



Private Eyes of Texas

A MESSAGE FROM J.J.,



This is our third Newsletter for 2010. It is the first time we have ever had three in one year.

Since 60% of our business is related to Criminal Defense, we are constantly preparing for Trials, some of which never occur. One thing is for sure, the thorough preparation has lead in many instances to positive results for our clients.

Every month we receive referrals from our clients. Thanks again to David Adler, Rob Fickman, Joe Salinas, Wes Hocker, Leonard Meyer, Stanley Schneider, Chad Johnson, Bob Loper, James Stafford and Daphne Pattison.

Thanksgiving will be here before we know it. As we reflect, we are grateful to all our clients for their support and want to give special thanks from myself, Carey Wellmaker and the staff wishing all of our clients and their families a very Happy Thanksgiving.

SPEAR PHISHING EMAILS

The Fall issue of The Texas Investigator distributed by the Texas Association of Licensed Investigators had a great article on Spear Phishing emails that I wanted to pass on to our clients. These emails are designed to appear to be from a legitimate company in an attempt to obtain your personal identity information or to install malware onto your computer. Examples of these type of deceiving emails are titled "IRS Refund" and "DHS Shipment Problem". The Phishing emails are manipulated to appear from someone with whom you normally correspond. To further the deception, these emails are crafted to appear to be from a trusted source and often have subject lines and attachments relevant to your business.

Receiving a Spear Phishing email is relatively harmless until the email is clicked, which initiates the malicious software, known as malware. The software allows the hacker to monitor actions, access files, programs, download files and manipulate the computer without your knowledge.

Tips to reduce your exposure:

- Encrypt sensitive information files.
- Keep current any anti-virus, anti-spyware and firewalls on your network.
- Install programs that track access to sensitive files and monitor downloading.
- Change passwords after an employee resigns or is terminated.
- Limit remote access to the computer.
- Never share passwords or write down passwords.

CINDY KLEIN—NEW ADDITION TO STAFF



I am happy to announce that Cindy Klein is the newest addition to our staff. Cindy is a graduate of California State University with a Major in Criminal Justice.

Cindy was a Special Agent with the FBI working ten years in the Houston Field Office. During her tenure in Houston, Cindy gained extensive experience in Bank Robbery, Kidnapping, Civil Rights and Domestic Terrorism Investigations.

Cindy has extensive training in Advance Profiling, Domestic and International Terrorism, Sexual Abuse of Children, and Interviewing and Interrogation techniques.

Cindy has already displayed an ability to obtain information from the most reluctant witnesses. Cindy had great people skills and the ability to document her interviews in a very thorough manner. Cindy is a welcomed addition to our very diversified staff of competent Investigators.

CRIMINAL DEFENSE INVESTIGATION TRAINING COUNCIL

Carey Wellmaker has recently completed the necessary course work for accreditation and is now a Certified Criminal Investigator. The Council was established to encourage a dialogue among professionals and scholars involved in various aspects of criminal defense investigation.



The Board promotes as its foundation, recognizing the need, accepting the responsibility, and standing watch as defenders of the constitution and the right of the accused to a fair trial. The council encourages the philosophical and methodical approach to the investigative process. An objective and impartial investigation is its primary strength.

Criminal Defense investigation is a specialized discipline and demands to be recognized as such. Criminal Defense investigation is not a subordinate to law enforcement criminal investigation.

With this in mind, the council seeks to standardize basic methodology, procedure, and training devoted solely to the discipline of criminal defense investigation. Carey is one of seven board certified members in the State of Texas.



"We are **dedicated** to producing **factual AND accurate, unbiased documentation for clients in a timely manner.** The **integrity AND confidentiality** of our work is **top priority!!**"

THE TRUTH MAKES A DIFFERENCE

FELONY EVADE ARREST/FAVORABLE OUTCOME

GARY POLLAND represented a Houston Machinist, who Police claims ran from them after they tried to stop him for a traffic violation. The Officers stated that during the "chase" which ended up in the Defendant's parents' driveway, he threw something out of the window that was later recovered and identified as PCP. The Defendant was struck five times in the face with a flashlight, causing his eye socket to be damaged. It was determined that the alleged PCP was not a drug and those charges were dropped. Due to the FBI and Internal Affairs investigation of the Police conduct during the arrest, the DA offered to reduce the Felony Evade Arrest to a Misdemeanor and release the Defendant from Jail with time served. Our investigation into the matter supports the Defendant's claim that he was abused by the arresting Officers. This case appears to be the classic street principle "If you run, you pay." As Polland was quoted in the newspaper, "My client was beat so bad, he didn't go to Jail. He went straight to the hospital"

FREED AFTER TWENTY YEARS

BOB LOPER was appointed to by Judge Joan Campbell as a Special Prosecutor to look into the case of Allen Porter, who had already served twenty years of a Life Sentence for a Home Invasion/Rape in which he appeared to be innocent. The three Complainants in the case were reluctant to talk and attend the hearing. Bob and I interviewed the female who had driven the trio to the crime along with two individuals who participated in the crime, all providing truthful testimony that Porter was not involved. Each of these witnesses retold their story under oath before the Judge and Porter was freed from prison.

