much more fun to set up and manage relationships

here correctly the first time. Otherwise, re-urrecting a deal can feel like untangling so much overcooked spaghetti.

In a broader context, it also fosters negative feelings on both sides of the transaction. China is a rapidly developing country and is making great strides to catch up and keep up with the West, but it still has a long way to go. Only by promoting transparency in each deal and each contract are we able to show them the profitability of working in a predictable context. This also allows the US based customers willing to engage directly here two benefits. One is the substantial cost savings of avoiding the setting up an office or hiring Hong Kong based agents. The second is that spending the time to engage the Chinese in a China specific context opens many doors one never noticed before.

Now, of course this takes much more time than we might be used to spending on any given situation. Price, quality and delivery terms can be agreed to easily. So, why

do we need to spend so much time negotiating, talking, eating and being given tours of China when we are only here to sign a deal?

I don't know how to answer that question, but a short and true anecdote is illustrative. There is a European importer that has a staff here in China. That staff is really here just to oversee and coordinate the containers full of product on their way to Europe each month. Nothing more. Now, this company moves 2 to 4 Million USD worth of product out of Southern China each month, so there is a substantial bit of money on the table flowing to the Chinese factories. The orders tend to be relatively stable, and the European staff in China has been here for almost 15 years.

However, if that European staff is not available in the office or via cell phone for more than a week or ten days, the Chinese factory will occasionally not fill the typical monthly order. Why? Each



Al Ferguson and Bill Nye

and every month for almost 15 years, millions of dollars have been flowing from Europe to the Chinese factories. Why would they prejudice a future position by not meeting the monthly orders? I do not know, but this is a true and repeated situation for one of our clients here. If he does not 'make the rounds' and have dinner, play golf or whatever informal social situation the Chinese factory has come to expect, then occasionally his standing orders will not be met.

The European gentlemen running that operation here went to University in Beijing 20 years ago. He speaks many of the local dialects around China and has settled into a long-term life here in China. I assumed he would be able to explain in some rational way why his suppliers would act as they do, occasionally missing an order if he does not keep his informal relationships up to date. "Because they are Chinese," he tells me. "It is not a positive or a negative or a judgment call in any way. It is just a different world and if you want to operate here, you

have to operate on Chinese terms."

### Wasting a Year:

A client from the recent past is illustrative on the costs of not recognizing a Chinese way of doing business. They are a United States based firm with a simple consumer electronic product they wanted to manufacture here. It was not even a high tech situation, which would require more caution. The patent had been secured some year or so earlier, the market analysis looked good and they really just needed a manufacturer. If

they played their cards right, they might even make the Christmas season early. They did what many of us would. They hired someone they knew and trusted, a former



Ms. Ahluwalia and Ms. Elliott in Malta

employee who was now out on his own. "You can handle this China situation for us, right?" The consultant hit the ground running, headed for Hong Kong and hired an attorney and a manufacturing company, as he was directed to do.

They never made the Christmas market that year—or the following year.

Soon after signing the contracts in Hong Kong, the client discovered that the Hong Kong attorney and manufacturing company both hired people across the border, on the Mainland, to do the actual work. For people in Hong Kong do not speak the same language as people on the Mainland and as the manufacturing was going to be in Southern China, local assistance would be required.

Now, it is true that there is some synergy between Hong Kong and the Mainland, but the almost two centuries of British presence stamped a unique model on the way business is done in Hong Kong. That business is done in Cantonese not Mandarin, which is the language of the Mainland.

So, the client spent six months trying to terminate the added layer of cost in Hong Kong that would impact their bottom line. Six months of attempting to wiggle out

of an avoidable contract with Hong Kong agents also angered and worried the Hong Kong agents. To defend their position long-term, the Hong Kong manufacturing company hired counsel in China to file a Chinese patent. The idea here was to prevent the US client from backing out of the deal, for the Chinese patent could be called on to shut down production on the Mainland or an attempt to take the product to another manufacturer.

After fourteen months of hourly-billed

work we are very close to a final resolution that will allow this United States Company to reacquire all their intellectual property and drive forward to production. But

the transaction leaves a bad taste, for use and our client.

That negative feeling, that distrust is one of the primary goals we set to eliminate by moving here to Mainland China. There is much happening here, much more than can be properly characterized on CNBC, CNN or in any seminar on "How to do Business In China." But it needs to be handled, massaged and negotiated in a manner acceptable on this playing field, not the one in the United States.

