



CALI JOURNAL

CALIFORNIA ASSOCIATION OF LICENSED INVESTIGATORS

NOVEMBER 2021 EDITION



**The Big3 Presidents:
Rick Root, FALI, Catherine Torrez, TALI,
and Frank Huntington, III, CALI
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About the California Association of Licensed Investigators

The California Association of Licensed Investigators (CALI) is a not-for-profit professional organization dedicated to protect and enhance our licensed private investigators and licensed private patrol operator members.

With approximately 1100 members, CALI is the largest private investigator association in the world. The association works to advance the investigation and security professions through educational programs and legislative advocacy efforts that promote the needs of the profession before governmental agencies and the State Legislature.

CALI works in support of the ability of clients, often either a consumer or a victim, by performing legitimate investigations within the parameters and boundaries established in law. Our members are licensed and regulated by the Department of Consumer Affairs, Bureau of Security and Investigative Services.

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CALI encourages members and industry experts to contribute relevant content for publication in the quarterly CALI Journal. We want to hear from you! Submit your article for review to info@cali-pi.org.

To advertise in the CALI Journal, please contact Maria Lagunas, Executive Director, at 949-715-5401 or email mlagunas@cali-pi.org

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PRESIDENT'S MESSAGE

Frank W. Huntington, III, CPI

Hello Fellow Professionals. I want to thank you for entrusting me with the CALI Presidency. I will continue to do my best to serve the Association, membership, and the profession.

I was thrilled to be able to attend the Texas Association's (TALI) 50th anniversary conference in Fort Worth in August. TALI was kind enough to devote a table to the "BIG 3" and allow me and FALI President Rick Root to speak to the attendees a few times to promote the program. As a result, we signed up more than 13 new members to CALI! Thank you, TALI President Catherine Torres for your Texas Hospitality, and congratulations on your 50-year anniversary! If you are a CALI member and not yet a member of "The Big 3," I strongly suggest you join. For more information, click here. [\(ADD LINK\)](#)

Unlike, California, Texas requires 12 hours of continuing education per year for their licensees. TALI has done a great job of providing such education not only at their conference but at other events throughout the year.

In September, I traveled to Mesa, Arizona where I attended the Arizona Association of Licensed Private Investigators (AALPI) annual conference. They had some great speakers who I have referred to our conference committee for consideration. AALPI President Bob Nalett and I spoke and exchanged some ideas for the betterment of both our associations. (I also quietly signed up some new CALI Associate members while there!)

On a side note, I listened in on both TALI's and AALPI's legislative updates. I was amazed how similar the issues they face are to the issues we face. Even in Texas, with a much more conservative bent than California, they still face attacks on access to public records and the like. Shout out to all those legislative committees in the various associations, especially to CALI's Francie Koehler and Jerry Desmond, for the constant battles you undertake to protect our industry. Speaking of which, Francie and the Government Affairs Committee (GAC) recently shared with us the great news that SB731 died in committee.

As a reminder, SB731 would have sealed the court records of any convicted felon that basically stayed out of trouble for only two years. If you ever receive a message from the GAC requesting assistance with contacting your legislatures, please lend a hand. Our combined voices can be and are a very forceful tool!



AALPI President Robert Nalett, left, and CALI President Frank W. Huntington, III, at the 2021 AALPI Annual Conference.

Among other topics discussed in Arizona was reciprocity between the states. I would like CALI's position to always encourage reciprocity if the other state does the same. This in no way would mean that other state Licensees could open shop in California, nor that California PIs could open shop in other states, but merely that investigations started in one's home state may progress into the other state(s) on a temporary basis. As of today, California shares reciprocity agreements with only five other states; Oregon, Florida, Georgia, North Carolina, and Louisiana. I have created a "Reciprocity Committee" that will survey other states to see who else may be added to that list down the road.

PRESIDENT'S MESSAGE



I also want to take this opportunity to thank our regular sponsors without whom CALI could not function. Please join me in using their services whenever possible:

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I, nor any officer, director and/or committee chair, would not be able to get anything accomplished without the support and leadership from our Executive Director, Maria Lagunas. Maria continues to do a phenomenal job for this association and is greatly appreciated. Please be sure to thank her for her service and dedication whenever you have the chance.



Andrew Hanson (6/16/1965 – 9/1/2021)

IN MEMORIAM

On a personal note, CALI lost a long-time member this year with the passing of Andrew 'Andy' Hanson. Andy and I served for many years together on the Board of Directors as well as the Government Affairs Committee (not to mention some late-night meetings during many conferences!) Andy was just a good guy who never hesitated in letting you know what he thought. Andy leaves behind his son, Jimmy, who was the absolute pride of his life. Rest in peace my friend, we will see you again one day.

And, for the perfect segue, lastly, as we approach the Holiday season, please take time to tell your friends and family how much you care for them. As we all get older, we realize how fast time flies by, so please do not waste it. Thank you to all my friends, colleagues, industry partners, and associates; enjoy the rest of 2021 and here is to a wonderful 2022!

