

INTELLENET NEWS

January 2006

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Carino's Corner

Calendar year 2005, our 22nd year of operation was a successful and rewarding one. We had a great seminar in Arundel England and a terrific mixer at the WIC in Las Vegas. Our membership continued to grow in both numbers and quality, with great strides in enhancing worldwide coverage. Simply stated, we appear to be able to satisfy client needs in virtually all corners of the world. Continued growth in membership and an expanded website are two goals in 2006.

You will all note shortly that Intellenet dues will be experiencing its first increase in about 10 years for calendar year 2006. This is a necessity to address a major Board initiative voted on at our last seminar and affects the continued life of Intellenet. In a word, succession planning is underway. No, I am not leaving the investigative arena. I have been enjoying it too much for the past 50 years!

In mid year we "introduced" to you Peggy Centonze as our Executive Secretary. This will be a funded position (the only one in Intellenet) as of 1 January 2006, ergo the increase in dues. As many of you already know, Peggy has been our Webmaster for several years but now will assume more of the day to day duties. In short, Peggy ensures our continuity of operations and will contribute great ideas in enhancing our website and programming. Expectantly, many of you will get to meet her in Calgary in May.

As we close out 2005 and usher in 2006, let us remember fondly our three long time members whom we lost this year and who had a hand in developing Intellenet into a class Association. R.I.P. Bill Cramer, Robert "Rusty" Marthaler and Gary Porter.

My personal best wishes for a successful, healthy and happy 2006.

See you in Calgary (if not sooner)!!

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Know Your Fellow Members



Mary Clark Fischer
CD Business Services, Ltd
Member of Jell Group (UK)
Potsdam, Germany

Mary Clark Fischer has been living and carrying out investigations in Central Europe for the last 10 years. After a long career in the US Government in the area of foreign relations and security, focused on Latin America and Central Europe, she voted with her feet and returned to Europe for the third round as a "private person". Her company is part of the Jell Group (UK), and together they provide a wide range of business security related services throughout Europe and beyond. CD Business Services targets Central Europe, including Germany, Poland, Czech Republic, Hungary, Slovakia and specializes in particular in intellectual property investigation with an emphasis on clothing, luxury goods and consumables, company fraud investigation, company background checks and, on the positive side, partner searches for firms.

In addition to investigative activities, Mary does translation, editing and proofreading for a wide range of business clients. She also carries out training of various kinds in those countries, including that of customs personnel in the area of

counterfeiting. She is a member of European business groups including the American-German Business Club-Berlin and the UK chapter of the NCMS, a US-based organization that focuses on security-related issues.

A Texan by birth, Coloradoan and Washingtonian by chance; Mary has also spent over 12 years in Germany and speaks fluent German. She has lived in Prague, Czech Republic; Budapest, Hungary; and Mexico City. In addition to German, she speaks fluent Spanish and has a range of other languages and continues collecting them along with friends, colleagues and experiences.

Her Motto: "Moderation in all things—except moderation!"

Honors

Gerald (Jerry) Adams
Gerald Adams & Associates, Inc.
Austin, Texas

On October 16, 2005, Jerry was awarded the 1st Annual PEACE AWARD by the Institute of Interfaith Dialog. The Institute is a Turkish Muslim organization that embraces the process of dialogue of all faiths for the purpose of understanding and peace. They have chapters in many Universities with Headquarters in Houston. Jerry conducted conferences and town hall meetings and programs of multicultural understanding with the Muslim Community, the FBI, Texas Department of Public Safety Highway Patrol, Investigators, and Texas Rangers, and the Austin Police Department. They have gone into the mosques and held meetings in the Muslim Communities with the Supervisors of the FBI, US Attorney, and the Airport Chief of Police.

In May, Jerry and his wife, traveled to Turkey with a group of PhD professors from several major Universities from the South, a Jewish Canter, a Roman Catholic Priest, numerous Ministers from many Christian Religious Orders and Muslims. While on the ten day trip, they traveled throughout Turkey studying the similarities and common grounds of the religions, cultures and human needs. They met with the Vatican's representative, law enforcement, politicians, religious leaders, and businessmen.

Jerry said this was the most incredible and satisfying volunteer work that he had ever done.

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He gained far more than he had given and was very proud of the award.

What constitutes suspicious behavior? And what do you do about it?

Richard Isaacs, The Lubrinco Group

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*(Originally appeared in the July 2002 issue of
Informed Source Newsletter)*

One of the things that we have puzzled about recently is the instruction to employees and the man-on-the-street to report suspicious behavior. We encourage that attitude of alertness on the part of every citizen. However, those instructions need to be accompanied by some explanation of what constitutes "suspicious behavior" to allow the uninitiated to correctly recognize it! Suspicious behavior falls into three categories.

Suspicious things

One is the appearance of things in places where they should not be. As an extreme example, some time ago someone in Bogotá noticed a heavily laden (and driverless) truck sitting in an area where trucks don't usually sit. This was reported to a police officer, who asked himself if there were anything happening in the area which should cause him to be concerned about the truck. He remembered that the head of F-2 (a government security service) would be driving past there. He called the bomb squad who found the truck to be filled with explosives.

Other objects that might be obviously suspicious would be things unaccountably left near an air intake in a building, or packages, boxes, or other containers in places where they shouldn't be. As an example, a friend of ours was walking by an Israeli bank in Manhattan one evening and noticed a large paper bag sitting next to the wall outside the bank. He tapped on the window to attract the attention of a cleaning person and pointed to the package. The cleaner turned a bit pale, thanked him, and told him they would follow up on it. While it was probably someone's abandoned Chinese takeout, our friend did the right thing: He saw something, he told someone, and they did something.