What is true in many parts of the world is especially true here. You get what you negotiate. From land costs, tax rates, expatriation of profits, security of intellectual property and consistency in product quality. All can be negotiated, but unfortunately not on a United States timeline. There is one major stumbling block to the creation of that compressed timeline. It is not at all clear what is inside or outside the law at any given moment. It is not a matter of there being no law here so much as it is that the changes are so rapid that often by the time new laws are printed those changes have been modified once again. However, it is possible to pin down the local, regional or national govern-

ment on any of those critical issues. It is even possible to contract around possible future changes in the law. That has been an acceptable strategy here for 20 years. But it cannot be done overnight.

It is going to remain and continue to increase as one of the major manufacturing sites in the world. It is here to stay. But, China will be able to resist changes from the outside for the foreseeable future, so we shall have to sew together legal and cultural understanding one transaction at a time. If you are on the way here, think of it more as a voyage to the other side of the world that will have challenges but ultimately be rewarding---and less of a mega huge market and cheap place to do business. It can provide both benefits, but can also send you packing and licking your wounds wondering what happened. It depends on the time commitments made at the start. ■

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*This Article first appeared in the April 14, 2004 issue of The Recorder.*

## Identity Theft and Internet Investigation: Fraud Ring Exposed

By Mary Josepha Nikas

Internet access was initially greeted with skepticism by many investigators as a threat to our profession. It has caused major changes in how we conduct our business and how we conduct investigations. It is also cloaked in claims of invasion of privacy. What many privacy advocates may not realize is just as with any legislative attempt to police criminals, unintended consequences may result in attempts to police access to the Internet. What many investigators may not realize what a vast and powerful tool is at their fingertips.

Recently I was asked to help a woman who had her identity stolen. Initially, I

thought it would be like other identity theft investigations: a small-time crook using the mail to gain personal access or an error on the part of the Internal Revenue Service issuing the same Social Security Number to two people. But this one was different. As the victim was interviewed, I learned that two houses in Southern California had been purchased in her name. Additionally, an out-of-state home was purchased on the East Coast. She was a woman with good credit, a good job, and good contacts.

A few weeks earlier, the victim was humiliated at a department store when she was informed her credit card was cancelled due to her bankruptcy. After several phone calls and tapping into her connections, she learned that someone had stolen her identity to purchase three houses over two years ago and was now defaulting on at least two of them through bankruptcy proceedings.

That's where her investigation ended. With a handful of information, including the name, address and telephone number of an "uncle" who offered to buy out one of the defaulted loans, I was able to identify a possible culprit. Then, through Internet based records such as the federal PACER system, recorders/assessors records, and California real estate information, I was able to expand on this to identify three perpetrators, a few additional victims, and several fictitious individuals.

As many of you are aware, the United States PACER system offers federal civil, criminal, bankruptcy and appeals records for a very reasonable price. Additionally, some individual courts offer e-pacer systems, which often provide scanned copies of the original documents. In the case of the Bankruptcy filings I was dealing with, this included copies of each Schedule filed by the "debtor" with the debtor's signature. All of this information can be downloaded and printed.

A review of these schedules identified common names, addresses, claimed work addresses, and an individual identified as the "non-attorney petition preparer." Furthermore, it identified home loans in default and included the outstanding amounts due.

A review of real property transaction history records through county recorders and assessor's filings and additional bankruptcy research identified close to a half-dozen loans on each parcel, other residences bought in victims' names, and several fictitious individuals receiving an interest in the



Ken Ripa utilizes his hands during his Malta presentation

same real properties. Information also included additional loans that were listed in a Chapter 7 Bankruptcy filing. Those files also included other

social security numbers that were never issued. That information was also located through Internet research. One of the perpetrator's modus operandi was to file a lot of paperwork but never make an appearance at the creditor's meeting. That failure to appear would cause the bankruptcy to be dismissed rather than discharged. This action would also leave the real estate loans in limbo.

Of course, in order to make this scam work, the perpetrators set up mortgage brokerage companies, secured real estate licenses, a notary commission, and had a title officer involved in the scam.

Information secured and compiled, allowed my client to attend her bankruptcy creditor's meeting with her attorney and my report in hand. The judge dismissed and expunged her entire bankruptcy. In addition, the U.S. Trustee's office is using my report to fight for tighter controls over verification of bankruptcy petitioners, and the F.B.I. is pulling all original documents provided in the my report to conduct a fingerprint analysis.

Due to the speed and capabilities of today's Internet age, I was able to conduct the bulk of my investigation over a two-day period. Not only does this demonstrate the

power of the Internet to assist in a fast-paced investigation, it demonstrates how the private investigators can compile information in an efficient manner and assists the victim in pitching the case to law enforcement. This case also presented an opportunity to pursue criminal action against the perpetrator and possible civil action against the title company. ■

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## Malta 2004: Mid-Year Conference

By Lois Colley and Nancy Barber  
CII Roving Reporters-At-Large

Where is Malta? PUT TO REST!

