



THE PALI INFORMANT

Fall 2014

The 2014 Pennsylvania Association of Licensed Investigators Conference: The Professionalization of Our Members

by **Larry Groseclose**

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There is an old adage in the military that states: “If you train like you fight; you will fight like you train!” The 2014 PALI Conference certainly lived up to its billing; providing professional training to its members.

There is an old adage in the military that states, “If you train like you fight, you will fight like you train!” This means we are properly prepared, properly equipped and properly motivated to do our jobs. The 2014 PALI Conference certainly lived up to this adage. For those members who could not attend this conference, you missed a valuable opportunity to learn and network!

The conference was held on October 7 and 8, 2014 at the Sheraton Harrisburg Hershey Hotel located in Harrisburg, PA. The accommodations were excellent; providing comfortable rooms, dining and learning facilities. For those who had (or took) the time, there were ample opportunities for entertainment in the surrounding area.

And, for those who had the additional time and wherewithal, there was a Pre-Conference at the Sheraton on October 6th. Jimmie Mesis of PI Magazine gave a presentation from 8:00 AM to 5:00 PM on “How to Build and Double Your PI Income”; while Nicole Bocra of Infinity Investigative Solutions gave a full-day presentation on “Open Source Intelligence”. Both speakers hung around and gave additional talks during the conference on 7 and 8 October.

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Any questions, suggestions or submissions for this newsletter may be addressed to its editor, Bill Everman, by e-mail to wh-everman@comcast.net, by telephone at 610-494-0635, or by mail to PO Box 2006, Aston, PA 19014. Many thanks to Greg Pirnik for his help in editing, and to former newsletter committee members Barbara Thompson and Bob Kozura for their invaluable assistance.

From The Editor

by Bill Everman

Welcome to the Fall 2014 issue of the *PALI Informant*! PALI has had a busy year, including a great conference in Harrisburg, which you can read about here.

If you have an interest in writing for, or advertising in, this newsletter, we'd love to hear from you. We enjoy working with new writers, and some of our writers have gone on to write for other outlets, including *PI Magazine* (which you receive free if you are a PALI member).

If you are receiving the print version of the newsletter and would prefer to receive only the digital version, please e-mail me at wh-everman@comcast.net with the subject line "Informant Online", and we will switch your status to online only. At present, members of PALI receive both the print edition of the newsletter and the digital version, while non-members who have not requested the digital version receive only the print version.

We at PALI wish you all the best as the holiday season approaches!



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Nicole Bocra, CFE, was the first speaker on October 7th, opening with a discussion on “Forensic Accounting Tips for Investigators”. According to Ms. Bocra, forensic accounting is the “gathering and presentation of financial information in a form that will be accepted in a court of law against perpetrators of economic crime.” She addressed the “Fraud Triangle” which explained why many individuals become involved in economic crimes. Ms. Bocra noted that there are essentially two broad areas, Insurance Accounting and Litigation Support, where Forensic Accounting is relevant. However, Ms Bocra stated that everyone needs Forensic Accounting; especially, Attorneys, Banks, Corporations, Insurance Companies, Law Enforcement, Private Investigators, and Shareholders/Partners need to have some understanding of the principles of Forensic Accounting.

Ms. Bocra also gave a second, brief discussion of “Open Source Intelligence” (OSINT). She presented the “World Map of Social Networks” and discussed numerous websites which have direct relevance to our work as PIs. A copy of this list of websites can be obtained by contacting the Education Committee for PALI.

Following Ms. Bocra’s presentations, Jeff Stein, PALI President; Barbara Thompson, PALI secretary; and Jimmie Mesis of PI Magazine, provided their insight into “Networking to Grow Your Business”. They all stressed the importance of joining associations and committees, but also taking part in chamber of commerce, trade association and political party events. Mr. Mesis also noted that we refer business to other PIs, especially PALI members. He believes that it is good business to ask for a commission on all referrals.