AGGRAVATED ROBBERY/DISMISSAL

PAUL ST. JOHN represented an individual charged with the Aggravated Robbery of a male walking down the street. The Defendant was arrested after the robbery occurred riding in a truck with his friend. The Defendant claimed he had nothing to do with the robbery because he had gotten into the truck after it had occurred. The driver confessed to his involvement in the robbery. Benito Segura looked diligently for the Complainant but he could not be found and the case was subsequently dismissed.

DEADLY CONDUCT/FAVORABLE DISPOSITION

PATTI SEDITA represented a lady charged with attempting to attack her boyfriend's "Baby Mama" with a beer bottle. Benito Segura interviewed the Complainant and a number of witnesses all who had conflicting stories. Patti was able to get the DA to reduce the charge to a Misdemeanor. The Defendant to be released with time served.

INJURY TO A CHILD/DISMISSAL

DENA FISHER represented an individual charged in Galveston County with Injury to a Child. Benito Segura interviewed a number of the individuals associated with the case, who all expressed their unwillingness to cooperate with the State in regards to the prosecution. Dena Fisher wrote us in an email, "After driving to Galveston three days in a row,

ready for trial, the State dismissed the case. You are Awesome. Some of the responses you got really helped me convince the Prosecutor how weak their case was and how unwilling all the parties were to cooperate with the prosecution.

CONSPIRACY TO DISTRIBUTE/FAVORABLE OUTCOME

DAPHNE PATTISON represented an individual charged as a Co-Defendant with a number of other individuals with a Conspiracy to Distribute Cocaine in Federal Court. Our assignment was to review the wire tapped conversations in order to determine if the State's allegation about the Defendant's participation in the conspiracy was accurate. Angela Willis and Carey Wellmaker diligently reviewed the transcripts and some of the actual tapes finding very little substance to the Government's claim. During the course of their analysis, they determined that the transcript of one of the key conversations was not accurate after they listened to the actual tape. Daphne was able to utilize our work product to obtain a much lower sentence than what the Government was initially willing to offer. Daphne wrote in an email to Carey, "I cannot commend you for the quality of your investigative team. The letters and the Commendations on the wall at your office are well deserved.

CAPITAL MURDER/DISMISSAL

BOB LOPER AND CASEY KIERNAN represented two males charged with a gang related shooting death. Benito Segura conducted a number of interviews with Spanish speaking witnesses with knowledge of the Players and circumstances allowing us to pursue the self-defense issue. During the initial stages of the trial, the lawyers established that Homicide Detectives had turned over an audiotape of their interview with the suspects but had "forgotten" to give us the videotape of the same interview. On the stand, the Detective denied the existence of the tape, although Casey Kiernan had obtained the tape on a related case. Judge Keel ruled that the failure to turn over the tape negated all statements and would not allow them to be presented to the Jury. The District Attorney then dismissed the charges.

AGGRAVATED ASSAULT/NO BILL

JEFF GRECO AND DANIEL GREASER represented two individuals charged with Aggravated Assault as a result of fight that occurred outside of bar at closing time. The Police were actually able to obtain a video of the fight. Benito Segura interviewed a number of witnesses who verified that the Complainant, who appeared to be on drugs, was the aggressor. George Wellmaker spoke to a witness who stated that the Complainant's friend, not only struck him during the altercation but took money from his truck. All of the information was placed in a package and presented to a Grand Jury, who No Billed the Defendants.

ASSAULT/FAVORABLE OUTCOME

MARK BENNETT represented a man who was charged with assaulting his teenage son in the front yard of their residence. George Wellmaker was able to establish through witness interviews that the son was the aggressor, was bi-polar and had attacked his father on other occasions. The charge was lowered to a fairer conclusion.



"We are **dedicated** to producing **factual AND accurate, unbiased documentation for clients in a timely manner.** The **integrity AND confidentiality** of our work is **top priority!**"

AGGRAVATED ASSAULT/DISMISSAL

GARY POLLAND represented a female charged with Aggravated Assault as a result of an altercation with a neighbor. The neighbor claimed that she was threatened by the Defendant with a knife. George Wellmaker canvassed the area and found witnesses who would come to Court and swear that the defendant did not have a knife during the argument and walked away to diffuse the altercation. George also obtained an Affidavit from the Defendant that there was no knife involved which was presented to the Prosecutor. The case was dismissed.