CII members in attendance at the 2004 Mid Year Conference were finally able to put to rest the question "Where is Malta?" when they had the pleasure of attending the Mid Year conference in Malta in April 2004. For those of you who are still wondering, Malta is situated in the Mediterranean approximately 90 miles east of Sicily.

The conference, hosted by Hermann Kaminski, President of IWA and his friendly staff of highly trained professionals spearheaded by Edith and Michael coordinated our activities from date of arrival through departure. Even the heavy weather including torrential rain and high seas did not deflect from our adventures. In fact, Hermann was quick to convert a much longed for sailing expedition into a Jeep safari expedition on the neighboring island of GOZO before the first drop of rain hit our shoes.

While many of us were hesitant, those investigator's with enough daring (and insurance) were seduced into the jeep safari by the lure of the ferry and distant haze beckoning us to the historic island of GOZO whose evidence of human origin predates the pyramids. Although a few of us (we won't name names....) suffered from near concussions

with the likes of Pawan, Goolam and Kevin at the wheels of our jeeps, we are now plague with fond memories and grateful to have survived the adventure.

Gozo was enlightening as were the bus tours on subsequent days into the neighboring cities and outlying areas. Malta is truly a nation of history and diversity with civilization preceding the pyramids. The cafes and street vendors accent the landscape which is lush and ripe during the growing season.

The seminar itself brought forth a wealth of information about the local culture and government while speakers from abroad enlightened us regarding topics ranging from money laundering to computer forensics.

It was obvious from day of our arrival that the country was receptive to foreigners. Celebrations were already underway as Malta entered the European Union on Saturday, May 1st just after our departure.

Guest speakers included Dr. Gerhard, Schmid, Vice President of the EU; Susan F. Mompalao de Prio, Malta Enterprise; Steven Philippsohn, Attorney and Senior Partner, Philippsohn Crawford Berwald of the U.K; Klaus J. Fischer, Forensic Accountant, Ernest & Young, Forensic Services Germany; Francis J. Vassallo, Consultant, President of Francis J. Vassallo & Associates, Malta; Dr. George M. Hyzler, Grech Vella Tortell & Hyzler-Advocates, Malta; Dr. Ian Micallef, Law Enforcement, Council of Europe, Malta and Kevin J. Ripa, Computer Evidence Recovery, Inc., Canada.

One of the biggest hits of the seminar was the computer forensic presentation by Kevin Ripa, CII member. Mr. Ripa provided a plethora of valuable information that we can integrate into our businesses. Ripa also provided "free advice" concerning computer forensic issues while humoring us with anecdotes about his profession.

Member Robert Dudash was voted to serve out a vacancy on the executive board.

Joan Beach was elected president-elect and enlightened us regarding the upcoming 50th AGM in Alexandria Virginia, USA.

The Golden Tulip hotel in Malta was the location for the banquet on the evening of the 24<sup>th</sup> during which "purple hearts" were

presented, having been handcrafted at the Gozo Glass Works in Malta. The hearts were thoughtfully provided and awarded by Antoinette Montgomery to Ken Kirk and Lindsey Ripa for their role as **significant others under adversity**. Both are fine examples of medical miracles surviving both their own health traumas and sharing in the adventures of Malta. Many thanks to Hermann Kaminski for memories of Malta.

## Member News

Led by AGM **JURGEN "Fritz" HEBACH**, the German detective association "BID Bund International Detective e.V. Deutschland" held its Annual General Meeting May 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> 2004. The annual general meeting was well attended with 75 participants from Austria, England, Switzerland and Germany. Various seminars about European Data Protection Act, private investigator's technology, computer technology and surveillance were provided.

As CII Regional Director for Germany, Mr. Hebach presented a greeting message on behalf of the CII president Alan Marr and in the name of the Board of the CII to the members of BID. The same greeting message was addressed from the President of BID, Lothar Kimm, and WAD Secretary Richard Jack Turner, to the CII President and the CII members of the Board.

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**JOHN LAJOIE** recently won another one in a series of five defense verdicts in a murder case. Lajoie identified evidence that exonerated the accused and identified two

additional suspects. The investigation involved evaluating and correcting prior witness statements.

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**KITTY HAILEY**, author of The Code of Professional Conduct: Standards and Ethics for the Investigative Profession, was awarded the Investigator of the Year Award by the New Jersey Licensed Private Investigators at their recent Awards Banquet held on June 18, 2004.

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**LARRY ROSS** recently testified as an expert witness in federal court in New York City on behalf of a U.S. Government agency.



