



# INTELNET *News*

Official Newsletter of the  
International Intelligence Network, Ltd.

*Intellenetwork.org*

*Winter 2014*

## Intellenet 2014 !

*Olga and Fernando invite  
you to Puerto Rico, a land  
of many wonderful  
things, including:*

- Exotic White Beaches
- Beautiful Bioluminescent Bays
- A Rich History and Culture
- Many Music Genres

*Continued on page 18...*

### *In this Issue*

#### **Peter's Posting**

<i>By Peter Psarouthakis</i> .....	2
<b>ACFCS Conference</b> .....	2
<b>Member News</b> .....	3
<b>FBI News Release</b> .....	5
<b>At Least They Asked</b> <i>by Robert Dudash</i> .....	6
<b>Your Automobile May be Spying on You</b> .....	7
<b>On the Spot: A Case Study</b> <i>by John Hoda</i> .....	8

#### **Security Operations Management**

<i>By Bill Blake</i> .....	10
<b>Report Writing "No-No's"</b> <i>by Bill Blake</i> .....	11
<b>When Do Pls Become Expert Witnesses</b>	
<i>By Larry Ross</i> .....	12
<b>ISPLA News</b> <i>by Bruce Hulme</i> .....	13
<b>Puerto Rico</b> .....	18

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# Peter's Posting

by

**Peter Psarouthakis**  
**Executive Director, Intellenet**



*Dear Intellenet Members:*

*The annual conference in Puerto Rico this April will be a lot of fun and an excellent educational and networking event. Our hosts Fernando Fernandez and Olga Cortes have been busy getting things ready. All details on our website, <http://intellenetwork.org>.*

**A**nd Happy New Year to the entire Intellenet family! I hope that everyone's holidays were enjoyable and safe. As we begin 2014 it is clear this will be a busy year for Intellenet. The annual conference in Puerto Rico this April is just around the corner now. Fernando and Olga are working hard to make this a special event for all who attend. All the information regarding the conference, including registration, hotel and speaker information can be found on the [Intellenet](http://intellenet.org) website. You will note there have been some changes to this year's conference website. Instead of having a completely different website for the conference everything is housed on the Intellenet site. This year you will also have the opportunity to register and pay online for the conference using a credit card. For those of you that still like to write checks, you will still be able to print out the registration form and mail it in.

We have several "initiatives" that are developing and several in place that we hope will provide as many members invoicing opportunities as possible. We emphasized the initiatives in the last issue of our newsletter, and in the past couple of months you have seen posts from Jim Carino regarding our recruitment needs throughout the world. It is

*"It is imperative that you help us locate qualified individuals for membership recruitment in areas where we have none. Filling these open areas will help us fulfill the needs for our initiatives programs."*

imperative that the membership help us locate qualified individuals for open areas. Please keep in mind that we have a ten year minimum experience requirement for membership. Filling these open areas will help us fulfill the needs for the initiatives programs. I would refer you to our last newsletter for in-depth information regarding our initiatives programs and how it can benefit your business while helping the entire association.

Once again Intellenet will be a sponsor at the annual conference of the [Association of Certified Financial Crime Specialists](http://www.acfcs.org) in New York City in February. If you are attending, please stop by our exhibit. In the meantime, if you have any questions regarding the Intellenet annual conference, our initiatives programs or anything else do not hesitate to contact me directly. I wish everyone a successful and prosperous 2014 and look forward to seeing many of you in Puerto Rico!!



A banner for the ACFCS International Financial Crime Conference &amp; Exhibition. On the left is the ACFCS logo, which consists of two interlocking circles, one blue and one orange, with the text "ACFCS" and "Association of Certified Financial Crime Specialists" below it. To the right of the logo, the text reads "ACFCS International Financial Crime Conference &amp; Exhibition", "Wednesday - Friday, February 5-7, 2014", and "Marriott Marquis | New York". The background of the banner is a cityscape at dusk, with the Empire State Building prominently featured on the right side.

# Member News

## Welcome New Members ...

**Kevin PORTER, Middletown CT**

**Michael THOMPSON, Gainesville FL**

**Tsuyoki SATO, Tokyo Japan**

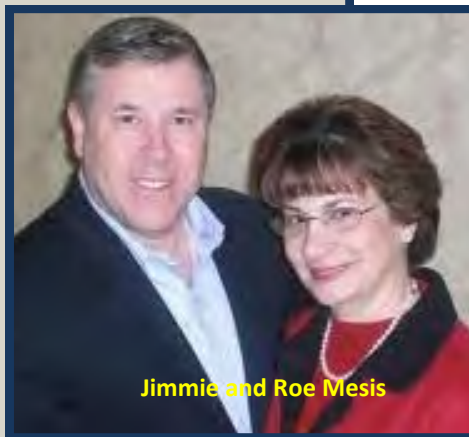
**Brandy LORD, Granger IN**

**Paul ANASTASI, Athens Greece**

These are our new members since we last published. Peter introduced each in a *Info Brief*, and all were invited to send an email with a brief biography. If you haven't sent your brief bio yet, please do; and, as a reminder to all of us, make sure your information in our web directory is accurate and up to date.

## Congratulations to Jimmie Mesis of PI Magazine...

**A**t its annual conference last fall, the National Council of Investigation and Security Services awarded its prestigious Wayne J. Wunder Memorial Award to **Jimmie Mesis**, for "...dedication, leadership and distinguished service to the private investigation and security professions." **Jimmie and Rosemarie Mesis** are publishers of PI Magazine.



