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CORPORATE HOMICIDE™

LIFE IN A GLOBAL ECONOMY

A NEWSLETTER FOR THE SECURITY AND NON-SECURITY EXECUTIVE

Escort Service – – – Worried the employee you just fired may try to kill important computer files or hurt the company some other way? Don't have him or her escorted out of the building. **A federal court ruling in Minneapolis says an individual was defamed when he was escorted from his job after being fired.** The former employee of the Minnesota Department of Human Resources was entitled to sue for defamation because of the implication of impropriety, the court ruled. It's a shining example of how defamation can arise out of conduct, not just verbal or written statements.

Sex Crime – – – **[INDIANAPOLIS, March 30, 1999]** Intimate details of some 90 patients' sex lives, along with their names, addresses, phone numbers and credit card numbers, were exposed on the Internet. Dr. Larry M. Davis, a certified sex therapist, found out about the computer glitch from reporters with The Blade of Toledo, Ohio, who were researching an article on computer security. According to Daniel Gobin, the web site administrator, "the private information may have been posted on Davis' public site for several months." **Davis has had two computer experts** examining how security was breached to prevent it from happening again. He suspects a computer hacker gained access to the electronic server he was using and allowed protected files to get on the Internet. **The American Medical Association** leaders have voiced opposition to diagnosing and treating people and prescribing drugs over the Internet.

Espionage – – – The first Federal economic espionage case to go to trial is scheduled to begin this month in Youngstown, Ohio. According to Federal prosecutors Pin Yen Yang, President of Four Pillars Enterprise a Taiwan company (\$140 million annual sales) and his daughter paid \$67,500 to Avery Dennison (\$3 billion in annual sales) engineer Ten Hong "Victor" Lee to steal formulas for making adhesive labels and tape. Four Pillars has filed suits in China and Taiwan alleging Avery lured Four Pillars into discussion about a joint venture in China in order to steal manufacturing information so it could set up its own competing factory.

Kidnapping – – – **Corporations have taken a harder line against talent raids.** Wal-Mart's trade secret suit against Amazon.com. alleges that the Web's leading e-commerce retailer lured 15 of its top techies out to Seattle from Wal-Mart's hometown of Bentonville, Ark., for the express purpose of duplicating its prized information database — a system that tracks customer shopping patterns and product flow. Amazon.com has filed a countersuit denying the accusations.

Computer Surveillance – – – Attorneys who use Boston's Social Law Library Inc. as their Internet service provider have total freedom when it comes to the e-mail they send and receive. **Not so for the legal research center's 100-person staff.** Earlier this month, the 196-year-old nonprofit institution began monitoring employees' e-mail and blocking incoming and outgoing messages containing pornography, unsolicited commercial pitches and other material not related to work. **Employers are within their rights to snoop.** The Electronic Communications Privacy Act makes it a crime to eavesdrop on private e-mail, but in most cases companies are exempt because they own the networks their employees use or pay for workers' Net access. Keeping workers' noses to the grindstone is not the only reason businesses are monitoring e-mail. **A recent spate of workplace sexual harassment lawsuits** related to employees' e-mail and Web use has sensitized companies to the liabilities they could incur by not setting limits on what people can and can't do online at the office. In addition, companies see filters as yet another guard against computer viruses and other security risks. **The software being tested by the library is the Message Inspector** from Elron Software Inc. (<http://www.elronsoftware.com>) in Cambridge, MA, one of several companies marketing e-mail filtering software.

Predicting Crime – – – A start up PA based company (Cap Index, Inc., founded by two academics) has developed a software program that predicts the level of crime (criminal activity rating) in a geographical area. The software uses 21 demographic variables that are weighted and pumped into a formula that produces color-coded maps. An Excel spreadsheet breaks down the likelihood of murders, robberies and other crimes in the area relative to a national and state average. **How accurate is the software?** Wendy's International, Kmart Corp.'s — Super Kmart Centers Division, and Marriott International use Cap's software. Pinkerton, Mosler and ADT have signed on to distribute Cap's software. **Critics charge it is Redlining Software.** It draws circles around urban decay and tells you to stay away. Don't put a bank branch there. Avoid deliveries. Don't write homeowner insurance policies. Cap is expanding into the residential home market since the Federal Government has made it illegal for real estate agents to tell you the house you are buying is in a crummy area.