Dave Gross, Esq. followed with a presentation on “Ethical Obligations and Evidence Gathering in Criminal Investigations”. One interesting thought on the gathering of evidence put forward by Mr. Gross is that evidence collected by a Private Investigator (a private citizen) in violation of the Exclusionary Rule remains relevant and admissible. This would not be the case if the same evidence were collected in the same manner by police authorities. However, if the PI trespasses or commits a breaking and entering to obtain the evidence, the PI could be charged, but his/her actions would not affect the evidence itself.

October 7th wrapped up with a presentation by PALI’s own legal counsel, Joe Carroll, Esq. Mr. Carroll discussed how judges make their decisions in court cases. Of particular note was a comment from Mr. Carroll that “different judges view the law differently”! He noted that even though the definition of “probable cause” does not change, “probable cause” does depend on the importance of the case.

In a discussion of wiretaps, Mr. Carroll stated that the Pennsylvania Wiretap Act is unique among state wiretap laws. The Pennsylvania Wiretap Act requires renewal every five years. The Act prohibits the intercepting of communications, not just the recording of a conversation without a warrant or the permission of the parties being intercepted. As investigators, we routinely record our face-to-face interviews with witnesses and/or suspects. Per Mr. Carroll, once we advise a witness or suspect that we will record the face-to-face interview, that person no longer has a reasonable expectation of privacy and we can continue to record so long as the subject continues with the interview. This principal does not apply to telephone conversations. *(Editor’s note: You can read more about this subject from Mr. Carroll in his article in this issue of the PALI Informant.)*

Another area of importance to private investigators is the use of the GPS or mobile tracking devices. Mr. Carroll pointed out that a court order is required for the use of mobile tracking devices. To use one in our investigations without one could spell trouble. However, if the mobile tracking device is used on an automobile with the authorization of the owner, then no court order is needed. This could occur in the case of a domestic investigation where the party being investigated uses a vehicle belonging to our client. Further, if the vehicle in the above cited investigation is jointly owned by both the client and the subject of the investigation, it may

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still be legal to use a mobile tracking device with the consent of the client. Our concern in this latter case might be the loss of our license if a judge determines the act of using the mobile tracking device was criminal even though there is no criminal penalty.

Mr. Carroll closed his presentation with a brief discussion of hiring. How do we categorize people who work for us? Are they employees vs. 1099 contractors? Learn the benefits and responsibilities that come with both! *(Editor's note: You can read more about this subject from Mr. Carroll in the Summer 2014 issue of the PALI Informant.)*

Jimmie Mesis returned to speak again on the morning of October 8th. He opened with a very enlightening discussion of his "Ten Steps to Doubling Your PI Income". If there was nothing else that we remember from this presentation, remember this: Jimmie's "Ten Second Elevator Pitch". When someone says to you: "Hi, what do you do?" we should not simply identify ourselves as PIs, but instead say, "I'm a licensed professional investigator out of (area where you work). I specialize in (legal investigations, forensic accounting, locates, interviews, surveillance, polygraph, etc.—whatever your specialty happens to be). Here's my card."

Some of Mr. Mesis' tips are as follows:

Be sure to identify your market: lawyers/law firms, insurance companies, CPAs, business owners (pre-employment & employee theft investigations), consumers (such as finance people, computer forensics experts, etc), other PI's (establish a strategic alliance to refer work).

Start thinking like a business person: break the insanity cycle (if it didn't work in the past, do not continue doing the same thing), focus on profitable services, commit to an investment in time, invest in marketing and advertising, invest in equipment and services, and, the big one, avoid failure! Mr. Mesis identified the following as causes of failure of private investigative businesses:

- Failure to plan
- Lack of business skills
- Minimal investment and capital
- Lack of Marketing
- Lack of Advertising
- Offering unprofitable services
- Poorly designed websites
- Minimal or no website search engine optimization (SEO)

The reason most PIs fail: PIs are notoriously cheap!

Another area for PI's to work on is their pricing. Charge more! Increase your hourly rate! If you raise your hourly rate by \$10.00 per hour, you are looking at an increase of \$24,000.00 per year. Don't be afraid to raise your rates, and lose the perception of the low hourly rate. Fill your funnel with higher rates; dump your lower rate clients in favor of those willing to pay more. Sell your clients other, more profitable services you have not previously offered. Convert inquires into clients; and become an expert or specialist in certain services.

