

# INDICTMENT

The quarterly  
Newsletter for  
Investigators  
and Prosecutors  
of Serious  
Organised Crime

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Cybercrime accounts for trillions of dollars every year in profit for organised crime groups.

With over 2.3 billion persons using the internet worldwide, there is a large ready made market for criminals to target. The UNODC 2013 Cybercrime Study supported this view, stating that, "Upwards of 80 per cent of cybercrime acts are estimated to originate in some form of organized activity, with cybercrime black markets established on a cycle of malware creation, computer infection, botnet management, harvesting of personal and financial data, data sale, and 'cashing out' of financial information."

This monumentally large scale criminality needs to be tackled by fit for purpose legislation and thorough investigators with the skill and wherewithal to apprehend those responsible.

In this edition of Indictment, we examine the impact of cybercrime. We will take you through a successful prosecution, where prosecutors can find resource tools and some best practice procedures.

Cybercrime covers a variety of offending from identity theft to stalking. Investigators and Prosecutors face inevitable challenges, but we hope to demonstrate they are not insurmountable and with collaborative inter-agency working, both nationally and internationally, combined with public sensitization, this type of criminality can be effectively disrupted.

With the increasing use of social media and an ability to sit from our homes and order everyday necessities without having to walk out of our doors, cyber is the present! We cannot ignore it and need to face its criminal use head on. We fail to do so, then the region becomes a soft target to be exploited.

Of course as well as our leader we have our usual features. This has been a busy quarter so there is a lot to catch up on! Plus, for a change from all things cyber, see David Belmarsh's article on the self styled "Devil's Advocate."

If you want regular updates we have gone into the cyber age, so follow us at: <https://twitter.com/IndictmentEC>



Editor:  
Sejilla Mc Dowall

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# THE 2013 INDICTMENT AWARDS



At Indictment we always want to hear about your successes and what better way to recognize this than through your very own award.

We are after nominations to our editorial team for the following categories (see right):

## The small print

You can nominate by emailing:

[dansuter1975@yahoo.com](mailto:dansuter1975@yahoo.com)

or why not tweet us at:

<https://twitter.com/IndictmentEC>

But please tell us why you are nominating!

All nominations must be received before 31st August 2013 and results will be announced in our next edition.

The Editorial Team's decision will be final, No Appeals Here!

Prosecution Team of the Year:  
Which investigators and prosecutors have worked together to deliver coordinated results?



Investigator of the Year:  
Which Police, Customs, Immigration or Financial Investigator has worked beyond the call of duty?



Prosecutor of the Year:  
Do you want to nominate a prosecutor who has excelled this year?





# SPAMALOT: THE CYBER FRAUDSTERS BASIC MODUS OPERANDI

**Now when anyone mentions cybercrime my immediate thought is spam. Just pause to look at your spam account on your email. You will have a variety of persons from around the world trying to become your next best friend, just so they can rob you of all you have!**

Yet, there are millions of persons who fall for this. Is it because we are greedy by nature and just can't believe it when a former African President contacts us personally to share some of his ill gotten gains? Needless to say, this has been accumulated through an abhorrent abuse of his poor countries citizens, yet we are intrigued and want to find out more.

Is a former President really going to contact me? Well, hapless, or just plain naive persons feel compelled to act to assist this clear victim of a corrupt revolution.

So what goes through the minds of those who believe this "story"? They reply to the fake President and give him their bank details to let him remove the money to a safe location. They must only be thinking that there must have been such an injustice that they need to act to help this poor individual.

Now clearly nothing goes through the mind of this victim of cybercrime to consider for one moment whether this so called coup has been on the

international news or indeed why they would have personally been contacted.

This type of scam earns organised criminals billions. It is simple, cheap and casts across a wide net of victims. Plus, it fools so many people as it is nothing more than a basic confidence trick. As they say, flattery will get you everywhere! I have known persons in the Caribbean believing that they had won the Spanish Lottery, so why not give their bank account details? Come on, really? Yes and it will continue to happen. Just think this works just once everyday and an organised criminal has reaped a tasty profit and not exposed his identity?

How do we stop them? There has to be a public campaign. As obvious as the fraudsters are, we need to alert everyone that this is a crime and should be reported to the police. Tell your family, friends, co-workers what the latest attempt is. Just today, I had a over 20 spam emails. Someone will fall for this, give the necessary details and that will be it. You've been warned! Don't let a cyber criminal turn you into a cyber fool!

For more on basic steps to avoid being a victim of cyber fraud see: [http://www.dell.com/downloads/ca/support/top\\_10\\_steps\\_to\\_protect\\_against\\_cybercrime\\_dell\\_en.pdf](http://www.dell.com/downloads/ca/support/top_10_steps_to_protect_against_cybercrime_dell_en.pdf) or see how the hackers are helping to beat cyber fraud <http://www.bbc.co.uk/news/technology-23008088>

Too good to be true!

Beware Spam!

My name is MRS AWA SULE, am the manager of auditing and accounting department Bank of African, I need your urgent assistance in transferring the sum of \$17,

200,000.00 (Seventeen Million Two Hundred Thousand United States Dollars Only) immediately to your account. Meanwhile, it was very fortunate for me to come

across the deceased file, when I was arranging the old and abandoned customers files in order to sign and submit to the entire bank management, as official

re-documentation.

However, it is not authorized by the rules guiding our bank for a citizen of Burkina Faso to make the claim of the fund unless you are a foreigner, no matter

the country you come from, that's the reason I contact you as a foreigner to apply for the claim and transfer of the fund smoothly into your reliable bank

account as the next of kin to the deceased, and I assure you that this transaction is 100% risks free. If you are really sure of your, Trust worthiness,

Accountability and confidentiality on this transaction contact me and accept not to change your mind to cheat, or disappoint me when the deposited funds are

released to you by our bank;

# FACEBOOK FOR CRIMINALS: OPERATION DULSE

**Cybercrime can be labelled as too difficult to prosecute on the basis it is too complex. In this article, by Russell Tyner a Prosecutor with the Organised Crime Division of the Crown Prosecution Service in London, we show that cyber criminals can be successfully brought to justice through a co-ordinated prosecution team approach.**

Operation Dulse concerned the activities of members of Dark Market. Dark Market, described in court as a Facebook for Criminals, provided those engaged in fraud with the opportunity to acquire all the goods, services and advice they required. Before turning to the detail of the case it is necessary to understand something about these sites known as 'Carding Forums' or 'Carding Sites'.

The Internet has created the possibility for criminals to unlawfully access vast quantities of personal data. The Internet has also provided an outlet for those who wish to utilise this data to commit fraud.

The term 'Carding' traditionally refers to the unlawful use of credit and debit cards. The Carding forum offers its members the opportunity to trade credit and debit card numbers and other data that can be used to commit fraud.

Though many credit cards can be used globally, it is generally far easier to obtain goods and services in the country or geographical area within which the card holder resides. Once a credit card has been compromised its viable lifespan is limited; as accounts are closed once the compromise has been identified and as cards reach their expiry date. To maximise profits compromised cards have to be used quickly.

Specialist services have evolved to service the carding industry motivated by the desire to maximise financial gain. For example, a Hacker in Vietnam manages to acquire thousands of credit card details from a data base in North America. His