Frank W. Huntington, III
Frank W. Huntington, III, CPI, President



UPCOMING EVENT

Thursday, November 18, 2021
6:30 PM to 8:30 PM

CALI Sacramento District Meeting
Guest Speaker Topic: *"Fraud Trends in America - What Investigators Should Know."* Register at:

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WELCOME

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Welcome to our New Members!

August 1, 2021 - November 9, 2021

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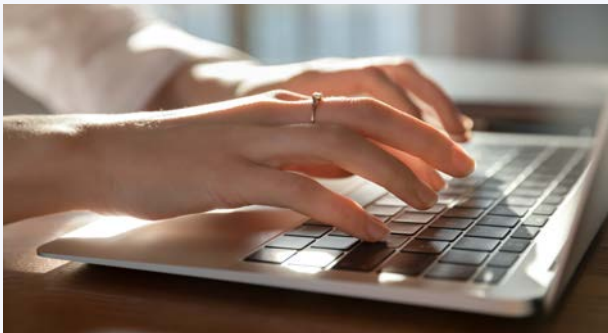
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Christopher Cavallo - FL
John Simons - FL
Sandra von Eschenbach - FL
Matthew Spaier - NY
Tammy Aston - TX
Donna Bennett - TX
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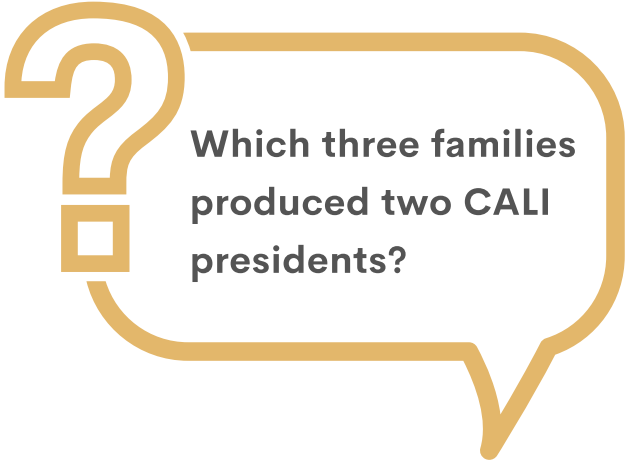
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FROM THE CALI ARCHIVES

Interesting facts about the history of CALI



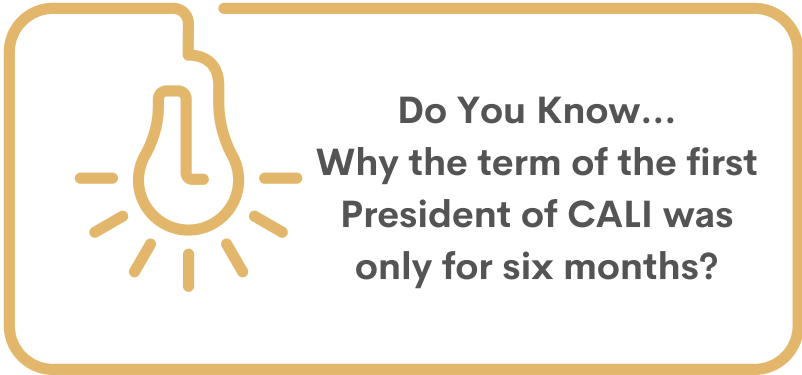
Which three families produced two CALI presidents?

- Eddy McClain (77/78)
- Mark McClain (94/95)
- Alan Knox (88/90)
- Brenda Knox (92/93)
- Samuel Webster (79/80)
- Christopher Webster (95/96)



Did you know CALI offered a Ski accident course on the slopes?

Steve Butin gave a class in 1992. At that time it was estimated there were over 30,000 ski accidents a year and many required investigation.



**Do You Know...
Why the term of the first
President of CALI was
only for six months?**

CALI started in January 1968 but switched to a fiscal year beginning in July of that year. The first full year elected term was held by 1968/69.



CALI Financial Audit Report

By Chad Ragan, CALI Audit Committee Chairperson

This past CALI year (2020/2021) Past CALI President Robert Rice asked if I would chair the CALI Audit Committee, which I agreed to do. It had been several years since CALI had a formal audit completed on its finances. The CALI Board of Directors passed a motion to commence with the financial audit.

After being appointed the Audit Committee Chairperson, I asked the following CALI members to join the committee.

Brian Copas Anthony Hopkins, CPI, Robert Radus, and Roberto Rivera, CPI

Upon having the contract signed with Chavez Accounting Corporation in the fall of 2020, we had anticipated the audit being finalized by the end of January 2021. After numerous zoom meetings and records request by the auditors, the audit was finally finalized in June 30, 2021 by Chavez Accounting Corporation. The findings were then presented to the CALI Board of Directors at the July CALI Board Meeting.

Overall CALI came out of the audit in very good shape. One of the reasons for this audit was CALI had not had a recent audit and had two executive directors in the past five years. The CALI felt it was in the best interest of CALI to have an audit conducted since CALI had started working with its current Executive Director Maria Lagunas in the summer of 2020.