Jimmie and Rosemarie Mesis

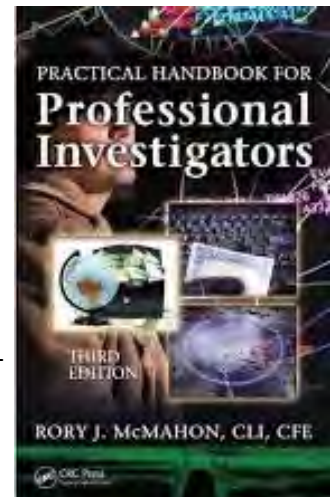
## Paul Jaeb Keynote Speaker at Business Forum...



**Paul Jaeb** of Heartland Investigative Group and Heartland Corporate Intelligence, Minneapolis, Minnesota, was the keynote speaker at the Allied Executives Business Forum at the Minneapolis Hilton on December 4, 2013. Paul presented on corporate intelligence to 300 of the region's c-level executives. "C-level" are those executives at a corporation's highest level. The group gets its name from the designation after an executive's name, such as CEO and CFO.

## Congratulations to Rory McMahon, CLI, CFE on the release of his newest book...

*Practical Handbook for Professional Investigators, 3rd Edition*, is published by [CRC Press](#). Rory's book is a recommended study text for the Certified Legal Investigator™ examination offered through the National Association of Legal Investigators. McMahon & Associates is headquartered in Ft. Lauderdale, Florida.



## Congratulations to Jeff and Rosann Williams, Manila, Philippines, and daughter, Katherine Anne...

**Jeff and Rosann Williams**, Orion Support, Inc. (OSI) in Manila are proud to report that their oldest daughter, Katherine Anne, was selected under the USAF Palace Acquire program earlier in 2013 for one of nineteen Intelligence Analyst positions throughout the Air Force.

*Continued on next page...*

## ***Member News, continued...***



**Proud dad Jeff Williams  
with daughter Katherine.**

***Katherine was the only analyst selected to serve with Jeff's former organization, the USAF Office of Special Investigations (OSI).***

Katherine started with OSI at their headquarters in Quantico, VA in September 2013. Jeff served with the OSI in the Philippines, and was inducted into the OSI Hall of Fame in 2009. Jeff has continued to collect counter intelligence information in the Southern Philippines since his retirement from the OSI in 1992, although his efforts are geared commercially these days. He passes along some of his collections to the U.S. Embassy, Manila, and hopes that someday Katherine would get the chance to analyze for Uncle Sam some of what he continues to collect.

Katherine's undergraduate degree is from the University of Sydney. She has a Master's in Intelligence and Counterterrorism from Macquarie University in Sydney.

Jeff and Rosann have been annual attendees at the Intelnet conferences, and hosted a mid-year in January, 2013 in Manila. They look forward to seeing everyone in Puerto Rico in 2014 and Las Vegas in 2015.

## ***Bruce Hulme Represented Private Investigators at International Conference in Quebec City...***

**Bruce Hulme**, director of government affairs for Investigative & Security Professionals for Legislative Action (ISPLA), attended the annual conference and board meeting of the International Association of Security and Investigator Regulators (IASIR) held in Quebec City, Quebec, Canada at the Lowe's Hotel Le Concorde from November 12th - 15th. Hulme is the elected sole IASIR board member representing private investigators, working closely with the remaining three industry representatives of the contract security, alarm and armored car industries and the government regulators of our profession from the U.S., Canada and the United Arab Emirates. This year's theme of the conference focused on the partnership between private security and public law enforcement. The conference was hosted by Bureau de la Securite Privee. In the photo, Hulme (left) is depicted presenting a certificate of appreciation to Tom Shamshak who delivered a presentation entitled *The Role of Private Security in the Aftermath of the Boston Marathon Bombing*. Shamshak, a past president of the LPDAM, is the current 2<sup>nd</sup> VP of NCISS.



*[Photo by William Hamill – Nov. 13, 2013]*





# FBI News

Condensed from a news release at [FBI.gov](http://FBI.gov), January 17, 2014...

**J**ust when you think con men couldn't sink any lower, they do: This time, a group of fraudsters took money from individuals who prepaid their own funerals to ease the financial and emotional burdens on their families.

Millions of Americans enter into contracts to prearrange their funerals and prepay some or all of the expenses involved. Laws in individual states regulate the industry; however, protections vary widely from state to state, sometimes providing a window of opportunity

for unscrupulous operators.

That's just what happened with James "Doug" Cassity and his Missouri-based company called National Pre-arranged Services Inc. (NPS). As early as 1992 and until 2008, Cassity and the other defendants employed by NPS or affiliated life insurance companies devised and ran a scheme to defraud purchasers of prearranged funeral contracts obtained from NPS. Also victimized were funeral homes that did business with NPS, financial institutions that served as trustees of the prearranged trusts established by NPS for their customers, and state insurance guarantee associations.

**In general, here's what NPS told its customers:** After discussing what the customer wanted, a price would be agreed upon and payment accepted. NPS would make arrangements with the customer-designated funeral home. In accordance with state law, the funds would be placed with a third party—depending on the state, that third party would be a financial institution that would put the funds into a trust that could be

only used for safe investments (like government-backed securities)...or a life insurance company that would put the funds into a life insurance policy in the name of the customer.

## Protect Yourself and Your Loved Ones

**I**n addition to the normal contractual due diligence, here are some additional issues to consider before prepaying for funeral goods and services:

- What are you paying for? Are you buying only merchandise, like a casket and vault, or are you purchasing funeral services as well?
- What happens to the money you've prepaid? States have different requirements for handling funds paid for prearranged funeral services.
- What happens to the interest income on money that is prepaid and put into a trust account?
- Are you protected if the firm you dealt with goes out of business?
- Can you cancel a contract and get a full refund if you change your mind?
- What happens if you move to a different area or die while away from home? Some prepaid funeral plans can be transferred, but often at an added cost.
- Be sure to tell your family about the plans you've made and where your documents are located.