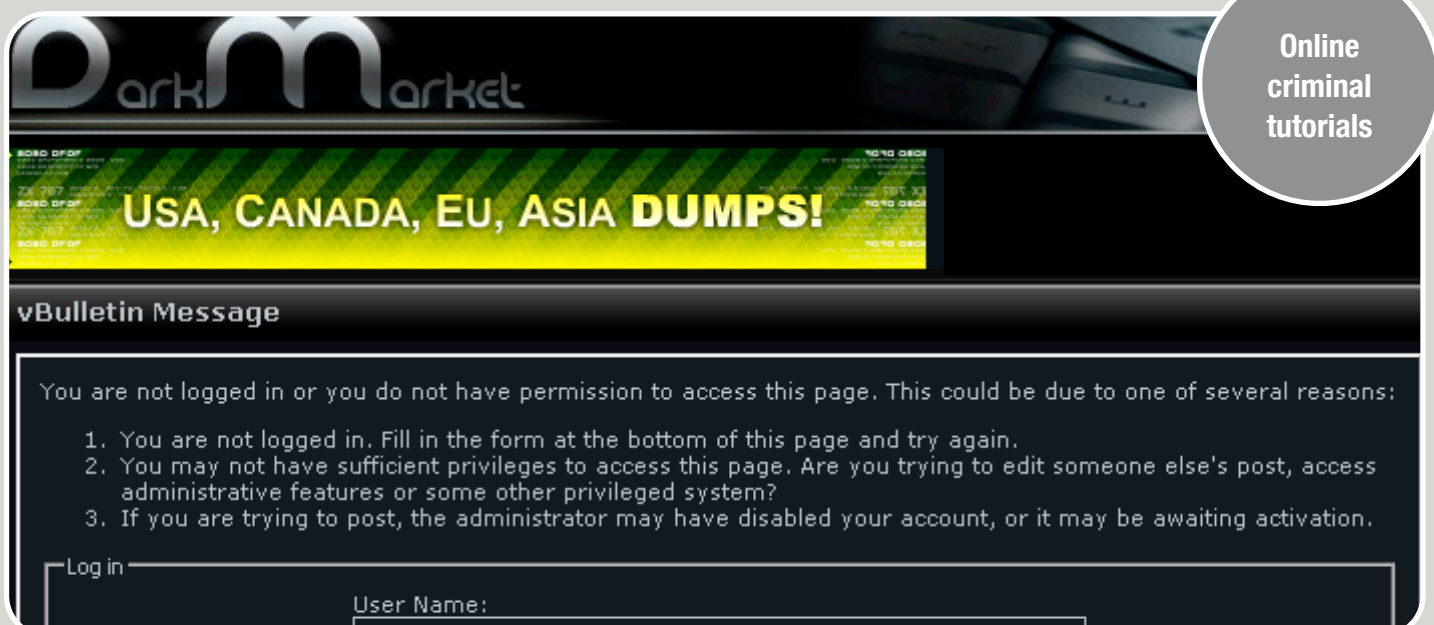
opportunity to make money from this data is limited for a number of reasons. Firstly his geographical location; using American cards may be difficult. Secondly seeking to pretend that he is an American will also be difficult should he try to produce a counterfeit of the card in a shop. Using the data in cardholder not present transactions will be difficult, either because such a market place is not as well developed in his country or because companies will be suspicious. Producing counterfeit cards is time consuming and using them not only takes time but carries more risk. In any event the sheer number of card details he has acquired make this impractical.

To make money the hacker needs to become a member of a carding forum. The forum offers him the opportunity to find a buyer or buyers for his bulk data, and it can be sold on within hours of the hack.

The purchaser may be a wholesaler based in Russia. He is not interested in using the cards himself but will sort them by country and / or bank and offer them for sale in smaller quantities. Gradually the data will be broken down. It is possible for those who buy the data to avail themselves of the services of a checker who will tell him whether the card numbers are still valid, whether there is a block on the card and maybe even the available balance.

The person who then buys the data will go on to use it to either produce cloned cards or to purchase goods online or elsewhere where the card holder does not need to be present.

All the equipment required to make counterfeit cards can be purchased from other members of the forum. For those who either do not have a suitable address to receive goods ordered online or who don't wish to take the risk of having goods sent to an address to which they are associated can find others who will take in the goods for them. If they wish they don't even need to handle the goods themselves as others will sell them on their behalf. This article continues on page 6



Online  
criminal  
tutorials

# FACEBOOK FOR CRIMINALS: THE SCAM

Fake Identification documents can be purchased as can the equipment required to compromise Automatic Telling Machines. For those new to this area of criminality the sites also offer online criminal tutorials.

Dependant on the data that has been acquired it may be possible for the criminals to take over the accounts of third parties , change billing addresses and exploit the account to the maximum extent possible .

These forums are truly international. They are also sophisticated and operate through a hierarchy of administrators. These administrators enforce the site rules. To make money it is imperative to remain a member of the site .Reputation is therefore key. For those who fail to deliver on the goods and services the ultimate sanction is to be declared a 'ripper' and banned from the site. Obtaining membership to these sites is not easy and word will soon spread that a named individual has been declared a ripper and is likely to be banned from other sites as a result.

To protect their members administrators offer a number of services. Noone is allowed to trade until their products have been tested and approved. So a prospective vendor of compromised French credit cards will have to supply 10 or 20 to a person nominated by the site administrators to test them. The cards have to be supplied for free. A satisfactory report will allow that person to become a verified vendor and advertise on the site. Admin's will also provide an escrow service. The buyer will send his payment to the admin and the seller will send the admin the goods. Once he has both the admin will send the goods to the buyer and the money to the vendor after taking his cut. Admin's also offer a dispute resolution service and will consider complaints made to them about other members and adjudicate accordingly, they will publish the evidence upon which the decision was made before ultimately removing a members rights to trade or declare them a ripper .

The admin's also ensure that the site remains online. There is rivalry between the various carding sites who will seek to take

other sites offline by launching internet attacks. It is also important that the sites are hosted on servers that are immune from the attention of law enforcement and servers whose owners will not co operate with the police. There are a number of service providers who will provide what is known as bullet proof hosting and who will guarantee not to co operate with law enforcement.

Whilst the Dark Market site carried advertisements for products and services that were clearly criminal the members communicate by way of private messaging, it is thus impossible to gauge the scale of criminality which the forum facilitates.

For the individual suffering the compromise of the cards the result is inconvenience and perhaps damage to their credit rating. Whilst they may suffer some financial loss this is likely to be small as the bulk of the losses are borne by the banks and the retailers.

Banks of course suffer not only the financial loss but also the costs of dealing with the breach, the costs of re issuing cards and other ancillary costs relating to fraud. In 2009 fraud losses on UK credit and debit cards are reported as totalling £440m whilst online banking losses amounted to £59.7m. **This article continues on page 7**

**Renu  
Subramaniam**



# FACEBOOK FOR CRIMINALS: THE OPERATION

This operation commenced in 2007. It was undertaken by SOCA Cyber using intelligence supplied by the FBI about a number of potential members of the carding forum Dark Market including a person using the online identity JiLsi; one of the founding members and principal administrators.

The FBI had managed to infiltrate the forum; their agent rising to a senior position. In addition the United States Secret Service also had an undercover officer working on the site.

SOCA suspected that a man called Renu Subramaniam was JiLsi . The evidence obtained by the FBI and the Secret Service provided overwhelming evidence to show that Dark Market facilitated fraud , that JiLsi was one of the principal administrators and that JiLsi himself was actively engaged in fraud. Key to a successful prosecution was to prove that JiLsi and Subramaniam were one and the same.

In addition to conducting online surveillance officers also used conventional policing techniques. We never managed to locate Subramaniam's place of residence, if he had one. Whilst he owned a number of properties obtained through fraud these were all let to tenants. He himself spent nights with various friends at a variety of different addresses . He connected to the internet at an internet café . This made surveillance difficult but possible, but fearing that the café owners might be implicated, officers were unable to seek to capture his online activity from the café . It was found that JiLsi was never online when Subramaniam was clearly off line , such as when he was driving . Officers were also able to 'shoulder surf ' and saw that Subramaniam had logged on to Dark Market .

Evidence to prove Subramaniam online identity started to mount. A person living at an address at which Subramaniam had been seen to visit was found in possession of a USB memory stick which contained banking information relating to a number of individuals. We were able to prove that this information had been copied to the USB from a computer at another address where Subramaniam had been seen to visit.

Other information connected Subramaniam to subscriber

details relating to a number of e mail accounts and to details given by JiLsi when setting up digital currency accounts. This information included addresses such as the Pizza Restaurant where Subramaniam had once worked and a phone number relating to that restaurant.

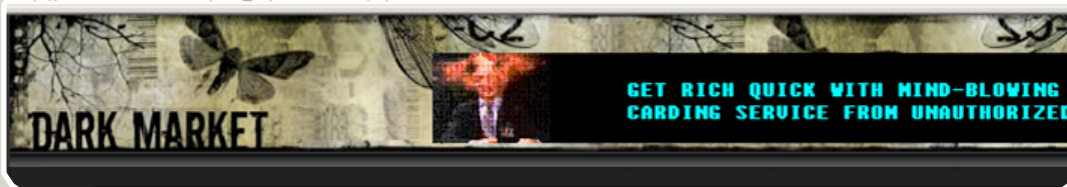
In time we had overwhelming evidence to enable us to prove that Subramaniam was JiLsi . We were never able to discover how much money he made or where the money he made went to. We believe that he must have made reasonably large sums of money which may have been sent abroad.

