



INTELNET *News*

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Peter's Posting

by

Peter Psarouthakis
Executive Director, Intellenet



Dear Intellenet Members:

Our 2016 calendar is filling up quickly, including ...

I hope that all members globally had a wonderful holiday season and a Happy New Year. As we start 2016 the Intellenet calendar is filling up. We are confirmed to be a vendor at four investigation conferences this year and are planning at least two client related conferences. This is part of the marketing plan that I have written about in previous newsletters, in our effort to recruit more members

George Michael Newman has put together another great group of educational speakers for this year's program. Our local host Bashir Rahemtulla is working on potential outings for individuals and groups while we are there. If you have not already, mark your calendars now for this great event.

"... Toronto in June! You can now make hotel reservations for our annual conference, scheduled for June 8th - June 11th ... The conference hotel is the Hyatt Regency located in downtown Toronto, Canada. Go to the Intellenet website to make your reservations."

and to attract potential clients who could use Intellenet members worldwide.

You can now make hotel reservations for our annual conference this coming June 8th - June 11th. Our traditional pre-day seminar is on June 8th. The conference hotel is the Hyatt Regency located in downtown Toronto, Canada. Go to the Intellenet website to make your reservations. Information regarding the conference agenda, speakers and registration will be posted on the website very soon.

Intellenet's success is due to the quality of members we have globally. If you know of someone who you think would be a good addition to the Intellenet family please send me a short note about them. Another great way to introduce Intellenet to potential members is to encourage them to attend our annual conference. There is no better way to recruit members than to meet with them face to face and share with them the Intellenet experience.

I wish all our members a successful and happy 2016. You can reach me at peter@ewiassociates.com. ♦♦♦

TORONTO ♦ JUNE 8-11, 2016

Click here for hotel registration ...
Program details coming soon ...

Member News

Welcome New Members ...

Rob ALVAREZ — Colbert, WA
Scott BENTON — Nashville, TN
Deena CLAWAR — Wilmington, DE
and Bryn Mawr, PA
Tammy HARDY — Phoenix, AZ
Daniel LANDIS — Kuna (Boise), ID
Jay MARIN — Miami Lakes, FL
Catherine OLEN — Kissimee, FL
Frank SHEA — Farmington (Long Island), NY
Ken WYATT — Murray, UT

These are our new members since we last published. To update your membership listing on the web, or in our Briefcase Roster, send info to intellenet@intellenetwork.org.

Latest edition of “Code of Professional Conduct” by Kitty Hailey, CLI now available...

When it first appeared a few years ago, Kitty’s book on ethics for the investigative profession quickly became the standard bearer in establishing guidelines and boundaries on how we conduct ourselves as professional investigators. The third edition is now available and can be ordered on Amazon or, better yet, on Kitty’s web site, www.kittyhailey.com.



Kitty will be a presenter at the annual conference of the National Association of Legal Investigators, April 27-30, 2016 in Atlanta, GA. Kitty’s talk, “Ethics in a Changing World,” will highlight the impact of social media, advanced surveillance technology and data storage on how we do business.

“Fighting Fraud on the Go ...”

Charter member, **David L. Ziegler, CFE, VSM** is highlighted in the September/October 2015 issue of *Fraud Magazine*, the official publication of the Association of Certified Fraud Examiners with a large national and international distribution. The cover article, “Fighting Fraud on the Go” by Robert Tie, CFE, CFP, detailed state of the art time-saving smartphone apps to assist investigators in the field.



Dave was quoted as an expert in this new field. He recommended several smartphone apps valuable for relaying information to the client directly from the field. The full article can be read online on the CFE website: <http://www.fraud-magazine.com/article.aspx?id=4294989560>.

Dave’s website where he evaluates useful smartphone apps is: www.appsforinvestigators.com. The “exclusive” section is free to Intellenet members. Dave also Tweets at: [twitter@apps4invests](https://twitter.com/apps4invests).

White papers now available on the Intellenet web site, on the members “Resources” page ...