The auditor made the following comments and recommendations for CALI;

Accounting Manual and Policies and Procedures

“During the 2019 audit, we noticed that there were inconsistencies with the handling of the similar transactions. We recommend for future audits that prepares a concise accounting manual to document the processes for each major accounting function such as cash receipts, disbursements, financials close and so on”.

Accounts Receivable and Deferred Revenue

“While performing our audit test work, we noticed that the Organization does not have a consistent way to track revenue and receivables. This is due to the Organization typically running on a cash basis system instead of accrual. To comply with GAAP, audits are required to be conducted under the accrual basis, which led to issues relating to the receivable and deferred accounts. We suggest that Management look back to these accounts on a yearly basis to ensure that there is proper accrual reporting.

Audit Frequency

The auditors recommend CALI conduct yearly audits and if not on a yearly basis, they would recommend CALI be on a biyearly audit cycle.

As mentioned before, these findings were shared and discussed with the CALI Board of Directors at the July 2021 board meeting.

There have been discussions with the Treasure and CALI Executive Director to implement the recommended changes based on the auditors’ findings.

CALI members, please [click here](#) to view the audit report.

In closing, I would like to thank my committee members who sat through several zoom meetings and reviewed documents during this lengthy process. I would also like to thank Executive Director Maria Lagunas who spent countless hours retrieving documents requested by the auditors to get the audit completed.

**CALI exhibit at the Southern California Fraud
Investigators Association (SCFIA)
2021 Conference in Palm Springs, CA**



*(L-R) CALI Members at the SCFIA 2021 Annual Conference:
Ernie Mireles (LA District), Don Lewis (IE District), and Dan Alvarez (IE District Director)*



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"How I Became a PI"

By Eddy McClain

It was two weeks before Christmas, in 1959. I was nearing my third year working for a national inspection company.

They did neighborhood investigations primarily of life insurance applicants, as well as some claims and well-checks. I had desperately taken this job in 1957 after dropping out of college on the G.I. Bill when my Christmas Tree venture failed. (But that's another story). After several months in the field in South L.A. with Marcia doing a beautiful job typing my reports, they had offered me a position as assistant manager of the Los Angeles office, which means you do all the work for low pay.

Now, as 1959 neared an end, I was a little disgruntled. They had just opened a Long Beach branch and given the manager's job to another assistant manager who was hired six months after me. I was now doing his work too for the same pay. My Christmas bonus check arrived from the Home Office in Chicago and it was half what they gave me the previous year.



Eddy McClain featured on the cover of the
PI Magazine, August 2002

Then a Vice President (who I shall call Mr. Brown) arrived from the home office. After watching me work for a few minutes he announced I was doing everything wrong, and "this is the way we do it in Chicago." After ten minutes of that I said, "You know Mr. Brown, you're kind of a dumb S.O.B." He knew I was Airborne and didn't have the nerve to fire me on the spot, but told the manager to do it after he left for Chicago. I went back to the L.A. Times classified.

At the time, Krout and Schneider, founded in 1927, had ten offices. When I showed my appointment letter to the manager, he told me K & S was a well-known, fine firm. After the second interview, the K & S Los Angeles manager offered me a position as camera man and I said "what's that?" He said "we'll show you." Then I asked, how much is the pay" and he said "everyone starts at the bottom." I said "where is that?" Then he said "\$1.50 per hour plus 8 cents per mile for using your car." This was straight time with no time and a half for overtime.

When I arrived home at our house trailer in Norwalk and proudly announced I had found a job, Marcia asked "how much is the pay?" and when I told her she began to cast aspersions on my acumen saying, "If we're barely making it on \$500 per month salary, how is this going to work." She was mentally multiplying \$1.50 times 40 times 4.3 which was less than \$300.

She didn't know I was going to work seventy to ninety hours per week or more. This year is my 61st with Krout and Schneider.

Eddy McClain is a founding member and Past President of CALI. He is also Past President of NCISS and has served as Legislative Chairman of both organizations. He has testified four times before the U.S. Congress on behalf of the profession. P.I. Sam Schneider was a camera buff who had a dark room in his basement. Sam obtained one of the first non-commercial movie cameras available. In 1932, his films of a claimant building the Oakland Bay Bridge were admitted in Oakland Superior Court. It had never been done before. This was the beginning of the subrosa industry.

Do you have an interesting story as to how you started your career as a PI? If so, please submit your story for review to info@cali-pi.org.



PRIVATE INVESTIGATOR EXAMINATION PREPARATION COURSE ONLINE



CALI offers an ONLINE Private Investigator Preparation course to prepare qualified candidates for the State of California PI License Test. The preparation course was designed by a committee of licensed investigators that offers a step by step review and sample quizzes to prepare qualified candidates. Also included are lesson plans, study materials and references to other important information for the exam. For more information go to:

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Report from the Treasurer

By Chris Reynolds, PI

We are now four months into our fiscal year (July-June) and I'm please to report that our financials are on budget and our membership figures remain very strong. We anticipate signing up several new members for our special NLITE rate of \$125.00 for the first year from our Fall NLITE held on November 6, 2021. The P & L, Budget, and Balance sheet can be located on the CALI website, www.cali-pi.org.