I have outlined some of the challenges faced by the investigators in seeking to prove that JiLsi and Subramaniam were one and the same. Mutual Legal assistance requests were sent to a number of countries including, the USA, Israel and South Africa.

Relying on evidence from the US FBI and Secret Service agents who had infiltrated the site and who communicated with JiLsi meant that we had to satisfy ourselves that they had not overstepped the limits of acceptable policing and persuaded JiLsi to commit an offence that he would not have done but for their instigation. Dealing with foreign investigators who have been using covert techniques is never a particularly easy process and we have to recognise that the US standards may differ from those in the UK.

As mentioned above the FBI had managed to obtain copies of the Dark Market site. Copying a website to paper is practically impossible. We decided to download the site onto a laptop which we then supplied to the defence. This enabled them to navigate the site in exactly the same way as they would have been able to had it been on the internet. In addition we undertook to identify the precise material that we were relying on in evidence and provide this material on paper. One of the problems was that the defence , who were legally aided, had problems securing funding to look at the electronic evidence as at that time legal aid funding was based on the number of pages of evidence served by the prosecution. This article continues on page 8

[http://www.darkmarket.ws/vbb\\_06/showthread.php?t=1536](http://www.darkmarket.ws/vbb_06/showthread.php?t=1536)



**The dark side of the internet**



# FACEBOOK FOR CRIMINALS: THE TRIAL

As part of the fair trial processes, the prosecution is obliged to disclose to the defence any material obtained during the course of the investigation that either undermines the prosecution case or assists the case for the defence. There is also a positive obligation on an investigator to pursue all reasonable lines of enquiry including those that suggest the suspect may be innocent. When large amounts of digital material have been seized this process becomes very difficult as the only way to examine such material is to use data mining techniques. This process can be time consuming and ideally the prosecution will engage the defence in the process inviting them to submit key words that can be searched.

We were also aware that other members of Dark Market had been the subject of investigations, and prosecutions around the world. We sent a letter to each of those countries asking them to preserve the material that they had obtained in the course of their investigations should we feel it necessary at some stage to examine that material further .

The case came to trial in January 2011. By this time the prosecution had served a comprehensive case summary and had prepared a tutorial for the jury dealing with some of the technical aspects of the case that they would need to understand, as knowledge could not be assumed.

Some months before the trial commenced, we served a fully comprehensive case summary. This set out in clear terms what the prosecution case was and the evidence that supported it. This document was of great assistance to all parties including the defence.

Three days after the trial commenced Subramaniam changed his plea to guilty.

In addition to his part in running Dark Market, he had also been engaged in Mortgage Fraud. He was sentenced to 56 months imprisonment and subjected to a series of restrictions concerning his use of the internet that would remain in place for 5 years following his release from prison.

Screen shot of Dark Market in action





# THE GLOBAL PROSECUTORS E-CRIME NETWORK (GPEN)

The International Association of Prosecutors [IAP] is a world-wide association of prosecutors and has been in existence for over 12 years. It is a non- Governmental, non- Political organisation. The need to establish such an organisation was required by the rapid growth in transnational crime and thus the IAP was established in June 1995 at the United Nations offices in Vienna.

The IAP numbers around 130 organisational members and 1,400 individual members from every Continent. Membership gives enhanced access to certain sites, which will include GPEN and contact points in other countries which can prove to be essential when dealing with cross border criminality

GPEN encourages enhanced international cooperation in the e-crime arena; but it enables all jurisdictions to develop a co-ordinated approach for dealing with e-crime that supports effective prosecutions and promotes the principles of the Council of Europe Cybercrime Convention.

The GPEN has been designed so that it can achieve the following:

1. Enhance international cooperation in the e-crime arena of member countries;
2. Reduce duplication of training and realise significant cost savings as countries will no longer need to devise their own training material from scratch;
3. Develop appropriate training courses to train prosecutors who will be able to train their colleagues;

4. Encourage the sharing of best practice and dissemination of lessons learnt;
5. Improve the exchange of crucial information and data quickly and efficiently; and
6. Encourage all jurisdictions to develop a co-ordinated approach for dealing with e-crime that supports effective prosecutions and promotes the principles of the Council of Europe's Cybercrime Convention.

GPEN consists of four distinct web areas that can only be accessed by IAP members using a password, these are:

1. A virtual Global E-Crime Prosecutors' College, containing a database of e-crime training courses and presentations.
2. A library collection of e-crime material, for example, national legislation and legal guidance;
3. A discussion forum (message/chat board) for the exchange of queries and advice; and
4. A contacts database of fellow nominated e-crime prosecutors from around the world.

In order to access GPEN you need to be a member of the IAP. You can access the IAP web page at [www.iap-association.org](http://www.iap-association.org) and can click on the GPEN link.

Although not focused on e-crime you may like to note that the 3rd IAP North American and Caribbean Regional Conference is to be held at Rhode Island, USA from 7-9 August 2013. Details can be found on the above web page

# MUTUAL CYBERCRIME ASSISTANCE

In this section of Indictment we offer assistance with best practice. Consistent with the theme of this edition, we provide information on mutual legal assistance and applying for the preservation of emails stored on US service providers, such as gmail and yahoo.

## STAGE 1

The Prosecutor should write to the service provider to preserve the emails.

### Sample Preservation Request Letter

Custodian of Records

Dear Custodian of Records:

*[It would include a preamble to establish your authority similar to the following:*

Section X of the Constitution states that the Director of Public Prosecutions has the duty to take over the conduct of criminal proceedings . As Crown Counsel designated by him I have the power to conduct the proceedings in this case. Accordingly I am empowered to issue this letter]

The below listed account/profile is the subject of an ongoing criminal investigation By the *[name of investigative authority]*, and it is requested pursuant to 18 U.S.C. § 2703(f) that the following information associated with said account/profile be preserved pending the issuance of a search warrant or other legal process seeking disclosure of such information:

*[Specify information to be preserved Insert as much information as you have re the use account]*

If you have any questions concerning this request please contact me at *[insert email address and phone contact]*

Thank you for your assistance in this matter.  
Sincerely,

*[Your Signature]*  
*[Your Name Typed]*  
*[Your Title Typed]*

## STAGE 2

### The Prosecutor will have to determine:

1. The type of compulsory process to be used to obtain the emails;
2. The standard of proof required; and
3. The notice requirements

### These determinations will depend upon the evidence required

OBTAINING INTERNET/E-MAIL EVIDENCE FROM U.S. INTERNET SERVICE PROVIDERS (18 U.S. Code §§ 2701 et seq.)			
Type of evidence sought	Type of compulsory process required	Standard	Notice requirements
Unopened contents of e-mail messages 180 days old or less, plus any other information	Search warrant See § 2703 (a)	Probable cause (“pc”), same standard as for any U.S. search warrant	Not required if search warrant utilized

Type of evidence sought	Type of compulsory process required	Standard	Notice requirements
Any opened contents of e-mail messages of any age, or unopened contents more than 180 days old	Search warrant; administrative, grand jury or trial subpoena; or court order under 2703(d). see § 2703 (a) and (b)	For a warrant = pc. For a 2703(d) order = “specific and articulable facts showing reasonable grounds to believe the contents ..., or the records or information sought are relevant and material to an ongoing criminal investigation.”	Not required for a warrant. see § 2703 (b)(A). Prior notice from government to subscriber or customer for all other types. see § 2703 (b)(B). For possibility of delayed notification see § 2705.

Type of evidence sought	Type of compulsory process required	Standard	Notice requirements
Subscriber or customer information not including the contents of messages	Warrant or 2703(d) order. See §2703(c)(1)(B); or any type of subpoena. See §2703(c)(1)(C) which provides a specific list of types of information available pursuant to such a subpoena.	See above standards.	No notice to subscriber required. See §2703(c)(1)

Type of evidence Sought	Type of compulsory process required	Standard	Notice requirements
Preservation of evidence	Upon request of a “government entity” for 90 days pending issuance of a court order or other process. see 2703(f)	Not applicable.	No notice required.