**Here's what NPS didn't tell its customers:** The company didn't put all of the funds from customers into a trust or life insurance policy, but instead brazenly altered application documents—i.e., changing deposit amounts, naming itself as a beneficiary, converting whole life insurance policies to term life—and used the money for unauthorized purposes. In some instances, defendants even removed money previously placed in trusts and life insurance policies. And NPS routinely lied to state regulators about its practices.

The complex case—investigated by three federal agencies, a number of state regulatory agencies, and the Department of Justice—began in 2008 when we received information from several state agencies on NPS. It ended in November 2013, when six co-conspirators were finally brought to justice.



## At Least They Asked!

By Robert Dudash  
Intellenet Director of Operations



**We** all have attended conferences where some of the presentations related to paying attention to the "legal acceptance caveats" and other warnings to users of software, when it became necessary to accept or decline their terms before downloading the software. I have heard speakers ask many times, "How many of you read the fine print?" Well, I was one of those who just checked the "Accept" box and moved on, *but never again!*

A recent experience frightened me, to say the least. Every year I trade my business car for the newest model available. I am a Nissan man because they have a good product and I typically get a good deal by using the same dealership. They "take care of me" because they know my standard line is, "I don't care who gets my money, just don't screw me because you'll never see me again!"

***One of the items I would consent to by activating my new car's digital App is the "...monitoring of conversations by me and occupants inside the vehicle," and other intrusions into my private life.***

Four days after trading for a 2014 Altima, I received an email from Nissan of North America (NNA), informing me that my new vehicle is equipped with the NissanConnect (NC) Apps, an innovative service that keeps "...you and your car connected to your digital life." Wow, what a great thing, huh? Well, now I'm thinking Nissan wants to make my life much better by connecting my car to NNA through my cell phone! But I kept hearing this voice in my head asking, "Did you read the fine print?" It does not take a very large boulder to fall on my head to get my attention, so I decided to read the fine print. I did not want

to download the NC App to my cellphone, so I opened my iPod and downloaded the App there, protecting my cellphone. And, wow, am I glad I did!

What an absolutely stunning and eye-opening agreement! As I read through the wording of what Nissan wanted me to "Accept," I kept thinking, "Not in my life time!" The more I read, the worse it got. Reading through the agreement that Nissan wants me to acquiesce to made me sympathetic to the public's concern about intrusions by the National Security Agency into our private communications, although normally I trust NSA to stay focused on mission. One of the items I would consent to is the "...monitoring of conversations by me and occupants inside the vehicle," and other intrusions into my private life. I realize these technology packages can be remotely activated by "entities"; but since there is no way for me to know when that happens and I am not doing anything illegal, there is no way I am going to grant access to my private life. Like many others who travel around their city/state/country, I have proprietary conversations with clients and it would upset me significantly to know that Big Brother was monitoring them. It's none of their business!

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## At Least They Asked...

Continued from previous page

I also suspect that while I was driving, NNA could collect and provide information to insurance companies regarding my driving habits. Well, I drive the speed limit because I'm paid by the hour and there is no hurry to get there. I also like to think I am a law abiding citizen and do not knowingly break the traffic laws. Would the absence of intent be obvious in a raw data collection?

So, the gist of this entire rant is that I did not agree to grant access to NNA and the App was not activated or installed! I hope I have not bored you with my rant, but I wanted to let you know I traded cars again!

Robert Dudash rants from Omaha, Nebraska. He can be reached by phone at 402.894.5625 or by email at [isipi@msn.com](mailto:isipi@msn.com). Robert's cautionary tale is timely; see the following story.



## Your Automobile is Very Likely Spying on You

By Kevin Murray

**I**s your car spying on you? If the vehicle is a fairly new model it probably is, thanks to a "black box" that collects data about what's going on in your car. And there's no off switch or way to opt out. By September all new cars sold in the United States will be required to have black boxes, or, as they're more formally called, "event data recorders."

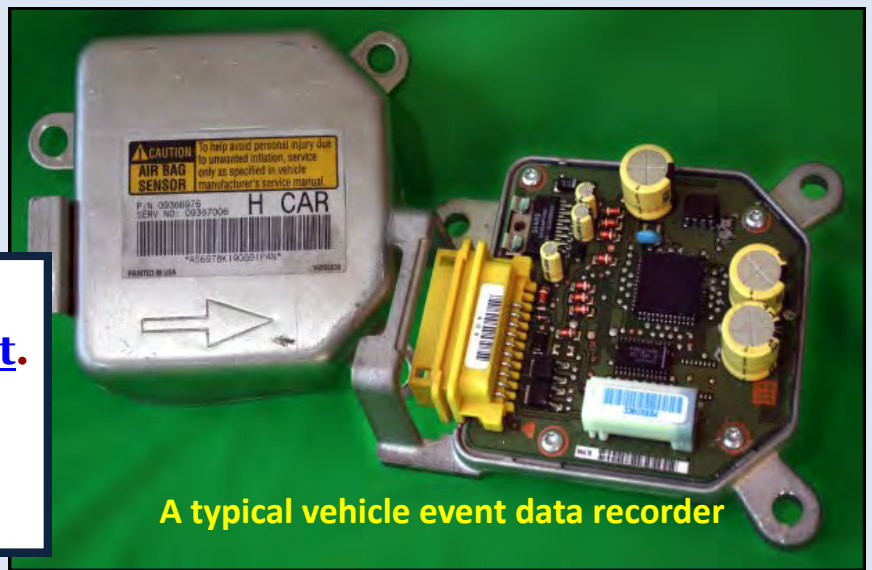
"The amount of data that they record is vast. And it's not capped," said Nate Cardozo, a staff attorney with the Electronic Frontier Foundation (EFF).