Great minds strategizing at conference in Kinsale, Ireland

The Government claimed that an individual was conducting a fraudulent enterprise across several states and international bounda-

ries. The individual attempted to avoid liability by dividing his enterprise among entities incorporated in multiple states and offshore. The court relied on the investigation by Ross Financial Services Inc. and Larry Ross's testimony to "pierce the corporate veil." The court found that the defendant, rather than the formal business entities, was operating the enterprise. Moreover, the court found that this enterprise was being conducted to carry on a fraud. The government was awarded \$2.5 million including punitive damages.

The investigation involved locating and analyzing documents in multiple U.S. juris-

dictions and offshore, including Bermuda, the Bahamas, Barbados, and the Dominican Republic. Ross Financial Services Inc. was ably assisted by CII members **Nancy Barber** in California, **Lois Colley** in Ohio, & South Carolina and **Stuart Price** in Bermuda and the Bahamas.

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**PONNO KALASTREE** recently reported that the road adjacent to his office building

collapsed after an underground explosion during construction of a MRT station. The collapse of Nicoll Highway left a hole the size of a basketball court and caused a wide spread power



Lunch break in New Orleans

outage. One death was confirmed and several individuals were missing. The highway is expected to be closed for months.

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**CHERYL FISCHER** is reported to be on the cutting edge of mitigation experts in capital defense cases. The Tucson Citizen reported on June 21, 2004 that Anthony Shariff Gay would be on death row but for one thing, and that was that his background outweighed his crime. Changes in death penalty laws in the United States that were spurred by a 2002 U.S. Supreme Court decision have placed death sentences in the hands of the jurors instead of judges.

That is creating a new category of experts whose job is to collect evidence to present to

the jury in the final verdict. CII member Cheryl Fischer is quoted: "It's not like putting a 10,000-piece puzzle together, but you've got to find all the pieces first. You're putting together the puzzle of a person's life by talking to family members, aunts, uncles, teachers, neighbors and friends." Cheryl Fischer has worked as an investigator for 26 years and has become a specialist in mitigation cases.

Cheryl Fischer notes "I just helped save someone's life." This case confirms her decision to take up mitigation work. Many courts find the costs of investigations high. Another mitigation expert noted that "It's expensive, but if you're going to kill some-

body, you've got to do it right... When you do a superficial investigation, you ensure that your client gets killed."

Just this past week the U.S. Supreme Court ruled that the new case law

does not apply the mitigation factor to cases decided prior to the ruling in Ring v. Arizona, 536 U.S. 584. The mitigation issue was recently revisited by the U.S. Supreme Court when it overruled a Ninth Circuit ruling finding that retroactivity of the ruling does not apply to more than a 100 death sentences.

"We give retroactive effect to only a small set of 'watershed rules of criminal procedure' implicating the fundamental fairness and accuracy of criminal proceeding." Justice Antonin Scalia wrote for the majority.

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#### **GEORGE MICHAEL NEWMAN**

Reported by **Nancy S. Barber**

There are a lot of reasons to be an inves-

tigator. Most of us deep down would admit it is the love of the hunt and the love of justice. One of our own, Michael Newman, proves both just that in his quiet, self-effacing style steeped with a dry wit that taunts your intellect. Recently, as in the past, Michael Newman took on an effort to find justice for a man imprisoned for thirteen years for a crime he did not commit.

Michael Newman has worked many criminal defense cases and his firm, Tactical Investigations, carries a reputation for honesty and straight shooting within the California prison community. As a result, Michael received a letter from Adam Riojas, who claimed his innocence.

Adam Riojas spent 13 years in a state prison for a murder he said he never committed. He was paroled from Chuckawalla Valley State Prison in April, 2004. Riojas always denied having anything to do with the murder.

Riojas was convicted in Los Angeles County in 1991 of second-degree murder in the death of Jose Rodarte. Rodarte was shot twice and his body dumped from a van on a street on December 8, 1989.

Riojas had loaned his van to two of his father's friends on the day of the killing. His girlfriend provided an alibi and testified that at the time of the murder, he was with her. His only prior criminal history was for vandalism as a result of a high school prank of toilet papering a home. In spite of that, he was convicted and sentenced to 15 years in prison.

At his first parole hearing, prosecutors from Los Angeles County admitted doubt about Riojas' guilt and did not oppose his parole. Yet Governor Gray Davis denied his parole in 2002.

His father was involved in drugs and immigrant smuggling. Shortly before his death, his father—Adam Ramirez Riojas—confessed to family members that he committed the murder. However, family members remained silent about the confession for another three years.