Assault – – – [November 10, 1998] **Workplace Violence Nation Crime Victimization Survey, BJ/U.S Department of Justice 1998.** The study found that over 2 million employees of U.S. businesses are victimized each year. While at work employees suffered 396,000 aggravated assaults, 51,000 rapes and sexual assaults, 84,000 robberies, and 1,000 homicides. **The notion that it can't happen here can be a costly one** according to Mark F. Murray author of *Violence at Work: How to Safeguard Your Firm*, published last fall by the American Institute of Certified Public Accountants. According to Murray, medical and legal expenses average \$250,000 per incident and the legal costs do not include contingency fees paid out for judgments or settlements arising from suits against employers for failure to protect employees. Judgments in such cases average around \$1.2 million, settlements, \$600,000. **The few insurance companies that offer coverage for violence in the workplace,** all exclude liability. A policy sold by Cigna Corp., for example, covers such costs as loss of business income, public relations expenses, and employee salaries and death benefits, but specifically excludes "legal costs, judgments, and settlements incurred as the result of any claim, suit, or judicial action."

Theft – – – **Minneapolis-based agribusiness giant Cargill recently acknowledged that a rogue employee may have lifted proprietary genetic material** from a competitor (Pioneer Hi-Bred

International), an admission that effectively killed a \$650 million deal to sell its North American seed division to a German biotech venture. **A Gillette consultant is sentenced to prison** for trying to market secret designs of the company's Mach3 razor to competitors such as Bic. **Two men were sentenced** for scheming to sell Intel prototype microchips to rival Cyrix, and most recently a California man, David Kern, was charged with stealing engineering secrets from his former employer, Varian Associates, a leading Silicon Valley maker of radiotherapy systems used to treat cancer. **To help prosecute** these types of crime Congress passed the Economic Espionage Act of 1996, which carries a long prison term for intellectual-property theft. However, only 13 cases have been prosecuted since the law was passed.

Drug Testing – – – **A federal judge has ruled that employers can be sued** for wrongful discharge when their policy requires employees to disclose any prescription drugs they are taking, forcing them to reveal their medical conditions. In her 32-page opinion in *Rowles vs. Automated Production Systems Inc.*, Chief U.S. District Judge Sylvia H. Rambo found that while employers have an interest in a productive and drug-free workplace, there must nevertheless be limits to drug testing. "At some point, an individual's privacy interests trump an employer's efficiency concerns," Rambo wrote. "That point is when the invasion of privacy is 'substantially and highly offensive to the reasonable person,'" she wrote, quoting from the 3rd U.S. Circuit Court of Appeals' 1992 decision in *Borse vs. Piece Goods Shop Inc.* **In another significant ruling, in the same suit, Rambo granted partial summary judgment** to Rowles' claim under the Americans with Disabilities Act As a matter of law, Rambo said, APS violated the ADA by having a policy of prohibiting the use of certain prescription drugs even if their use has no effect on job performance.