## STAGE 3

### Then a letter of request needs to be sent pursuant to the respective Mutual Legal Assistance Treaty with the US

Dear Sirs

**LETTER OF REQUEST: \_\_\_\_\_COM**

I have the honour to request your assistance under the provisions of the Treaty of Mutual Legal Assistance in Criminal Matters (INSERT YEAR) between the United States of America and the (INSERT COUNTRY) in relation to a criminal investigation being conducted by officers of the (INSERT INVESTIGATING AGENCY).

The Central Authority designated in the Treaty at Article 2 (2) is the Attorney General and accordingly is empowered to make this request. Article 1 (1) of the Treaty provides that assistance may be granted in connection with "the investigation, prosecution, and prevention of criminal offenses, and in proceedings related to criminal matters." Article 1 (4) further States: "This treaty is intended solely for mutual legal assistance in criminal matters between the parties as set forth in paragraph (1) above." The assistance requested is pursuant to Article 1 (2) (a) to taking the testimony or statements of persons; providing documents, records, and articles of evidence;

Officers in the (INSERT INVESTIGATING AGENCY), in (INSERT COUNTRY) are currently conducting an investigation in relation to an offence of (INSERT OFFENCE). Under section (INSERT SECTION AND RELEVANT STATUTE) a person commits (INSERT OFFENCE AND DEFINITION)

On conviction on indictment the maximum penalty for (INSERT OFFENCE AND MAXIMUM PENALTY)

A copy of the relevant statutory provisions is annexed in this letter.

The enquiries requested relate to an alleged offence of (INSERT OFFENCE) that is being committed currently. This letter of request is faxed to you because of the urgent nature of these enquiries. The original of this letter will be transmitted in accordance with the usual procedure through the Central Authority.

#### SUMMARY OF FACTS

At 04:37:05 (Local Time) on 10<sup>th</sup> June 2011 a computer mail server situated in (INSERT ADDRESS) received an email outlining a delivery point for what is believed to be a large importation of cocaine.

There then followed an email exchange between the recipient and the sender and another third party making transportation, financial and collection arrangements for the cocaine consignment.

The e-mail address of the sender is [redman@spoof.com](mailto:redman@spoof.com), the recipient [yellowman@spoof.com](mailto:yellowman@spoof.com) and the other party [agro@spoof.com](mailto:agro@spoof.com). These e-mail addresses are provided by an internet service provider called spoof.com which is based in the United States of America at the following address:

\_\_\_\_\_.com

United States of America



## ENQUIRIES TO BE MADE

To visit an appropriate official of \_\_\_\_\_.com:

Address: \_\_\_\_\_ .com

United States of America

To interview him or her and take a statement in writing setting out all the information held by spoof.com about the user of e-mail addresses [redman@spoof.com](mailto:redman@spoof.com), [yellowman@spoof.com](mailto:yellowman@spoof.com) and [agro@spoof.com](mailto:agro@spoof.com), including but not limited to:

1. All logging information and account details in respect of the accounts.
2. Subscriber information in respect of the accounts as supplied on creation of the e-mail accounts, including, but not limited to, any names, addresses, dates of birth, and other associates e-mail addresses.
3. Telephone numbers supplied by the account holders or associated logging calling line identifier information.
4. Methods of any payment, if applicable, including any credit or debit card details supplied.
5. IP addresses utilised, time and date, at the time the account was created.
6. Any information indicative of account usage including any IP addresses used to connect to the account any forward e-mail address information.
7. Any reference to any other account information held by any third party.
8. Any opened contents of e-mail messages of any age or unopened contents of 180 days old or less for each account

To obtain copies of all documents held by \_\_\_\_\_com relating to the e-mail addresses [redman@spoof.com](mailto:redman@spoof.com), [yellowman@spoof.com](mailto:yellowman@spoof.com) and [agro@spoof.com](mailto:agro@spoof.com) and users. It is requested that these items be produced as exhibits in the statement.

## ASSISTANCE REQUIRED

1. It is requested that the above enquiry is made and that permission be given for the original statement and copies of documents obtained to be removed to the (INSERT COUNTRY) for use in criminal proceedings and trial. It is requested that they be sent to the officer in the case (INSERT LEAD INVESTIGATORS NAME) who can be contacted at:

Address: (INSERT CONTACT DETAILS INCLUDING SECURE EMAIL ADDRESS, FAX and TELEPHONE NUMBER)

2. It is requested that the witness statement be taken in writing, dated and headed by the following declaration: "This statement consisting of \_\_\_\_pages is true to the best of my knowledge and belief." (OR INSERT ANY ALTERNATIVE DECLARATION RELEVANT TO COUNTRY WHERE EVIDENCE WILL BE ADMITTED). The number of pages should be filled in the space once the statement has been written and witness should sign the statement beside the declaration, on every page and at the end. It is requested that the witness' address, telephone number and Date of Birth be written on the back of the first page of the statement.
3. If documentation is obtained from the witness, he should produce each document as an exhibit in his statement. In order to do this the statement should describe the document and give it an exhibit number. The exhibit number should consist of the witness' initials and a consecutive number. For example, the first document produced by John Andrew Smith will have the exhibit number JAS1, the second will be JAS2 and do on.
4. Where any document seized is provided to an Investigator, the Investigator should complete the following attestation (OR OTHER RELEVANT ATTESTATION FOR RELEVANT COUNTRY):

ATTESTATION WITH RESPECT TO SEIZED ARTICLES

I, \_\_\_\_\_[name]\_\_\_\_\_, attest on penalty of criminal punishment for false statement or attestation that my position with the Government of \_\_\_\_\_[country]\_\_\_\_\_ is \_\_\_\_\_[official title]\_\_\_\_\_. I received custody of the articles listed below from

\_\_\_\_\_

[name of person]\_\_\_\_\_ on

[date] \_\_\_\_\_

at \_\_\_\_\_[place]\_\_\_\_\_ in the same condition as when I received them (or, if different, as noted below).

Description of Articles:

Changes in condition while in my custody:

\_\_\_\_\_ [signature] \_\_\_\_\_

\_\_\_\_\_ [title] \_\_\_\_\_

Official Seal

\_\_\_\_\_ [place] \_\_\_\_\_

\_\_\_\_\_ [date] \_\_\_\_\_

\_\_\_\_\_

5. For the production of business records the following certificate of authenticity should be completed by the witness producing them:

CERTIFICATE OF AUTHENTICITY OF BUSINESS RECORDS

I, \_\_\_\_\_ [name] \_\_\_\_\_, attest  
on penalty of criminal punishment for false statement or attestation that I am  
employed by \_\_\_\_\_ [name of business from which documents are  
sought] \_\_\_\_\_ and that my official title is \_\_\_\_\_ [official title]  
\_\_\_\_\_. I further state that each of the records attached  
hereto is the original or a duplicate of the original record in the custody of  
\_\_\_\_\_ [name of business from which documents are  
sought] \_\_\_\_\_.

I further state that:

- (A) Such records were made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;
- (B) Such records were kept in the course of a regularly conducted business activity;
- (C) The business activity made such records as a regular practice; and
- (D) If any such record is not the original, it is a duplicate of the original.

\_\_\_\_\_ [signature] \_\_\_\_\_ [Date] \_\_\_\_\_

Sworn to or affirmed before me, \_\_\_\_\_ [name] \_\_\_\_\_, a judicial officer,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

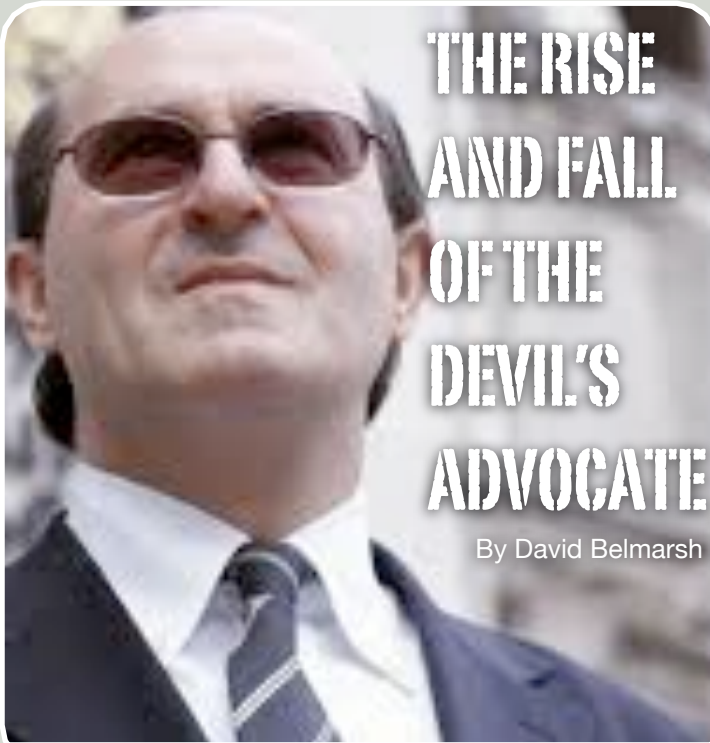
(INSERT ANY OTHER RELEVANT PARAGRAPH THAT WILL PROVIDE THE EVIDENCE AS AN ADMISSIBLE BUSINESS DOCUMENT ACCORDING TO LOCAL STATUTE – **The above is a suggested paragraph used in SAINT LUCIA**)

