



PALI NEWS BULLETIN

The Official Publication of the Pennsylvania Association of Licensed Investigators

P.O. Box 60036, Harrisburg, PA 17106-0036 (800) 443-0824 <http://www.pali.org>

URGENT

PALI Seminar

Starting Up and Expanding Your Business

PALI's April 2003 Seminar is designed to inform both the recently licensed investigator starting his business and the more seasoned investigator wanting to expand his offerings into other areas.

Date: April 4, 2003

Place: The Palace Inn, Routes 22 & 48,
Monroeville, PA 15146

Telephone: (800) 545 - 6600

Agenda:

- 8:00 AM Coffee
- 8:30 AM General Membership
Meeting/Networking
- 9:30 AM Expanding Into Accident
Reconstruction
- 10:15 AM Finding
Information Electronically –
What's New?
- 10:45 AM Pop-Up Briefings
- 11:45 AM Lunch – will be provided
- 1:15 PM Crime Scene Analysis
- 2:45 PM Surveillance Today
- 4:00 PM Final Words

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EFFECTIVE USE OF A PRIVATE INVESTIGATOR

By Robert E. Meinert, Gentile-Meinert Inc., Monaca/Pittsburgh

Attorneys have a duty to represent their clients in the best possible way, including finding all of the facts of the case. In criminal cases, if the attorney does not find and present all of the facts, it could be professional misconduct, causing ineffectiveness of counsel allegations, a new trial, and possibly, disciplinary sanctions. Therefore, for the most effective and cost efficient investigation, a private investigator should be used to thoroughly investigate the facts.

The facts can make or break a case, and law schools rarely teach students much about investigating cases. The right investigator – one who is reliable, resourceful and knowledgeable – can help an attorney develop facts, secure evidence, and perform countless other tasks to make an attorney's life easier. Conversely, the wrong investigator can antagonize witnesses, embarrass you in front of your client, provide you with bad information, waste your money, and raise your malpractice premium. Even more important, private investigators have that most precious commodity (one that lawyers often lack) the time – day or night – to get the job done.

Be as wary of choosing a private investigator from the telephone book as you would be choosing a doctor that way. It is much better to get a referral from a colleague or to contact organizations such as Pennsylvania Association of Licensed Investigators or, if looking nationally, an organization known as Intelnet. These organizations can easily give references and its members have codes of ethics and procedures which must be abided.

An attorney should review the educational and professional background of the investigator. Additionally, the investigator's past should have no serious blemishes. A good private investigator should have expertise in the following areas:

- Interviewing techniques
- Serving as a fact or expert witness
- Statement taking
- Utilizing sophisticated databases
- Having government contacts
- Handling of evidence, both physical and documentary
- Dealing with reluctant or adverse witnesses
- access to other experts in various forensic disciplines
- Knowledge of other private investigators in other geographical locations for subpoena and other services.

Caution must be taken by attorneys to make certain the investigator he or she is using has the experience in the criminal field. Some investigators know only how to conduct surveillance or work a civil insurance fraud case. Some have no experience or desire to handle criminal cases, as do some have no idea what an attorney expects as a defense investigator. In some cases, a former police officer may look at the case in a prosecutorial manner, and would not be helpful to the attorney; while often it is good to have a person like that review the police case. Also, having a former law enforcement officer review a search warrant or an affidavit of probable cause can be very helpful.

Quite apart from greater skill, resources and time, there is another reason to use an investigator to get the facts. Suppose you, the attorney, have interviewed a critical witness, and have his story down cold. But, seven days into the trial, he takes the witness stand and begins to change his story. Who is going to impeach him with his prior inconsistent state-

Continued on page 2

President's Message

Dear Members,

I first want to thank the Board Members along with Chuck Kleber and his Web Site Committee for getting our web site up and running and at a very reasonable cost to the Association. Hopefully members and outsiders will take advantage of the user friendly web site.

Fast approaching is our seminar at Monroeville on April 4, 2003. Hopefully many of you are able to attend. This will prove to be a great educational program. Barbara Thompson and Suzie Gochenour work very hard to put the seminars together and are to be commended for their fine work.

Because the Fair Credit Reporting Act (FCRA) interpretations have not been changed as yet, I ask you again to go to your Congressman for their assistance when the "Employee Clarification Bill" comes before them this year. The bill seems to have more of a chance to get through this year because of the many business people and organizations like ours who lobby for these much needed changes.