Homicide – – – Sitting in his office just before lunch, Tim, a human resource manager, noticed the point of light moving across the floor, along the top of his desk, and up his shirt. It stopped on his chest. He never felt the single hollow-point bullet that ripped a 2-inch-diameter hole through his torso, snapping two ribs; severely damaging two arteries and tearing a third; nicking his lower left lung; and causing massive injuries to his liver, stomach, pancreas, spleen, and diaphragm before exiting only a millimeter from his spine. A disgruntled employee had shot and killed a supervisor just outside his office, wounded a company vice president in the face by shooting through a locked door, and then committed suicide. "Sometimes I stop and think, 'Did this really happen to me?'" says Tim, whose wife was eight months pregnant with their first child at the time of the shooting. "I went to work like it was any other day..." *Hired Gun*, *Men's Health Magazine* article (March 1999 Issue) is a "MUST READ" for Corporate Executives. "Without question, this is one of the most compelling stories of workplace violence to date. It takes a personal story like this to realize workplace violence for the terrifying phenomenon that it is. But beyond that, it is the warm story of recovery and realization. It brings the point home!" **According to the Bureau of Labor Statistics**, 392 workers were murdered by fellow employees from 1992 through 1997. Many more were assaulted but not killed. **Federal OSHA regulations** require employers to provide a workplace free from hazards that are likely to cause death or serious harm. Employers can be cited under OSHA regulations if they fail to adequately protect their employees from workplace violence. **North Carolina courts** have recognized and allowed recovery for claims of negligent hiring, supervision and retention of an unsafe employee. Under this theory of liability, an employer is liable if an injured person proves, "The specific act of violence actually occurred." Will other States follow suit?

The Sting – – – Desperate entrepreneurs are easy marks for con men posing as venture capitalists. Ask the man from Atlanta an entrepreneur, founder and owner of a successful surgical-devices company, who in two years lost \$400,000, a 37-foot boat, a beach house, and the respect of his friends and colleagues; **Art Wilson, owner of a gypsum-mining company in Carson City, NV**, who ponied up \$300,000 for a deal that was supposed to net him \$10 million; **Michael Crow, an Alabama lawyer** seeking capital to invest in a U.K. real estate venture, paid \$250,000 in advance fees about their experiences. The experience they are referring to is the kind of fraud that targets capital-hungry entrepreneurs variously referred to as advance-fee fraud, prime-bank-instrument fraud, or venture-capital fraud. Its victims pay up-front fees — ranging from \$45,000 to \$2 million — to supposed investors and syndicators in return for promises of capital infusions as large as \$50 million. **After three years of investigation, the U.S. Customs Service and the FBI** announced the indictment of 8 individuals allegedly involved in the con ring that snagged Art Wilson. The number indicted in that case now totals 12. **“Company builders have always been unusually vulnerable to advance-fee type fraud,”** notes Harvard Business School professor Josh Lerner. “Hell-bent on moving their pet projects forward,” he says. “They can get so caught up in emotions that they are blinded to these traps.” The sheer number and fragmentation of capital resources and the confusion about them has made fraud easier to pull off for the professional con man. **The Commercial Crime Bureau of the International Chamber of Commerce, in London**, estimates that although a precise figure is difficult to determine because victims are reluctant to report having been taken, such scams will rake in more than \$1 billion globally this year alone.

Securities Fraud – – – In April of this year, the FBI arrested Gary Dale Hoke, 25, at his Raleigh, NC home on charges of securities fraud for allegedly disseminating false information about the company, whose stock is publicly traded. Hoke, an employee of PairGain Technologies Inc., was charged with fabricating a news-service report and posting it on the Web, driving up the company’s stock. Hoke described as a mid-level employee used Lycos’ Angelfire Web-page service to post a Web page that copied the Web-page design of Bloomberg News. The news article said PairGain would be acquired by an Israeli company, ECI Telecom, for \$1.35 billion, or about twice its market value at the time. News of the fake buyout was spread via internet message boards, causing the stock to rise 32%, before it was exposed as a fraud several hours later. According to the U.S. Attorney’s office in Los Angeles, Mr. Hoke also allegedly posted a bogus e-mail message about PairGain under the subject line “Buyout News” on a financial-news message board operated by Yahoo. The message contained a link to the bogus Bloomberg site. **Securities fraud is punishable by up to 10 years in federal prison and a \$1 million fine.** As soon as Lycos was informed of the fraud, the company removed the suspect Web page and secured whatever information it had about the person who posted it. **Bloomberg LP filed a lawsuit over the hoax in U.S. District Court in New York City.** The lawsuit identified the defendants only as John Does and sought unspecified damages.

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