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Use of Audio Recordings

by PALI Solicitor Joseph Carroll, J.D.

Police officers routinely use audio recordings in the course of their investigations, for obvious reasons. Recordings offer more complete records of events than even the best investigators could prepare from recollection alone, and have the added benefit that they can be reviewed long after the events in question to check for information that may not have seemed relevant at the time.

More importantly, recordings are extremely persuasive evidence. Recordings generally have the effect of eliminating bias or other credibility issues as factors in the evaluation of evidence. When witnesses give different descriptions of events, factors such as bias, age, passage of time, visual and hearing acuity, and reputation may affect the credibility of those witnesses. But when a recording of the acts in question is available, the factual dispute is often easily resolved.

Unfortunately, Pennsylvania's Wiretapping and Electronic Surveillance Control Act (Chapter 57 of the Crimes Code) is one of the most restrictive laws of its type in the country, making it difficult for both police officers and private investigators to take advantage of interception techniques. For example, in most states a private citizen is permitted to secretly record their own conversations with other people. In Pennsylvania, that's a felony unless the circumstances fit within one of the exceptions to the general rule contained in Section 5703 of the Wiretap Act. Those seventeen exceptions to the general prohibition against the recording of conversations are found in Section 5704 of the Act. Even police officers may not conduct one party consent interceptions without the advance approval of a District Attorney, the Attorney General, or one of their agents designated in writing. Where the interception is to take place in a home, a court order is also required, unless exigent circumstances make it impossible to get such an order in time.

So, when can you record conversations during the course of an investigation? The answer depends on whether the conversation is in person (an "oral communication") or by phone (either a "wire communication" or an "electronic communication" depending on whether it's through a cell phone or land line), whether the other party knows they are being recorded, and what the circumstances are at the time of the communication.

Generally speaking, you cannot secretly record an oral communication with someone. However, that does not mean that you need a person's permission to record them. Under the Wiretap Act an oral communication is defined as "Any oral communication uttered by a person possessing an expectation that such communication is not subject to interception under circumstances justifying such expectation". Once you tell someone that you are recording your conversation, they can no longer claim that they have a reasonable expectation that they are not subject to interception. Best practice would be to immediately announce that you are recording the conversation, with that announcement appearing on the recording.

Circumstances may make it unnecessary to make a formal announcement. For example, recording inside a convenience store that has a prominent sign on the entry door that video and audio recording equipment is being used inside could be sufficient to destroy a reasonable expectation that the conversation is not subject to interception. Likewise, a speaker may not have a reasonable expectation that they are not subject to

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recording if the conversation takes place at a parade, concert, school or social event where it is obvious that many people are using video cameras (including those in cell phones) to record the event, since any of those devices could pick-up a nearby conversation.

The rule is different for phone conversations. This is so because the definitions for wire and electronic communications do not include a requirement that the conversations take place under circumstances where the person reasonably believes they are not subject to interception. Therefore, telling someone that you are recording a telephone conversation does not take the communication outside the definition of wire or electronic communication, and it is still protected from interception unless it is covered by some exception in Section 5704. One of those exceptions arises when all parties to the communication have given prior consent to recording.

One other exception, specifically made applicable to those who hold a private detective license, allows licensees to secretly intercept the contents of any wire, electronic or oral communication if he/she has a "reasonable suspicion" that the intercepted party is committing, is about to commit, or has committed a crime of violence and there is "reason to believe" evidence of that crime may be obtained from the interception. "Reasonable suspicion" and "reason to believe" are not defined in the Wiretap Act and, in light of Pennsylvania's restrictive Wiretap Act, are likely to be interpreted conservatively. I anticipate our appellate courts will use a probable cause test or something very close to it. I recommend cautious evaluation before taking advantage of this exception, since a mistake would make you subject to criminal prosecution for unlawful interception.