Even when it turns out to be nothing bad, that doesn't matter. A friend in EOD (Explosive Ordnance Devices, also known as the bomb squad) tells us that no matter what he may say in the

moment, he would much rather be called out every night on a false alarm than pick up body parts because someone didn't call for the fear of looking silly.

Suspicious people

Besides objects that are suspicious, we need to deal with people who are suspicious. In this case, suspicious generally means one of three things.

Strange behavior

The first and most obvious suspicious person is someone behaving strangely. Strangely may mean that someone is doing something unexpected, such as working in an area where work is not generally done. (Remember that wearing a uniform or carrying a clipboard does not mean the people are who they appear to be.) Or it can mean that you open the door at your local Stop-and-Rob (er, convenience store) and notice that all the customers are standing still, which could well be a clue that you shouldn't go in while the place is being robbed. Or it could mean that you observe, as did ferry operators in San Francisco, someone described as a Middle Eastern man who boarded a ferry to Alcatraz, but did not leave the boat when it reached the island. Instead, the man videotaped boat traffic and used a stopwatch to time the route. A suspicious person can also mean someone whom you don't know somewhere that only people you do know should be. Thus, if you see a stranger working at a terminal in your office, you should ask who they are, what they are doing, and tell someone about it. As an example, one company hired us to test their security. We observed the people going in and out. We then dressed much as they did, walked into the facility, signed onto their computer system using the default system passwords which had never been removed, and sent ourselves a lot of their critical customer data. Nobody asked who we were or what we were doing.

Correlation over time

Repeated sightings of the same individuals is the second thing that should also send your antenna up. For example, if you see the same people in or near the same place over time. You see people sitting on a bench in front of your office one day. The next day, you see them sitting in a car near the office. The after that, you see them at a

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newsstand near your office. This should be reported to someone.

Correlation over distance

The third variant on this theme is to see the same people in different places. You might see people working near your home in the morning. Later, you see them in a car near your office. Later still, you see them sitting in the same restaurant in which you are eating.

Is it, by definition, suspicious if you see people behaving oddly, or the same people in different places or at different times? Yes! In the intelligence world, coincidence is seeing something or someone once, perhaps twice; three times is no longer a coincidence. It is an alert. Why? Because in order to do bad things, whether they are acts of terrorism, kidnappings, robberies, or almost anything else, there are at least two early stages in which the bad guys have to come of the woodwork and look to see what is happening in their world they wish to enter and disrupt. In general there is a preliminary effort at surveillance in which unsuitable or uninteresting targets are eliminated. This is often done by low-level, relatively inexperienced people who are likely to be a bit obvious if you are alert. This is followed by a second period of surveillance, often by more experienced people, to firm up plans, establish routes and patterns of the target and identify opportunities.

If you see people behaving strangely, or the same people in different places or at different times are they, by definition, bad guys? No, but they are suspicious, and it is better to find out one way or the other, and as early as possible, if they are a threat.

Suspicious feelings

The final category of suspiciousness is a gut feeling that something is wrong. If something seems wrong, then there is a good (albeit not infallible) chance that something is wrong. We have, as civilized people, developed extremely sophisticated mechanisms for rationalizing these feelings away, but those protective animal instincts are still there and we unconsciously note and process signals that put our antenna up when something bad is going on. Ignoring these feelings can lead, literally, to disaster. Don't ignore your feelings.

In the end, the process of dealing with suspicious is a straightforward three-step process:

1. See something
2. Tell someone
3. Do something

In the wake of almost every disastrous event, when the pieces are put together, we discover that we had enough information to deal with the problem in advance, if only all the suspicious activity that had been seen people had been reported and followed-up on. Sometimes, of course, this doesn't work, either because all the relevant information is not reported, or because it is not all in one place, or worst of all, simply because it is not followed-up on.

Mort Sahl, on one of his records, had a story about the FBI interviewing people in the apartment building in Greenwich Village where Colonel Abel lived (and yes, we do know he really lived in Brooklyn). If memory serves, the conversation always went something like:

"Did you know the man who lived in 301?"

"Oh, you mean Colonel Abel, the Russian spy?"

"How did you know he was a Russian spy?"

"Well, when he moved in we asked who he was and what he did, and he said he was Colonel Abel, and that he was a Russian spy."

"Why didn't you report it?"

"Well, we figure, that's the Village for you."

We should be able to do better than this in today's world, especially if we...

1. See something
2. Tell someone
3. Do something

The 10 Biggest Marketing Mistakes Experts Make and How to Avoid Them

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Executive Summary

Experts spend years developing and maintaining their area(s) of expertise, yet many experts do not spend adequate time developing a plan to market their expertise. The most successful experts treat their expert witness practice as a business and

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develop a marketing plan after consultation with those with experience in the field.

Mistake #1 Failure to Track New Business

The most fundamental marketing mistake experts make is failing to track where each and every new assignment comes from.

Action Step

Experts who want to increase market share are advised to develop and utilize a simple tracking system which tells the expert what the source of each new assignment is.

Mistake #2 Failure to Identify Your Market

Experts who fail to identify where the most likely source of new business is make a serious marketing mistake.

Action Step

Experts need to specifically identify who their likely clients are and how and where they can be reached.

Mistake #3 Not Contacting Current and Past Clients

Experts who fail to contact current and past clients are missing a significant marketing opportunity.

Action Step

Develop a database of current and past clients, contact them and ask them directly for additional work.

Mistake #4 Speaking in the Wrong Places

Experts who speak at conferences of their colleagues are generally not marketing effectively.

