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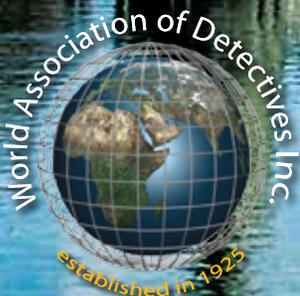
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**CYBERCRIME:
THE CHALLENGE FOR THE LEGAL PROFESSION**

PIPE DREAM OR POSSIBILITY?

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



"A Global Alliance of Investigators and Security Professionals"

Concepts Of COMPREHENSIVE BACKGROUND INVESTIGATIONS

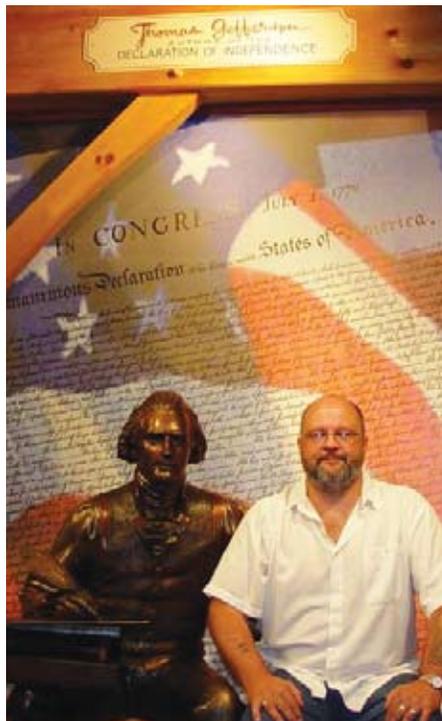
By: Dean A. Beers, CLI

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

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

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

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



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

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

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

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

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

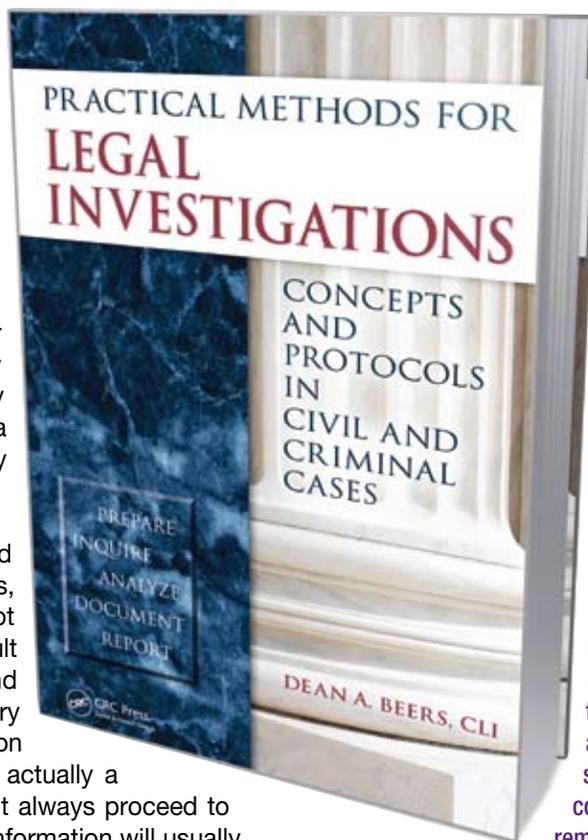
Although suitable for searching and conducting only records checks, database and online records are not detailed or suitable as the end-result for a comprehensive background investigation. This is only summary information and detailed information is necessary. There is no harm, and actually a great benefit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

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

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

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

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



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

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

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

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