That's just one way new technology installed in automobiles is invading our privacy. At the 2014 Consumer Electronics Show (CES) Google and a handful of automobile manufacturers, including Audi, GM, Honda and Hyundai, announced a partnership designed to bring the Android mobile platform to vehicles. **Those devices are capable of broadcasting your location, web pages you may have looked at, stores you shopped in and much, much more.** Chevrolet, for example, showed off a camera mounted on the windshield that records the driver's point of view and **a microphone in the cabin** records any noises made in the car.

Consider what Ford's top sales guy, James Farley, said at a CES event: **"We know everyone who breaks the law. We know when you're doing it. We have GPS in your car, so we know what you're doing."** Farley quickly retracted his impolitic remarks...

Kevin Murray is a security and intercept specialist. This article is extracted with thanks from Mr. Murray's January 15 blog. The bold text emphasis is his. You can subscribe to Kevin's blog at [www.spybusters.com](http://www.spybusters.com).

**Is your car bugged?  
See if you are on [the list](#).  
If so, [read this](#) from  
Consumer Reports.**



A typical vehicle event data recorder

**This** was a new one for me. The defense attorney, my client, wanted me to take him to the scene of the crime.

I had visited this particular scene of a shooting twice before and the attorney had trouble visualizing what I was talking about. I had shown him my photos and we looked at the State's video and crime scene photos. He needed me to take him there so he could understand it all well enough to explain things to the jury, which had already been picked to hear the case against his client, who was accused of murder. The trial was set to begin the following week. There was only one eye-witness of his client allegedly doing the shooting. There were no confessions, forensics or other evidence putting the defendant at the scene. Unfortunately, there were no alibi witnesses either.

On my first visit when I walked the square block encompassing the area, I came across the witness when a family member asked me what I was doing taking pictures and drawing on a sketch pad. More on that conversation later.

Then, on my second visit, I talked to other witnesses who filled in the rest of the picture for me. Now I was driving the attorney out to this poorest crime-ridden neighborhood to try to imagine what had happened in the back yard of a vacant lot near midnight on a hot summer's night three years earlier.

We had talked about the theory of defense on the ride over from his office in downtown New Haven during lunch hour. The whole case rested on the credibility of the witness and her statement to the cops.

So there we stood. I pointed out landmarks. I paced out distances for him. I showed him sight lines. I fixed for him where a bloody gun was found and where

spent bullets had fallen. As the theory of defense started to become real in his eyes, who did he see come walking up behind me? You guessed it, the witness. Defense counsel had her on the spot, literally and figuratively. No judge, prosecutor or cops to interrupt this conversation. She had no teeth and looked twenty years older than the mid-forties we knew her to be. She made the very poor appearance I had earlier described to counsel. She offered the same recantation she had given to me a month earlier and repeated for him that she made up the story that she had given the police. She pointed to the tree

*As the theory of defense started to become real in his eyes, who did he see come walking up behind me?*

that she told the homicide detectives where she was hiding behind when she saw the defendant, crouching behind a dumpster, when he allegedly shot a gun six times. It was the exact same tree that I had determined from her statement of being ten feet

away from dumpsters. She also clarified for me that she had told the uniform officer canvassing the neighborhood the night of the shooting that she had only heard it from her porch and didn't see it. (In his report, she was described as a female that wished to remain anonymous.) She confirmed that she had told the detectives that she heard it but didn't see it again the following morning, but told us that she relented when she was taken downtown and gave the police "what they wanted" by identifying her nephew as the shooter.

A week later, a very sullen star state witness repeated this recantation in the courtroom. Having met and talked to her at the scene, defense counsel knew exactly how to cross-examine. Later, the lead detective would admit the tree was over 40 feet away. Crime scene technicians testified that there were no forensics behind the dumpster. To overcome that state-

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## On the Spot ...

*Continued from previous page*

-ment sandwiched between two denials and five recantations, using the state's crime scene exhibits, the attorney pointed out that the crime scene was 90 feet away from where she placed the shooter. What was she doing out there lurking in backyards of a vacant lot in a bad neighborhood near midnight, he asked.

My second canvass pulled up other witnesses who looked out to the area of the shooting when they heard the report of gunfire and did not see the witness in the area. They knew her and could speak to her character and lack of credibility. The police report of witnesses also failed to place her at or near the scene.

My client saved his best arguments for his closing. Could even a military or police marksman hit a moving target all six times with a revolver at a distance of 30 yards — in the pitch black? (*See the photo below.*) This convinced the jury to find his client not guilty of murder.

How often do you really get to put someone "On the spot"?



*Intellenet member John A. Hoda, CFE, CLI is the owner of [Elm City Detectives](http://ElmCityDetectives.com), in Milford, Connecticut. He can be reached by phone at 860-930-6010 or by email at [jhoda@elmcitydetectives.com](mailto:jhoda@elmcitydetectives.com). John is a regional director of the National Association of Legal Investigators and serves on the board of the Connecticut Association of Licensed Private Investigators.*



**The shooting occurred in the middle of the lot where the new building sets in the background. It was pitch black outside, near midnight, no street lighting. This view is where the eye-witness said she was when she saw the shooting, which happened over 90 feet away. She said the shooter was hiding behind the dumpster.**