Action Step

Speak at conferences and meetings of lawyers and other potential clients who can retain you directly.

Mistake #5 Lack of 24-7 Marketing

Experts who set aside a portion of their time and effort to do "marketing" are missing the 24-7 marketing opportunity.

Action Step

Market yourself and your practice 24-7 with superior service, reports and testimony.

Mistake #6 Failure to Advertise

Experts who fail to advertise due to a perceived "stigma" or lack of budget are making a major marketing mistake.

Action Step

Develop a cost-effective, professional, dignified advertising plan and implement it.

Mistake #7 Writing for the Wrong Audience

Experts who write exclusively in their professional journals for their colleagues are missing a substantial marketing opportunity.

Action Step

Experts should identify and write for publications for lawyers and other clients who can retain them directly.

Mistake #8 Failure to Write Excellent Reports

Experts who do not write superior reports fail to realize a significant marketing opportunity.

Action Step

Experts who realize the number of people who read their reports, including opposing counsel, and the marketing significance of a well-written report, make the effort to write excellent reports.

Mistake #9 Failure to Thank Referral Sources

Experts who fail to thank referral sources are missing an opportunity to ensure a continuing stream of referrals.

Action Step

Experts should acknowledge and thank all referral sources in writing, e.g. "Thank you for the confidence you have shown in me..."

Mistake #10 Failure to be Accessible

Experts who are not readily available to talk to new potential clients are making a fundamental marketing mistake.

Action Step

Experts need to make themselves available and accessible to potential clients who may have an immediate need to consult with and retain an expert witness.

Conclusion

Experts who wish to control and increase their expert witness work should set aside the time, budget and effort to develop and implement a simple, direct, effective marketing plan.

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Computer Investigations and Forensics

Kevin J. Ripa
Computer Evidence Recovery, Inc
Calgary, Alberta

Almost assuredly the newest and fastest growing field of investigations has to be that of computer investigations and forensics. Every day, computer investigators are called upon to explore computers, and storage media for evidence of crimes and other information, which should come as no surprise. It is estimated that over 80% of all corporate information exists on electronic media. Besides corporate or commercial applications, how much information exists on a personal computer at home? How about every webpage you have ever visited, and every picture on every one of those pages, banking information, logon information to secure sites such as chat, newsgroups, email, personals, back portals to work networks, etc? It doesn't take long to see the possibilities.

The applications for a qualified computer investigator are endless. There is virtually no investigation that is not touched by electronic media in some capacity today. Corporations are getting nervous about what can be done with computer forensics. An international insurance company has recently put out a policy that its adjusters are forbidden to exchange information about investigations, whether between themselves or between them and investigators, over any electronic means other than telephone. Everything that is typed on a computer is left there for later perusal by any forensics investigator that can find the computer.

So how do you go about selecting a forensics investigator? More and more folks are hanging out their shingle after having spent a few bucks on a course. I get asked the question time and again. "Why should we hire you when we have people here locally?" There are four very solid components that a computer investigator or forensic specialist needs to possess. They need to have an absolute understanding of how all the parts of a computer work together to place the data on the screen. They must completely grasp how a hard drive works and how, where, and why data is saved to a hard drive or deleted from a hard drive. Unfortunately, there are large numbers of computer specialists with all kinds of degrees that

think they can automatically do this because of their background. This is untrue.

The next component has to be a diverse arsenal of forensic software, hardware, and the intimate knowledge of how to use it. This is an extremely expensive proposition. Considering each piece of software can range from 1200-3000 dollars, and then the training can be another 3000-10,000 above that, it can add up quickly. On top of this, no forensic specialist's toolbox should have only one of the programs that are out there. That would be doing the client a disservice. Each of the major programs has its strengths and weaknesses, and the exigencies of the case will determine which program is best suited. Sadly people with some money and some time to take some classes make up the largest portion of the 'unqualified' group.

The third component is the investigative mindset. Having a solid investigative background will obviously make you more effective in this field beside someone that doesn't possess that skill set.

The final and probably most important component is the ability to communicate. You could be the best forensic specialist in the world, but if you can't effectively communicate to your client, or more importantly, a judge and/or jury, all of the work is useless.

We Can Do That!"

Greg VanDeWalker
Vice President, Field Sales
Great America Leasing Corporation
Highlands Ranch, CO

Recently Hewlett-Packard maven Carly Fiorina was summarily fired. She was the leader of an \$80 billion organization with a brand name that is associated with the best product in the world with respect to printers. HP's toner cartridge division produces profits so large that even though it only represents 28% of the company's revenue it is a whopping 57% of HP's profits.

So what went wrong? Although many factors contributed to her firing, critics argue the main reason for her demise, as well as HP's poor performance on Wall Street, was one big philosophical mistake...she thought HP could do it all. Carly succumbed to the lure many businesses of all sizes fall into... "We can do that."

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In 2002, HP thought it wise to buy Compaq, which had a completely different business model and embodied a different corporate culture than HP. The grand experiment did not work. I could list many other "We can do that" failures, but what does this anecdotal story have to do with Intellenet and its members? HP has billions of dollars at their disposal and droves of people dedicated to "making it happen", but the bottom line was they couldn't be all things to all people; neither can you.

As a small business you don't have the dollars or time to invest in something you truly don't have the expertise to exploit. In your eagerness to get the contract, you may commit to something you don't know well, and eventually it will cost you profitability on the contract. You may make mistakes or simply not be as efficient as your competition.

