



D&K Management Consultants' monthly newsletter – an absolute *MUST* for anyone dedicated to protecting themselves and their business interests!

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Murder Around the Fondue Pot

So the Department of Security Studies releases a gem of information this week stating that murder in South Africa is largely a 'social contact crime'! In other words, it is more likely to occur between people who know each other ... friends, lovers, neighbours ... you get the picture. Social contact crime ... reading this, I couldn't help but think that this particular phrase makes murder sound like a real fun thing to do. Possibly, even around the Saturday fondue pot party or braai. Come on! A far better choice of words could surely have been used? Social contact crime merely conjures up so many funny ideas in my mind!

Picture this ... Spur runs an advert on TV and the opening scene is a multi-racial group of people sitting at a Spur table tucking into their meals, laughing, joking and sharing some stories. A beautiful scene indeed, when suddenly, the fat white guy wearing the Free State Cheetahs jersey, violently stabs the black guy sitting next to him directly in the heart with one of those lovely Spur steak knives. The wife packs out laughing at the 'horseplay' of the two men, while blood sprays out of the black man's chest, falling into his mug of beer and he shouts 'cheers' before collapsing to the ground. Social contact crime ... God, it sounds like fun!

On a serious note and one that does concern me (and should concern you), is the idea that, to my mind, South Africa must surely hold a world record as the country with the most serial killers in one place. I've considered this for years and, honestly, think I'm onto something here. Here is a little exercise – try it – you may well be uncomfortably shocked. Choose any ten day period and for those ten days buy the newspaper of your choice, just once a day. Page through and circle all the articles with the following headings:

"Body found in field"

"Headless body found in dump"

"Two men appear in court over muti murder"

"Mr X is charged with 7+ rapes and murders"

“Taxi driver slain”

After the ten days, add up the articles. The result is simply a very, very scary snapshot of just how rife murder is in this country. In most other countries when one individual has committed two or more separate killings, the press and the police start searching for a serial killer, but not here! No, here we put it down to ‘muti killings’, ‘taxi violence’, etc. Utter bullshit! To my mind, our society is riddled with psychopathic individuals who kill because they have no remorse or guilt. Hiring hitmen at the Nigerian bring and braai bar in Rocky Street is as easy as ordering clothes online.

Agree or disagree ... when it comes to multiple killings committed by the same person, we lead the world!

Until next month!

Service Focus of the Month

Undercover Services: not just Bond or Magnum

Undercover operations receive a lot of the “Hollywood” treatment – covert ops infiltrate major criminal syndicates – but, in the business world right here in South Africa, undercover is less glamorous but is absolutely essential for companies in order for them to discover and solve problems that could be eating severely into their profits.

Why have a D&K undercover agent? In companies, big and small, there are so many moving parts that it can become nearly impossible for management to know everything about the company’s operations.

For this reason, we are called in to run undercover operations. Focusing on theft, intelligence gathering, labour issues, productivity reports, etc.

Intelligence From the Floor

Many companies use our agents merely to get an idea if they have a problem. Often, things look fine from a boardroom perspective but management still want reassurance that the operation is running the way it should be. Through our agents, we often uncover problems that were not previously known to management.

Call us for more information on this service!

The Legal
Beagle



When Employees Compete with Boss's Business

Common law bars staff from using jobs to build up private interests ...

Hardly a week goes by without reading about high-profile senior employees being suspended, dismissed or resigning due to some questionable (or personal) dealings. Examples include receiving kickbacks, paying bribes, price-fixing collusion, questionable executive remuneration practices, tender processes and so on.

Employers are frequently faced with problems emanating from employees suspected of competing with them. Examples vary from direct competitor activity to redirecting employer business to the wife's / husband's business. These activities could include using their employers' infrastructure, such as email and telephone, and company time. With modern technology it's easy to trace this.

Employers' biggest headache also includes employees leaving and joining a competitor and using confidential information (eg. a client list or fee structure) in the interests of the new employer to secure the new position.

All these activities are prohibited under the common law requirement that an employee devotes his or her time and skills to furthering the interests of the employer's business and not participate in activities that are in conflict with the employer's business.

When employee conduct is viewed to be in bad faith, or there is a perceived conflict of interests, to the extent of employer prejudice, it's often difficult to prove that confidential or proprietary information has been used and so on.