This article is presented for educational purposes only. It is based on the law as of the date of publication and is not intended as legal advice for a particular situation. It provides general legal principals but does not attempt to describe every possible state of facts that could impact the applicability of those principals.

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When you receive a call or an inquiry from a potential client, don't disclose your hourly rate. Have the client set the budget! Tell the client the cost depends on the specific services requested and the circumstances. Ask the client: How much information do you have? What have you already done? How fast do you need results? (the faster, the more expensive) What budget are you authorizing? You might give a range such as, "well I've done this for as little as \$2500.00 and as much as \$20,000.00. It depends!" Be sure to get a signed retainer agreement from the client.

We all have clients to whom we have provided services in the past. When near their office, take the time to drop by. If for no other reason, you are letting them know that you are still around. But, while visiting, always ask for a case ("What do you have now that I can handle for you?")! Never, ever leave a client's (lawyer for instance) office without asking for work. Take a lawyer to lunch! Attend association events; advertise in legal publications.

Always ask for referrals! The best time to do this is when you are dropping something off. Always ask if there is someone else in the firm they can introduce you to. Ask, "How many other lawyers in the firm use PIs?"

Remember, when you are out of sight, you are out of mind! Network with your peers; become a member of PI associations and other specialty groups. Join international associations, bar associations and your local chamber of commerce.

Develop a Direct Mailing Campaign! Develop a great sales letter and target a specific market. Mail out fifty (50) letters each week, and then track any responses that you receive. You should follow-up your mailings by phone and repeat the process every six to eight weeks. If you do the math on this, you will find that 2600 letters will go out every year. If only 2% of your letters result in customers, that means you have fifty-two new clients each year. The cost of this process is less than \$1,000.00.

If you need help in your marketing, try the following websites recommended by Mr. Mesis. You should find anything you need from those who can prepare a proper cover letter for you to a web designer:

www.Elance.Com
www.guru.com
www.outsource.com

A few more ideas: 1) Dedicate time each week for sales calls; 2) Promote your agency, and 3) Offer to be a speaker at various functions.

One more item: you need to have a properly designed website. Remember, Google has replaced the Yellow Pages. Internet marketing is where you get results. List your agency in www.PIDirectory.com. In a poll conducted by PI Magazine in 2013, less than 50% of PIs said they received business from their website. This should tell you that these PI's either had no website or they had poorly designed websites.

Finally, Mr. Mesis offered his assistance to any PI who contacts him. He can provide some assistance with website design, marketing sales letters, sales and business consulting and personalized staff training. Mr. Mesis can be reached at by phone at (732) 308-3800 or Jim@pimagazine.com.

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Mr. Mesis' final presentations covered the areas of "Investigator Traits" and "Surveillance". Mr. Mesis noted that a good PI is properly trained, patient, disciplined, prepared and they use common sense.

When discussing surveillance, he noted that there are steps we can all take in preparing for the surveillance. We should absolutely identify the goals of our surveillance, verify the subject's data, obtain exact descriptions of our targets, conduct database searches, pretext for information, prepare an information packet for the investigators actually conducting the surveillance, and use Google Maps to conduct a "drive-by".

A rule of thumb for any surveillance is that two investigators are always better than one. You can justify this to your client by stating that your success rate greatly increases when using two investigators.

During any surveillance activities, remember there is always an "expectation of privacy". Do not trespass onto private property, do not peek into windows, and do not zoom your camera lens into someone's windows. Follow local traffic laws; do not run red lights or speed. Dumpster diving is something we can all engage in, but be sure of local laws outlining when someone's trash becomes public. Does this happen when the can hits the curb? When pretexting, never, ever impersonate law enforcement!

Maintain your covertness! The best surveillance vehicles are mini-vans, SUVs, some pick-up trucks, and cargo vans. Darker colored vehicles are best, and keep your vehicle plain (no stickers, visible damage, etc).

Ask yourself, should I check in with the local police department? Should I call to notify the police that I will be conducting surveillance in their area?