Two critical articles on travel and terrorism by Joel Edward Gross, Ret., Risk Strategies International, LLC, can be found on our web site:

- **Travel Guidelines—Executive Security Guidelines**
- **TERRORISM 101: Recognizing and Responding to Terrorists and to Terrorism.**

Anyone not a member of Intellenet may request a copy of either paper by submitting their name and a reason for the request, to intellenet@intellenetwork.org.

Member News continues on next page ...

Sandra Stibbards' webinar featured in a Wall Street Journal article ...

In the December 18 edition of The Morning Risk Report, WSJ columnist Stephen Dockery offered a write-up of one of Sandra's webinars, "Finding Beneficial Owners Using Open Source Intelligence," sponsored by the [Association of Certified Financial Crime Specialists](#). The author is obviously impressed with the quality of Sandra's program. He quotes her in the article discussing the value of looking for chatter on social media sites to gather information on companies, especially when anonymous posts sometimes lead to identifying individuals who may have been involved in fraud.



The Morning Risk Report is a daily blog available to WSJ subscribers. The Dec. 18 column can be found [here](#). For more on Sandra's OSINT presentations, click her logo.

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"Counter Intelligence: Business Opportunities for Private Investigators ..."



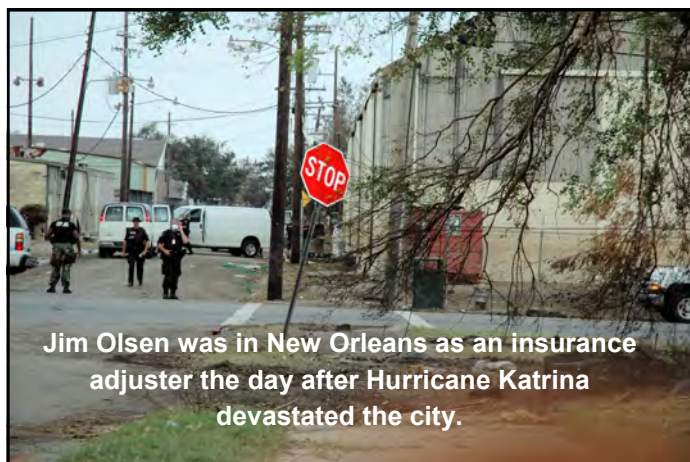
Bill De Genaro presented the captioned topic at the annual conference of the Michigan Council of Professional Investigators in Novi last October. Bill has an extensive background in strategic planning, intelligence and business management experience. He served on the board of directors of the Society of Competitive Intelligence Professionals.

Other Intellenet members in attendance at the MCPI conference were **Brandy Lord**, president of the Indiana Society of Professional Investigators, and **Don C. Johnson, CLI**, who spoke on pre-employment screening.

Intellenet members were presenters at the IASIR conference in New Orleans ...



The International Association of Security and Investigative Regulators held its 2015 conference in New Orleans last November. Four Intellenet members were on the program. Seen above, left to right: **Bruce Hulme, Nicole Bocra, Don C. Johnson** and **Jim Olsen**. Bruce and Don were part of a roundtable presentation on "Threats of Deregulation" and "Disruptors to the Regulated Sectors." Nicole hosted two sessions on "Using Social Media," and Jim spoke on "When Disaster Strikes: The Investigator's Role." Jim's white paper on this topic follows.



Jim Olsen was in New Orleans as an insurance adjuster the day after Hurricane Katrina devastated the city.

Courtesy Photo: Jim Olsen

Member News continues on next page ...

PI Tips & Tricks ...

Tom Miles, Hawk Security Company in Germantown, Tennessee, is retired but he sent us a memo with some great “tips” and “tricks” that served him well over the years. We will share more in future issues. Thanks Tom!