Michael Newman read over Adam's letter and was convinced there was something to Adam's story. His father was an addict and

committed a murder for which he allowed his son to go to prison for his crime. Years later, the father confessed to two or three relatives that he indeed committed the crime for which Adam is imprisoned.

In the Hispanic community, these types of confessions are held tight to the family chest. No one talks about it. It is only three or four more years later that Adam starts to hear rumors from the family that his father had confessed to the crime.

After taking the case, Adam's mother sent Michael Newman a retainer for \$250.00. By this time, costs were more than triple that amount. After some further work, sufficient to refer the matter to the Innocence Project, Adam's mother sent another money order for \$250.00. Michael Newman waved the money order around the office as if it were for \$25,000.00. For Adam's family, it was very much all of their savings. Michael advised Adam's mother that the \$500.00 she had sent more than covered his out-of-pocket expenses. [He put his own son to work on the case].

During the time that Michael Newman was working on the case, Adam would send a money order for \$25.00 out of his prison store's fund. This money covers a prisoner's day-to-day expenses for such luxuries that a prison store's affords. By the third time that Adam sent his \$25.00, Michael Newman could no longer take the money and found it an embarrassing burden. He wrote Adam to please stop sending the money as he knew what a hardship that was for him.

Finally, coupled with the results of Michael Newman's investigation and the work by the Innocence Project at California Western School of Law in San Diego, the Parole Board recommended his release and Governor Arnold Schwarzenegger did not oppose his release. Adam, while still seeking justice for wrongful imprisonment, was ultimately released in June 2004 on parole. Adam called Michael Newman regarding the payment for investigative work and Michael finally delivered his invoice: "Take the money, take your mother, take your family, go to the movies, go to dinner. Enjoy your life. That is my payment." And Adam prom-

ised to do just that.

While the foregoing is not the image of investigators portrayed in the media, or in our respective legislatures, it may be closer to the truth than any one knows. It may be just one case, but it is always just that case that feeds the quest for the hunt and for justice.

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**HENRY BAWA**  
**12/12/1939 - 02/21/2004**  
Reported by **Bill Elliott**

We are sad to report the death of longtime Senior Member Henry Bawa of Mumbai, India. Henry died on February 21, 2004 at the age of 64 after a prolonged illness. Up until his death, Henry Bawa served as Managing Director of Littlemore Service Pvt. Ltd in Mumbai. Henry Bawa was not only highly regarded as an investigator in his own country of India, but also worldwide. In 1983 Henry Bawa was elected President of the World Association of Detectives, a position which he served most honorably. Henry Bawa has been a respected member of the Council of International Investigators since 1971.

Henry Bawa was a man with an inquisitive mind who was not afraid to try new things. With the advent of the personal computer, Henry Bawa was one of the first private investigators in India to incorporate the computer into his business operations. Henry Bawa was also a recognized parapsychologist and provided these services in addition to his detective business. Henry Bawa also authored two (2) books; *Defuse Corporate Terrorism* and *Beyond the Naked*

Eye.

Henry Bawa is survived by his wife, Indira and children James, Maya and Varcun.

On a personal note, during my tenure as Council Secretary I came to know Henry Bawa as a man who was not afraid to ask questions and always endeavored to learn as much as he could. I would routinely receive emails from Henry either providing some tidbit of information or inquiring about some issue affecting the Council. Henry will be missed.

Henry's wife, Indira, continues to run the business and will be applying for CII membership in her own right. Please take the time to send a note to remind Indira Bawa that we all offer our support and sympathy during these very difficult times.

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An update on **BERYL MARR** - she has been



Banquet in New Orleans

in the hospital since the first week of June since her two heart attacks and she hopes to be transferred to a specialist hospital for tests and a possible heart bypass by the last

week of June. Many of us will remember her from her attendance at the last AGM in Kinsale, Ireland. Her spirits are fine and she thanks everyone for their good wishes and cards. You can continue to keep in touch with her as follows:

*Beryl Marr  
C/o Alan J. Marr, CII  
Jigsaw Services  
8 Fan Court  
The Courtyard House*

Chertsey, Surrey, KT16ODJ England  
Phone: 44-1932-875224  
alan-marr@jigsaw-services.demon.co.uk  
**SAM BROWN** was elected District Director  
for the San Francisco District of California  
Association of Licensed Investigators (CALI).

Samuel F. Brown, CII  
THE SAM BROWN GROUP, INC.  
1255 Post Street, Suite 740  
San Francisco, CA 94109 USA  
Phone: 415-621-7627  
SBGROUP@worldnet.att.net

**MARY NIKAS** was elected District Governor  
for the San Francisco District of California  
Association of Licensed Investigators (CALI).