Have an equipment checklist! Possible items to include are:

- Video camera
- Cell phone
- Binoculars
- Audio recorder
- Navigation/maps
- EZ pass
- Food & water
- "P" bottle (to relieve yourself)
- GPS Tracker
- Money
- Credit cards

PALI would like to extend their thanks to Mr. Mesis for his participation and presentations at the 2014 conference. He went above and beyond!

The conference wrapped up with presentations from Kitty Hailey and Michelle Dresbold.

Ms. Hailey was previously the chief investigator, manager and educator for a large New Jersey based agency specializing in family and personal injury cases and later in multi-plaintiff litigation, malpractice, and

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criminal defense investigations and wrongful conviction re-investigations. Subsequently, she was an investigator for the Federal Public Defender Capital Habeas Unit, re-investigating death penalty convictions for indigent clients. She is also the author of our profession's first book on ethics, *Code of Professional Conduct: Standards and Ethics for the Investigative Profession*.

Ms. Hailey discussed her involvement in "Complex Litigation: Managing Death Penalty & Similar Multi-Faceted Cases". During her career, she has worked class action suits, death penalty cases, and cases involving internees at Gitmo. During her work, she conducts investigations during both the guilt and the penalty or mitigation phases of the investigation. During her presentation, Ms. Hailey noted that anyone involved in complex litigation should know three things:

First, know what is expected of you as an investigator. Understand what type of case you are working, such as a post-conviction appeal.

Second, you must know who is responsible for paying you and how much. Ms. Hailey noted that in her investigations, she works until the job is done or until the client runs out of money.

Finally, read everything that is available. As a minimum, read the police reports, witness statements and newspaper reports regarding the case.

The final conference session, entitled "Sex, Lies and Handwriting", was presented by Ms. Michelle Dresbold. Ms. Dresbold is a graduate of the US Secret Service Advanced Document Examination training program. She consults with private attorneys, police departments and prosecutors throughout the United States. She is considered one of the top experts in the nation on handwriting identification, personality profiling and threat analysis. Ms. Dresbold stated that handwriting identification involves "who wrote the note". In "Threat Analysis", we hope to determine how dangerous the writer is; and, in "Personality Profiling" Ms. Dresbold stated that we can "pretty much tell everything about somebody".

Ms. Dresbold has published a book by the same title, "Sex, Lies and Handwriting", and for those interested there will be a new TV series in 2015 by the same title.

The 2014 PALI Conference was a complete success! For those who did not or were unable to attend, I will simply state "You missed a good one". The line-up of speakers, presenters and exhibitors was second to none. Hopefully, we will see you all at next year's conference. I look forward to another tremendous training and networking opportunity in 2015.

Cold Weather Surveillance Tips (Part I of 2)

by Greg Pirnik



Surveillance is challenging enough when conditions are perfect, but nothing tests our effectiveness like the winter season. For most of the year pre-surveillance prep may mean little more than a review of information received, some satellite recon of the set and perhaps a review of database laysources for associated vehicles. The winter season demands a whole new layer of pre-operations prep, or at least more attention to some specifics on a regular basis. Things like vehicle maintenance and load plan, our go-bag pack list, clothing and even the food and refreshments we take all become larger factors, each with the potential to make or break us when field conditions deteriorate. Here's ten tips to help you thrive in the field this winter and make your business stronger for it on the other side.

1) Adopt the proper mindset. Surveillance slows down during the winter as the fiscal year winds down, insurance companies have exhausted their investigations budget and claimants are thought to be less active. Understand however that the cases we do get present a unique opportunity. Our work product is scrutinized more than ever this time of year, simply because clients have more time to review our video and reports when fewer files are crossing their desk or Inbox. Extra effort is more likely to get clients talking us up to colleagues, often precisely because of the harsh conditions outside. Plenty of folks can conduct surveillance on nice days, when the birds are singing and the sun warms our face, but winter separates wheat from chaff like no other season. When we're properly prepared for the winter season it's easier to focus on the opportunity in the problem rather than the problem in the opportunity.