President Huntington appointed me to serve as the Chair of the new Long Range Planning Committee. For the past several years, CALI has been diligently working to corral expenses and tap into new revenue streams. Our goal is to add value to your membership through affordable and professional training and educational opportunities.

The CALI investment program has grown exponentially over the last thirteen years, giving us a golden opportunity to re-invest in our organization. Long range planning is a key element to building a successful organization. Not only is it important to develop future leaders, but they must also be given the tools to grow CALI. Our mutual fund investments are finally generating enough income each year to allow CALI to invest in itself without depleting our reserves.

One of the goals of the long-range planning committee is to identify needs for CALI over the next five to ten years. Those needs may be in the form of spending money on important tools or reviewing efficiencies in management that can make CALI stronger as we adapt to an every changing environment.

One example of a spending item is the extraordinary costs associated with conference costs. Hotels have a practice of sub-contracting audio-visual equipment and service to third-party vendors. The costs are astronomical! Hotels also allow an organization to waive using the third-party vendor if they supply and service their own AV equipment. One recent conference had CALI pay in excess of \$15k for such a service. Purchasing our own equipment has major benefits to CALI.

One of the top priorities is to determine if CALI can purchase quality equipment for all our events (Leg Day, Professional Development, NLITE, etc.) and use it to defer the higher costs from the hotel properties. It will pay for itself within three years. We have many people qualified to assist in running the equipment at our events. There are many other items like this that the committee intends to review and prioritize as part of our five- and ten-year plan. Some ideas involve merchandising, supplementing conference costs, offering more programs at lower costs, membership incentives for Districts to increase members, and giving members certain recognition mementos. It should be an exciting and interesting process as we enhance the value of your membership. The committee will be meeting in the next week to develop our first priority list and make recommendations to the board of directors. If you have ideas for long range spending and/or planning, please send your ideas to me at chris@cdrpi.com.

STANDARD INVESTIGATIONS AND THREAT ASSESSMENTS: DIFFERENT BUT CAN BE COMPLEMENTARY

By James S. Cawood, Ph.D., CPP, CTM

On September 1st of 2021, I provided CALI a webinar on this topic and this article is a follow-up to that webinar, highlighting some of the significant points made during the webinar and providing some additional reference information for those that are interested in learning more about threat assessment and management.

A good starting point to launch this topic is to understand the main difference between a standard investigation and a threat assessment, this difference being the time frame in which the processes are focused. A standard investigation, for the purposes of this article, is an investigation that is focused on allegations of inappropriate behavior that has occurred. The investigator is being asked to make a determination of whether inappropriate behavior has more likely than not occurred and/or has a particular individual done the behavior, and, in some cases, if so, did that behavior, more likely than not, violate a code of conduct, rule, regulation, or other agreed upon behavioral boundary. This could involve discrimination, harassment, fraud, theft, or a host of other inappropriate or illegal behaviors. A threat assessment and management process is a forward looking process to make a determination of the probability that a person will engage in an act of physical violence toward another person or entity at some point in the future. The threat assessor/manager then uses the behavioral analysis and subsequent level of risk probability to prioritize the use of available resources to help develop and implement a response and intervention plan in an attempt to reduce the level of risk for physical violence that is assessed to be present. Therefore, standard investigations focus on alleged or likely past conduct, while threat assessment/management assessments focus on the probability of future harmful conduct and lowering the probability of that outcome.

These stark differences in chronological focus and delivered services, does not mean that the methodology used by both investigative and threat assessment professionals is altogether different, but that the breath of information routinely gathered and the analysis of that information is substantially different. In the case of threat assessment, it is routine to gather information concerning the individual from victim interviews, interviews with collateral witnesses, and, in many cases, an interview with the person of concern (POC) directly. This is similar to the routine investigative strategies of investigators.

“

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However, during these interviews threat assessors will be gathering not only information about what was seen, heard, or experienced by the interviewees and their perceptions of each other and the circumstances surrounding these reported events, they are also obligated to seek information related to what information the interviewees have concerning any disclosed psychological history of the POC, the POC's emotional reactions to events, how the POC thinks, what other health conditions they have disclosed or know about, including any traumatic brain injuries; the POC's prior criminal and civil court history; ownership, interest in, or use of weapons and use of drugs- both prescription and non-prescription- to include alcohol and the behavior exhibited or commented about when they use drugs, as well as any suicidal or homicidal thoughts or plans. In the case of domestic violence related threat assessment investigations, certain cases may even require that additional questions be asked regarding intimate relationship history, including the details of intimate behaviors. In most, if not all, standard investigations many of these topics would be off limits to explore, as they would violate many general privacy and medical privacy laws and boundaries regarding what can be asked during standard investigations, however, if a threat assessor did not ask these questions they might be considered to have conducted an inadequate assessment process.

1

In the nature of records search and review, it would be common for an investigator to request a copy of any applicable policies and procedures, reports of the incident(s) being investigated; prior witness, victim, and subject statements; copies of any other complaints or allegations made by or against any victim and subject of the investigation; and copies of any victim's and subject's personal or academic files- if applicable.

