



Advancing Security Worldwide™

The Sierra Searchlight Chapter #164

Chairman's Corner—Dean Hill



Steve Moyer's presentation about energy theft was very interesting and, at times, very amusing. Especially

when he went into detail regarding some of the measure individuals will use in order to steal energy.

It was refreshing to see that NV Energy has the level of success they enjoy, mostly due to Steve and his team, in recovery of those losses, to prevent additional costs be-

ing passed on to their customers, namely, you and I.

We are moving forward with planning for the next seminar. We learned several valuable lessons in our last effort, and look forward to putting on an even better program this time around. If you are interested in becoming

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NEXT Meeting:

- September 2nd @ 11:30 AM
- Atlantis Casino "Emerald A & B" on the 2nd floor
- Reminder: THERE IS NO MEETING IN AUGUST, DUE TO HOT AUGUST NIGHTS!

Speak Out—Give Me Back My Stuff!: Adding Bite To An Employer's Demand Through CFAA

The Computer Fraud and Abuse Act ("CFAA") was passed by Congress in 1984 primarily to deter computer hackers. 18 U.S.C. 1030 et seq. Although the CFAA is generally a criminal statute, it does permit private parties to bring a cause of action to redress violations. Importantly, this private cause of ac-

tion can serve as a valuable tool for employers to protect their intellectual and proprietary information.

Employers frequently entrust employees with their intellectual

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Officer information:

- Chairman—Dean Hill
- Vice Chair—Darrell Clifton, CPP
- Secretary—Jesse Janzen
- Treasurer—Dennis Smith, CPP

Opinions vary, if you disagree with any information provided, please let us know at:

deanmhill@gmail.com

CPP Review Questions-Investigations

1. An undercover operator should be:
 - a. A member of the investigative staff of the organization.
 - b. A trusted employee in the department under investigation.
 - c. Unknown by anyone likely to be in the target population.
 - d. An off duty law enforcement officer.

2. One of the objectives of an



- undercover investigation is not to:
- a. Establish a method of diversion of goods.
 - b. Ascertain the level of organized labor activity in the work force.
 - c. Provide information for per-

- sonnel action.
- d. Obtain evidence of past or future crime.
3. Which of the following is not true concerning a witness?
 - a. A witness must have directly observed the incident.
 - b. A person who heard the accused make certain remarks may be a witness.

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Personnel Security– Piercings and Tattoos—What Can Employers Regulate?

Most employers believe that their employees are a direct reflection of the company. Thus, they want their employees to look and dress in a certain manner, usually because they are attempting to appeal to their customers or clients. To achieve this look, many employers establish dress and grooming standards for their employees to follow. Some of these policies are written

and some are general practice.

Often employers use generic dress code policies stating that “employees must wear clothing appropriate for the nature of the company’s business and the type of work performed.” Other employers create specific policies detailing the types of clothing allowed and prohibited

They may also include provisions prohibiting employees from displaying tattoos and/or piercings. Employers, however, risk violating federal and state laws by enforcing their tattoo and piercing policies.

Religious Discrimination and Accommodation

(Continued on page 7)

Chairman’s Corner—Dean Hill

involved in this process, please contact Darrell Clifton as soon as possible.

I would also like to remind everyone that we will not be having a meeting in August, due to the Hot August Nights festivities..

However, we will still publish a newsletter, so please submit your articles, bios, etc. As always, we gladly accept any articles or other information our members may contribute.

Truthfully, and surprisingly based on the level of experi-

ence and knowledge encompassed by our membership, articles and submission are actually quite rare.

I must also remind everyone

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Chairman's Corner— Dean Hill

of the 55th Annual Seminar and Exhibits from September 21-24, 2009, in Anaheim, CA.

Finally, don't forget to vote for the Board of Directors at www.asisonline.org. The deadline is August 7th.

Thank
you,
Dean



CPP Review Questions-Investigations

(Continued from page 2)

- c. A specialist in the analysis of evidence may be a witness.
- d. A person with knowledge of the whereabouts of the accused at the time of the incident may be a witness.

4. In an incident investigation, the general rule is to first interview persons who:

- a. Are not likely to be available for later interview.

- b. Are likely to be hostile.
- c. Have the most extensive information about the incident.
- d. Are familiar with some part of the subject matter.

5. A subject who has a sixth grade education has a statement typed for him by the investigator. Which of the following should not be included in the typed statement?

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Speak Out—Give Me Back My Stuff!: Adding Bite To An Employer's Demand Through CFAA

and proprietary information, which are stored and used by the employee on company-issued laptops in the regular course of employment. When the employment relationship does not work out for whatever reason, the employer will request the return of the laptop along with all intellectual and proprietary information. Sometimes, the former employee will refuse to return the laptop and / or destroy the information it contains.