FELONY ASSAULT FAMILY MEMBER/FAVORABLE OUTCOME

JOE SALINAS represented a Defendant charged with Felony Assault on his girlfriend at his mother's house. After the Warrant was issued the girlfriend moved to Abilene. The Defendant made up with her and began living with her Abilene. When the girlfriend found out that the Defendant was Baytown's Most Wanted as a result of the case, she called Crimestoppers and received a reward for having him located and arrested. George Wellmaker conducted a thorough investigation of the witnesses and determined the Complainant's allegation was retaliatory and had no basis. The Defendant was looking at 25 years to a life sentence if convicted. Joe Salinas was able to the charges dropped to a Class A Misdemeanor for time served. Hopefully the Defendant will find a new girlfriend.

POSSESSION OF CONTROLLED SUBSTANCE/DISMISSAL

CARMEN ROE represented a Defendant charged with Possession of Crack Cocaine as a result of Search Warrant Officers executed at his residence. The Officers claimed in their Affidavit that they had an Informant purchase Crack in the front yard of the residence from an unknown individual. We performed an analysis of the Affidavit and believed it was not sufficient. The Officers stated they observed Narcotic activity at the residence but didn't identify any Plate numbers, individuals or the length of time they were at the residence. The Informant who purchased the Crack was not kept under visual surveillance the entire time he was allegedly performing the Undercover activity. There were a number of other holes in the Affidavit, which would lead one to believe that the Officers were either embellishing the story or just sloppy in their documentation. The Judge agreed and the case was dismissed.

AGGRAVATED ASSAULT/FAVORABLE DISPOSITION

ROB FICKMAN represented an individual charged with Aggravated Assault with a Deadly Weapon. Our background investigation of the Complainant indicated that he was a Gang Member. Interviews with witnesses indicated that the Complainant was on the property illegally and there was very good chance the Defendant was actually defending himself from the Complainant. Rob was able to get the State to agree to reduce the charges to a Misdemeanor.

FAMILY VIOLENCE/NO BILL

GILBERT GARCIA represented a newlywed charged with pulling a gun on his wife and assaulting her while she was moving out. Carey Wellmaker obtained a 911 Tape for a prior incident, when the bride had been arrested for breaking out windows at their residence and making a false report during one of her many emotional outbursts. Benito Segura obtained photographs of the damage and compiled an inventory of the damage. Gilbert and his team presented all of the information in a package to the Grand Jury, who No Billed the Defendant

ONE FOR THE BOOKS

KEN MCCOY represented a lady charged with Failure to Stop and Render Aid and Negligent Homicide. The only witness to the accident that resulted in the death of the victim saw a female driver flee the scene. The witness was able to obtain a License Plate number. Police Investigators interviewed the owner of the vehicle, the Defendant's cousin, who told the Police he thought his cousin, our Defendant had been driving the vehicle that day. Before the Police deported their only witness, he identified the Defendant from a photo spread as the driver of the car and she was subsequently arrested and charged.

When we started our investigation, the Defendant adamantly denied driving the vehicle. As we talked to her relatives, it was obvious that the Defendant was not driving the car that day. We learned that the actual driver was the Defendant's sister, who the Defendant was protecting.

As we approached a Trial setting, the Defendant was still reluctant to tell us about her sister but she finally agreed. We then interviewed her sister, who looked a lot like the Defendant (witness identification) who admitted driving the car. The sister also supplied us with a witness who could verify she was the driver. We contacted this witness who verified the sister's story.

POSSESSION OF A CONTROLLED SUBSTANCE

JOE SALINAS represented a Defendant who was taken out of vehicle at a motel and told by the Officers he had an Outstanding Warrant. When the Officers got Downtown with the Defendant they found that the Warrant was no longer active and then informed the Defendant that they were charging him with Possession of a Controlled Substance because they had found drugs in the car he was driving and had observed him handling the drugs.

Carey Wellmaker obtained copies of the MDT Transmissions and Call Logs and was able to prove that a second unit who had come by the location had actually found the drugs in the car after the Defendant had been taken to the Police Station. When this information was presented to the District Attorney, he dismissed all charges.

POSSESSION WITH INTENT TO DELIVER/DISMISSAL

LEE GUERRERO represented an individual charged with Possession of Controlled Substance as a result of a traffic stop. The Officer claimed when he ran the Plate of the vehicle prior to the traffic stop, it was not registered. After the vehicle was stopped and searched, the drugs were found. Carey Wellmaker was able to obtain the DPS Radio and MDT Transmissions and determined that the Officer had never run the Plate and had lied on the Report. The case was dismissed.