# Security Operations Management—A *Précis*

By William F. Blake, CPP, CFE

1. You cannot delegate the **responsibility** for security of your property but may delegate the **performance** of your security operations.
2. Premises liability and negligent security litigation can be disastrous to your financial objectives and your reputation as a property manager and an individual.
3. A major area of potential liability is the supervision and management of the security force. Supervision and management must be aggressive, continuing and require absolute compliance with identified standards.
4. Security managers must take responsibility to demonstrate that loss prevention and risk mitigation is an important component of profit generation.
5. The quality of your security officers is a critical part of your overall security operations. Services provided by “the lowest bidder vendor” are a poor investment. Quality is important and with the identification of loss prevention and risk mitigation costs, quality personnel provide quality results.
6. Security staffing is predicated on identification of risks and reasonable and appropriate countermeasures. Numerous countermeasures can accomplish appropriate security at a specific location. The security countermeasures of similar properties do not determine the appropriate standard of care for your property.
7. Training of security personnel is a vital component of providing adequate protection for your property, staff and visitors. An appropriately documented and risk oriented security officer training program, along with adequate supervision and management, is a significant defense to premises liability and negligent security litigation.
8. Verification of applicant information with an applicant signed waiver for release of information should include specific information of the applicant’s prior employment **performance and duties** and not just his period of employment. Any item appearing on the applicant should be verified in detail to ensure that employment chronologies are accurate and complete. A more stringent investigation should be conducted for those individuals interacting with the public or having access to controlled areas and information.
9. An updated verification of employee application information should be conducted at least once every three years and prior to a promotion. Circumstances and the employee’s qualifications can change from the date of initial employment due to changes in marital status, medical problems, alcohol and drug abuse, and consumer debt.
10. The corporate structure will define some aspects of security operations. Providing



*Continued on next page...*

**pré·cis** /prā'sē, 'prāsē/ *noun* 1. A summary or abstract of a text of speech.  
*verb* 1. Make a précis of (a text or speech).

## Security Operations Management...

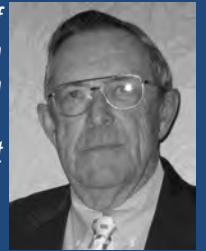
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security at a warehouse facility adjacent to the waterfront docks of a large city normally will require the wearing of a police-style uniform and accouterments because of the culture in these areas. A "soft uniform" may be more appropriate at some properties but must be readily and easily identifiable as part of the security function.

11. The responsibilities of the security element are established by management. The performance of non-security related duties, such as delivering room service meals, will significantly reduce the performance of security responsibilities and denigrate the professionalism of the security force.
12. Security professionalism is what you are actually doing and not what you claim you are doing.

13. The types of security devices and systems are virtually endless. There is no common standard for the devices and systems to be employed at a particular type facility or property. A device or measure that is not properly and consistently utilized is a greater liability risk than having no such device or measure.
14. The reasonableness and appropriateness of security measures cannot always be determined from a written standard. The security measures employed and their effectiveness, the performance of the security staff, management participation and support must be evaluated in terms of identified security risks. The resulting conclusions will identify the work of the security measures as reasonable appropriate for the specific property. ■■■

*Bill Blake is President of Blake and Associates, Inc. in Littleton, Colorado. He can be reached at 303-683-3327, on the web at [www.blakeassociates.com](http://www.blakeassociates.com).*



### REPORT WRITING "NO-NO'S"

By Bill Blake

- Never use the words "legal" or "legally." Remember you are an investigator and not an attorney, unless you have a law degree, and then be careful.
- "Draft." When you annotate a report with this title, it announces to others that there are other versions of this report. They will be reviewed for consistency between the reports and you may be required to explain the differences.
- "Probable," "substantially," or "possible" are ambiguous words. These words may show that you are not sure of the information contained in your report and should be avoided except in very rare circumstances.
- "Obviously" or "clearly" are patronizing, condescending and presumptive words. To many it would indicate that you question the reader's ability to recognize obvious facts. Insulted clients do not return for additional insults.
- "Appears," "presumably," "supposedly," "is said," or "evidently" imply uncertainty. This is another example of letting others know that you do not have complete confidence in the information in your report. If information is questionable, state that fact in clear cut language.
- "He," "she," "it" or "they": These words are confusing and uncertain as to identity. It is better to use proper names such as "Mr. Jones," or "Mrs. Smith" to reduce misunderstanding.
- Royal "we": One person is writing the report and "we" suggests more than one report writer. Using "we" to attribute success as a combination of individual collaborative efforts is commendable but not acceptable when writing a report that you will be signing.
- "Complete," "thorough," meticulous," and "exhaustive": These words are self-serving and hold the investigator to extremely high standards. During the review of your report, other ideas and investigative leads may be identified, thus bringing your "exhaustive" report into question.



# When Do PIs Become Expert Witnesses?

By Larry Ross



*Editor's Note: During an email exchange last summer, Larry responded to a number of questions posted by Rob Artus regarding what makes a private investigator an expert witness. Larry's reply is worth revisiting. This article is extracted from that exchange; Rob's questions are highlighted in the sidebar.*

- Who decides if a PI is an "expert"?
- What defines what an expert PI actually is?
- Since there are no specific educational requirements to be a PI, what defines sufficient education?
- And lastly, what is the cutoff? For example: PI #1 is non-law-enforcement and has been a successful PI owning a busy, successful agency for 20 years. PI #2 is a retired police detective with 25 years on the job, who however has been a PI for only three years, with limited private investigation experience. Which one, if either or both, could be defined as an expert witness? Is there a line or cut off, and if so, what is it and who defines it?

## **T**here are two issues only one of which really concerns us.

The first question is whether the subject about which the witness is proffered to testify is a subject for which there is sufficient science to be considered to be an area that could be proven by expert testimony. That first question is unlikely to come up in the kind of cases in which we would testify. I can't think of a real life example right now, but to pose an extreme example no one would be permitted to testify about predictions based on astrology no matter how much experience and training that person had in astrology.

An expert witness in a particular subject matter is anyone that court is willing to rule is an expert witness in that subject matter. No one is qualified as an expert witness until some court accepts that person as an expert. There has to be a first time. In order to have an attorney take a chance on proffering you as an expert witness you have to have sufficient qualifications to give that attorney confidence in you.