If the investigator was conducting an investigation regarding possible criminal conduct and had identified a viable suspect or suspects, they and a threat assessor would also most likely ask for all of these documents as well, but would also search for any criminal or civil court records for the POC at the Federal, State, and County level; any records of police reports, contacts, or calls for law enforcement to respond to the POC's known residences (i.e. calls for service) during their time of residency at those locations; and conduct an extensive internet and social media search for both the potential or actual victim(s) and the POC. The purpose of these additional records searches for the threat assessor would be to locate additional behavioral information that would provide further insight into the stressors and behavioral choices of the POC, which would strengthen the assessment analysis. The purpose for the investigator would be to locate information that might show past history of criminal behavior, criminal attitudes, and who might be associated with the suspect(s) and might have aided or abetted the crime.

The last significant difference between a standard workplace investigation and a threat assessment process, is that once a standard investigation has been completed and the results of that investigation have been delivered, the investigation is concluded and the investigator moves on to the next case. In a threat assessment, it is quite common that once the initial threat assessment has been conducted and reported, then the client will make a decision about what they want to do in response to that risk assessment and then a behaviorally based response/intervention plan is developed and implemented, and the case will remain open for a period of time, in anticipation of new behaviors being exhibited that could require additional assessment in relation to the behavioral information learned in the initial assessment process.

¹ Association of Threat Assessment Professionals. (2006). *Risk assessment guideline elements for violence*. California: Author.

In other words, threat assessments are dynamic processes that often require reassessment and ongoing case management.²

So when do investigators and threat assessors most likely get a chance to work together and how can they do it most effectively? In my practice, I have been lucky to work with a number of private investigators in my career, including fellow CALI members. These experiences have provided an opportunity to develop and implement what seems to be the best practice regarding when we should work together and how. Regarding when, it is when an investigator is conducting a case intake or is working a case and the issue of safety is raised by the client representatives or by involved parties regarding the potential harm that may be posed by another party in the investigation. Regarding when, it is when an investigator is conducting a case intake or is working a case and the issue of safety is raised by the client representatives or by involved parties regarding the potential harm that may be posed by another party in the investigation. This might be a direct reference, such as “I am very concerned that they might harm someone”, to something vague or indirect such as “When I think about this situation, I feel very uncomfortable.” The key point for the investigator is to make certain that before the interview or interaction has been completed with that person, that the investigator attempt to gain some insight into why that individual is concerned that someone would be harmed, why they are uncomfortable, etc., meaning what the person has said, done, or presented that seems to be linked with that belief or reaction to the situation; or when any expressed thoughts or behaviors are linked to some warning signs or warning themes. Concerns would also be raised if the investigator has a personal interaction with any of the people encountered in the investigation that raise safety concerns or a sense of the possibility of harm, involving these warning signs or warning themes. Warning signs or warning themes, meaning either specific or similar thoughts or actions known to be associated with an increased risk of physical violence.

These warning signs or themes include:

- A person making any direct or indirect, threatening or intimidating statements.
- A person writing notes that contain threatening or intimidating language.
- A person perceived to be unreasonably angry, defensive, or resentful.
- A person known to have acted in a violent or assaultive manner.
- A person known to have easy access to, and/or familiarity with weapons or other dangerous devices, such as explosives, particularly when linked to one of the other warning signs or themes.
- A person known to express sympathy, fascination, or interest in publicized incidents involving violence.
- A person who has said or appeared to harbor resentment or anger toward the organization, managers, supervisors, co-workers, administration, fellow students, faculty, or staff.
- A person who, prior to the actions that led to them being involved in the case being investigated, demonstrated increasingly deteriorating work or school performance and/or attendance problems.
- A person who has had thoughts or displayed behaviors indicating extremely low self-esteem, severe depression, or suicidal tendencies.
- A person who is believed or known to have new or increased significant stress in their lives which might precipitate a violent action at this time, as opposed to some other time. Examples could involve any significant life change such as family, medical, legal, financial, or other stressors that have recently been, are currently being, or are believed will be, experienced.³

Should there be a sense of linkage between the thoughts, actions, or concerns and the warning signs or themes, that should trigger a discussion with the client regarding the possibility that a threat assessment professional should be consulted to determine if a threat assessment should be conducted to determine the level of possible risk posed by the individual of concern.

² *International handbook of threat assessment, Second Edition*. (2021) (J. R. Meloy & J. Hoffman, Eds.). NY, NY: Oxford University Press, ISBN: 978-0190940164

³ *Violence Assessment and Intervention: The Practitioner's Handbook-Third Edition*, by James S. Cawood, Ph.D., CPP, CTM and Michael H. Corcoran, Ph.D., Routledge, 2019; ISBN: 978-0-367-36179-2

It is beyond the scope of this article to delve into the legal and regulatory requirements to provide a safe workplace for most, if not all employers in North America, as well as many countries in Europe and the Asia-Pacific region. However, it should be noted that in many jurisdictions there can be both significant civil liabilities and regulatory penalties for negligence in the area of organizational safety and violence. The wise course of action, therefore, is “when in doubt, confer”, not only for reasons of professional and organizational liability arising from having had information that could have alerted someone to take action to forestall or minimize a tragic outcome, but also to avoid the psychological and emotional cost of having known something that could have averted a tragic outcome, but not having acted on it.