These familiar facts are very similar to the facts in a recent district court decision that found that two former employees violated the CFAA when they "deleted confidential and trade secret information from [the employer's] computer" and waited well over a month



to return "all electronic and hard copy information in [their] possession belonging to [the employer]." See, e.g. *Lasco Foods, Inc. v. Hall and Shaw Sales*, 600 F. Supp. 2d 1045 (E. D. Mp. 2009). In reaching this conclusion, the Lasco Court found that the employer had established "damage" and "loss".

The CFAA defines "damage" as "any impairment to the integrity or availability of data, a program, a system, or information." 28 U.S.C. 1030(e). Damage, for example, can include the deletion of information from a single laptop because it "impairs the integrity or availability of data, programs, or information on the computer.": While CFAA does not define "loss," courts, including *Lasco*, have consistently interpreted that word "to mean a cost of investigating or remedying damage to a computer, or a cost incurred be-

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Training and Development Opportunities!!!

ASIS Training opportunities are available in a variety of forums and locations. For more information, and a complete list, visit www.asisonline.org, call 703-519-6200, or write to education@asisonline.org

July Events

7-8 Securing the Pharmaceutical Supply Chain: From Manufacturers to Consumers
Boston, Massachusetts

7-9 Physical Security: Advanced Applications and Tech-

nology
Boston, Massachusetts

9 Leading from Within a Crisis Management Team
Webinar

14-15 Executive Protection
San Diego, California

16-17 Corporate Investigations: How to Conduct Proper and Effective Internal Investigations
San Diego, California

August Events

13 The Road to Convergence—Promises, Pathways, and Pitfalls
Webinar



Guest Speaker-July 2009, Steve Moyer



Steve Moyer

Steve Moyer has been the Director of Corporate Security at NV Energy since 1989. He is responsible for Physical Security, Corporate Investigations, Revenue Protection, and Emergency Management for the combined electric and gas utility. Originally from Sierra Pacific Power Co., he assumed these same duties for Nevada Power Co. in 1999. He has also been a member of ASIS since 1989.

Mr. Moyer spoke about the

overall impact of energy theft. The facts Moyer shared were always interesting and often alarming. Moyer reported that covering the cost of energy theft adds from \$75-\$100 to the average household's annual energy bill. Worse, Moyer reported that energy theft creates enormous public safety issues to the potential for fire, explosion, or electrocution. Moyer reported that criminal statutes (NRS 704.800) and civil statutes (NRS 704.805) have been put in place to deter energy theft.

Public Opinion Survey Gives RPD High Marks

The Reno Police Department's image in the community remains high, and residents feel Reno is a safe place in which to live, according to the results of the 27th annual RPD Attitude and Public Opinion Survey conducted recently.

About 600 households throughout the Reno area were selected randomly to participate in the survey, and residents also had the opportunity to participate in the poll on-line. The annual survey is a planning tool for the Reno Police Department and provides continual measurement of public attitudes and opinions about local law enforcement related matters. Trained volunteers from the community are used to conduct the survey to obtain information on issues ranging from performance to community issues including questions about personal contacts and experiences

with law enforcement officers.

According to the survey, nearly 90 percent of the residents surveyed feel Reno is a safe place in which to live with more than 98 percent indicating they feel safe during the day, and more than 76 percent at night. About 88 percent of the respondents said they felt safe in the downtown area during the day, and less than 40 percent at night. Survey responses indicated the two key reasons for feeling safe is a perceived reduction in the crime rate, and police patrolling. The four common responses to feeling less safe were increasing population, gang crime, perceived increase in the crime rate and the current economy. Last month, Reno Police Chief Michael Poehlman reported there was a decrease in most violent crimes reported in the City of Reno in 2008 compared to 2007, and the number of violent crimes per 1,000 population was also

significantly lower in 2008 than in the previous two years. Overall, the number of major crimes reported was less than that reported in 2006, while up slightly over 2007, Poehlman said.

Resident evaluation of how the Reno Police Department deals with lawbreakers increased by 2 percent over the previous survey with an 82 percent positive rating.

The image of the Police Department within the community also remained high with an 81 percent positive satisfaction level, representing an increase of nearly 5 percent from the last survey. Residents also gave the police department an 82.85 percent positive rating in its performance, also representing an increase from the previous survey results.



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Personnel Security—Piercings and Tattoos—What Can Employers Regulate?

With the increasing number of employees getting tattoos and piercings, employers are faced with the challenge of how to regulate the public image of the company. Generally, an employer merely has to inform an employee that their visible tattoo or piercing violates the company dress and grooming standards. If the employee refuses to cover it up or remove it, the employer has the right to take adverse action, up to and including termination. Sometimes, however, when employers ask their employees to remove or cover their piercings or tattoos, employees claim that their religion prohibits or forbids complying with this request.