- 1. KEEP YOUR MIRRORS FROM FOGGING...**Use foam shaving cream – not the gel – and smear a light coat on bathroom mirrors. Wipe it off with paper towels or toilet tissue and buff out smudges or smears. The mirror will not fog up for several days despite hot showers or baths. Do the same with eyeglasses, binoculars, camera lenses, telescopes, etc. For vehicular surveillance in bad weather, use this process for auto windows inside and out plus the side mirrors for clear visibility.
- 2. WHAT’S THIS PHONE’S NUMBER?** Use the MCI phone tracer number (1-800-444-4444). You’ll get a recording which will announce the Area Code and the phone number of the phone in your hand. It works on all phones --- landline, cell, listed, unlist-

ed and published or unpublished. So, never let someone borrow your cell phone for any reason.

- 3. WHAT’S THIS CELL’S S/N?** On a cell phone, type in *#06# on the key pad to see a lengthy serial number for the phone which appears on 90%+ of all cell phones. If your cell phone is stolen or lost, call your provider and give them the serial number. They can then cancel out that phone worldwide even if the SIM card has been replaced. If the serial number does not show on your phone, refer to “ask.com” for instructions on how to retrieve the serial number for your particular cell phone model. It’s suggested that an extra digit be placed at the beginning and end of your serial number for safe storage somewhere. You may also see IMEI which stands for *International Mobile Equipment Identification*. Once your cell phone provider has your IMEI, they can immediately destroy that particular phone worldwide to simplify buying another.



INTELLENET members were prominent at the annual Christmas dinner of the Indiana Society of Professional Investigators in Indianapolis on December 6. Front row, left to right: **Bill Clutter**, recently relocated to Indiana; **Brandy Lord**, President of INspi; **Bill Parker**, recently relocated to Indiana. Back row, left to right: **Dave Shelton**; **Ken Shelton** (no relation); **Don C. Johnson**; and **Bob Hopper**.



When Disaster Strikes: The Investigator's Role

By Jim Olsen, Burlwood Associates, New Orleans

This article will share insights gained over 30 years of experience in the investigation of commercial liability, construction, insurance and financial fraud related matters.

This article will touch on claims adjusting vs. claims investigations vs. private investigations; regulatory hurdles and licensing requirements; operating in a devastated area; follow-up after the Initial Investigation; and how to get out gracefully.

This background is presented simply to show how you can develop clients for additional business based on you or your employees' previously gained experience and knowledge. We are in an era of specialization. Your background can directly influence what additional areas of expertise you may wish to pursue.

Advancing to today's situation was an evolutionary process. It began in the construction industry. As the size and complexity of the projects increased my clients needed money for their projects. Locating money for them

became a value added resource. That was the mid to late 80's, an era fraught with fraudulent borrowers and lenders. Fake letters of credit out of Europe were common place. I was recruited by a former DEA agent turned private investigator who was working with the FBI; we began examining loan fraud and fake letters of credit.

Investigating fraudulent claims started as a licensed adjuster and private investigator registrant. Also investigated was fraud related to the real estate crash in Dallas in the early 90's. There were other significant financial malfeasance investigations. This coupled with a construction background lead to investigations of fraudulent insurance claims. This experience, in addition to taking multiple classes, attendance at conferences, and affiliations with trade associations that sponsored educational seminars regarding investigations taught me the nuts and bolts of investigations.

Deep inside the performing of investigations was always a goal. The early days of watching Joe Mannix, Jim Rockford, and Frank Cannon on TV

were intriguing. It didn't take long to discover that the high speed chases in fancy cars, gun play, fist fights and beautiful women, were all Hollywood fantasies. Darn, Darn, Darn!

My introduction into the real world of investigations during disasters started with hurricane Andrew in 1992, followed by the massive hail storm in Texas in 1995. Smaller, less notable disasters occurred in between, and then along came Katrina. The next disaster was the Deep Horizon oil spill in the Gulf of Mexico. The claims, claims process and personnel are examined here.

What makes me qualified to write this article? I've made almost all of the mistakes!

TYPES OF DISASTERS ...

We have a tendency to think of all disasters as natural, such as hurricanes, tornados, damaging winds, floods, wild fires, and earthquakes. But what about manmade disasters? There are ter-

Continued on next page ...

rorist attacks worldwide and civil insurrections for a multitude of reasons. The motorcycle club shootings in Waco, Texas resulted in 160 people being indicted. These all require either an immediate response or follow up investigations as criminal trials, wrongful death and other civil actions are initiated.