Mary Josepha Nikas, CII  
MARIN ASSOCIATES  
1537 Fourth Street, Suite 147  
San Rafael, CA. 94901 USA  
Phone: 425-454-4558  
mary@nikas.info

**PETER HILT** continues to recover from a  
stroke and will soon be using computer tech-  
nology to assist in his recovery. Please take  
a moment to let Peter know that we welcome  
his efforts to regain his computer skills.

Peter Hilt  
NSMC  
PO BOX 100-961  
North Shore, NEW ZEALAND  
Phone: 09-444-9364  
peter.hilt@clear.net.nz

**SURESH C. SHUKLA**, a member of CII  
since 1990, died due to kidney and liver  
failure on May 12, 2004. Our condolences  
to his wife, Varsah Shukla. Remembrances  
can be sent as follows:

Varsah Shukla  
S.C. Shukla House  
Ahmedabad 382 440 INDIA  
Phone: 911-79-5710774/75/76

Our condolences to **PAUL CIOLINO** who  
lost his mother this in May, 2004. It was a  
difficult time for him as he was the sole care  
provider to his mother who spent her last  
days on a respirator. Condolences can be  
sent as follows:

Paul J. Ciolino, CII  
Paul J. Ciolino & Associates, Inc.  
820 West Jackson, Suite 3E  
Chicago, IL 60607 USA  
Phone: 847-963-9006  
pcioliono@pjcinvestigations.com

CII wishes to extend condolences to **Joan  
and Derek Nally** over the loss of Joan's  
sister, Catherine Bonass. Joan and Derek  
Nally left the Malta Conference early to  
share her last moments. You can send your  
condolences as follows:

Joan Nally  
Bunclody  
Carrigduff, Co. Wexford Ireland

## Pending Applications For CII Membership

**Charlotte Cochrane**  
American International Group Inc.  
Croydon, Surrey  
England

**Alwin Farr**  
A.L. Farr & Associates  
Seattle, WA  
USA

**Frederick Rustmann, Jr.**  
CTC International Group, Inc.  
West Palm Beach, FL  
USA

**John Sexton**  
Sexton Executive Security  
Fairfax, VA  
USA

**Armando Stavole**  
I.C.A. - International Consulting Agency  
Rimini, RN  
Italy

**Sandra Stibbards**  
Camelot Investigations  
Corpus Christi, TX  
USA

## Termination of High Risk Employees

By **David A. Black**

Since 1972 my career has focused on law  
enforcement, security and investigations.  
During those years I frequently had to deal  
with violent situations and sometimes with  
armed individuals. I've had the benefit of

watching potentially dangerous situations  
being diffused by people with a great deal of  
experience in handling such matters. I could  
certainly fill volumes describing some of the  
situations that I have encountered but suffice  
it to say that these experiences have pro-  
vided me with some level of experience and  
expertise in dealing with high-risk situations  
in the workplace.

Since coming into the private sector in  
1989, I was often called upon to assist em-  
ployers with threats and aggression in the  
workplace. I saw this as a natural fit with my  
background and have traveled extensively to  
participate in seminars and training to better  
understand how to deal with workplace vio-  
lence and aggression. I have, over the last  
ten years, had the benefit of having two  
experts in the field as mentors. Stephen  
Millwee of Orlando, Florida and Frederick  
Foster of Detroit, Michigan are considered by  
many to be the foremost authorities on work-  
place violence in America. Both have  
helped me tremendously in understanding  
how best to provide assistance to employers  
in these situations.

A statistic that many of you may have  
heard me state before still astounds me even  
with my background. One in ten individuals  
in Canada has a criminal record. Of those, a  
significant portion is for violent offences.  
Before I elaborate on how to deal with vio-  
lence in the workplace, I again want to reiter-  
ate that I cannot express often enough how  
important it is to keep violent individuals out  
of your workplace. This can only be done by  
proper pre-screening. This should not just  
include a criminal record search but should  
clearly cover behavioral characteristics when  
conducting reference checks. At this point,  
many of you are thinking that previous em-  
ployers will not give you such information,  
but if asked the right way, you will often find  
that behavioral traits such as temper tan-  
trums, slamming doors or throwing things in  
the office will be disclosed, which should be  
serious red flags. In his book "Preventing  
Violence in the Workplace" Charles Labig,  
Ph.D., says that the United States, with a  
labor force of over 125 million, experiences  
an annual employee caused homicide rate of



50 employees (excluding a high incidence of domestic violence infiltrating the workplace). This translates into one homicide for 7 million people. While this seems like a very low rate, he goes on to state that employers neither should nor legally be allowed to ignore workplace violence. He and other experts all agree that predicting workplace violence is impossible. Judgments of clinicians or other experts should not be taken for granted and one should always be diligent of the warning signs.