We are always looking for vendors at our seminars or those wanting to place an advertisement in the newsletter. If you know anyone who may be interested, please get in touch with Bob Kozura at 800-500-4774.

Best Wishes – Bob Meinert, President

Effective Use Of A Private Investigator

Continued from page 1

ment? Is the judge going to have to declare a mistrial? Will the client be found guilty? An attorney whose testimony is necessary in a case is usually disqualified from participating – except as a witness – in the trial.

It is so important to take the time to interview the private investigator who you are considering to hire. Questions that an attorney should pose to the investigator are:

Is the investigator knowledgeable in the law? If he is, this will give him a better understanding of what information will be admissible in court.

Does he understand the parameters of the case? This will ensure that he is less likely to run up a bill going after information that is useless.

Does the investigator understand ethical considerations such as attorney-client privilege? If he does, this will prevent a defense theory or evidence on the case from being told to a witness, who then reports it to the District Attorney.

Does he feel comfortable in working in all types of communities? A good investigator can work in any area.

Does he have personal feelings about the case or defendant? Some crimes, such as murder, child abuse or rape, can contain emotional aspects that might subconsciously affect the investigator during the case.

Is there a conflict of interest?

Is the investigator licensed in the state they are asked to work? Licensing requirements vary from state to state. In Pennsylvania, each county Clerk of Courts and District Attorney is responsible for ensuring that the license applicant meets the criteria of the Private Detectives Act (22 P.S. § 1 et seq.) And ultimately, a judge of the Court of Common Pleas denies or approves the application. The License does not guarantee a qualified investigator.

If an attorney is satisfied with his or her choice, then the investigator's fees and expenses should be discussed. Some investigators, like attorneys, charge a flat rate and others, an hourly rate. Expenses are usually billed separately. Please remember, if an attorney contracts directly with the investigator, then the attorney is liable for the bill, even if the client fails to pay. So, unless costs are being advanced, make sure the client advances enough money to cover the investigation before anyone is hired. If the attorney is court appointed, inform the investigator that the bills will be reviewed and approved, or cut, by the court because the money is coming from the court budget.

Before the attorney sends the investigator out on the trial, the attorney must set clear boundaries. The first rule is "never pay for information from a potential witness." Though perhaps innocently meant, such payments can blow up in an attorney's face at trial, especially if the sum is generous. Any aura of witness neutrality will be lost. Or, worse, a District Attorney may charge you with bribing the witness. Secondly, discuss the theory of the case so the investigator will understand what you want to prove or disprove. If the investigator is well chosen, he or she should come up with ideas for getting the job done that an attorney may not have considered. Finally, an attorney should be realistic. Unlike television private investigators, real private investigators cases cannot conclude a case in 60 minutes or less.

Mr. Meinert is a principal in the firm Gentile-Meinert, Inc., 3645 Brodhead Road, Monaca, PA 15061. (724) 775-3577. He has been a private investigator for over ten years.

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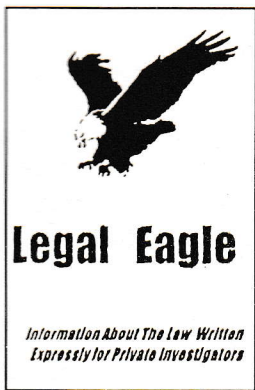
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FAIR CREDIT REPORTING ACT WAIVER

The Presbyterian Homes, Inc. of Camp Hill, a nursing home operator, is being sued in federal court in Williamsport, Pennsylvania by a 17 year employee who was terminated when she refused to sign a form authorizing a background investigation and a waiver of her rights under the Fair Credit Reporting Act.

Federal District Judge John E. Jones wrote an opinion denying the Presbyterian Homes' motion to dismiss the complaint and directing that the case go to trial stating that "there are no court decisions on whether refusal to sign an authorization form under the Fair Credit Report Act is grounds for termination."

Interviews conducted with attorneys at the Federal Trade Commission in Washington, DC indicated that the Federal Trade Commission is taking no position on the matter and the question of the termination or refusal to sign the waiver will be decided under state law covering wrongful termination.