6. That such enquiries are made, person interviewed and exhibits secured as appears to be necessary in the course of the investigation.
7. That an indication be obtained of the preparedness of any witness to travel to (INSERT COUNTRY) to give evidence in person.
8. That any information held on the computer in any form be preserved and secured from unauthorised interference and made available in due course to the investigating officers and the National Prosecution Service for use at any subsequent trial.

I confirm that the enquiries be requested to be made in this letter could be made by the (INSERT COUNTRY AND RELEVANT INVESTIGATING AGENCY) under powers currently available to them if the enquiries were made in (INSERT COUNTRY) rather than the United States.

I think you in advance for your valuable co-operation concerning this case.

Yours faithfully



# THE RISE AND FALL OF THE DEVIL'S ADVOCATE

By David Belmarsh

Giovanni Di Stefano, the self-styled “Devil’s Advocate” had been a thorn in the flesh of the British legal establishment for more than a decade, masquerading as an Italian lawyer and duping a succession of judges, court officials, clients and a variety of eminent people in the public eye who should perhaps have known better. He made a whole series of outrageous headline-grabbing claims over those years and claimed, at one time or another, to represent virtually every notorious villain and despot in the who’s who of major league crime.

In the meantime, The Law Society who knew that he had no legal qualifications and was not entitled to operate as he did in English courts, dragged their heels. Di Stefano obviously knew that he had no qualifications but adopted the stance of “you prove it!”; choosing to hide behind the complexities of the Italian legal system. It therefore took seven years of patient police work by D.C. Jerry Walters of the City of London Police to build a case against him and eventually bring him to justice. In March 2013, after a three month trial at Southwark Crown Court, Di Stefano was found guilty of 25 charges of deception, fraud and money laundering. He pleaded guilty to further charges

which were to form the basis of a second trial and certain other counts were “left on file”. The Recorder of Westminster sentenced him to 14 years imprisonment but, determined as ever to have the last word, he mockingly thanked the judge by replying “I am obliged, My Lord” before he was taken down.

Di Stefano, already a twice-convicted fraudster, first came to prominence around 2001 when he was part of the team which successfully defended a confiscation claim on behalf of their client John “Goldfinger” Palmer on procedural grounds after the Crown made a mammoth error by lodging the wrong paperwork with the court. That sloppy mistake would cost the authorities over thirty million pounds. Shortly after that, he was involved with the team which successfully overturned the manslaughter conviction of Nicholas van Hoogstraten.

There was no stopping him now. He appeared to have the magic touch.

Work came flooding in and that was to form the basis of the later trial against him as he accepted large amounts of money, much of it from convicted criminals and their families, whilst giving them deeply flawed quasi-legal advice concerning their chances of making bail and having their convictions overturned on appeal.

In the meantime, he was rarely out of the newspapers as he claimed to be able to present new evidence in the cases of such diverse characters as Jeremy Bamber, Ian Brady, Dr. Crippen, William Joyce aka “Lord Haw-Haw” and even King Charles I. He also claimed to be the legal representative of Saddam Hussein and Slobodan Milosevic, said he was a friend and associate of Arkan the Serbian “Warlord” and boasted to have once met Osama Bin Laden. Another of his many self-publicising stunts was to draft an indictment against Tony Blair for taking Britain into the Iraq War. This was probably the most high profile of a myriad of other outrageous stunts. This article continues on page 17



# THE RISE AND FALL OF THE DEVIL'S ADVOCATE

Now domiciled in Italy he was eventually arrested on a European Arrest Warrant whilst on a trip to Spain in 2011.

At the outset of the trial which started in January 2013 the Crown left the jury in no doubt that they would have to call some questionable witnesses to prove their case. They having done that, the floor was open to Danny Di Vito look-alike Di Stefano to plead out a plausible explanation for all of these false charges brought against him.

Unfortunately for him that is when the truth kicked in. He proved to be way out of his depth and that is when the world's "best" lawyer metamorphosed into the world's worst witness as he admitted under the relentless onslaught from David Aaronberg Q.C. that he had at various times lied, lied, lied and .... lied.

At one stage he told the court that on the very night that he was due to lodge last minute appeal papers which would have, hopefully, saved Saddam Hussein from the rope for crimes against humanity, that his own father was murdered by means of an ice-pick to the back of the skull. On learning this tragic news he was forced to take to his bed, stricken with grief. The Saddam paperwork was cast aside and by the time he awoke, not only was his father lying dead in his small village in Italy but Saddam was also dead. His only explanation for his father's murder was that sinister forces had been at work and that was their way at getting back at him for having the audacity to defend the former President of Iraq.

He was so distraught at having to give this particular evidence to the court that the judge allowed him ten minutes to compose himself.

His story when checked out was found to be yet another of his many elaborately embroidered works of fiction. His father had indeed died, but of natural causes, with the rest being pure invention designed to make the jury believe that he was a target of the security services of one or more countries that were prepared to go to any lengths to stop him in his tracks.

As he gave his evidence, the jury appeared in turn to be sniggering with amusement and squirming with embarrassment on his behalf.

So now perhaps the man who described himself on his website as 'tinker, tailor, soldier, sailor, rich man, poor man (once), beggar man, actor, dramatist etc' may on his release from prison many years from now update his site to include the words 'unscrupulous fantasist, self confessed liar and convicted fraudster'.

Something tells me that he will already have convinced himself that he, like many of his former clients, is the victim of a miscarriage of justice and that he will, as I write, be penning his own appeal together with those of many of his fellow in-mates. My advice to them would be ... don't pay any money up front whatever you do! He got lucky on two occasions early on in his audacious rise to prominence but by 2013 his luck had well and truly run out. The real devil was in the detail.

**Di Stefano said: "I am obliged, my Lord" as he stepped out of the dock and was led away**



# STOP THE PRESS

## Saint Vincent and the Grenadines

Four Barbadians who, during the course of a recent trial in the High Court changed their pleas to guilty on four drug related charges, were sentenced to 9 years imprisonment for the first conspiracy to traffic drugs conviction in over a decade. Joel 'Ole Man' Payne, 51; Ryan Corbin, 36; Shawn 'P' Boucher, 37; and Devon Hurdle, 39, were convicted after being intercepted by the local Coast Guard, July 13, 2012, about four and a half miles off Fancy Point on the north eastern coast of mainland St. Vincent, aboard a Barbadian registered pirogue, 'Rolling Deeper', bearing registration number X349. A search of the 23-foot vessel revealed 1,706 pounds of marijuana contained in 24 sacks.

The previous week, Keston Mieres, David Sammy, Ronald Burnley, James Gordon, Nigel Octave, Adrian Clement, and Mark Corbie were sentenced by Justice Wesley James to 12 years imprisonment after they were found guilty of having one thousand six hundred and fifty one pounds of marijuana recovered in an operation involving the Coast Guard, November 11, 2010.