GETTING STARTED ...

Draw on you and your employees' skills and experience. Although some clients prefer working with former law enforcement, that isn't the only training ground that proves effective in investigations. It is certainly beneficial in criminal defense, but what about the civil side of investigations? Many of us worked into the business from other backgrounds and can use that knowledge and experience to be effective investigators.

Remember the advice from the sage Dorothy from the Wizard of Oz, "There's no place like home." Being careful not to step on the toes of your immediate contacts, go to the head of the food chain of your current clients. Let them know what your capabilities are. Most non-management staff is authorized to retain outside contractors. More and more companies are relying on technology to settle claims. However there is still a critical need for experienced, professional boots on the ground.

Avoid the current "Fake it until you make it" trend. Even though there will always be a learning curve, tell your clients about your strong points. Use your investigative interviewing techniques to gain insight into what they

think is a proper course of action for disaster response. Many companies have plans in place, some do not. Working on a plan together will help build or secure a relationship with them. Be careful not to let your experience color your open minded view of this dialog. One of the most dangerous things an investigator can do is to



approach this with preconceived concepts. This is also true when marketing to current or new clients. Add insight from past experiences, but remain open to newer or their proprietary methods. Find a need and fill it.

Start with your current clients who have operations in multiple states. Insurance companies can include "The Big Four," Lloyds of London and non-admitted carriers. Contact law firms with offices in multiple states, and government agencies. All are potential clients. Many, if not all, may have regional or corporate offices in your home town. If possible make personal visits to their offices. Nothing trumps face-to-face introductions. If that isn't possible, keep an open line of regular communication with them. News-

letters and updates on legislative issues or current trends is a good method to use. Remember, if you don't reach out to them someone else surely will.

Non admitted carriers are companies that may not meet the financial threshold required by insurance regulators. It doesn't mean that are not good companies, they simply aren't large companies. They can be an excellent source of business and a pleasure to work for. Most are trying to gain a larger share of the market. They do this by developing a reputation for being fair and promptly settling claims. That makes your job much easier and enjoyable.

TYPES OF LICENSES ...

Expanding your business or becoming a more valuable resource to your clients may require additional types of licenses, beyond your security guard agency or private investigator firm licenses. These could include licensing as an insurance adjuster and, for example, the National Flood Insurance Program (NFIP) Certification. The Certified Fraud Examiner (CFE) designation offers added credibility and opens doors for specialized investigations (<http://www.acfe.com/>).

Insurance Adjuster Licensing ...

This is usually a simple process in most states: Take a forty hour class offered by private schools or community colleges, complete an examination, pass a background check and you become a licensed adjuster. The licenses are generally accepted statewide. You don't have to know anything about coverage, estimating, investigations,

Continued on next page ...

or have previous experience. Of course getting an insurance company to employ an inexperienced person is another matter. However, in a disaster area, you never know who they may accept.

Many jurisdictions offer reciprocity via a registration process that will allow you to investigate claims if you are licensed in another state. They may eventually ask that you go through their licensing process. You can usually work for 30 to 90 days as a registrant. Florida is one of the most difficult and restrictive states to obtain licensure. The state, policy holders and insurance companies took a real financial beating during Andrew and significantly tightened their regulations and requirements.

Generally an adjuster's license will allow you to investigate property/casualty and general liability claims. Specialized certification is required to investigate Workers' Compensation and Earthquake claims. Surveillance of Workers' Compensation claimants is not authorized under an adjuster's license.

There are designations such as Associate in Claims (AIC), and Chartered Property & Casualty Underwriter (CPCU) and other designations that will give you more credibility and possibly an edge over other contenders. (AIC - www.theinstitutes.org; CPCU — www.aicpcu.org)

Although there is a registration process and an association representing "General Adjusters," it is a self imposed title / classification for fully licensed adjusters with many years of experience and knowledge of multiple types of coverage and claims processing.