I work for an equipment leasing company that has about \$650 million in assets. It's a nice size company, but compared to our main competitors, General Electric, Wells Fargo, Citigroup, US Bank-- we are tiny. Our pricing is always higher than our larger competitors, so our goal was to determine what our competitive advantage would be. The result - a business purpose. This business purpose did two things for our company. First, it clearly stated the profile of customer that we would pursue. It also acted as a filter for customers we would NOT pursue. By taking an inventory of what we did well as an organization, as well as finding similar traits of our best and worst customers, we were able to identify trends that became the basis for our business purpose.

As Kenny Rogers rightly sings "you gotta know when to hold 'em and know when to fold 'em!" and you also need to know when to walk away. The result of our focus has led to sales growth well over 20% last year. Of the four competitors mentioned above three of them posted flat sales in our segment of the market. Like most things, there is not just one answer to fix all issues in a business.

However, by focusing on what you do best you will develop happier clients who are getting excellent service. Happy clients lead to better and more vocal references. As you continue this process, your reputation will grow and the price of your services will become less important.

The Man in the Glass

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When you get what you want in your struggle for self and the world makes you king for a day...just go to a mirror and look at yourself. And see what THAT man has to say.

For it isn't your father or mother or wife whose judgment upon you must pass. The fellow whose verdict counts most in your life is staring back from the glass.

Some people may think you a straight shootin' chum. And call you a wonderful guy. But the man in the glass says you're only a bum if you can't look him straight in the eye.

He's the fellow to please, never mind all the rest for he's with you clear up to the end. And you've passed your most dangerous difficult test if the man in the glass is your friend.

You may fool the whole world down the pathway of years and get pats on the back as you pass. But your final reward will be heartaches and tears if you've cheated the man in the glass.

Investigations in Switzerland

Paul G. Kenzelmann

WSA (Worldwide Security Activities) Inc.
Oftringen, Switzerland

To better understand the system in Switzerland some geographical and political data is important.

◇ Switzerland has an area of 41,293 square kilometers or about the size of Michigan or the Dominican Republic.

◇ The population is about 7.8 million or as many inhabitants as New York City.

◇ Switzerland has 26 Cantons (States) and the parliament in Berne (it's the main city of Switzerland and not Zurich, Geneva or Basle as many may think.) We have a "Direct Democracy", that is, the people vote about everything and have the veto. Each Canton has certain independence—we call it "Federalism."

◇ We use four different languages: 50% speak German, 35% speak French, 14% Italian and 1% Ratoramanisch (only in the Canton Graubunder—

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known for the famous "World Economic Forum WEF" in Davos.) In the Cantons of Geneva, Vaud, Neuchatel, Jura and Fribourg the inhabitants speak French. In the Canton Valais or Wallis, 50% French and 50% German. In the Canton Berne, 90% German and 10% French. In the Canton Ticino, Italian is the main language. Each Swiss learns German, French, Italian and English in school. Administrative languages are regional—so it's French, German and/or Italian.

◇ Our neighbors in the north and east are Germany, Austria and Liechtenstein—all three speak German. In the south is Italy and France in the west.

◇ Geneva is the town of the International Organizations. Zurich is the one of the banks and insurance and Basle of the pharmacy.

◇ The major part of the population lives directly or indirectly from the tourism business.

Federalism and the work of the PI

In Switzerland you don't use a general license of permission to work as a PI. In different Cantons there is an obligation to have a license from that Canton. This requirement could be only a formal matter (cash and carry a paper). In others, you must pass a test.

With this license, you can only work in the corresponding Canton. That means for a small country like Switzerland, you must have different licenses or a good network of colleagues.

The basic requirements to do a good job are:

◇ A very good education and knowledge of different languages.

◇ Good cooperation with colleagues. "A very good network all over and within each branch."

◇ In addition to the small size of Switzerland and only a few business centers such as Geneva, Zurich, Basle and Zug (Canton of the PO Box companies) we have only small PI agencies and "lone wolves."

◇ Big foreign investigation companies have no chance to get into the Swiss market. On one side because the Swiss is very discrete and fastidious in personal affairs and he likes to have personal and

direct contact and not a big anonymous company where he is only a number! On the other side, they don't have and cannot use the necessary network.

Having no requirements, except in some Cantons, many nameless, unknown and unprofessional agencies work as being on a playground. Here we say, "they grow as mushrooms and they disappear as such."

We know of about 10 real good and professional working investigation agencies in Switzerland. Four of them are managed by former police officers. Three of these four by former criminal investigators or detectives and one of the three by a former officer from the Swiss Intelligence Service, Department of Swiss State Police.

Important laws

We have two laws in Switzerland which are as a "sword of Damocles" over the head of each PI.

The first one is called "Data Protection Law" and the second one is "Personal Law." These two laws control and protect the release, availability and/or authorization of disclosure of personal data and the possible injury of the personality.

Everything that you can't find in the Swiss telephone book, Swiss Commercial Register, World Wide Web, Swiss magazines and newspapers, books, internal but public newsletters, etc., is not public and therefore strictly protected. That means for a PI who is "organizing" such data, that he act illegal and he is always with one foot in the prison.

Conducting surveillance can very quickly become a conflict with the "Personal Law" and you can find yourself in prison. For example, it's only allowed to take pictures of vim of a target person in a public area. Otherwise you can't use it in court. A backyard or a balcony are private. In a shop or restaurant you act against the privacy of the owner.

Also using GPS-devices (tracking systems) is against the law.

That's also the reason why you can't expect some help and/or support from a government office or from a policeman.

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Otherwise the next swords are not far away—called corruption or assumption of authority. That's also why you will very seldom receive a mandate from the public authority, police or courts.