There is no "cut off." It is entirely subjective. Courts seldom give reasons for their rulings so you don't usually know why a court has accepted someone as an expert. It's always a gamble for the attorney who attempts to qualify you for the first time.

Once you have been qualified by a judge in a particular court in a particular subject matter, it would be extremely unlikely for another judge at that level to disqualify you. For example, having been qualified in federal court, As long as I am proffered to testify on the same subject matter, it is not likely that another federal court would refuse to accept me as an expert. On the other hand, just because I have qualified as an expert in a Maryland state court, does not mean I would have a major edge towards qualifying in a Virginia state court. Moreover, even though I have qualified as an expert on fraud issues, it is very unlikely that I could use that qualification as a basis for being accepted as an expert on an unrelated issue – such as arson.

In rare instances the court could accept you as an expert and as a result of your testimony on direct or cross-examination that court could decide that it had made a mistake and disqualify you. ♦♦♦

**ROBERT J. ARTUS** is Managing Director of The Artus Group, Inc. **LARRY ROSS** is President of Ross Financial Services, Inc. in Killingworth, CT. He can be reached at [rob@artusgroup.com](mailto:rob@artusgroup.com). Washington, DC. He can be reached at [LRoss@RFSinc.com](mailto:LRoss@RFSinc.com).



## ISPLA News for INTELLENET

By Bruce Hulme, Director of Government Affairs

**I**SPLA is committed to its proactive legislative action program for the benefit of private investigators and security professionals. We were formed in the spring of 2009. When we meet you all at the 2014 Intellenet Annual Meeting in San Juan, Puerto Rico it will be ISPLA's fifth anniversary working with Intellenet as its legislative advocate! Following the current legislative update are some of the highlights of ISPLA's accomplishments since its formation.

### ***Certification to be required for immediate access to current Death Master File under new Department of Commerce program...***

**I**SPLA previously commented on a bipartisan bill to thwart identity thieves exploiting public access to the Social Security Death Master File (DMF) to easily acquire the Social Security numbers of recently deceased persons, which they then use to file fraudulent tax returns. The bill directed the Secretary of Commerce to restrict access to the DMF to certified persons that have a fraud prevention interest or other legitimate need for the information, and it establishes penalties for disclosure or misuse of the information

A provision of the Bipartisan Budget Act of 2013, signed into law by President Obama on December 26, 2013, will bring changes to the way in which users access the Social Security Administration's Death Master File (DMF). The provision, "Restriction on Access to the Death Master File" (Section 203), directs the Secretary of Commerce to establish a fee-based certification program for all persons desiring access

to DMF data for any deceased individual within three years of death. Section 203 is scheduled to take effect 90 days from the date of enactment of the Bipartisan Budget Act of 2013, in March 2014.

To be certified under Section 203(b)(2)(A), a person must certify that he or she has a legitimate fraud prevention interest or a legitimate business purpose pursuant to law, rule regulation or fiduciary duty. Under Section 203(b)(2)(B), a person must also certify that he or she has systems, facilities and procedures in place to safeguard DMF data, and has experience in



maintaining the confidentiality, security and appropriate use of such data, under requirements similar to those under section 6103(p)(4) of the Internal Revenue Code.

Section 203 requires "periodic and unscheduled audits" of certified persons, and provides for the imposition of penalties on any certified person who discloses DMF data to a person who does not meet the requirements for certification, or to a person who uses the DMF data for any purpose other than described under Section 203(b)(2)(A) or further discloses the data to a person who does not meet the requirements for certification, as well as on any certified person who uses any DMF data for any purpose other than described under Section 203(b)(2)(A). Penalties are set at \$1,000 per person per improper

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## ISPLA News...

disclosure or use, up to a maximum for \$250,000 per person in any calendar year.

***It is important to note that until a certification program has been established, user access to the DMF will continue without interruption under the existing process.*** Once the certification program has been established, it is anticipated that non-certified users will be able to access DMF data limited to data for individuals whose date of death was three or more years earlier.

The U.S. Commerce Department's National Technical Information Service (NTIS) is actively working with the Social Security Administration to draft proposed rules for the establishment of a certification program. The proposed rules will be published in the Federal Register for public comment. ISPLA will be working with the office of Commerce Secretary Penny Pritzker regarding the proposed rules. The devil will be in the details.

## GPS Tracking...



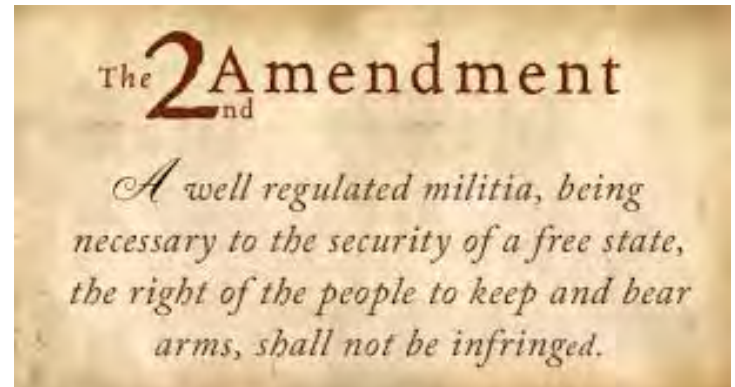
**V**ery few bills of concern at the national level gained any momentum during the first half of the 113<sup>th</sup> Congress. One federal bill still of concern to ISPLA is S. 639/H.R. 1392, the Geolocational Privacy and Surveillance Act. This bipartisan measure would outlaw GPS use

by private investigators in tracking vehicles. We expect that there will be a major push to pass this bill in 2014. In the meantime, ISPLA continues to assist states that have enacted GPS legislation allowing investigators utilizing GPS technology in lawful investigations.