CHILD ABUSE/NO BILL

GILBERT GARCIA represented a mother charged with the physical abuse of her three children. While the mother was at work, the Children had run away from the babysitter. When the mother finally found the children and brought them home, she disciplined them to impress upon them the danger they had placed themselves in with a spanking. When the children went to school the next day, the youngest child told one of the teachers what happened, who then called CPS. When the Defendant was contacted by the

www.gradoni.com
3

2611 FM 1960 WEST, SUITE C-100, HOUSTON, TEXAS 77068
(281) 440-0800 Fax (281) 440-0208
(800) 803-9186



school, she was threatened because of her illegal status and told that her children would be taken away from her after she was deported. Utilizing our investigative interviews, Gilbert and his team put together a package and the Defendant was No Billed by the Grand Jury.

DEATH PENALTY COLLEGE

In August I accompanied attorneys Katherine Scardino and James Rivera to the Santa Clara University School of Law, Brian Schechmeister Death Penalty College.

Attending by invitation were sixty-eight Criminal Defense Attorneys, nineteen Mitigation Specialists and fourteen Fact Investigators who are involved in Death Penalty cases throughout the United States.

Our Sponsor was the Mexican Capital Legal Assistance Program funded by the Mexican Government to oversee the representation of Mexican Nationals charged with Death Penalty cases in the United States. My team is involved in the defense of Noel Cerna, charged in the Murder of a Houston area Physician at his ranch in Bellville, Texas.

I can honestly say the program was one of the finest that I have ever had the opportunity to attend. In addition to featured speakers, there was a great deal of participation in break out groups where each team was able to discuss their cases and develop ideas for defending their clients.

The emphasis was on complete teamwork on all phases of the defense amongst the Attorneys, Fact Investigators and Mitigation Specialists. I had the opportunity to interface with professionals from all over the country and learn about their methods of obtaining information, interviewing witnesses and organizing their cases.

I left the conference with a number of new tools and techniques which will certainly enhance the quality of our work product.

GRADONI & ASSOCIATES MITIGATION TEAM

Our firm has been involved in over 250 Capital Murder cases over the years. Many of those cases involved the Death Penalty. I gained a great deal of insight about what a Mitigation Specialist did for the Defendant as a result of attending the Death Penalty College.

The Mitigation Specialist's responsibility is to build the Defendant's social and family history for three generations, interview relatives, associates, teachers, employers and obtain records that can be utilized by the selected experts, in order to Mitigate for the Defendant receiving a Life Sentence rather than the Death Penalty. What I also learned, is that in the majority of the Jurisdictions, especially in the Public Defender Offices, the Mitigation Specialists and Fact Investigators work side by side, which makes perfect sense. Fact Witnesses are often Mitigation Witnesses. Fact Investigators

"We are **dedicated** to producing **factual AND accurate, unbiased documentation for clients in a timely manner.** The **integrity AND confidentiality** of our work is **top priority!!**"

develop the identity of Mitigation Witnesses during their investigations. Mitigation Experts rely on the Fact Investigators to locate records and relatives.

It has been my experience here in Harris County, that the Mitigation Experts and Fact Investigators usually work separately and do not share a lot of information. There is also a shortage of qualified and competent Mitigation Experts in Harris County forcing Capital Defense attorneys to obtain these services from individuals outside of Houston and even Texas.

It dawned on me during this process that we have a great Mitigation staff already assembled. Carey Wellmaker, the Vice President of Gradoni & Associates, who is a graduate of Texas A&M and has over 20 years of investigative experience. Our firm also has Benito Segura, our best Fact Investigator, who is also bi-lingual. The third member of the mitigation team is Cindy Klein. Although new, Cindy has great interviewing skills and the ability to garner information from anyone she talks to.

I am proud to announce we are in the development stages of setting our procedures and program to conduct mitigation work. It is my hope in the very near future we will be able to provide both fact investigations and mitigation investigations for our clients simultaneously on the same cases. I have been given a verbal commitment from three of my Capital Defense clients that they will be willing to have us assigned as fact and mitigation experts on their next Capital Murder case.

Since our inception in 1989, we have earned a reputation for being the provider of a high quality fact investigation for Criminal Defense attorneys. I believe that within the next few years we will be able to also have the identical reputation as a provider of quality mitigation services for our clients.

TEXAS ASSOCIATION OF LICENCED INVESTIGATORS - HOUSTON

The Texas Association of Licensed Investigators (TALI) had its Fall Conference at the Omni Hotel this year at the end of August. Wayne Dolcefino and Harris County District Attorney, Pat Lykos, were featured speakers.

Jeffrey Addicott, an expert in Terrorism and National Security also gave a great presentation.

During the three day seminar, there were a number of break-out groups. I was very proud to be selected along with Criminal Defense Attorney, Chris Tritico to do a two hour teaching segment on Criminal Defense. Our session had the biggest attendance of any session at the conference.

During the last ten years, TALI has done a great deal to improve the professionalism of our industry and be a key voice in legislation that affects all of us.

ONE OF OUR CLIENTS RECEIVED PROBATION WITH COMMUNITY SERVICE



www.gradoni.com

4