Insurance and private investigations require many of the same skills and knowledge. A fine line of distinction exists between the two disciplines. Be aware of each state's statutory regulation in defining the differences.

The primary distinction lies in what you are investigating. Typically when you investigate an occurrence related to damage involving physical injury, life or property and records pertaining to it, you are covered under an adjuster's license. This could include obtain-

ing recorded interviews of the insured, claimants or witnesses regarding the occurrence.

As soon as you step over the line and begin investigating people, their current activity or background of even the named insured, a PI license is required.

There is NO substitute for good legal advice.

NFIP Certification ...

This requires at least five years of direct experience in claims adjusting, three verifiable trade references, and attending an initial and annual eight hour recertification seminars. The classes are held around the country in early spring so they do not interfere with the typical flood season. Reciprocity isn't an issue as the certification is accepted nationwide.

There are five types of NFIP coverage:

- 1) Residential,
- 2) Manufactured Housing,
- 3) Small Commercial,
- 4) Large Commercial, and
- 5) Residential Condominium Building Association Policy (RCBAP).



Continued on next page ...

To get certified you must have experience in all of these areas. There are three levels of certification. The first three levels of coverage are authorized under one certification. Large Commercial and RCBAP require individual, separate certifications.

There are logistics companies that will connect you with companies that write flood programs. One such company is Catastrophic & National Claims (CNC).

www.adjustingexpectations.com. There are others.

NFIP companies and logistic firms have various requirements such as specific adjusting software, the type of equipment required or methods for reporting. NFIP adjusting and reporting is a complicated, exacting task. There is little to no margin for error. You are held personally liable for errors or omissions. See <https://www.floodsmart.gov>.

Public Adjuster ...

One other form of disaster response personnel is a Public Adjuster. They represent the policy holder against the insurer. They typically are not licensed. Most jurisdictions require they be registered with the insurance commissions which may require Errors and Omissions Insurance. All forms of licensing require recertification, renewal fees, continuing education, and other ongoing annual expenses.

CHARGING FOR YOUR SERVICES ...

Depending on the type of disaster, most companies expect to pay a premium as a result of the challenging work environment and increased costs of travel and other expenses.

You can set a fee based on the amount of the claim paid or requirements of the assignment. Some private or public companies have set fees. Programs such as NFIP set the fee that includes your expenses, which can be formidable.

“I had one investigator charge me not only for an item he purchased, which could have been reused on other matters, but the time and mileage to travel to the office supply store.”

Hourly rates are the most common. There are only so many hours in a day, so you will cap your income. Expenses can be assessed as a per diem or actual expenses for lodging, meals transportation or extra ordinary costs of doing business. Per diem is the simplest way to bill the client and your client has an assurance of their costs. With this method you can come out ahead or end up coming out of pocket. All costs and expenses can be significantly higher in a disaster area. Charges for itemized expenses can require significant record retention and bookkeeping time as well as invoicing expenses. Your client will likely want an itemized list of expenses and copies of all receipts with your bill.

Be careful not to nickel and dime them. An example of that would be

charging for long distance telephone. Most cell and land lines have built in long distance fees. Another example is cost per page for faxes, if anyone even uses them anymore, or charges for minimal amounts of photocopying. If you charge for digital photos, be reasonable and only if you have to print hard copies. I had one investigator charge me not only for an item he purchased which could have been reused on other matters, but the time and mileage to travel to the office supply store. It might be a good idea not to do that unless there are some very unusual mitigating circumstances. Savvy clients know the game. Learn it and play accordingly.

BECOMING THE EXPERT ...

There are three or four legal definitions of what constitutes an “Expert.” A very simplistic definition is you know more about the subject at hand than the other people with whom you are working. You will have to appear before the judge adjudicating the matter to be approved in their court. Expect to be challenged by opposing counsel similar to the cross examination of Ms. Mona Lisa Vito in “My Cousin Vinnie.” Being thoroughly prepared, as she appeared to be but in reality was not, is the best method for deflecting their objections.