## Barbados

A 36 year-old American pleaded guilty to money laundering and was fined \$10,000 failing which he will have to spend 18 months in jail. Levar Patrick Maycock-Beckles pleaded guilty to laundering more than Bds \$12,000 and US \$230. When Maycock-Beckles appeared before Chief Magistrate, Pamela Beckles, the money was confiscated. He also pleaded guilty to possession of half kilogramme of cannabis, possession with intent to supply and trafficking. He was convicted, reprimanded and discharged on the two lesser counts, but fined \$20,000 forthwith or two years in prison for trafficking. The American was intercepted by the Police Drug Squad while being driven in a car along Christ Church. (Barbados Today 21st May 2013)

## Guadeloupe

At a hearing at the High court in Pointe a Pitre which started Monday April 29, thirteen defendants were being judged for a vast traffic of narcotic drugs organized between Dominica and Guadeloupe. The vast network had transported between Dominica and Guadeloupe two tons of marijuana between end of 2010 and the middle of 2012, which also included a one-time catch of 88 kilos of cocaine. Included in the charges are the importation and smuggling of dangerous goods, including firearms. The research section of the Gendarmes carried out the investigations

leading to the dismantling and arrest of the individuals of Dominican and Guadeloupian origin. The investigations led the Gendarmes to monitor telephone conversations between the traffickers, noting that in one day there were 400 hundred calls between the traffickers. According to the prosecution team, those accused pleaded guilty when they were arrested, but now before the courts, they are denying the charges, even denying knowing each other. Based on the charges, those found guilty could face up to 15 years imprisonment and hefty fines of as much as 300 000 euros. Meanwhile, Guadeloupe seems to be a trans-shipment point for drugs between the Caribbean and mainland France. Custom officers have seized up to 30 kilograms of cocaine from persons leaving the island for France. On Monday April 30th, a man travelling with his 6-month old baby was arrested with 15 kilos of cocaine. (Inside Dominica)

## Saint Lucia

A police officer who was caught last year with drugs while on court duty was sent to prison for two years. Police Constable Dervin Wilson was sentenced to two years each for the possession of a controlled drug and possession with the intent to supply a controlled drug. Wilson, who functioned as the High Court orderly, was suspected of passing drugs to prison officers. He was reportedly searched on the morning of July 31, 2012 outside the High Court while he was in full police uniform and a quantity of ganja was found on his person. (Read more: <http://www.jamaicaobserver.com/latestnews/St-Lucia-cop-prisoned-on-drug-charges#ixzz2Y17ou5ZP>) (jamaican Observer 14th June)



**Above:** The Trinidadian convicted drug traffickers being taken to court in Saint Vincent and the Grenadines

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## Judicial Review

In **Sandra Ludovic and Magistrate Velon John et al** (SLUHCv/2011/1151) Belle J quashed an unreasonable decision by the Magistrate not to dismiss a matter that had exceeded the 180 day time limit, pursuant to the Criminal Procedure Rules of Saint Lucia.

Rule 7.4 establishes a time limit of 180 days for the trial of summary matters unless it can be shown that the defendant is responsible or there are exceptional circumstances for the delay.

Justice Belle held that rule 7.4 codifies the common law and the legislature deemed this appropriate to reduce delays [para 49]:

*“By setting the standard of 180 days for a summary matter to go to trial, the legislation puts pressure on the system through various case management measures to follow a strict regime of time keeping and fairness in order to safeguard the right to a fair trial in a reasonable time.”*

At paragraph 56 of the judgment, Justice Belle concludes, when referring to the Respondent’s submission that the proper recourse was to the Court of Appeal:

*“The reason for going beyond the 180 days must be addressed as part of the case management procedure. It is not good enough to say that it would be just to go to trial. The language of the section provides for the case management to address reasons for failing to start the trial within 180 days. In my view to permit the matter to go to trial at that point without the required explanation defeats the purpose of the rules which is intended not just to deem a matter which is delayed to be unfair but to bring proceedings to an end if the delay cannot be explained by the court with reference to exceptional reasons. If exercised in accordance with the letter of the law the process would be applied consistently in all similar cases.”*

Whilst this Judicial Review turns on its facts, this is an important judgment on the application of the CPR and the purpose of time limits.

For the full judgment see: [http://www.eccourts.org/wp-content/files\\_mf/17.04.13sandaludovicvmagistratevelonjohnetal.pdf](http://www.eccourts.org/wp-content/files_mf/17.04.13sandaludovicvmagistratevelonjohnetal.pdf)

In **PC Ganness, PC Sylvester and PC Hazzard and (1) The Magistrate, Eastern Magisterial District, St. David (2) Commissioner of Police (3) DPP** [Claim No. GDAHCV2012/0037] the High Court considered the charging of police officers with manslaughter before a Coroner’s Inquiry. The DPP appearing in person, referred to the constitutional role of his office in relation to commencement of proceedings. It was decided that the Coroner’s Inquiry must be allowed to continue and the DPP’s involvement was neither warranted nor appropriate before this took place. The full judgment can be found at: [http://www.eccourts.org/wp-content/files\\_mf/15.03.13roddyfelixandedwardgibsonandshawngannesetalvthemagistrateeasternmagisterialdistrictstdavidetal.pdf](http://www.eccourts.org/wp-content/files_mf/15.03.13roddyfelixandedwardgibsonandshawngannesetalvthemagistrateeasternmagisterialdistrictstdavidetal.pdf)

## Sentencing

There have been a number of sentencing judgments from High Courts in the region applying guideline principles and all available on the Eastern Caribbean Supreme Court website:

Rape and Robbery: **DPP v Jahmari Lake and Leon Jederon** [SKBHCR2012/0027] see: [http://www.eccourts.org/wp-content/files\\_mf/28.03.13dppvjahmarilakeetal.pdf](http://www.eccourts.org/wp-content/files_mf/28.03.13dppvjahmarilakeetal.pdf)

Attempted Rape and Burglary: **The State v Ronald Lestrade** [DOMHCR2012/029] see: [http://www.eccourts.org/wp-content/files\\_mf/25.03.13thestatevronaldlestrade.pdf](http://www.eccourts.org/wp-content/files_mf/25.03.13thestatevronaldlestrade.pdf)

Rape: **The Queen v Junior Compton** [SLUHRCD/2010/0411] see: [http://www.eccourts.org/wp-content/files\\_mf/31.05.13thequeenvjuniormcompton.pdf](http://www.eccourts.org/wp-content/files_mf/31.05.13thequeenvjuniormcompton.pdf)

Theft: **The State v Eshanette Joseph** [DOMHCR2012/039] see: [http://www.eccourts.org/wp-content/files\\_mf/01.03.13thestateveshanettejoseph44.pdf](http://www.eccourts.org/wp-content/files_mf/01.03.13thestateveshanettejoseph44.pdf)

Kidnapping, unlawful sexual intercourse and possession of a firearm with intent to endanger life: **The State v Webster Edmond** [DOMHCR2012/013] see: [http://www.eccourts.org/wp-content/files\\_mf/15.03.13thestatevwebsteredmond.pdf](http://www.eccourts.org/wp-content/files_mf/15.03.13thestatevwebsteredmond.pdf)

Wounding with Intent: **The State v Andy Alexander Cassell** [DOMHCR2012/012] see: [http://www.eccourts.org/wp-content/files\\_mf/25.03.13thestatevandycassell.pdf](http://www.eccourts.org/wp-content/files_mf/25.03.13thestatevandycassell.pdf)

Attempted murder: **Director of Public Prosecutions v Akeem Sheddy Parris and Javonne Junie Hendrickson** [SKBHCR2012/0048] see: [http://www.eccourts.org/wp-content/files\\_mf/21.02.13dppvakeemparrisetal.pdf](http://www.eccourts.org/wp-content/files_mf/21.02.13dppvakeemparrisetal.pdf)

## Constitutional

In **Attorney General’s Reference** [SLUHCVAP2012/0018] the Chief Justice gives her opinion on statutory interpretation re making the CJJ the final court of appeal in Saint Lucia. The Chief Justice reaches the conclusion that there was an error in the drafting of the Saint Lucian Constitution: “‘Homer, in the person of the draftsman or printer, nodded” [para 36] So, reference to section 107 in the Constitution should be 108 (section 108 providing for appeals to the Privy Council). Therefore, the Constitution should be read as if this typographical mistake had not been made. If appealed it would be ironic that this would be to Her Majesty in Council! See the Reference in full at: [http://www.eccourts.org/wp-content/files\\_mf/sreference.pdf](http://www.eccourts.org/wp-content/files_mf/sreference.pdf)

**For regular legal updates see:** <https://twitter.com/IndictmentEC>



# LEGAL NEWS FROM AROUND THE WORLD

## Silence

In *Salinas v Texas* (12-246), a 5-to-4 decision, the US Supreme Court limited a criminal suspect's right to remain silent before being taken into custody see:

[http://www.supremecourt.gov/opinions/12pdf/12-246\\_7148.pdf](http://www.supremecourt.gov/opinions/12pdf/12-246_7148.pdf)

## DNA

In *Maryland v. King* (12-207) the US Supreme Court has ruled criminal suspects can be subjected to a police DNA test after arrest. At issue in the ruling was whether taking genetic samples from someone held without a warrant in criminal custody for "a serious offense" is an unconstitutional "search."