Under Title VII of the Civil Rights Act of 1964, employers cannot discriminate against employees on the basis of their religion. “Religion” includes “all aspects of religious observances and practice, as well as belief.” 42 U.S.C. 2000e(j). Many states also have anti-discrimination laws that are similar or parallel to Title VII.

When an employer takes an adverse action against an employee (e.g., demotion or termination) for failing to cover or remove his tattoo or piercing, the employee may make a claim for religious discrimination, asserting that:

- He holds a bona fide religious belief that conflicts with an employment duty;
- He informed the employer of the belief and the conflict with

his particular job duties;

- The employer took adverse action because of the employee’s inability to perform the job requirement (i.e., remove or cover pursuant to company policy).

If an employee proves these elements, the employer must rebut the claim by showing that the employer offered a reasonable accommodation or that they could not reasonably accommodate the employee’s religious practice without undue burden. Undue burden might be shown through evidence that the dress code requirement—that employees wear long sleeve shirts, for example, which only incidentally might cover tattoos, or that employees must remove their piercings and jewelry—implicated safety issues. Courts and administrative agencies routinely enforce these policies to the extent they are designed for the safety of the employee.

When courts have been faced with claims of religious discrimination because of employers’ policies requiring the covering or removal of piercings or tattoos, the results have been mixed. For instance, a Costco employee refused to cover her facial piercings because she claimed she was a member of the Church of Body Modification, which required her to display her facial piercings at all times. The court held her request to show her facial piercings

was not a reasonable accommodation that could be accomplished without undue burden on Costco because the company had a legitimate interest in its grooming standards and public image. Conversely, when a Red Robin employee refused to cover his wrist tattoos because he practiced Kemetecism (an ancient Egyptian religion), the court found it was not an undue burden to accommodate his request and allow him to show his tattoos. Similarly, when a Subway sandwich-artist refused to remove her nose ring claiming that her practice of Nuwaubianism prohibited covering or removing the ring, a court again found that it was not an undue burden to accommodate her request.

Although each situation requires careful analysis, enforcement of a seemingly neutral grooming and dress code can result in claims of religious discrimination. Additionally, claims of religious discrimination are frequently accompanied with claims racial or national origin discrimination because the particular jewelry or tattoo is related to the employee’s cultural beliefs.

Finally, many states and cities have passed laws prohibiting discrimination on the basis of sexual orientation and/or gender identity. Thus, employer dress policies that prohibit men from

Personnel Security—Piercings

(Continued from page 7)

wearing earrings or other jewelry could be challenged as discriminatory if the individual dresses as or purports to be a woman.

What Can Employers Do?

First, employers should reevaluate their current dress and grooming policies to ensure that they are neutral and designed to meet the legitimate interests of the company.

Second, employers should enforce their dress and grooming standards policies equally and evenhandedly. Exceptions to these policies are scrutinized by the court and can cause unnecessary employee dissension.

Third, if an employee claims that a particular policy violates his religious beliefs, the employer should carefully examine whether there is a reasonable accommodation. This examination should be done with the assistance of legal counsel.

Lastly, employers should train their supervisors who interview individuals for open positions to be careful when interviewing candidates displaying tattoos and/or piercings as these religious discrimination laws apply equally to applicants.

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Speak Out—Give Me Back My Stuff!: Adding Bite To An Employer's Demand Through CFAA

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cause the computer's service was interrupted." A "loss" must result in the "interruption of service," which can be established by showing the former employee physically withheld the return of the laptop computer.

While this language is meant to combat computer hackers and their deleterious effects on computer systems, the Lasco decision shows us that the CFAA has beneficial application in the familiar and non-technical setting that employers regularly face, as discussed above.

First, the CFAA gives employers an additional tool to maintain control over their laptops, electronic devices, and the confidential information they may contain.

Second, because the CFAA is a broad statute covering the unauthorized and unlawful access of all electronic information or interruption of service, the employer can theoretically use the CFAA as a powerful sword without necessarily showing that the information is proprietary, confidential, or otherwise protected.

Third, by creating a private cause of action for the unauthorized and unlawful access of electronic information, employers now have another claim they can raise and therefore obtain additional leverage over the defendant employees.

Finally, the CFAA should also remind employers of the importance of having confidentiality agreements and / or agreements that protect intellectual property with those employees who have access to confidential and / or protected information. Additionally, if appropriate, employers should consider whether a noncompete, nonsolicitation, and / or anti-piracy agreement is required or, if already existing, whether it is sufficient, to protect the employer's interests.