Protect that appointment jealously. There is a method of being disqualified referred to as the “Daubert Challenge.” It is the result of a trilogy of court cases that establish standards for expert testimony. Once disqualified in ANY jurisdiction you could be tainted in EVERY jurisdiction.

Continued on next page ...

SEAK is probably the leading source for information on becoming an expert witness (<http://www.testifyingtraining.com>). There are numerous other sources in the form of books, online references, and other printed materials about what is required to become and continue as an expert witness. Read up.

Have available and good relationships with degreed and other professionals. For weather related events have climatologically accurate, historical, weather record data sources for such events as lightning strikes, hail storm data, wind velocity, precipitation amounts and so forth. The National Oceanic Atmospheric Association (NOAA) www.noaa.gov/ and other quasi government agencies can provide a wealth of certifiable current and historical weather related information. One private source for historical weather event data is CompuWeather.com. There are others.

Other people you need to have at your disposal are forensic structural and civil engineers (PE), medical professionals (MD, LPNO, forensic accountants (CPA), other alphabet designated professionals, and even an attorney knowledgeable in insurance and investigations. They are not as easy to find as you may think. Make certain you know their areas of expertise and reputations. You will be painted with the same brush if they are less than knowledgeable or ineffective.

Having these types of professionals at your disposal adds to your credibility and value as an expert in your field.

WORKING WITH REGULATORS ...

They are there to help and protect their citizens from evil people like adjusters and PI's. They too are under extreme pressure and probably working in a less than optimum environment.

You will, for the most part, be dealing with staff and not management.

Working in a disaster situation may be a new experience for them. Show you are a professional in the way you interact with them.

Warning - Warning - Warning! Know the laws!!! Know the laws!!! Know the laws!!!

Make certain you know your client's requirements, limitations, reporting timelines, and the statutory and regulatory requirements. Did I mention know the laws?

WORKING CONDITIONS ...

Depending on the type and extent of disasters there can be a total lack of infrastructure.

Police presence will be plentiful. They are NOT there to protect or assist you. Their duty is to protect their citizens and their citizen's property. Plus they will be too busy to help you.

There may be NO: fuel, food, water, electricity, housing, telephone, Internet, hospitals, medical facilities, pharmacies (not the legal type anyway) mail, overnight deliveries, or banking. Think third world countries - or worse.

Have a strong stomach and keep your sense of humor. The stench of death and pollution can be difficult to bear. There will likely be disease and toxic material everywhere. Take protective

clothing and ways to sanitize everything you have with you.

HAVE AN EXIT STRATEGY, OR "GETTING OUT GRACEFULLY"...

This may not be as easy as you think. I thought Katrina would take six months. With the litigation it lasted six years.

Even before you are assigned to or are deployed to a disaster area, let your client know what you can and cannot do. Let them know how many people will be on your team and if you will rotate them out of the area on any type of schedule. Agree on how you will report your findings. Advise them on what type of equipment you have and determine what support you can expect from them or what they can provide. Typically it won't be much.

Discuss with them if will you be available for follow up. Are you prepared, qualified and willing to participate in litigation either as a fact witness or expert? Will you maintain a presence in the area for a period of time after the matters are mitigated? Are you willing to take smaller assignments in the area during or after the disaster is managed?

Luck is defined as "When preparedness meets opportunity." If you are prepared when an opportunity to respond to a disaster presents itself, you can become a valuable asset to your clients. ♦♦♦

© 2016. Jim Olsen is with Burlwood Associates in New Orleans . Contact him at Jim.Olsen@brlwd.com or phone (504) 301 3623.

PREPARING FOR THE THREATS WE FACE

Time to Update Your Crisis Management Plans

BY JACK DEVINE, THE ARKIN GROUP

The Islamic State (ISIS) has shifted its gaze from an exclusive focus on establishing a caliphate in the Middle East, to global strikes against the homelands of its enemies. In short order, ISIS has struck Lebanon in dual suicide bombings that left 43 dead; it has taken credit for downing the Russian airliner over Egypt killing all 224 people on board; and it has carried out the November 13 orchestrated attacks against half a dozen civilian targets in Paris, killing 129 and wounding several hundred more. Now ISIS has threatened to attack Washington, D.C. and New York City.