A 5-4 majority of the court concluded it is legitimate, and upheld a state law see: <http://edition.cnn.com/interactive/2013/06/politics/scotus-dna-arrests-ruling/index.html>

## Fingerprint Machines

In *Public Prosecution Service (Northern Ireland) v McKee; Elliott* it was held that the fact that an electronic fingerprinting machine had not been approved, as required, by the Secretary of State for Northern Ireland, did not automatically render evidence obtained via that device inadmissible. See: <http://www.crimeline.info/uploads/cases/2013/2013uksc32.pdf>

## Victims of Human Trafficking

In *L, HVN, THN, T v R* [2013] EWCA Crim 991 the Court of Appeal (Lord Chief Justice, Lord Justice Moses and Mrs Justice Thirlwall) issued guidance to courts about how the interests of those who are or may be victims of human trafficking and who become involved in criminal activities should be approached in criminal proceedings. The guidance is provided in a judgment dealing with four separate appeals against conviction. For the full transcript see: <http://www.crimeline.info/case/l-hvn-thn-t-v-r-2013-ewca-crim-991>

## Judicial Grumpiness

In *R v Samuel Freeland* [2013] EWCA Crim 928 it was argued that the judge's conduct and in particular his interventions in the case rendered a fair trial impossible. See more at: <http://www.crimeline.info/case/r-v-samuel-freeland-2013-ewca-crim-928>

## Confiscation

In *R v (Scott Beazley, Rosemary Beazley) Hampshire County Council* [2013] EWCA Crim 567 the defendants (husband and wife) were charged with a series of counts of unauthorised use of a trade mark. Confiscation proceedings were stayed by the Recorder who gave several different reasons for his decision to stay. First, he expressed the view that although the Proceeds of Crime Act is often described as draconian in effect, it was unlikely that Parliament had had in mind a situation such as this case. Secondly, he relied upon the fact that the offences were ones of strict liability and did not involve proof of either bad faith or dishonesty. Thirdly, he took into account, and plainly regarded as very significant, the fact that other people doing the same thing had not been prosecuted. Most of all he drew attention to the fact that the Italian manufacturers of these infringing articles had not been prosecuted. Fourthly, the Recorder relied upon the fact that the defendants were carrying on what he described as a "proper business". By that he made it clear that he meant that they were keeping records and paying tax and they were not fly-by-night traders. Fifthly, the Recorder drew attention to the fact that the order, at least as originally sought, would strip the defendants of all their available assets. Lastly, he said that the fact that it might have been unoppressive to seek a confiscation order limited to the profit did not affect his conclusion. See the full judgement to see how the Court of Appeal roundly rejected all these grounds: <http://www.crimeline.info/case/r-v-samuel-freeland-2013-ewca-crim-928>

[www.crimeline.info/case/r-v-scott-beazley-rosemary-beazley-hampshire-county-council](http://www.crimeline.info/case/r-v-scott-beazley-rosemary-beazley-hampshire-county-council)

In *Mohid Jawad and The Queen* [2013] EWCA Crim 644 the Court of Appeal held that where defendants have the means to pay both confiscation and compensation orders, it would not ordinarily be disproportionate to order both orders to be paid if it remains uncertain whether the loser will be repaid. Both orders would be disproportionate if there was the certainty of both being satisfied. E.g. where a defendant had already repaid the loser or where he had put his solicitor into funds with an undertaking. A brief adjournment to facilitate repayment might be justified, where there is a genuine dispute about the figures which needs evidence and resolution by judicial ruling. A court should not entertain expressions of well-meaning intentions not backed by assurance of repayment. See full Judgment at: *Mohid Jawad and The Queen* – [2013] EWCA Crim 644.

## Bail

In *S v Winchester Crown Court* [2013] EWHC 1050 (Admin) it was held that the imposition of a surety is not a lawful bail condition to address a fear of further offending. A surety is only permitted to address a fear of failing to surrender to bail. See <http://www.crimeline.info/case/s-v-winchester-crown-court-2013-ewhc-1050-admin>

## Habeas Corpus

*Re Canute Nairne and in the matter of the Writ of Habeas Corpus Ad Subjiciendum* Cause Nos. 10 & 18 of 2013, provides a useful insight into what is meant by an arrested persons right to be "promptly" brought before a court.

For the full Judgment see: <http://www.judicial.ky/wp-content/uploads/publications/newsletters/130417-INRECANUTENAIRNE-JUDGMENT.pdf>



# LEGAL NEWS FROM THE REGION - NEW LAWS

It has been a busy last quarter with a number of new laws passed in Dominica, St Lucia and Grenada.

## Dominica

### Protection of Witnesses Act 2013

#### Witness Anonymity:

An application to the Magistrates or High Court for anonymity (section 6) must satisfy conditions stipulated in section 7. These include that an order is necessary to protect the safety of the witness, another person or serious damage to property (section 7(1)(a)(i)) or to prevent real harm to the public interest (section 7(1)(a)(ii)). When considering the safety of the witness or another person, the court will have regard to any reasonable fear on the part of the witness that they will suffer death or injury or there would be serious damage to property if the witness was identified (section 7(2)). This of course must be balanced with the right of the defendant to have a fair trial (section 7(1)(b)) and the court must consider the credibility of the witness. This last point is to be distinguished from reliability and a useful commentary on the distinction can be found in **Donovan and Kafunda v R** [2012] EWCA Crim 2749 see: <http://www.bailii.org/ew/cases/EWCA/Crim/2012/2749.html>

Also see the Guide to Investigation and Prosecution of Serious Organised Crime Part 1 from 5.5 for more detailed analysis and preparation for applications (see form 1 in the Schedule of the Act for the application form).

#### Special Measures

Part III of the Act provides for the use of special measures for vulnerable witnesses. To determine if a witness is eligible, section 12 details the considerations for the Magistrates or High Court. Special measures will include a live link (video-link) to give evidence (section 16); giving evidence in private (section 17); and video recorded evidence in chief (section 18) or pre-recorded cross examination (section 19).

The Schedule to the Act provides a form (4) for making an application for special measures.

### Protection of Witnesses (Amendment) Act

The Act has been amended to insert a new section 27 to allow for witnesses out of state, who may not be vulnerable, to apply for use of the live link.

### Criminal Law and Procedure (Amendment) Act

#### Perverting the Course of Justice

This Amendment Act inserts a new offence of perverting the course of justice (section 7A) and conspiracy to pervert the course of justice (section 7B) to the substantive Act.

#### Interviewing of Suspects

New provisions are made for electronically recording of suspect interviews. This is a mandatory requirement for the serious offences listed in the First Schedule. Section 14H also provides for an adverse inference to be made by the court or jury when the suspect fails to mention any fact relied upon in his defence when interviewed or charged.

#### Enforcement Powers on Ships

Part IIB allows for certain enforcement powers in respect of ships, whether Dominica, flagged or unflagged (section 14L). If a person commits a drug trafficking, money laundering offence or perverts (or conspires) to pervert the course of justice on a Dominican, flagged or unflagged vessel he may be tried in Dominica.

#### Disclosure

Section 31B codifies the present common law disclosure obligations of the State and section 31C provides for disclosure by the accused. These provisions will only apply to indictable offences. However if the accused pleads a special defence (alibi, duress, automatism, necessity, insanity or any defence tending to affect the question of the liability of the accused) then he must provide notice to the Court and prosecution (section 31A).

Section 31D allows the accused to apply for disclosure if the prosecution have failed to disclose all material pursuant to section 31B. If the accused fails to make disclosure as required the

prosecution can apply for comment to be made to the court or jury.

#### Unfitness to Plead

Sections 36A-L provide for a new regime to determine if an accused is fit to plead and the procedure and disposal thereafter.