The lawsuit clearly questions the validity of the waivers many employers require under the provisions of the Fair Credit Reporting Act and is still in its beginning stages. District Judge Jones has pending before him a request to make the suit a class action which would include 500 employees at 17 Presbyterian Homes facilities in Pennsylvania, Maryland and Ohio which were also asked to file similar Fair Credit Reporting Act waivers.

At the present time such waivers appear to be valid, but the progress of this lawsuit will be closely watched. It could have a profound impact on the validity of such waivers and again emphasizes the need for Congressional action amending the Fair Credit Reporting Act.

If any member desires a copy of the article dealing with this lawsuit faxed to them or has further questions, please contact PALI counsel, Jim West, at (717) 233-5051.

West Long LLC

Attorneys At Law

James J. West and Robert R. Long, Jr.



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RIGHT TO PRIVACY

The right to privacy is a common law right that has been in the process of development for many years. The Supreme Court of the United States has held that the right of privacy is involved when warrantless wiretapping occurs (*Katz v. United States*) when the state attempts to regulate birth control (*Griswold v. Connecticut*) and more controversially when a woman chooses to have an abortion (*Roe v. Wade*). In 1974, the Supreme Court of the United States deviated from the expansion of the Doctrine of the Right of Privacy in upholding Congress' Bank Secrecy Act which required banks to keep records for a period of six years to enable prosecutors to better pursue white collar crime. While this was decided over twenty-five years ago, Justice Douglas' dissent seemed to predict the dawn of the information age and the problems that privacy rights would cause when they came into conflict with large organizations gathering data on numerous individuals. As Justice Douglas said:

A mandatory recording of all telephone conversations would be better than the recording of checks under the Bank Secrecy Act, if Big Brother is to have his way In a sense a person is defined by the checks he writes. By examining them the agents get to know his doctors, lawyers, creditors, political allies, social connections, religious affiliation, educational interests, the papers and magazines he reads and so on ad infinitum. These are all tied to one's Social Security number; and now that we have the data banks, these other items will enrich that storehouse and make it possible for a bureaucrat – by pushing one button – to get in an instant the names of the 190 million Americans who are subversives or potential and likely candidates.

The Supreme Court of the United States further indicated it was restricting privacy in a 1976 Decision (*Miller v. United States*) where it held that the Constitution does not give individuals a right to privacy in their bank records reasoning that people surrender their privacy when they open a bank account because they handed over their records to third parties.

The Pennsylvania Courts have not followed this restriction when it comes to the right of privacy and have continued to expand it to include bank records. Obviously the Supreme Court cases upholding the Bank Secrecy Act and limiting privacy rights to bank records apply when federal criminal laws are being enforced but Pennsylvania has recently indicated that it will take a broader view of the right to privacy particularly in the area involving bank records.

In *McGuire v. Shubert and Mellon Bank*, 722 A.2d 1087 (Pa.Super. 1998) the Pennsylvania Superior Court held that the Mellon Bank owed the plaintiffs a duty of confidentiality insofar as their bank records are concerned and allowed the plaintiffs to maintain an action against the bank for breach of their privacy. An employee at the Mellon Bank had apparently, without authorization of her superiors, entered the plaintiffs' bank account, obtained account information, provided it to an attorney that was representing her in a lawsuit against the plaintiffs, and that attorney used the account information during a trial to cross examine the plaintiffs regarding their net worth. The lower court threw the case out on preliminary objections but the Superior Court reinstated holding that the bank, as well as its employees, had an implied duty of confidentiality to the bank customers, that they breached it in this matter, and that they were liable for damages because of that breach.

In arriving in its decision, the Superior Court of Pennsylvania recognized that the state courts were split on the issue of whether improperly obtained bank records could support an action for invasion of privacy. The court did not even discuss the position of the Supreme Court of the United States' that there was no constitutional protection afforded for such records and went on to hold that there was a duty on the part of the bank and its employees to keep a customer's bank account information confidential and that the bank itself could be liable in damages for invading a customer's privacy by allowing such records to be released. Obviously, the conclusion reached by the Pennsylvania Courts would apply to work done by a Pennsylvania private detective and the improper obtaining of bank records or other records could result in an action of invasion of privacy under Pennsylvania law.