When workplace violence is cause for termination, or is feared as a result of termination, a number of factors should be considered. A best practice for such events is the team approach. The team should consist of management, human resources professionals, EAP providers, career counseling experts, legal counsel, the union where applicable, corporate or outsourced security experts, family members of the employee on some occasions should be considered and at least a liaison with police, if not actual police participation in the team function. The team should look at a number of factors including but not limited to: the events which have precipitated the situation, the characteristics of the employee, the employee's history of aggression, stressors being experienced by the employee such as family situation, financial security and health concerns, the likely victims of violent outbursts and the capability of the employee to act (access to weapons, physical size, etc.).

The team should work towards understanding all of the foregoing and create a plan to diffuse the situation.

For the sake of brevity, I will jump ahead to the actual termination meeting. Obviously, most of you reading this article will have expertise in the fine points of severance pay, grounds for dismissal and such things but I will share with you my thoughts from a security standpoint about the actual termination meeting.

The room used should be sterilized to remove any potential weapons. The room should be in as private a place as possible, avoiding putting the employee in a situation

which may cause embarrassment, such as visibility by, or within earshot of co-workers. If there is a telephone in the room, it should be removed or unplugged to avoid unnecessary distraction. The employee's back should be to the door. This serves two purposes. The first being that should the employee become agitated and wish to leave the room, they have an unobstructed route to the door and secondly, it allows security better access to intervene.

For many years, discreet security, usually involving a non-uniformed presence would be stationed just outside the door with the ability to intervene if necessary. At a recent seminar in New Orleans, Stephen Millwee said recent experience has shown this to be ineffective. He now states that security individuals should insist on being in the room. Attacks and injuries can happen in a heartbeat and security has not always been able



Mr. and Mrs. Mesis with Mr. and Mrs. Ahluwalia

to react quickly enough. My recent experience has shown that employees are not particularly intimidated or embarrassed when a professional individual actually sits in on the meeting.

Once the termination meeting has ended and there is no other reason for the employee to be on site, he or she should be escorted to their desk or locker by security individuals. Boxes or containers for personal items should already have been placed at their locker or desk so that removal of personal items is done quickly. They should then be escorted off the premises and simultaneously be provided with documentation indicating that they are not allowed back on the property. Serious consideration should also be done to conducting immediate surveillance on the individual both to guard against violent behavior and to be attentive

to any concerns that the employee may cause harm to themselves. Typically, as soon as the employee has departed the site, the team should meet and analyze the employee's reactions and any comments or threats made. Surveillance can be easily terminated at any point if deemed unnecessary, however, should the team decide that there is a serious threat situation, surveillance should be continued. Consideration again should be given to legal intervention, such as restraining orders or criminal charges.

Surveillance should not be aggressive and should be conducted in such a manner as to avoid detection and to determine what the employee does upon leaving the site and over the next several days. The surveillance investigator should be attentive to warning signs such as excessive alcohol consumption or attending places where weapons could be obtained. When the surveillance team is unable to discreetly maintain surveillance and is unaware of the employee's location, surveillance should be directed to a discreet position in the vicinity of the facility.

It is necessary to understand that if violent behavior is not experienced at that time, security awareness needs to be maintained. A very disturbing statistic is that many incidents of workplace violence happen many years after termination, often as long as seven years. Periodic discreet follow up investigation needs to be done every few months. Once an employee has secured similar employment, the matter can usually be considered resolved.

At this point, I would also like to share with you my thoughts on potential victims. These individuals should be well aware of concerns and should have escape and evasion plans clearly thought out. Receptionists should be kept informed as well. Bomb threats are a realistic concern. In such situations, depending on the access security level of a facility, aggressive individuals could well desire to bring potential victims out into the open.

Serious consideration should be given to evacuation or non-evacuation. It is my per-

sonal belief that potential victims should have access to a secure, safe area within the facility so as not to put themselves in harm's way in a parking lot or similar area. This should only be done if Emergency Response officials have been advised of their location in an emergency.

Most individuals nowadays are well aware of the legalities of making specific threats to kill or harm an individual. That leaves employers faced with difficult situations when veiled threats are made. Police typically do not want to act on merely disturbing comments made in passing or in anger. Words of wisdom from one of my mentors should be taken to heart, "not all those who threaten act, but virtually all those who do act, have threatened."