It should be noted, that, like investigators, there are threat assessment professionals that operate at different levels of professional competence and this is not easily discerned by education and employment background alone. Professionally competent investigators and threat assessment professionals begin their professional journeys on a wide variety of pathways. In the case of investigators, that could mean starting out as a human resources or employee relations representative, as a lawyer, as a or as a law enforcement investigator and then becoming a licensed private investigator. This is similar to a threat assessment professional, who might start their career as a security professional, private investigator, mental health professional, victim’s rights advocate, or law enforcement investigator. However, in both roles, substantial additional education and experience is required, beyond that of their initial competencies, to transition to trustworthy and effective investigators or threat assessment professionals. Therefore, careful vetting is required to determine which professionals to trust in these important roles. In the case of threat assessment professionals, similar to private investigators, part of that vetting would be membership in a well regarded professional association. For threat assessment professionals in North America, and with members all over the world, the largest and oldest association of threat assessment professionals is the Association of Threat Assessment Professionals (ATAP).

There are also closely affiliated threat assessment associations in Canada, Europe, Africa, South American, and the Asia-Pacific region. All the threat assessment associations provide ongoing training, but ATAP also has a Certified Threat Manager certification program, which requires ongoing documented and verified experience in threat assessment and management of cases involving targeted violence, the passing of an examination based on an extensive body of professional knowledge actively curated by a diverse group of peer professionals in the Association, and also requires ongoing continuing education in the profession. Therefore, an additional vetting step, beyond membership in a threat assessment association, would be to inquire if the prospective threat assessment professional is a Certified Threat Manager (CTM). These steps will not, in and of themselves, guarantee competency, but will provide an objective basis to make initial determinations regarding whom to consider or not for the work. It is important to note here that experience in investigations and providing security services is not experience in threat assessment of targeted violence cases. Threat assessment of targeted violence requires extensive training and experience to identifying and assessing the biological, psychological, sociological, contextual, and environmental antecedents and dynamics of human behavior and violence. It is also not the same as threat assessments of structures or venues, that might be conducted as a security professional. Even though I am a licensed private investigator and private patrol operator in CA, a Certified Protection Professional (CPP) and Physical Security Professional (PSP) with ASIS International, and am a Certified Security Professional (CSP) with CALI, none of that qualifies me as a threat assessment professional. What qualifies me, in line with being a court recognized expert in threat assessment, is years of practice in threat assessment, meaning over 5000 assessment cases worked, holding a Masters in Forensic Psychology, and a Ph.D. in Psychology, while also being a Certified Threat Manager (CTM). The courts and clients like the academic degrees, but it is the experience and being a CTM that matters most. Remember, all investigations have the potential to fail, but the failure to accurately assess a threat of physical violence leads to serious injury or death, with the attendant emotional and legal questions and ramifications.

Once you have engaged with a competent threat assessment professional, there is an effective flow of the work that seems best. The first is to recognize that since both professionals will be delivering their own work product, using their own analysis and, as previously mentioned, their own range of information sources and interview questions, plans for gathering of shared information and interview strategies is a priority. This means coordinating the joint receipt of any documentation held by the client that would provide insight into the currently known facts of the case and information about the thinking and behavior of the parties involved relevant to the case. When it comes to interviewing witnesses and the involved parties, if that can be done jointly, that can often be the most beneficial process. This is not only good from the perspective of the client, as coordination of one rather than two interviews per person is all that is required, it is also beneficial for each professional, as they have a witness to what was said and done in the interview to protect them from misinterpretations or later false claims of what was said and done, while also guarding against having the interviewee have time to adjust their narrative based on the questions from the first interviewer.

Regarding the order of the professionals to conduct the interview, given the difference in the nature of the analysis and product being produced, but also the more extensive nature of the information being sought by the threat assessors in these interviews, it is often most effective to have the investigator open the interview by providing any necessary admonitions (e.g. confidentiality, cooperation, Lybarger/Speilbauer warning, retaliation, etc.) and then have the threat assessment professional conduct the first part of the interview. After the threat assessment professional has completed their initial questioning, then the investigator can follow-up with any additional questions necessary to gather the remaining information that they would like, including clarifications of any information needed from the initial part of the interview. This process follows best practice in that a competent threat assessment professional will normally conduct the interview with an enhanced cognitive interviewing style, allowing for a great deal of “free report”, rather than using a tight “question/answer” approach. This naturally leads to more specific fact centered questions and clarifications often needed by the investigator for their analysis. If coordination of interviews including both the threat assessment professional and investigator is not possible, consideration should be given to having either professional provide the other with a list of necessary questions to cover to enhance the probability that the interviews can be completed in one session, rather than requiring more than one with the person being interviewed, for the same reasons mentioned above.