There are three results:

- ◇ Illegal things are unethical. Therefore, the job of a PI in Switzerland becomes more and more difficult.
- ◇ Now you can better understand why a very good education, skills, languages, a very good network and cooperation are the essentials of the job.
- ◇ At last but not least it's also comprehensible why for a Swiss PI the "foreign costs" are so high!

Clients

- ◇ Lawyers, private person (VIPs) and International and Swiss companies. They trust more in the flexibility and 24-hour availability of a PI instead of the slowness and ponderousness of the authority.
- ◇ Colleagues: National and international.
- ◇ Others: Audit companies, consulting companies, trustees, hotels, hospitals, real estate, and security companies.
- ◇ Banks and insurance: More and more rare! Bank: due to their discretion and insurance companies because of the pressure and trend of prices. Only the work they can't or won't do themselves will they give out as mandates to PI's. And mostly the job is very badly paid.
- ◇ Authorities, courts, etc: But it's very rare.

Possible cases

- ◇ Criminal and commercial investigations (fraud, theft, sabotage, espionage, fake products, etc.)
- ◇ Asset searches
- ◇ Due diligence of persons and companies
- ◇ Pre-employment screening
- ◇ Competitive intelligence
- ◇ Insurance fraud
- ◇ Security problems
- ◇ Penetration tests
- ◇ Tracking of persons or cars
- ◇ Testimonials

- ◇ Mandates concerning divorces and affiliations—due to the very modern law—are more and more rare.
- ◇ Process server services are forbidden in Switzerland.

Example of how I work

A colleague from Russia calls and would like to know all (due diligence) about a company and its key management in Geneva. My colleague in Geneva will make all on-the-spot investigations. I will never or seldom go to another Canton. This as a result of costs, flexibility on time, needed license and network possibilities.

All other investigations I will do myself. No problem with the needed knowledge and skills, languages and thanks to a good network.

Your Competitive Advantage

Rosalie Hamilton
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www.expertcommunications.com
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Who is your competition, and how do you compare? Considering that most cases requiring an expert witness involve at least two experts and our society shows no signs of becoming less litigious, competition should not be your primary concern in building an expert practice. You will learn valuable lessons, however, from analyzing the practices of two or three experts in your field. Study their professional qualifications, appearance, communication skills, and reputation among their peers, and note how they market themselves and the fees they charge.

After objectively assessing your own strengths and weaknesses, determine your competitive advantage. Is your education or professional experience superior? If you are not a novice, have you handled a greater number of cases, or bigger or more successful cases, or have you worked with prestigious law firms? Do you present yourself more professionally or appear more credible? Are there exclusive dimensions to your expertise? What comprises your personal uniqueness and, therefore, your competitive edge?

A competitive advantage can be merely a perceived advantage. You can use this to your

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benefit. A large engineering firm may have many different specialties of engineers, along with its own testing facilities. Alternately, a sole practitioner engineer can promote himself as being more responsive to the attorney, more personally involved in each case, and possibly less costly. Learn to articulate your competitive advantage in a professional manner.

Excerpted from *The Expert Witness Marketing Book* by Rosalie Hamilton

Employment Discrimination: An Overview

Legal Information Institute
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Employment Discrimination laws seek to prevent discrimination based on race, sex, religion, national origin, physical disability, and age by employers. There is also a growing body of law preventing or occasionally justifying employment discrimination based on sexual orientation. Discriminatory practices include bias in hiring, promotion, job assignment, termination, compensation, and various types of harassment. The main body of employment discrimination laws is composed of federal and state statutes. The United States Constitution and some state constitutions provide additional protection where the employer is a governmental body or the government has taken significant steps to foster the discriminatory practice of the employer.

The Fifth and Fourteenth Amendments to the United States Constitution limit the power of the federal and state governments to discriminate. The Fifth Amendment has an explicit requirement that the federal not deprive individuals of "life, liberty, or property," without due process of the law. *See U.S. Const. amend. V.* It also contains an implicit guarantee that each person receive equal protection of the laws. The Fourteenth Amendment explicit prohibits states from violating an individual's right of due process and equal protection. *See U.S. Const. amend. XIV.* In the employment context of right of equal protection limits the power of the state and federal governments to discriminate in their employment practices by treating employees, former employees, or job applicants unequally because of

membership in a group (such as a race or sex). Due process protection requires that employees have a fair procedural process before they are terminated if the termination is related to a "liberty" (such as the right to free speech) or property interest. State constitutions may also afford protection from employment discrimination.

Discrimination in the private sector is not directly constrained by the Constitution, but has become subject to a growing body of federal and state statutes.

The Equal Pay Act amended the Fair Labor Standards Act in 1963. The Equal Pay Act prohibits paying wages based on sex by employers and unions. It does not prohibit other discriminatory practices bias in hiring. It provides that where workers perform equal work in jobs requiring "equal skill, effort, and responsibility and performed under similar working conditions," they should be provided equal pay. The Fair Labor Standards Act applies to employees engaged in some aspect of interstate commerce or all of an employer's workers if the enterprise is engaged as a whole in a significant amount of interstate commerce.

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to groups not covered by the federal acts. A number of state statutes provide protection for individuals who are performing civil or family duties outside of their normal employment.

Managing the 'Lone Wolf'

Chris Penttila

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Serial entrepreneur Peyton Anderson faced a big employee challenge a few years ago when he was at the helm of his first venture, SciQuest. The problem started when one senior-level employee who's not a team player? It is possible to deal with loners in a way that makes everyone happy.