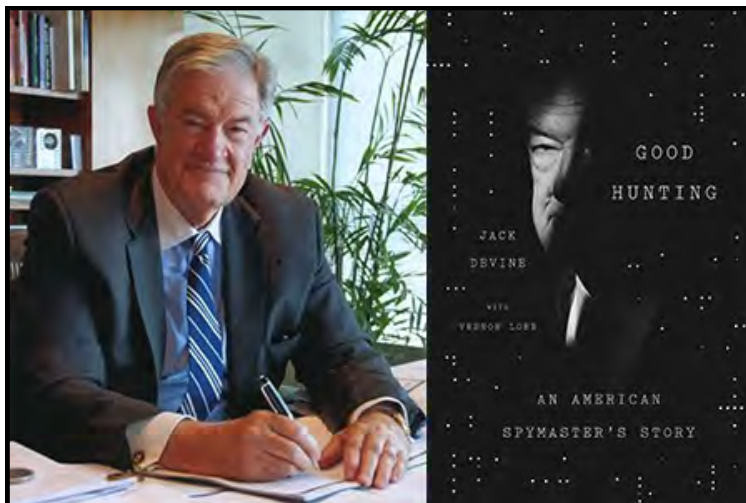
The *New York Times* estimates that ISIS may be responsible for nearly 1000 civilian deaths from terrorist incidents outside of the battlegrounds of Iraq and Syria. For the moment, ISIS seems to have the *will* to carry out mass casualty attacks, and that is the key hurdle--fielding a significant number of recruits who are willing to carry out a coordinated suicide mission.

For companies with businesses in major Western cities, it is time to revisit crisis management, business continuity and life safety plans. Company plans must reflect current operations, personnel and business priorities.

YOUR CRISIS MANAGEMENT PLANS SHOULD INCLUDE:

- *Protocols to escalate and brief leadership*
- *Personnel accounting mechanisms*
- *Redundant communications*
- *An active shooter protocol*
- *Procedures for sheltering-in-place*
- *Tips for reducing risk in everyday situations*
- *Resourced and rehearsed remote work options*
- *Up to date emergency supplies*

Perhaps most critically, *don't ignore executive and employee training*. In addition to having plans on the shelf, people must know what to do when a crisis hits--this includes those who are managing the crisis as well as the rank and file. ♦♦



Jack Devine is author of "Good Hunting: An American Spymaster's Story." He is now head of the Arkin Group. They have a narrative on the Supplemental Support Group on the Intellenet web site.

TRAVELER'S WORLD THREAT MAP

PROVIDED BY MAYER NUDELL, CSC
SPECIALIZED CONSULTING SERVICES • N. HOLLYWOOD, CALIFORNIA USA
WWW.SPECONSULT.COM

Traveler's World Threat Map

November 2015



- Extreme Threat
- High Threat
- Medium Threat
- Low Threat

While the information used to prepare this map is believed to be accurate, conditions since its preparation may have changed. Users should verify current conditions in the countries to which they plan travel. All geographic divisions are approximate.

MAYER NUDELL
Specialized Consulting Services

map@speconsult.com

Special thanks to Mayer for providing his Traveler's Threat Map. For updates on worldwide threats, contact Mayer at Mayer.Nudell@speconsult.com.



ISPLA News for INTELLENET

By

Bruce Hulme H. Hulme, CFE, BAI
ISPLA Director of Government Affairs

From November 11 to 13, 2016 I attended the annual conference of the International Association of Security and Investigative Regulators (IASIR) in New Orleans. The theme of the meeting was "Regulation in the Eye of the Storm." IASIR is an association that represents state and provincial regulators from the U.S., Canada, and the United Arab Emirates. The regulators have governmental jurisdiction over private investigators and the security, alarm, and armored car industries. ISPLA board members Jim Olsen and Nicole Bocra Gray, both also members of INTELLENET as well as members of ISPLA's board, were speakers at this event on "When Disaster Strikes: The Investigator's Role" and "Using Social Media."