Finally, once the information gathering and interviews are completed, each professional will produce their own report for the client. However, best practice would mean, as previously mentioned, that the threat assessment professional would remain available to help the client implement the employment or other related action that they decide to take, utilizing the behavioral insight gained for the parties involved and understanding how to implement those actions in ways that will be best to reduce the risk that any action that is taken will trigger an escalation in behavior leading to an increased risk for physical harm. The manner in which any disciplinary, corrective, or other adverse action is communicated or implemented can have the unintended consequence of stimulating such an escalation and the process should account for, and address, those possibilities⁴

In conclusion, investigators and threat assessment professionals will be presented with cases in which working together will be required to provide a high quality investigation, while simultaneously coordinating a process that will lead to an increase in safety from physical violence. This can be done effectively and efficiently, if both professionals work together and understand their similarities and differences in focus, scope, and the resources required to be utilized. When in doubt, confer and collaborate.

⁴ *Threat and Violence Intervention: The Effective Application of Influence*, by James S. Cawood, Ph.D., CPP, CTM, Academic Press, 2020; ISBN: 978-0-12-818425-7; *Threat Assessment and Management Strategies: Identifying the Howlers and Hunters*, Second Edition, Frederick S. Calhoun & Stephen W. Weston, CRC Press, 2016

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Retainers

The good, the bad and the ugly.

By Chris Reynolds, PI



The good the bad and the ugly. The best agreement is one that anticipates and plans for its termination. View the Retainer Agreement as your prenuptial agreement; break-ups happen-plan, for the inevitable.

Retainer agreements are one of the most important documents an investigator uses each week. The retainer is the road map that defines your scope of work, the rules you are going to follow to obtain evidence, how you will produce and process your reports, and the terms of payment between an investigator and the client.

With few exceptions, new private investigators have no first-hand experience asking someone to give them money, particularly, in advance. Reluctance to ask for a retainer or to execute a retainer agreement will create pitfalls and problems for years to come.

A retainer agreement should be used for every case, even those cases where you do not ask for upfront money. The retainer agreement is the best evidence an investigator can rely on when the client stops paying or disputes the invoice.

The Parties

The first section of a good retainer should include a definition of the parties. If you are working for a lawyer within a law firm, name the law firm as the client but you and your attorney/client sign the agreement on behalf of the firm. If the attorney is not authorized to bind the firm, he will hand it off to the appropriate signing party.

There are occasions when the attorney hires you on behalf of a third-party, typically the law firm client. The attorney may tell you that he will sign the agreement, but his client will pay the invoice.

When that occurs, you should include the actual client in the agreement and make sure they know they are responsible for paying your invoice. Other terms regarding the relationships should be spelled out in a different section of the retainer agreement.

The Scope of Work

Every retainer should clearly define the scope of work for the project. It can very specific or broad-based, depending on your familiarity with the client. The scope of work defines what you can and cannot do for the client. It is important that you define what you believe will be done on the case because if you venture beyond the scope of work, the attorney/client is not obligated to pay you for that work.

Think globally and be inclusive. If you only expect to conduct surveillance, your retainer should include a pre-surveillance background, drive-by of the scene to access the locations and determine if you can handle the surveillance with one operative or a larger group. Be Specific!

The scope of work for other cases may include running background searches, litigation searches, social media searches, interviews, analysis of evidence, crime scene view, evidence view, and working with experts. Photographs, video, diagrams, and other ancillary work should also be listed in the scope of work, if you think it applies to your matter.

Opinions and Conclusions

You should always state in your agreement that the investigation will be conducted under the laws of the State of California and all investigations will be lawfully performed by licensed investigators or investigators properly supervised by you or your firm. Make sure your retainer makes it clear you are not an attorney, and any opinion are not to be construed as legal opinions. The best practice is to keep all opinions out of your reports. Express opinions verbally; they are not evidence of anything, and they have no place in your reports or retainer agreements.

There are specialty reasons to include other rules or laws. In cases I work on that involve school districts, we have a special provision regarding privacy rights for students. When a client wants specific findings related to a third-party investigation of discrimination or harassment, the specific terms and laws are spelled out in the agreement. A finding can only comply with the terms of the agreement.

Flexible Rates

It is common to have more than one rate on a case. There are cases I manage that include surveillance and other types of investigations. My surveillance rate is always lower than my investigation rate and that needs to be spelled out in the agreement. One solution is to have a rate sheet that is attached to the retainer and referenced in the document. My rate sheet includes mileage, copying, tapes, transcript costs, and many other items that might be on an invoice.

Who Gets the Report

Always spell out who is going to receive your report. If you contract with an attorney and their client pays your bill, you must be clear that the report will ONLY be delivered to the attorney as part of the attorney work-product and attorney-client privileges that we enjoy as part of collaborating with attorneys. If the attorney wants to produce the report, that is on the attorney, not you. Make it a practice and do not waiver. You cannot control what a client might do with the information, including harassing or stalking someone who might speak poorly of them.