New York presently has such legislation offered. S4187-2013 and A7720-2013 relates to unlawful surveillance with the use of a GPS device. An amendment was added to the original bill requiring intent to harass, alarm or intimidate the person being tracked. Thus, a private investigator conducting a

lawful investigation would not be in violation of this proposed legislation, which would amend the penal code to make it unlawful to install or use an electronic tracking device to track the movement of a person without their consent.

## Second Amendment Issue: Secure Ammunition and Firearms Enforcement Act (New York)...



**C**hief Judge William M. Skretny of the United States District Court of the Western District of New York on New Year's Eve issued a 57-page decision on New York's SAFE Act. The headline is: SAFE Act is constitutional - mostly. The subtext could be: 'What the Legislature taketh away, the Court returneth.'

The issue of greatest interest to New York's Intellenet and ALDONYS members was the seven-round clip limitation. This legislation was of particular concern to security guard companies, especially those working under government contracts requiring the carry of ten-round magazine capacity semi-automatic side arms. The District Court has clearly stricken this provision as being unconstitutionally arbitrary.

The New York SAFE Act was ruled constitutional, except for the seven-round limit on ammunition in semiautomatic rifles and three provisions that the judge said were too vague for residents to understand. Using the decision from the case *District of Columbia v. Heller* as the base, Judge Skretny noted how "the Supreme Court found that while citizens have the right to 'keep and bear arms,' as per the Second Amendment, that the right was not unlimited."

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## ISPLA News...

According to Judge Skretny, the NY SAFE Act as a whole does not infringe on the Second Amendment rights of gun owners. However, the court found that the seven-round limit was “largely an arbitrary restriction that impermissibly infringes on the rights guaranteed by the Second Amendment.” Additionally the court ruled that three clauses must be stricken from the act ---

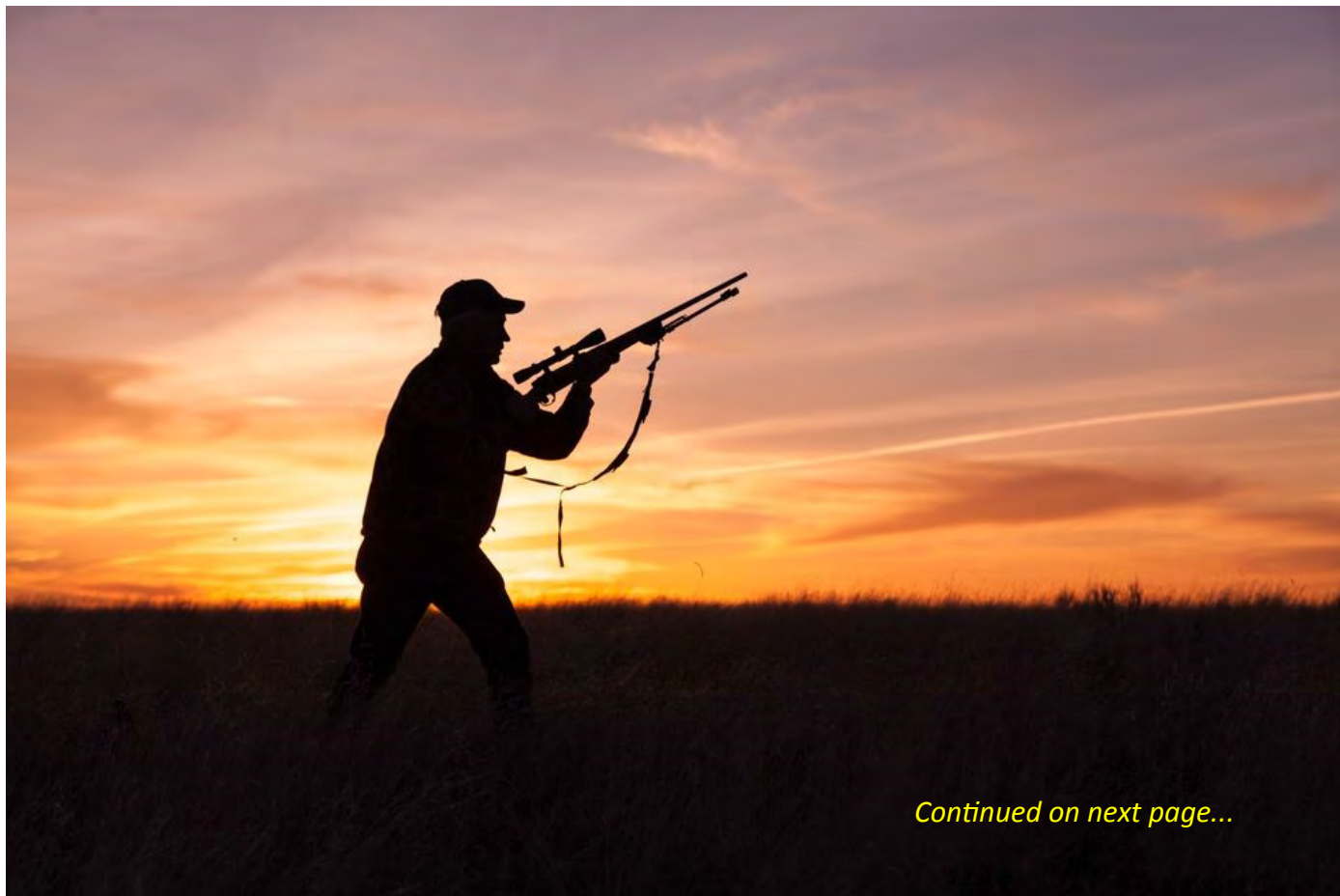
*“Further, three aspects of the law — the ‘and if’ clause of N.Y. Penal Law § 265.36, the references to muzzle ‘breaks’ in N.Y. Penal Law § 265.00(22)(a)(vi), and the regulation with respect to pistols that are ‘versions’ of automatic weapons in N.Y. Penal Law § 265.00(22)(c)(viii) — must be stricken because they do not adequately inform an ordinary person as to what conduct is prohibited.”*

The first of those provisions, the “and if” clause, reads: “It shall be unlawful for a person to knowingly possess a large capacity ammunition feeding device manufactured before (Sept. 13, 1994), and if such

person lawfully possessed such large capacity feeding device before the effective date of ... this section, that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition.” The section was intended to ban magazines that can hold more than 10 rounds of ammunition. The judge ruled that the wording of the “and if” clause in the middle of that sentence is too confusing.