While it is impossible to define or to summarize all instances where an action for invasion of privacy through wrongfully obtaining records would be available the generally quoted definition of invasion of privacy requires that the plaintiff "must aver that there was an intentional intrusion on the seclusion of his/her private concerns that was substantial and highly offensive to a reasonable person, and aver sufficient facts to establish that the information disclosed would have caused mental suffering, shame or humiliation to a person of reasonable sensibilities. Pennsylvania Law Encyclopedia, Torts, Section 6, 2002 Cumulative Pocket Part. The procurement and promulgation of any records through methods meeting this standard can result in litigation under the invasion of privacy rationale. It should be noted that invasion of privacy lawsuits are extremely rare and are controlled by a very short one year statute of limitations.

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PALI BECOMES APPROVED SPONSOR FOR CONTINUING EDUCATION COURSES IN PENNSYLVANIA

The Commonwealth of Pennsylvania recently accepted PALI as an approved sponsor for providing continuing education courses. This means that PALI's Speakers' Bureau is qualified to offer presentations to various individuals/ organizations and the subject matter counts as official CPEs for certified public accountants, attorneys, certified fraud examiners, ASIS members with the CPP designation, etc.

To maintain this accreditation, the following criteria must be met for each program:

1. A biography of the speaker must be submitted;
2. The course outline must be furnished;
3. Door attendance must be taken;
4. A course evaluation sheet must be completed by attendees; and
5. A certificate of attendance must be issued to attendees.

PALI's certification is a result of the seminars sponsored in Reading and Monroeville over the past 3 years. Our kudos are extended to the outstanding presentations given by Barbara Thompson; Bob Kozura; Bill Stoeffler; Bob Meinert; Jeff Fry; Jim West, PALI's legal counsel; and so many others. Topics which helped PALI qualify for sponsorship included:

Gathering & Preserving Electronic Data Evidence
Records Keeping Requirements
Understanding Computer Fraud
Computer Investigations & Computer Forensics
Forensic Evidence
Al Qa'ida Terrorism
Structuring a Business to Minimize Tax Liability
Surveillance Techniques
How to Market Your PI Business

If you are interested in becoming an accredited presenter on PALI's Speaker Bureau, or if you have any questions on this subject, contact Barry Ryan at 1-800-443-0824. The PALI Sponsor certification # is PX177311.

The PALI Association would like to Thank Barry Ryan for his time and effort in getting us approved.

Continuing Education, although not mandatory, is becoming an expected function of most all professional organizations. In addition to keeping the members on the cutting edge of their profession, it also defines the high level of expectations the organization places on its membership.

PALI Members. Be sure your correct **Email** address is on file with PALI, if you wish to enjoy the benefits of our Yahoo news group.

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Responsibility And The Moral Free Agent

By Ship Gochenour

Recently President Meinert circulated a New Hampshire Supreme Court decision that raises questions of legal responsibility assigned to license holders when they disseminate information to clients who use that information to cause harm and injury to people. While it is more appropriate for James West, Esquire, PALI Legal Counsel, to discuss the legal ramifications of this decision for Pennsylvania license holders, it is important that this forum be used to discuss the professional implications raised in this case. In a moral and ethical sense, is a license holder obliged to consider who is asking for his skills and how will the information provided be used? Also, is deceit a quality to be fondly pursued and embraced by men who look to the courts for licensing based on a finding that they are competent, of good character and integrity?

Investigation is a police power, sequestered by the state. In addition to authorizing the use of that power by certain of its agents, the state licenses qualified parties to conduct investigations for hire. The licensing process is designed to identify those with sufficient qualities of competence and judgment to invest with this power. Among the concerns addressed in the investment process is that the practitioner possess the capacity to understand the responsibilities associated with the power.

Competency connotes various qualities, including judgment. As practitioners, we must have sufficient judgment to assess the motives of people with whom we contract, to derive satisfactory answers to questions about the purpose the requester has for the information and the ultimate use to which it is put. Simply stated, responsible license holders should always know exactly who is requesting their services, what the nature of the need for the information is, what the respective relationship of the requester is to the parties that are the subject of the inquiry and what use will be made of the information. Those with the requisite judgment to be license holders will acquire sufficient clues, as a result of case assessment questioning to confirm the legitimacy of a request. Simply selling information about people is a careless and irresponsible use of the power vested in license holders.