Serial entrepreneur Peyton Anderson faced a big employee challenge a few years ago when he was at the helm of his first venture, SciQuest. The problem started when one senior-level employee rejected the team approach Anderson, 38, favored. He didn't explain how he did things--but didn't mind telling other employees how much smarter he was than them. He sat alone in his office all day and stood in the corner at the company holiday party. Other employees kept their distance.

Anderson agonized about fitting this talented but unapproachable employee into the company. "He would come up with something once in a while that was wicked smart," Anderson says. "[But] he was not the kind of guy you'd want to have lunch with."

Anderson decided to make the employee a "department of one" who reported directly to him and worked exclusively on special projects. "We did it in the context of 'We want you to work on the important stuff--we don't want you distracted with small personnel issues,'" he says. "He liked that."

Anderson is just one entrepreneur who's managed a "lone ranger," the employee whose personality is as soft as cactus but whose skill makes him or her an asset to the company. The quirks and aloofness of lone rangers can lead to a few showdowns. "Not only does this person have a hard time communicating, [but they also] don't want to communicate," says Leann Mischel, a management professor at Susquehanna University in Selinsgrove, Pennsylvania.

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Helping Loners Thrive

Companies need to manage lone rangers differently. First, get out of the mind-set that they are a bad thing, and help them understand their roles on the team, says Stephen Fairley, president of Today's Leadership Coaching, a Chicago-based executive coaching and leadership development firm. Hand them entire projects, and avoid micromanaging, a strategy that's sure to backfire. Figure out their strengths, and find someone in the company who can connect on some level with this nonpeople person, at least enough to keep projects moving. "Every Lone Ranger needs a Tonto," Fairley says. "And delegating weaknesses--the areas where [The Lone Ranger] isn't good--is what Tonto's for."

Anderson met with the company's lone ranger every other week to hear his latest ideas. He also "played Tonto" by running interference between the Lone ranger and the company's other employees, working hard to smash stereotypes so others weren't resentful of this employee. The key to keeping frustrations low, Anderson says, is to let lone rangers use their strengths while isolating other employees from their weak spots. "That's 100 percent the entrepreneur's job," says Anderson, who is now CEO of Affinergy, a company in Research Triangle Park, North Carolina, which makes coatings for medical devices.

Creating a buffer zone helps with prickly people, Mischel says. "Having someone who is able to communicate with them but isn't going to bother them is often a good idea," she says.

First, make sure the employee really wants to be left alone. The lone ranger may ache to be a team player but doesn't know how. A way to find this out is by asking the employee to take charge of something he or she is passionate about, suggests Susan Battley, CEO and founder of Battley Performance Consulting, a performance consulting firm in Stony Brook, New York. This might mean organizing a company event or giving a presentation to the team. "You're able to bring the person into the fold more, and you're also getting knowledge transfer," Battley says. But if the lone ranger balks at the suggestion, don't push it.

Teamwork can mean different things—something entrepreneurs should think about before they hire, Battley says. Does teamwork mean having a team

meeting once a week or having employees work closely every day on projects? The answer will determine whether lone rangers fit into the business model. "For some [companies], having a lone ranger wouldn't work," Battley says. "It's a question of whether it's functional for the business."

Tell applicants what kind of teamwork is expected on the job when interviewing. Asking a few targeted questions--how much they like working on teams, how they would describe their work styles, even whether they prefer team sports over individual sports--can reveal whether applicants prefer working solo.

The goal with lone rangers is to create structure within freedom, balancing the space they want with the needs of the team. "Try to siphon as much information as you can from them, but let them work on their own, because that's the way they work best," Mischel says. "And part of being a good manager is to recognize the environment that's going to let each person give their best efforts."

Chris Penttila is a freelance journalist in the Chapel Hill, North Carolina, area. Copyright ©2005 Entrepreneur.com; all rights reserved. Reprinted with permission from Entrepreneur.com

What Cops Do That Doesn't Make the News Galveston, Texas, Police News Summer 2005

(Galveston), July 17, 2005. Two of Galveston's finest were dispatched to investigate an "undesirable" person loitering in a residential neighborhood. During their investigation Officers Jaime Osteen and Marcus Pitre discovered an elderly man living alone in a small apartment. It was apparent that the man was distressed. The windows in the tiny apartment were frozen shut. There was no working air conditioning, no fan and no fresh air circulation.

Knowing that the health and welfare of the man were at risk, Osteen went directly to a nearby store where she purchased, with her own money, a box-fan which she installed in the apartment. The fan helped with the ventilation problem but it was still sweltering in the cramped apartment. Officer Pitre then retrieved a window air conditioning unit from his own home and installed in the man's apartment.

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The actions of Osteen and Pitre were reported up the line from the field supervisor. In a message to the two officers, Patrol Division Commander, Captain Michael Putnal wrote, "The initiative and unselfishness you displayed is exceptional. Such gestures have a positive impact on the lives of those who are less privileged or otherwise unable to help themselves. I really appreciate your efforts.

When Real Whistleblower Protection Dies, So Will You

David Forbes
BoydForbes Security
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Over the past four years, we have received a steady flow of insider information from airport personnel, contract and TSA security screeners, police, air and cabin crew, former TSA managers and many more hands-on aviation people. These good people have often revealed in detailed examples the true fragility of our commercial aviation system in the context of security. Whenever it has been possible to validate their claims, we have published our opinions, and that has invariably brought in a chorus of agreement from others in the industry confirming that we are right on track.

But as time marches on, and as the emotionally charged atmosphere of the immediate post-9/11 days fades into a sad distant memory, so these voices calling for help are becoming more and more like echoes from history. In 2005 it seems all too real that through our choosing to ignore history, we are doomed to repeat it.