When you are hired by a private party, any report you send them has no legal protection and a subpoena will require you to produce the report and all your underlying documents or research. When private clients contact me, I always ask if they have counsel. This is a two-fold issue. The first issue is to protect the privileges when the report is generated. The second issue is more complex. Every attorney has a view for how they want their case to proceed. One attorney wants aggressive investigations, another attorney wants to circle the wagons and wait. I encourage private parties to talk with any attorney to make sure that the work I am producing has value to the attorney. Why work on something only to find out that everything you did caused harm instead of help to your client. I generally tell clients that unless they have an attorney managing the investigation, I will not work on the case. If you are hired by a private party, get the money first!

Terms

It is important that your client knows your expectation for getting paid. Unfortunately, and as much as I try, people just do not pay on time. Knowing this, I am comforted in knowing I have a contract in case the matter turns sour. My standard agreement states payment of my invoice is, "due upon receipt." That never happens, but it puts pressure on the client from the beginning of the assignment to think about paying sooner rather than later. There is no reason to have a "due in 30 days" provision. Why? All it does it give your client time to forget about you.

Getting a Retainer

When I started my business at twenty-three years old, I had no experience with money, had no money, and certainly did not know how to ask someone else to give it to me-especially a total stranger. But running my own business made asking for money a necessity. If you have staff, overhead, costs (which we all do), you must assess whether you should ask for an upfront payment.

With a new client, you want to get them in the habit of always giving you an advance. Why should you wait? It is a good habit. How much should you ask for? That is the trickiest part of the retainer agreement and the longer you are in the business, the easier it will be for you to assess the dollar amount.

The Guarantee

We all want to guarantee a good work product. However, with retainer agreements, making a guarantee cannot be included in the retainer. The client is buying your time, not the result. While it may sound like you are not competent because you will not give a guarantee, you must realize that such promises will lead to unhappy clients, and it will damage your reputation.

Who Pays?

I have many clients that insist the retainer agreement contain language that the invoices are the responsibility of their client, not their law firm. The retainer specifically states that the attorney will be invoiced, and the firm will forward the invoice for payment within a certain number of days. If the attorney agrees to pay you through the firm or via a trust fund, they will insert language that states you do not get paid until they get paid. That is one reason you may want to have the client pay you directly, bypassing the attorney. Getting paid directly from a private party, even with an attorney involved, does not breach confidentiality or the attorney-client or work product privileges.

The retainer can state that all invoices are the responsibility of the client and the client (non-attorney), will make a direct payment to you, avoiding the delay of the funds going to the lawyer. Some lawyers get the money and do not send it to you because they have a cash flow problem, or they are just unscrupulous. Avoid that problem. Make sure that if you have such an arrangement, the retainer agreement includes language that the invoice itself is still considered part of the attorney work-product and attorney/client privilege. I address most invoices to the attorney, regardless of who pays it.

Flat Fees

Flat Fee retainers should contain the same information as a regular retainer, without all the language related to payment schedules, etc. If you charge a flat fee, get the fee up front. Do not be a bank for your clients.

Caps

Some clients are reluctant to enter into a retainer agreement because they feel they will not have control over you. To assuage their concerns, it may be appropriate in some cases to include language in the agreement that you will not exceed a specific dollar amount without prior written or verbal consent of the client. If its verbal, follow it up with an email to confirm what they authorized you to spend. A cap provides a level of comfort to clients when no one knows what to expect from the investigation.

Insurance

The retainer should reference if you have insurance and the amount. It is a good practice to provide that information as it gives some comfort to the client and/or attorney that you are covered in the case of a major problem.

Sub-Contracting

I am the first to admit that I do not have as many retainers with my sub-contractors as I should. First, I know I am going to pay the sub, regardless of the outcome or if I get screwed over by the client. Email agreements are fine, if they state the basic terms of pay, independence by the subcontractor, no guarantees, and other simple language that you can both agree to in an email. If you are using someone new, consider a subcontractor agreement. If the sub will not sign, you do not want to use them! Always ask if they are insured.

You are not obligated to turn over your report until you are paid. You can insert language into the agreement that your work product will not be delivered until payment is received. In most cases, I do not require payment before I deliver the report because most of my clients are known to me and there is mutual trust we have established over many years working together.

Charging Interest

I do not charge interest and I do not include it on my invoices. It is a personal preference and follow your own path. Clients and attorneys ignored the interest, never paid it, and then they expected me to do something about it. What could I do? Sue? Protest? Quit? I charge enough to make the case worth my while.

In conclusion, the retainer is your road map and your insurance that the work you do will result in payment from your client. The retainer agreement also defines the scope of work expected of you from the client. Do not be lulled to sleep by the person that avoids entering into an agreement with you. Investigators handle confidential information on a regular basis, and you are exposing yourself to extreme liability every time you start digging into someone else's life.

A retainer agreement is just the first step toward establishing yourself as a professional in this industry. Be smart, chasing money from an unhappy client is a horrible place to be, particularly when you know you did your job.

Please feel free to contact me at chris@cdrpi.com with any questions. I share my retainer templates upon request. Any statements in this article are not to be construed as legal opinions. I am not a lawyer!



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