The carelessness and irresponsible conduct shown in unexamined selling of information on people is compounded by the use of deceit to acquire the information. Deceit and lying are hardly qualities associated with the traits of good character and integrity. The use of deceit, and lying may appear slick, cute and even efficient. It is also dishonest. Honesty is a component of credibility. Credibility is a form of capital. Capital is acquired through hard work and disciplined personal application. Capital can be husbanded and preserved for use when needed. It can also be squandered, making it unavailable when needed. The capital of credibility is important to the practitioner on a personal level and to his clients on a professional level. A reputation for the practice of deceit can cause a client and a case irreparable harm when revealed to a finder of fact engaged in the process of determining which facts are credible and which are not. Use of deceit not only reflects on you and your profession, but it places your client and his case in jeopardy. It is a practice that is morally and ethically bankrupt.

As license holders we should not need decisions like the New Hampshire case to guide our conduct. Our resident moral and ethical code should be sufficient. When all license holders subscribe to these values, we will have no worry about restrictions imposed on information access through court decisions. As a Pennsylvania license holder, you are a select breed of professional moral free agent. Be proud of, and respect your competence, good character and integrity!



P.A.L.I.

Pennsylvania Association of Licensed Investigators, Inc.

PO Box 60036, Harrisburg, PA 17106-0036

Phone: 800-443-0824 Fax: 717-612-9700

MEMBERSHIP APPLICATION

All Applicants for membership in the Pennsylvania Association of Licensed Investigators must comply with the following:

1. Answer all questions on this application. Please print or use a typewriter. If you object to any question, do not answer it. write "I object to this question" and state your reason for objecting to the question.
2. Submit required non-refundable fee of \$75.00 with application.
3. **Attach:** a) Copy of PI License and/or PI photo ID; b) Copy of bond and; c) proof of insurance (if you carry).

TYPE MEMBERSHIP: ☐ **ACTIVE** ☐ **ASSOCIATE** ☐ **AFFILIATE** ☐ **SERVICE & INDUSTRY**

PERSONAL INFORMATION

Name: _____ Date of Birth _____

Home Address: _____

City: _____ County: _____ State: _____ Zip: _____

Home Phone # _____ Fax # _____

E-Mail Address _____ Cell Phone# _____ Pager _____

PRESENT EMPLOYER

Employer: _____ Position: _____

Business Address: _____ County: _____

City: _____ State: _____ Zip: _____ Bus. Ph# _____

Does your state, city, etc., require you to be licensed as an investigator? _____ If so, are you licensed? _____

By what agency / authority? _____ Date License issued _____ Lic.# _____

If licensed in multiple jurisdictions, please attach an addendum hereto showing additional licenses.

Have you ever been denied an investigator's license or have your license ever been suspended or revoked? If so, explain: _____

Have you ever been terminated from a position of investigator? If so, explain: _____

Have you ever been convicted of a crime other than a traffic offense? If so, explain: _____

EDUCATION AND REFERENCE INFO

What level of formal education have you obtained? _____

Have you written or been a lecturer/speaker on any investigation related subjects? If so, explain _____

List two personal references other than relatives or present/previous employers:

1. Name _____ Occupation _____
Address _____ City _____
State _____ Zip _____ Home Phone # _____ Work Phone # _____

2. Name _____ Occupation _____
Address _____ City _____
State _____ Zip _____ Home Phone # _____ Work Phone # _____

Please list the PALI member that is sponsoring your membership application, and give his/her full name & address:

Do you pledge your support to the Bylaws and Code of Ethics for PALI? _____

CERTIFICATION AND RELEASE OF INFORMATION AUTHORIZATION

I am applying for membership in the Pennsylvania Association of Licensed Investigators, Inc. I understand that submitting false, misleading, or incomplete information on this application will result in revocation of my membership. I understand that all information provided to PALI must be done in writing. If it is necessary to augment or correct information, it must be in writing. I agree to abide by the Bylaws, Code of Conduct, and Code of Ethics of PALI. I will voluntarily surrender my PALI membership, if any violation of the Bylaws, Code of Conduct, or Code of Ethics is found, following proper procedures identified in the Code of Conduct. I have not tried to mislead nor conceal facts concerning my background or qualifications for membership. I further understand that if my application is accepted, any false, misleading, or incomplete statements on this application shall be considered sufficient cause for denial or termination of membership. PALI is authorized to make any investigation of my personal and professional background history for the purpose of determining my eligibility for membership. This authorization releases any person, company or agency who furnishes such information from any liability whatsoever. A photocopy of this form shall be as valid as the original. This authorization is valid for 180 days from date of signature.