Air travel security is being compromised. Every day. The extraordinary factor in all this is that it is not the airports or the airlines but the government, Congress and Administration that is leading us down this slippery slope. They let us down in 2001, failing to act upon warning after warning from their own aviation security front line specialists. One experienced and productive security leader with FAA Security [now with TSA], Bogdan Dzakovic, was forced into seeking official whistleblower status to protect his livelihood when he disclosed appalling weaknesses in the aviation security system. Weaknesses that had they been remedied, would have prevented the horrors of 9/11.

Now we are hearing about 'Able Danger' the alleged military intelligence operation that reportedly as early as 1998 identified the simmering stew that was to become the evil onslaught of 9/11. These and other signs should have been more than enough for a great power to rise to its own claimed greatness. Instead it unconscionably descended into self-interest practiced by the few at the cost of the many.

Families climbed onto airplanes, people went to work in skyscraper buildings, firefighters, paramedics and police personnel were ever ready, all of them oblivious to what their elected officials and consequential political appointees knew and had chosen to suppress. One lone whistleblower's voice was not heard. It was drowned in the noise of smart politics. Even with the help of others, including the media, it made no difference. The scene was set.

Today, the scenario is worse. We are 'protected' by the same kind of security that the levees of Louisiana gave to the poor souls of that decimated state. Promises built on rhetoric; foundations little better than soluble jelly; and veritable skyscrapers of lies.

It is with this backdrop that the National Security Whistleblowers Coalition [www.nswbc.org] came into being in 2004. This valiant group of fighters still believes that integrity is alive and has value in the United States of America. But it is working against powerful odds. Its members have witnessed fraud waste and abuse of power within federal agencies; and they have invariably paid a price for speaking out.

So, what of the potential whistleblower of today? How many of us are boarding our planes, heading for work, providing emergency services, without knowing what someone desperately wants us to know about a looming and credible threat, and the failure of public servants to do the right thing? That someone, that whistleblower, is a dying species, soon to be extinct because there are those who do not want the American public to know. Officials and their masters have decided they know what is best for you, the American citizen; and that you don't have a need to know. They have also tried to invert the truth about and the perception of whistleblowers, punishing them at every turn, blocking their judicial recourse and labeling them as unpatriotic.

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Few readers of this commentary may be familiar with the current depth and concern about these issues, and of the new laws being considered for regulation of so called whistleblower protection. But months of wrangling between various interested parties is coming to a head right now; and the indications are not encouraging, with the prospect that House Bill HR3097, [formerly HR1317] will substantially weaken this nation's justifiable reliance on whistleblowers for its protection against terrorism.

In its present form, the Bill, which purports to increase protection, actually exempts National Security Whistleblowers from protection. I will leave it to students of history to recognize how suppression of systems of protection of individual rights disguised as 'in the interest of state security' leads to a distinctively different way of life - for all, not just the whistleblower. Try looking at 1930s Germany - that is a relatively recent example - but the practice goes back many more centuries.

In spite of strong and persistent representation by members of NSWBC House Government Reform Committee Chairman Tom Davis (R-VA) does not seem to be impressed with public concerns, apparently steering a meandering and determined but somewhat veiled course toward draconian lawmaking. Senate Bill S. 494 by contrast, is a more balanced treatment, more likely to satisfy the broader audience.

Put plainly, the draft bill is defective. If passed into law it will reduce substantially if not entirely eliminate, the chances that a public servant who comes across the deliberate or incompetent manipulation and cover-up by officials of information about the next planned attack on America, will personally accept the dire consequences of public disclosure as are implied by the absence of effective protection.

Among the salient points of serious concern, HR1317 (HR3097) does not:

- Protect disclosure to members of Congress concerning agency waste, fraud, abuse, or actions that endanger citizens and the national security, even when the disclosure is to members of committees having primary responsibility for oversight of the agency involved in the disclosure.

- Define retaliation against national security whistleblowers through suspension or revocation of security clearances as a prohibited personnel action. A most popular method by administrators and agencies of "handling" national security whistleblowers is to revoke or suspend their clearances, which in effect is a termination of their employment.

- Contain a process of review for revocation or suspension of security clearances in retaliation for whistleblowing. The process of revocation and suspension of clearances is arcane, unaccountable, and largely carried out by a small group of security officers. Where adverse security clearance decisions are made in retaliation for the lawful reporting of malfeasance, some mechanism of accountability should be available to the whistleblower.

- Contain a provision authorizing whistleblowers to appeal their cases to any federal court of appeals of competent jurisdiction. One of the chief problems with the Whistleblower Protection Act, and one that has been recognized in Congress on numerous occasions, is the failure of the Federal Circuit, which at present has exclusive jurisdiction over whistleblower appeals, to abide by the express desires of Congress in reviewing cases involving retaliation against whistleblowers.

This is also becoming a bandwagon for other 'non-security' agencies that are considering similar bills or regulations that will bring this threatening cloud of fear over much of the federal workforce.

Employment Discrimination: An Overview

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Employment Discrimination laws seek to prevent discrimination based on race, sex, religion, national origin, physical disability, and age by employers. There is also a growing body of law preventing or occasionally justifying employment discrimination based on sexual orientation. Discriminatory practices include bias in hiring, promotion, job assignment, termination, compensation, and various types of harassment. The main body of employment discrimination laws is composed of

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federal and state statutes. The United States Constitution and some state constitutions provide additional protection where the employer is a governmental body or the government has taken significant steps to foster the discriminatory practice of the employer.