Before employers dismiss, based on these circumstances, they should consider that these types of cases are complex. For example, could an employee be dismissed because he/she applied for a job at a competitor or is planning to set up a business in competition? The answers are legally complex and employers should seek labour law advice.

Letters of appointment or even human resources policies would not necessarily detail all the employee conduct that would be unacceptable or which could lead to a dismissal. Implied terms are of great importance when determining the true extent of the employer and employee common law contractual rights and obligations. For example, at the time of signing the employment contract, the parties would most probably not expressly agree that the employee may not steal or commit fraud or compete unfairly. However, the courts will read into an employment contractual relationship an implied duty that the employee will not steal or compete unfairly.

Having due regard for the common law implied terms, employees are cautioned to refrain from unlawful and unfair competition with former employers as such former employers do not need a written and signed restraint of trade to protect themselves. Implied common law obligations on employees include, for example:

- That employees may not work for another employer if the employers' business is in conflict.
- That employees may not enter into any arrangement that creates a conflict of interest between their own interests and those of their employer. There is an implied obligation on an employee to disclose such dealings.
- That employees may not compete with their employer's business for their own account, namely by doing so-called private jobs.
- That employees may not secretly gain financially from company dealings, for example, receiving kickbacks.
- That employees may not make use of information gained in the course of their employment, even after they have left such employment, in a manner that is inconsistent with their duty to further the employer's interests.

News

Congratulations to Mick Bozzone from Lakato, who won our Chivas & Biltong hamper in our July Giveaway. Mick and his company, Lakato, are leaders in the field of veterinary supplies and nutrition ... enjoy Mick!



Not that this is news, as such, but very personal and dear to D&K and the legacy left behind by the founder, Declan Condon.



Wren Condon – “Teaching grandpa’s little angel at a young age”

Exposed!

How hard is it for a company to stand up and openly acknowledge their faults? Well, I can tell you, it is uncomfortable but not hard. That is, if you subscribe to my view that transparency and openness is the corner of your business. Laying your company bare on an open platform such as this, in front of hundreds of your clients, would be considered by many to be a form of 'business suicide', but I disagree! You see, there is no perfect company and things do go wrong, no matter how tight your policies and procedures are. Simply because we are the best performing security and investigations consultancy, this doesn't mean there are times where I am confronted by problems from my own staff that cause me major embarrassment. This is the world and issues happen.

Clients appreciate honesty and then solutions and this has always been our style. Perhaps, because I'm the owner of South Africa's leading investigations agency, I have lower tolerance levels than most towards poor performance and this becomes even lower when one of my own thinks he can 'pull one over on me'. This last week was, unfortunately, one of those times (fortunately, few and far between). One of my agents tried his luck and got caught!

Here is a photo of him being taken away by the police and was formally charged. I will be pursuing the matter right through until its conclusion.



Am I embarrassed? You bet! Am I ashamed? No! The bastard stole and 'went rogue' and he will now pay. But I will not make excuses and nor will I run from the issue. As I said, every company has an issue now and again but the deciding factor is how you choose to handle it!

Cell Block
Humour



A woman is at home when she hears someone knocking at her door. She goes to the door, opens it and sees a man standing there. He asks the lady, "Do you have a Vagina?" She slams the door in disgust.

The next morning she hears a knock at the door, it's the same man and he asks the same question to the woman, "Do you have a Vagina?" She slams the door again.

Later that night when her husband gets home she tell him what has happened for the last two days. The husband tells his wife in a loving and concerned voice, "Honey, I am taking tomorrow off so I can be home just in case this guy shows up again."

The next morning they hear a knock at the door and both ran for the door. The husband whispers to the wife, "Honey, I'm going to hide behind the door and listen and if it is the same guy I want you to answer yes to the question because I want to see where he's going with this." She nods yes to her husband and opens the door.

Sure enough the same fellow is standing there, he asks, "Do you have a Vagina?" "Yes I do." says the lady. The man replies, "Good, would you mind telling your husband to leave my wife's alone and start using yours!"

Quote of the Month

"Every society gets the kind of criminal it deserves. What is also true is that every community gets the kind of law enforcement it insists on".

John F Kennedy

Thank you for reading our newsletter and, please feel free to submit any suggestions or feedback, including any topics you would like us to cover.



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