I solemnly affirm, under the penalties of unsworn falsifications, that the contents of the foregoing are true to the best of my knowledge, information and belief.

Applicant's Signature _____ *Date* _____

FOR BOARD USE ONLY

Investigation:

- ☐ Reference # 1 Comment: _____
- ☐ Reference: # 2 Comment: _____
- ☐ Comments: _____

Recommendation: ☐ Approved ☐ Rejected

Result of background investigation: _____

Chairperson of Board of Directors' Signature: _____ *Date* _____

New Members

Henry F. Aldrete, Sr.
EAGLE CONSULTANTS &
INVESTIGATIONS INC
945 Woodridge Dr., Enola, PA 17025

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Pete F. Wade
ALIDADE CORP
PO BOX 1908, Media, PA 19063

Tech Notes

The Time Is Now For Digital Recording Systems

Bob Kresson

A dramatic new product has emerged to the market that will allow you to record and save video permanently. This new digital system is the most user-friendly system on the market to date. Using Surveillance System software, there is the ability to simultaneously record up to 16 camera sources onto one computer with instant play back of video from any date and time.

Would you like to make more profit and not spend all that energy on video surveillance? How about not having to spend as much time programming and installing the analog system? The new digital system does not require a lengthy installation or require the maintenance of changing tapes. With a digital system, once the images are stored you can easily search incidents by date, time or camera. No more rewinding and fast forwarding! Also, the recorded images play back at the same quality in which they were recorded. Information is saved with no loss of video ever because it is saved as a file in a computer, which can easily be accessed. Data can then be archived as a permanent record on CD or DVD, which takes less space and is more cost effective than video tape.

With the use of built-in video motion detection, no "dead time" is recorded. This prevents the computer hard drive from filling up with unnecessary video and saves space for more valuable images. With one of the many options provided in the software, you can assign how long to continue to record after the motion in view of the camera has ceased. Another feature available is the ability for the surveillance computer to automatically dial a preset phone number immediately to alert someone that motion was detected. Also, with the computer's large memory, all of the cameras can continuously record while you assign the computer to play back video that was recorded at a previous time. (You can do this in analog, but it costs much more than with the digital and is often unable to be deciphered by the person viewing the image.) With digital you can take an image and get a crystal clear image every time, allowing the security team to be more accurate and prevent second guessing at what they are viewing. This product is one that should be utilized by all businesses and individuals seeking a professional video surveillance system with an easy interface. This digital recording system will save you time, energy and aggravation that occurs most times with the older and out-dated analog system.

Did you know that analog tends to be very costly and very time consuming to the customer? There are many down sides to using the analog system, for example, the tapes that are used have to be changed frequently. It also tends to not show as much detail because the tapes are not quality controlled, meaning, they may be reused to save money, causing loss of picture quality. The cost and inconveniences of storing the larger analog tapes can be prohibitive, defeating the purpose of having the unit in the first place. You can also have video lost from the tapes while they sit on a shelf around the office. With analog video there is degradation of the video when enhancing a specific picture or sequence. Also constant maintenance, poor video quality, and rewinding and fast forwarding to a sequence or particular section will inadvertently cause damage to the tape.

Please feel free to e-mail me at bobkresson@msn.com

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PRIVATE INVESTIGATORS COVERED BY AGGRAVATED ASSAULT STATUTE

On November 7, 2002, private detectives were added to the list of officers, officials, and other persons covered by the Aggravated Assault Statute. Accordingly, anyone attempting to cause serious bodily harm to a private detective while in the performance of the detective's duty, is guilty of aggravated assault. This is an Amendment to the Statute and private detectives were not previously covered.

It should be noted that in checking Purdon's Pennsylvania Consolidated Statutes Annotated (Pa.C.S.A.) this Amendment does not appear in the 2002-2003 pocket part updating the Statute and is otherwise difficult to find. If any private detective runs into a situation where the District Attorney, police department, etc. has any difficulty finding this particular Statute, please contact PALI's counsel, Jim West, at (717) 233-5051 and a copy will be faxed out.