2) Vehicle maintenance is critical. This one should go without saying, yet it's the one that gets overlooked the most during our busiest summer months. Tire tread is our highest priority for driving in snow, with weight over drive axles a close second. Battery condition is also critical; many auto parts stores will test battery and charging systems for free. Make sure all lights are operational, since it's hard to remain nondescript when you have a light out. People notice that sort of thing, subconsciously at first if we're lucky. Squeaky breaks and exhaust leaks also draw unwanted attention. Each of these deficiencies is a 'tag' in our business, and as they increase in number we move closer to getting burned.

3) Dressing in layers is imperative. The back of a surveillance van is its own ecosystem, and we can't always crack windows to vent. We may chisel frost from our windshield at zero-dark-thirty to launch, but by afternoon it can reach 80 degrees inside when buttoned up. Proper layering lets us strip down to avoid the greenhouse effect, and also allows us to change our look from time to time when 'running and gunning' with active claimants.

Staying warm during static surveillance when we can't run our engine may be our greatest challenge. Late season hunters know an effective cold-weather layering system consists of three main components; a moisture-wicking base layer, an insulating mid-layer and a water-proof, wind-blocking outer layer. Bulky gloves—or

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better yet, mittens—are great for waiting periods but make it hard to manipulate a video camera. A thin liner glove with rubber dots for improved grip keep us operational and make life in the ice box more bearable. A face mask also helps prevent our windows from fogging, as few things are more frustrating than watching an active claimant fade into a fog while videotaping, and repeatedly wiping the inside of the window is a good way to attract attention. Sitting back from the window and watching the viewfinder helps but still doesn't always work. A balaclava or ski-style mask that vents your breath downward works best. A fleece balaclava will become your best friend on cold winter mornings, just remember to remove it before sliding back behind the wheel to go mobile—especially if your most advantageous surveillance position that day happened to be a bank parking lot.

4) Add self-recovery items to our vehicle load plan. If asked to name the single-most useful item to carry in our vehicles over the winter months, I'd say kitty litter. You don't need to be a cat person to appreciate its usefulness on ice; I learned this lesson first hand last winter, after beaching my all-wheel drive van in icy curbside ruts a block from my claimant's residence, only to find myself spinning helplessly when it came time to go mobile. I tried rocking and using my floor mats under the wheels for traction to no avail, until a neighbor stepped out and offered his tub of cat litter. A couple handfuls slung under each tire was all it took. It adds some weight to the vehicle also, and come Spring you can donate it to your favorite cat person.

A battery jump pack can be a life-saver, and would be my number one item if not for the cost. While kitty litter is cheap insurance, a little more money buys more peace of mind. My DieHard Portable Power 1150, complete with an air compressor, 12 and 120 volt outlets, USB port and 300 cranking amps for resurrecting dead batteries, has gotten me out of tight spots and home for dinner on more than one occasion. A similar but newer product called a Micro-Start XP-10 anti-gravity battery is also available now and getting rave reviews, offering more power in a smaller package.

5) Keep windows clean. Sun glare on dirty windows inhibits video quality enough during the best of weather, and more so in winter months when road grime is at its worst. A regular rinse at the car wash and keeping washer fluid levels topped off for the windshield and rear window is a good start, but most of my video is shot through the side windows. Carry Windex and paper towels on board, so after a long stretch of mobile surveillance, when finally in position for the money shot, your filthy window won't render your hard-won video useless. Stepping out for a few seconds in a discreet location to clean the window we'll shoot through rarely gets us burned, and ensures that our video meets the high standard that our clients expect.

6) Dump the pee bottle at the end of each day. Nothing makes buttoning up for extended durations harder than a swollen bladder, and few things are worse than reaching for your bottle after a long drive and tall coffee, only to find that it froze solid overnight, leaving only an inch of empty space above a half-gallon block of yellow ice. Get in the habit of hitting a wash rack close to home at the end of each day. It takes only a few minutes to rinse the road grime off the windows, dump the pee bottle and clean out accumulated garbage, and that simple routine pays dividends over the long haul.

Part 2 of Cold Weather Surveillance Tips will appear in the next issue of the PALI Informant.

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