The second provision, the reference to “muzzle breaks,” is in a part of the law that lists characteristics of assault weapons, such as folding stocks, flash suppressors and “muzzle breaks.” That is simply a typographical error for “muzzle brakes,” a device that attaches to the end of the barrel and reduces the rifle’s recoil.

The third provision, the reference to “versions” of automatic pistols, is in a section of the law that defines a semiautomatic pistol as an assault weapon if it is “a semiautomatic version of an automatic rifle, shotgun or firearm.” Again, the judge ruled that the language is too confusing for people to know what was being banned.



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## ISPLA News...

### Thanks to a true professional...

**I**SPLA's Executive Committee takes this opportunity to thank Larry Sabbath, the retired NCISS retained legislative advocate, for his contribution to our profession. Key ISPLA members worked with him on nearly every major legislative challenge that has faced our profession over the years. For 27 years I served on NCISS' legislative committee, including five years as NCISS legislative director. I am also a former president of NCISS, and part of my 40 years' legislative affairs experience included over

two decades working closely with Larry in Washington. Such collaboration included anti-surveillance bills, the DPPA of 1994, GBLA, FCRA, FACTA Act, anti-pretexting, spoofing and GPS bills, and public records closure.

Now approaching completion of five years lobbying for the beneficial interests of investigative and security professionals from State Capitols to the Nation's Capitol, ISPLA looks forward to working with the brand new NCISS legislative team, *Lobby-it*, as it now begins its *first* year transitioning its work for the benefit of private investigators and security companies.

## ISPLA Accomplishments

~ 2009-2013 ~

- Founded a national association with the sole mission of lobbying as our name implies, *Investigative and Security Professionals for Legislative Action*.
- Founded the first national, non-partisan Political Action Committee exclusive to the investigative and security professions.
- Established the *first and only* comprehensive, live, legislative tracking system monitoring ALL federal legislation and that of each of the 50 States specific to the investigative and security professions.
- Made contact with all 435 members of the U.S. House of Representatives and 100 members of the Senate.
- Presented the very first PAC donations to members of Congress on behalf of the investigative and security professions.
- Met with each Congressional sponsor of bills of concern to the professions.
- Met with federal regulatory agencies (e.g.: FTC, FEC, NARA, DOJ and SEC).
- Provided testimony to Congress on the issue of criminal defense reform.
- Joined a national coalition of associations and other interested parties to work on criminal defense reform at the federal level.
- Represented the investigative and security professions at the annual meetings of the International Association of Security and Investigative Regulators (IASIR). ISPLA is the only organization representing the private investigation profession on the IASIR board.
- Participated at U.S. House Judiciary Committee briefing on solutions to the indigent defense crisis.

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## ***ISPLA Accomplishments 2009-2013...***

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- Assisted numerous state professional associations in their legislative agendas and made lobbying presentations in California, Delaware, Indiana, Maine, Massachusetts, Michigan, New York, Ohio, Oregon, Pennsylvania, West Virginia, Virginia, Tennessee and Texas.
- Created alliances with like-minded stakeholders regarding particular privacy issues (e.g.: Cato Institute, First Amendment groups).
- Participated in numerous FTC Round Table Discussion series on privacy issues.
- At the invitation of the U.S. Department of Justice, participated in the National Symposium on Indigent Defense: *Looking Back, Looking Forward, 2000-2010*.
- ISPLA's Director of Government Affairs was the first non-lawyer invited to participate and represent the investigative profession on the Law of Ethics and Investigations at American Bar Association's Annual National Conference on Professional Responsibility.
- Entered into agreement with the International Intelligence Network (INTELNET) to represent their interests in government affairs, PAC activities at the federal level, and on specific international regulatory issues.
- Testified before state legislative and regulatory bodies on various proposed regulations and legislative issues such as deregulation of private investigators and contract security companies and GPS tracking.
- Continually monitored legislation posing a potential threat to investigative and security professionals.
- Successfully lobbied against passage of potential legislation detrimental to the investigative and contract security professions! Not a single bill which ISPLA lobbied against gained passage during the two-year cycles of the 111<sup>th</sup> and 112<sup>th</sup> Congress.
- ISPLA board members continue to also serve as officers, board members and legislative directors of various state and regional professional associations involving contract security companies, state licensed private investigators, legal investigators and certified fraud examiners. Close working relationships also exist not only with Intellenet, but with the Society of Professional Investigators, the National Association of Legal Investigators, ASIS International, and chapters of the Association of Certified Fraud Examiners. Members of the ISPLA Executive Committee serve in key leadership and legislative positions in each of the foregoing professional organizations.

***As*** we head into 2014, more successes are to come to ISPLA and its members each day!!!

*We are grateful to our Intellenet investigative and security professional colleagues who have supported our mission by joining ISPLA. We welcome prospective new members wishing to join our professional association. Please go to [www.ispla.org/](http://www.ispla.org/) and join today!*



***Bruce Hulme***



## *In Puerto Rico ....*

- You can order a plate full of our popular and unforgettable "*lechón asado*," and
- You can enjoy the national drink, rum. Puerto Rico is the world's leading rum producer!

# *See you in Puerto Rico!*