It is expected that the Statute will be contained in the next issued pocket part updating Crimes and Offenses in Pa.C.S.A.

PAYTON & ASSOCIATES

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YOUR INVESTIGATIVE AND EXECUTIVE PROTECTION SPECIALISTS

E-mail: paytonpi@uplink.net

Rick is a Charter Member of Pali, and currently serves as second vice president to the organization.

On January 8th, 2003, Rick reached his 30th year in the Law Enforcement and Investigative business. Upon leaving the military service in 1971, having spent thirteen months with the 1st Cav Air Mobile Division in the Republic Of Viet Nam, Rick having a background in finance and accounting began working in the payroll division of The Pennsylvania Electric Company in Johnstown, Pa.

After about a year and still having a yen for the organization and discipline of the military, he began looking into becoming a police officer and applied to the Pennsylvania State Police in the early months of 1972. However in January of 1973 he was hired by The State College Bureau of Police as not only their first undercover officer, but also the first black officer in the history of the department. After serving as few years as an officer, Rick received a commendation from the chief for an off duty arrest he made of an escaped felon who shot a doorman at a local club. Rick just happened to be at the club celebrating the wedding anniversary of a friend when the incident occurred, and was able to apprehend the subject within minutes of the incident. The commendation lead to a promotion to the crime unit, and the beginning of Rick's career as an investigator.

In January 1980, Rick became the departments "White Collar Crime Specialist", and handled not only all the cases in the city of State College, but also incidents of white collar crime in many of the surrounding townships. Rick became a member of the "International Association of Credit Card Investigators" and soon ventured on the lecture circuit for banks and financial institutions giving instruction on detection and prevention of "White Collar Crime". His lecture circuit enabled him to do some consulting which lead to him having several articles published as a "White Collar Crime Specialist". Articles appeared in Consumer Digest Magazine 1983, Seventeen Magazine 1984, and Glamour Magazine 1985.

Rick continued his training in the investigative field, and became certified in the investigative fields of Financial Crime Detection, Rape, and Homicide, receiving his Homicide training from the National Law Enforcement Institute. Before leaving the police department, Rick reached another goal in becoming the first black President of the Tri-County Fraternal Order of Police servicing the Law Enforcement agencies in Centre, Clearfield and parts of Blair counties.

In 1985, Rick opted to go on his own, and obtained his PI license in 1986, and started Payton Investigations and Security. Like most PI's Rick started out working from his home and as things began to grow, finally had to get an office and really organize. In 1992 becoming bogged down with the security aspect of his business, he sold the Security Division to another agency out of Pittsburgh, and under terms of the sale became a consult/manager for that agency. That venture allowed Rick to devote his time strictly to investigations and one of his more recent services, Executive Protection.

Rick's recently renamed agency, "PAYTON & ASSOCIATES" specialize in all types of investigations, specifically criminal defense cases and as noted, bodyguard and executive protection. He recently became the "Director of Executive Protection" for the Pittsburgh agency he does work for.

In his 17 years in the private field, Rick attributes his success to networking with other investigators, and the simple fact of enjoying the work. His success in life he attributes to his father, a retired Army colonel, who told him, "be a man, be an individual, don't count on others to get you through life. When you achieve success honorably, you will have gone through life honorably".

Insurance Coverage

My last article outlined some of the basics that any insured needs to know when entering a contract of insurance for any type of coverage. This article will be more focused on some parts of a basic general liability and errors and omissions policy. Below you will find some information to use when searching for a policy that will fit your needs.

As mentioned before, not all policies are alike. The fact is most policies are based on relatively similar basic forms of coverage. However, endorsements, exclusions, and conditions can make these similar forms move worlds apart. Be sure to review your policy for how the exclusions section changes the coverage under the other sections of the contract.

Under general liability, security and private investigative industry products provide coverage for unintentional acts of bodily injury, property damage and personal injury. Bodily injury can come in the frame of an accidental injury to a client or subject caused by the negligence or non-negligence of one of your employees. While intentional acts are excluded, most security contracts contain provisions for assault and battery to be included in the policy coverages. Private investigator specific contracts might not have the assault and battery coverage since this is not as applicable as in the security industry.

Property damage will result from the accidental damage to a third party's property while in the course of work. Be advised that this coverage and all coverages that we will discuss exclude any damage or injury due to automobile causes. We will discuss auto liability later.