The list below outlines some of the traits of the typical aggressor who will potentially become violent and for whom security protocols should be implemented:

- 1 - A male in his thirties to forties.
- 2 - A loner with little or no support system.
- 3 - Owns guns or has a fascination with weapons.
- 4 - Has a history of frustration/failure.
- 5 - Blames difficulties on others.
- 6 - Cannot handle defeat or rejection, has made his work his identity.
- 7 - Demonstrates emotional or mental instability.
- 8 - Displays an intimidating or defiant personality.
- 9 - Has a history of making threats or aggressive behaviors.
- 10 - Often from an abusive background.
- 11 - Has a substance abuse problem.
- 12 - Could be suicidal.
- 13 - Has experienced a participating event or suffered an injury.
- 14 - Has experienced a relationship breakdown.
- 15 - Job termination factors.

Domestic violence frequently spills over into the workplace. This topic alone could fill

volumes and I will only touch on it lightly. Victims of domestic violence, who have left the family home, are often only accessible to their ex-spouse at work. Educating employees that they have assistance available at work is a proven policy. EAP providers and on site security can provide assistance with arrival and departure concerns at the place of employment, and in many companies today, is actually extended to the potential victim at home. This can be merely a security audit of the home, or by way of an escort to and from work.

Domestic violence concerns affect the productivity of the particular employee and often those working nearby. Failure to provide a safe work environment could also result in legal liability issues.

I hope this article offers some insight to those of you faced with these unpleasant situations. ■

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## Regional Directors List For 2003/2004

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# Council of International Investigators

2004 Annual General Year Meeting -Alexandria, Virginia USA

Agenda for Executive Board Meeting

September 7, 2004 registration form below

1. Call To Order - Pawan Ahluwalia
  2. Roll Call - Nancy Barber
  3. Appointment of Sergeant of Arms - Pawan Ahluwalia
  4. Executive Session
    - a. Board member attendance - Excuses and Retention
    - b. Discussion and voting on applicants for membership
    - c. Discussion and voting on Associate members
  5. Ratification of Executive Session Items
  6. Minutes of the Mid Year Meeting-Nancy S. Barber
  7. President's Address - Alan Marr
  8. Chairman of the Board Address - Pawan Ahluwalia
  9. **Vice President's Reports**
    - a. First Vice-President
    - b. Second Vice President
    - c. Third Vice President
  10. Secretary's Report - Nancy S. Barber
  11. Treasurer's Report - Bert Falbaum
  12. Report of Chairman of Executive Board
  13. **Report of Standing/Special Committees**
    - a. Strategic Planning-Bill Elliott
    - b. Public Relations-Brian D. King
    - c. Audit & Finance-Claude Myles
    - d. Publications-Jimmy Gahan/Nancy S. Barber
  - e. Membership-Claude Myles
  - f. Nominating Committee-Pawan Ahluwalia
  - g. Internet & Communications-Jay Groob
  - h. Privacy-Bert Falbaum
  - i. Investigations & Grievances-Pawan Ahluwalia
  - j. Continuing Education-Alan Marr
  - k. Parliamentary-Bill Elliott
  - l. Investigator of the Year-Brian D. King
  - m. MSA-Alan Marr
  - n. Legislative-Joan Beach
  - o. Malcolm Thompson Award-Pawan Ahluwalia
  - p. Historian-Jim Kirby
  15. Executive Regional Director's Report – Ponno Kalastree
  16. Unfinished Business-Discussion re:
  17. New Business
    - a. Membership Clarification re:  
Requirements-submitted by Derek Nally
  18. Election of Officers
  19. Selection of site for next Midyear Meeting
  20. Selection of site for next Annual General Meeting
  21. Matters Pertaining to the Good of the Council
- Adjournment

## **MINI AGM REGISTRATION FORM: email to [joanmbeach@aol.com](mailto:joanmbeach@aol.com)**

NAME \_\_\_\_\_  
SPOUSE/GUEST \_\_\_\_\_  
COMPANY NAME \_\_\_\_\_  
NAME FOR CONFERENCE BADGE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_  
STATE/PROV. \_\_\_\_\_ COUNTRY \_\_\_\_\_ ZIP/POSTALCODE \_\_\_\_\_  
EMAIL \_\_\_\_\_  
PLANNED DATE OF ARRIVAL AND DEPARTURE \_\_\_\_\_  
HAVE YOU BOOKED THE HILTON HOTEL? \_\_\_\_\_ YES \_\_\_\_\_ NO

Please email this form to [joanmbeach@aol.com](mailto:joanmbeach@aol.com) or fax to your conference host, Joan M. Beach  
Fax: (703) 591-2562 Telephone: (703) 359-8084  
Credit card or check payable to: CII 2004 AGC p  
PRICING AND HOTEL INFORMATION AVAILABLE at [www.cii2.org](http://www.cii2.org) or [joanmbeach@aol.com](mailto:joanmbeach@aol.com)