The Fifth and Fourteenth Amendments to the United States Constitution limit the power of the federal and state governments to discriminate. The Fifth Amendment has an explicit requirement that the federal not deprive individuals of "life, liberty, or property," without due process of the law. *See U.S. Const. amend. V.* It also contains an implicit guarantee that each person receive equal protection of the laws. The Fourteenth Amendment explicit prohibits states from violating an individual's right of due process and equal protection. *See U.S. Const. amend. XIV.* In the employment context of right of equal protection limits the power of the state and federal governments to discriminate in their employment practices by treating employees, former employees, or job applicants unequally because of membership in a group (such as a race or sex). Due process protection requires that employees have a fair procedural process before they are terminated if the termination is related to a "liberty" (such as the right to free speech) or property interest. State constitutions may also afford protection from employment discrimination.

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Investigations in Central Europe—A Few Small Quirks

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Unusual Aspects of CE Investigations

1. Multiple countries; multiple languages
2. Ease of crossing borders for business and criminals
3. Network of personal contacts necessary for many kinds of info
4. Limited access to personal info, criminal records
5. Delays in getting information: Most information not retrievable electronically.

Lurking behind the familiar face of Germany, where generations of Americans have served in the military or worked for multinationals, and hidden behind the gingerbread facades of Central Europe, are a few quirks and peculiarities that make investigations in the region an ongoing challenge.

From Poland in the northeast through Germany, Czech Republic, Slovakia, Austria and Hungary to the south, the region shares centuries of common history, a common legal and judicial system and similar customs and attitudes, all divided by fierce nationalism and a generous sprinkling of prejudices. As EU members, they now also share a common market and EU regulations.

Multiple countries mean multiple languages: German, Polish, Czech, Slovak and Hungarian with English and German serving as the two business languages. Outside the major cities, however, it can be difficult to find fluent speakers of anything except the native language, and documents from company registrations through publications with reliable and in-depth information for background are only available in the local languages. Local English-language newspapers and magazines are often available, but may not contain the needed information. Gaining the assistance and cooperation of reluctant and overworked bureaucrats to review records is often best done by a native speaker with long experience in the bureaucracy. Native fluency is a must for reviewing documents.

The legal and judicial system, unlike the US and UK, is based on the Napoleonic Code and a detailed civil code. Although there is a great deal of similarity from one country to the next, local customs, practices, attitudes and culture influence how the law is administered. One implication for investigations is that personal data, ranging from marriage and divorce through criminal convictions, are not public information. Criminal background checks, for example, can only be gotten in person by the person himself. Normally, the criminal check is one sentence with a yes or no for criminal convictions—but the records for certain crimes are deleted at intervals in some countries, so previous violations of the law may not appear. The reality is that there is usually someone who can obtain access to such information for a hefty fee. A better and more reliable method is an old-fashioned background check of former addresses, business partners, and workplaces or a "lifestyle check".

All of the Central European countries have a licensing procedure of some sort for private detectives. Qualifications for the license vary widely from one country to the next and possessing one is not a guarantee of either integrity or appropriate experience. It is, in many

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cases a paper exercise because the licenses are issued by the police or Interior Ministry, and it is an "old boy network" where few outside the former intelligence and police officers are admitted. Particularly in the former Bloc countries, the investigators and heads of security in most businesses are virtually—over 95%—former intelligence or police officers. There are nevertheless newcomers to the industry, in Germany for example, where the multinational risk management firms hire university graduates and give them in-house training; they are subsequently known as "consultants". That training, too, has its limitations because it is heavy on theory and short on field work under experienced investigators. The code of ethics that is part and parcel of US investigative licensing procedures is generally absent in Europe as are disciplinary measures. One relies on personal knowledge, personal loyalty and references from other trusted sources to fill that gap.

That brings us to the next quirk in CE investigations. The industry is a "closed shop" in several respects, but it is a double-edged sword. The tight links between the local investigators and their continuing ties to their old employers enable them to access information that would otherwise be unavailable. One must, however, be part of the network or know someone (trustworthy) who is. Also, the ties reach across borders, particularly in the former Bloc countries, and within the countries themselves investigators can seek the help and contacts of others inside and outside officialdom. Often the most valuable information and links in a case may only be known on the rumor circuit, making such contacts invaluable in an investigation. Because a private investigator may be considered a threat to the policeman's job rather than an ally in the fight against crime, one can expect limited cooperation and assistance from them. Customs and other officials are usually more forthcoming, sometimes even eager, to cooperate due to limited manpower and the overwhelming workload they face.

Central Europe, for all the territory it covers, is small in terms of who knows who and who knows what. Personal connections, business and, yes, crime, cross the borders easily these days and an investigation is frequently multinational. Thus, investigators, too, need to be able to cross borders easily with a network of regional contacts, local knowledge, and the know-how to find new

resources quickly. A final word about reporting: In part due to the differences in the legal systems, but also as a result of different training as well as cultural and language differences, getting understandable, in-depth reporting on a case is best achieved by using a US or UK investigator with local knowledge teamed with a local investigator. With that combination, one has the best of both worlds.

Weird Laws

Alabama

- It is illegal for a driver to be blindfolded while operating a vehicle.

California

- Sunshine is guaranteed to the masses.
- Women may not drive in a house coat.

Florida

- If an elephant is left tied to a parking meter, the parking fee has to be paid just as it would for a vehicle.
- Men may not be seen publicly in any kind of strapless gown.

Louisiana

- It is illegal to rob a bank and then shoot at the bank teller with a water pistol.

Nebraska

- It is illegal for bar owners to sell beer unless they are simultaneously brewing a kettle of soup

Texas

- A recently passed anticrime law requires criminals to give their victims 24 hours notice, either orally or in writing, and to explain the nature of the crime to be committed.

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