### Proceeds of Crime (Amendment) Act

This amendment allows for the recovery of the proceeds of crime through the civil courts. This is a first for the region and marks a positive reform to tackle serious organised crime.

### Money Laundering (Prevention) (Amendment) Act

This amends section 3 of the substantive Act to make it an offence to receive, possess, manage, invest, conceal, disguise, convert, transfer, dispose of, bring into, take out or engage in a transaction which involves the proceeds of crime. The Act further provides for proceeds of crime confiscated or recovered to be distributed to fight crime.

### Transnational Organized crime (Prevention and Control) Act

This Act in Part III criminalizes human trafficking and gives effect to the Convention Against Transnational Organized Crime.

## Grenada

### Electronic Crimes Act

This Act now makes it an offence to send offensive messages electronically publicly; engage in electronic identity theft; conduct and participate in the distribution of child pornography; engage in prank calls to law enforcement; participate in electronic stalking; involved or be responsible for spoof and spam emails and other electronic formats; engage in electronic fraud and forgery, and to violate another person's privacy.

## St Lucia

### Police (Amendment) Act

This Act inserts a new section 59A to allow the Police Commissioner to issue Standing Orders for evidence collection. This should include the new Standing Orders for use of the Video ID Parades.

# MEDIA PROTOCOL.



## Full House

**Top:** The DPP explaining the purpose of the Media Protocol

**Middle:** Browsing through the Protocol during presentations

**Bottom:** The media were well represented with both print, internet and print attending

## The Launch of the Media Protocol coincided with World Press Freedom Day - read the DPP of Saint Vincent and the Grenadines Blog

As Director of Public Prosecutions in Saint Vincent and the Grenadines I am very pleased with the widespread positive response to our launch on World Press Freedom Day of two documents, 'National Prosecution Service of SVG Media Protocol' and the 'Social Media Identification Policy'.

Some fifteen journalists (editors and senior reporters) as well a representative each from the Royal Saint Vincent and the Grenadines Police Force and the private bar, joined with the staff of the Office of the Director of Public Prosecutions in observing the Twentieth Anniversary of World Press Freedom day with the launch of the documents of the two policy documents.

Both the Media Protocol and the Social Media Identification Policy were developed with the assistance and guidance of the Criminal Justice Advisor to the Eastern Caribbean, Daniel Suter, whose services were made available under a project funded by the Bridgetown-based United States Embassy to the Eastern Caribbean and the United Kingdom Foreign and Commonwealth Office.

Mr Suter was a facilitator at the prosecutors-media forum and his conduct of the session was greatly appreciated.

Editor of the 'Searchlight' newspaper, Clare Keizer, spoke of her satisfaction with the event.

"I applaud the Prosecution Service for first of all conceiving of the Media Protocol and taking it to the next step of publishing and launching it. I think it is useful," she said.

Another journalist, Ashford Peters, a freelance crime reporter attached to The News newspaper said the event was "useful and timely."

He found the forum to be "enlightening." Peters, who has worked the court beat for several years, said the event served to "foster and enhance the relationship between prosecutors and journalists." He welcomed the Media Protocol for establishing clear guidelines and for highlighting the issues relating to prosecutorial efficiency and the dispensation of justice.

Lawyer, Shirlon Barnwell of the private bar, described the launch as "exciting and impressive" as she applauded the National Prosecution Service for "leading the way."

"Its significance cannot be over-exaggerated," she said in a message congratulating the National Prosecution Service. "This milestone certainly illustrates that Saint Vincent and the Grenadines is serious and proactive about the development of the law as it relates to fundamental rights and freedoms and the administration of justice."

Saint Vincent and the Grenadines is the first Caribbean State to launch the documents.

## National Prosecution Service of Saint Vincent and the Grenadines Media Protocol





Crime isn't glamorous, it causes loss, pain and suffering. Yet we see so many references to crime in our popular culture. No Witness No Justice wanted to change this to promote the message: **Do the Right Thing!**

Bajan group Cover Drive, already with five top 40 UK hits, joined the US Embassy and the No Witness No Justice project to write a song: Speak Out!

In Indictment 6 we reported on the December 2012 Caribbean

Basin Security Initiative Youth Conference where Cover Drive came down to meet the students.

Following this they offered to lend their talent to say that, "It's contagious to be courageous!"

At a launch in Barbados, they performed the song live and supported those who do the Right Thing!

We'll let the song speak for itself so download now FOR FREE at:

<https://soundcloud.com/cvdr/speak-out>

To see a short film on the making of the song see:

<http://www.youtube.com/watch?v=icvWKIQsTJM>

Ambassador Palmer steps up for his duet



## SPEAK OUT!



### Launch Day

**Top:** Amanda and Bar Man check out the audience before performing

**Middle:** The Barbados Attorney General Adriel Brathwaite lends his vocal support

**Bottom:** Jamar turns his hand to filming whilst T-Ray warms up on his new take on the drums - a speaker!

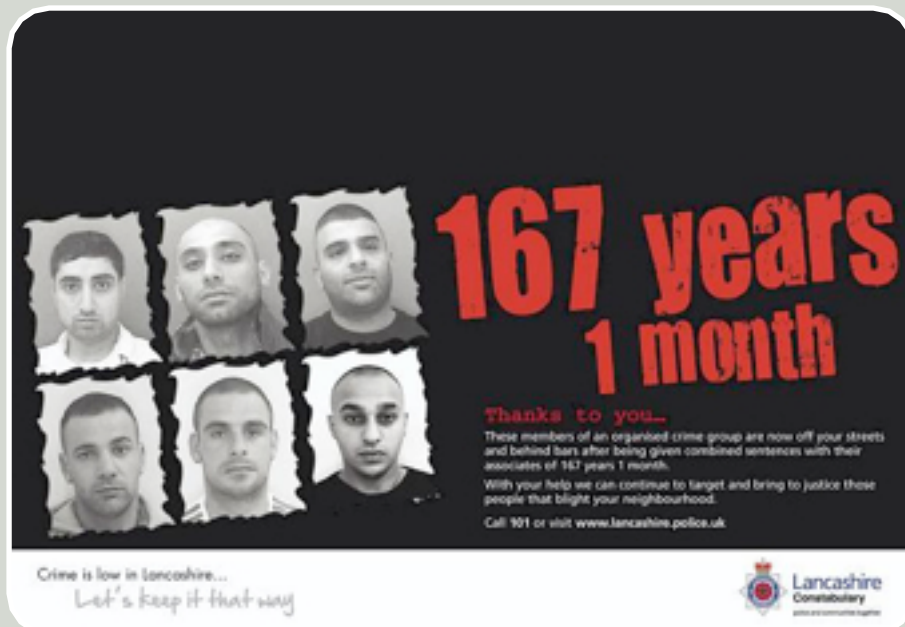


## DARING POLICE

See police in Brazil ram a drugs plane off the runway: <http://www.dailymail.co.uk/news/article-2323455/Brazilian-police-ram-moving-plane-car-stop-drug-smugglers-escaping-500lb-cocaine.html>

## GOT YOU!

What a great idea - see this poster of convicted drug traffickers:

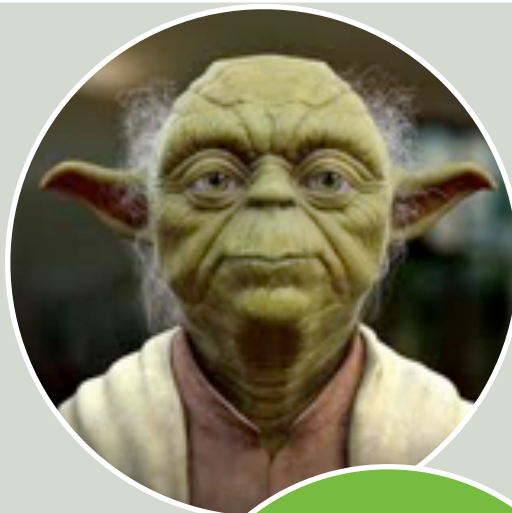


.....AND

## FINALLY

Have a look at this Judge who fell asleep on the job but still convicted the defendant - rough justice!

<http://www.dailymail.co.uk/news/article-2272398/Judge-falls-asleep-Russian-trial-sending-man-years-hard-labour.html>



**Do, or do not.  
There is no try.**

**Yoda**

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## INDICTMENT

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