Personal injury coverage is afforded under most general liability contracts. This can vary by industry but is an important coverage when you are working with the general public each day. This coverage affords libel, slander and defamation of character coverages and has been a popular target for plaintiff attorneys in recent years. The coverage should be included and should not have any form of its protection diminished by endorsement. In some cases, personal injury is excluded. Certain high-risk industries and companies using the Internet for their services can have trouble obtaining this coverage.

Most policies contain medical payments coverage, which can be used to appease an injured subject to avoid a liability claim. This coverage is used to pay small medical bills and costs associated with injuries for third parties. It can be an effective deterrent to utilize this coverage to convince a claimant not to file a lawsuit. Use of this coverage does not preclude a person from filing a liability claim but can sometimes prevent this from happening.

Fire Legal Liability is an often-misunderstood coverage. This coverage is also on most general liability policies and is designed to protect the insured from damage to a rented premises through events caused by an insured. The coverage will pay for damages to a structure that you rent but do not own. For this coverage to apply, gross negligence would have to be proven. The best example is the coffee pot left on overnight. Should this occurrence cause damage to property not owned by you, coverage could apply.

Errors and Omissions and Professional Liability are sometimes confused as being different items. In reality, they both refer to the same

coverage. In your industry, Errors and Omissions is the most common term. This coverage protects an insured for errors that occur in the line of work that cause a financial loss to a third party. The security industry will see more General Liability claims for damage and injury. The private investigative industry will see more E&O claims due to the nature of the work. Examples of our recently filed claims include missing a lien on a title search and pulling the incorrect credit report.

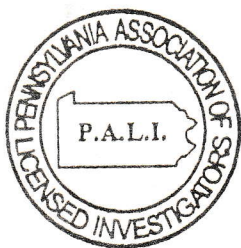
A number of your clients ask you to obtain commercial automobile and non-owned and hired automobile liability for your firms. This coverage can be added to some general liability contracts and in other cases must be written on a separate policy. This coverage will protect the business for auto liability claims that name the firm along with the individual as a defendant. Be sure to verify that each driver of your firm carries adequate personal auto liability coverage, however. Under non-owned and hired coverage, the commercial policy will protect the firm, but not the individual. Coverage for personal liability must be endorsed and is not necessary if the individual carries personal auto coverage with adequate limits of liability.

Fidelity and crime insurance is requested by some companies in your contracts. This coverage protects your client for the misuse/theft of private information from the client by one of your employees. It is a fiduciary coverage that pertains to financial loss. Most crime policies carry a conviction clause that requires you to prosecute your employee and have the person convicted of the crime for coverage to apply. For an additional premium, the conviction clause can on occasion be deleted. In this day and age, this is becoming a more common request from your vendors.

Many clients ask you to add their interests as additional insured. While this is certainly available, it is important that you understand how this affects your coverage. By adding a third party as additional insured, your coverage is now primary for both you and your client should a claim arise for work you perform on the client's behalf. If a dual suit is filed naming the client and yourself, your policy will protect you and your client before your client's policy responds. This could effectively reduce your protection by half if a large claim is settled. If you must add additional insureds, consider increasing your limits of insurance so that you have the peace of mind that your coverage will be able to contain a large claim for TWO defendants, you and your client.

As always, there are a couple of items that are not covered no matter what type of insurance contract you might obtain. These items include intentional acts, poor workmanship, failure to perform, and criminal acts (unless under fidelity/crime). Most of these are obvious, but many question the failure to perform. Claims accusing you of lack of performance will not be insurable unless an error was made in the work performed. Failure to perform is a standard of work issue, not an insurance issue.

I hope that each article will bring you more knowledge of the facets of insurance coverages, policies, and provisions. You may reach me during business hours at Yervey Insurance Agency, Inc. at 800-683-1226 or bob@yerveysins.com. Please forward your inquiries for articles concerning specific items and I will address all requests.



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Calendar of Coming Events

Business/Board Meetings

June 2003

October 2003

February 2004

Seminars

Monroeville – Friday, April 4, 2003 – (definite date)

Reading – September 2003

Monroeville – April 2003

Northeast Super Conference

October 15-18, 2003

The Borgata Hotel & Casino, Atlantic City, New Jersey

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