If you have any questions on the subject of this article, or would like more information, please contact an attorney with Snell & Wilmer at 303.634.2000

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- Program Chairperson-Mark Crosby: mcrosby@sppc.com
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- Chapter Photographer-Ken Braunstein: kb@unr.edu

CPP Review Questions-Investigations

- | | | |
|---|--|--|
| <p>a. Profanity used by the subject.</p> <p>b. The actual sentences spoken by the subject.</p> <p>c. Highly complex sentences and large words.</p> <p>d. References to witnesses to the incident.</p> <p>6. Which of the following is not true regarding communi-</p> | <p>cations with an undercover agent?</p> <p>a. Normal contact is initiated by the agent.</p> <p>b. The contact telephone should be answered with the name of the company.</p> <p>c. An alternate contact telephone number should be established.</p> | <p>d. The telephones should be reserved exclusively for investigation.</p> <p>Answers:
1) c 2) b 3) a
4) a 5) c 6) b</p> |
|---|--|--|

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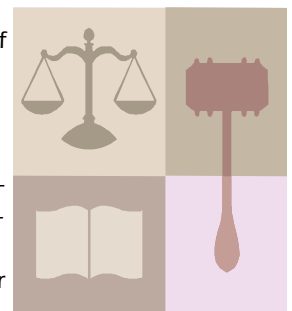
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The chapter does not endorse or recommend any commercial products, process, or services.



ASIS CHAPTER #164 MONTHLY TREASURER REPORT

JULY 2009

Treasurer: Dennis Smith, CPP



Members Attending	21	Total Attendance	23
Guests	2		
No Pay (Comp)	1		

Beginning Balance \$8093.83

General Fund Collections

Collected Chapter Dues	<u>\$ 00.00</u>
Collected Newsletter Ads	<u>\$ 0.00</u>
Collected Luncheons	<u>\$ 440.00</u>
Miscellaneous Collected	<u>\$ 25.00 (Scholarship\$25)</u>

Total Collected General Fund \$ 465.00

General Fund Sub Total \$ 8558.83

DEBITS

Check #	Purpose	Amount
1756	Atlantis	<u>\$ 395.37 (Luncheon bill)</u>
		\$
Transfr	Scholarship Fund	<u>\$ 25.00 (Checking to Savings)</u>

Total Debits \$ 420.37

Ending Balance \$ 8138.46

Luncheon net or loss \$ + 44.63

Scholarship Fund Previous Balance \$ 4384.47

Deposits this Month \$ 25.00

Interest Payments \$.10 for June

Sub Total Scholarship Fund \$ 4409.57

Debits (reason, amount)

National Scholarship Fund \$ _

Total Debits \$

Ending Scholarship Balance \$ 4409.57

ASIS International Chapter #164

Meeting Minutes 07/01/09



Chapter Chairman Dean Hill called the meeting to order at about 12: 25 PM and led the Pledge of Allegiance.

The chapter adopted the budget report and minutes from the June 2009 meeting without opposition.

Committee reports included news that one new member had joined the chapter.

Dennis Smith, CPP offered a motion to use chapter funds to cover the expense of a Webinar scheduled for 07/15/09 at 9:00AM at NV Energy: "Mastering Internet Searching and Analysis for Investigations and Security." The motion carried without opposition.

Legislative Representative Hyong Cho reported 2 pieces of legislation of interest to some members: the first regarding proposed amendments to assembly bill #233, which governs handling and transactions of scrap metal, and the second regarding proposed revisions to assembly bill #164, which governs battery crimes perpetrated via strangulation. PDF files with detailed information are available upon request.

Hill introduced guest speaker Steve Moyer, Director of Corporate Security for NV Energy. Moyer elucidated the membership about the enormous issues stemming from energy theft. According to Moyer, energy theft is not only a nuisance, but also a public safety hazard due to the heightened risk of fire, explosion, and electrocution. Moyer's biography and a summarization of his presentation appear separately.

Hill presided over the monthly door prize drawing. As usual, Hill invited members to contribute door prizes for future meetings and purchase extra door-prize tickets to fortify the chapter fund. Hill again asked members to contribute biographies and articles for publication in upcoming newsletters. Hill implored some qualified member to step forward and take charge of the CPP review for future newsletters.

Hill adjourned the meeting at about 1:15 PM.

Jesse Janzen

Secretary

ASIS Chapter #164

**Northern Nevada ASIS,
International, Chapter #164**



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Dues are past due for 2009

Address Label here

New Members

- Paul Ochs—Late 2008
- Ross Briggs-Late 2008
- Sheila Thompson
- Michael Donahe
- Jerry Higginson, CPP, PCI
- David Pennington
- Ricardo Gonzales

ASIS, International Certifications

- Philip Bennett—CPP
- Chris Brockway—CPP
- Russell Brooks—CPP
- Cheri Bryant-CPP
- Darrell Clifton-CPP
- Douglas Laird—CPP
- Dennis Smith—CPP
- Jerry Higginson-CPP, PCI