As the sole elected board member representing the interests of private investigators, I acted as a moderator and presenter in addressing the subject of Unmanned Aerial Systems (UAS, commonly called drones), and assisted INTELLENET member Don Johnson, who moderated a panel on the current legal/licensing status of Trustify, formerly known as FlimFlam. He also prepared a 6-page white paper "Why Licensing?" which he presented before this annual IASIR conference.

Trustify claims to be nothing more than an App-based electronic referral platform that connects consumers with vetted and licensed private investigators. The commercial

use of drones by investigative and security professionals and the emergence of an "Uber PI" type business plan could both be viewed as disrupters in our profession. IASIR posed the following outline regarding the first subject in a "Lightening Roundtable" format as follows:

LIGHTNING ROUNDTABLE: DRONE USE FOR INVESTIGATIONS OR SECURITY

The Federal Aviation Administration deems it illegal to fly UAVs for commercial use, including film and television. However, investigators and security companies are using the remote-controlled aircraft to snap images to better suit their investigations. How are drones being used by licensees in your area and what regulations are currently in place?

The Federal Aviation Administration has ruled that commercial uses of UAS or drones without first obtaining a special waiver under Section 333 of the FAA Modernization and Reform Act of 2012 (FAA Act) are illegal and subject to a \$10,000 fine per violation. However, for recreational use of drones, Section 336 of the FAA Act has established that as long as the drone is "operated in accordance with community based guidelines," weighs 55lbs or less, does not interfere with manned aircraft, and avoids flying within five miles of an airport unless certain notice is given, then such use is legal.

To date at least one, and possibly two licensed private investigators who are also licensed pilots, have been granted a waiver from the FAA to operate a drone for commercial

Continued on next page...

purposes. Most waivers however have been granted to the motion picture and TV film industry, real estate businesses, aerial photographers for agriculture and forestry purposes, and to pipeline inspection firms.

Pilots have reported over a thousand incidents of near-misses with drones. Drones have hindered firefighters and rescue operations; a drone operator was killed in a New York City park when his UAS landed on his head and the propellers removed the top of his skull. A Connecticut Muslim pled guilty to an attempted act of terrorism in planning a drone attack with explosives against that state's capitol building in Hartford and undertaking a similar plan against Harvard University. In October, the FAA proposed a record \$1.9M fine against SkyPan International of Chicago for conducting dozens of unauthorized flights over New York and Chicago.

There are also state laws relative to privacy issues and trespass on property. Intrusion upon seclusion and publication of private facts are tort causes of action with respect to protecting privacy. Thus far 45 states have considered 165 bills regarding drones in 2015. In October, a Kentucky judge dismissed state charges against a man who shot down a drone hovering over his property.

UAS sales, according to the Consumer Electronics Association are estimated to top 700,000 for recreational drones alone, a 63 percent increase over last year. On October 18, 2015, the FAA announced that it would re-

quire all drones, commercial and recreational, to be registered. Rulemaking is presently in the works on this with recommendations scheduled to have been completed by November 20, 2015. The FAA is also working to



"... a drone operator was killed in a New York City park when his UAS landed on his head ..."

enact additional rules with regard to commercial drone use to be finalized in June 2016.

In November the House Committee on Energy and Commerce held a hearing entitled "The Disrupter Series: The Fast-Evolving Uses and Economic Impacts of Drones." In an opening statement one House committee member estimated that 1 million drones are expected to be sold in the Christmas season this year.

The topic generating the most interest from regulators and attendees at the IASIR conference concerned the controversy over the question of Trustify being deemed a private investigative agency requiring state licensure or merely an electronic platform App connecting consumers with quali-

fied state-licensed private investigators and not needing a license. The IASIR introductory format on this subject was as follows:

LIGHTNING ROUNDTABLE: DISRUPTORS TO THE REGULATED SECTORS

Trustify – Is this app a precursor to an “Uber PI” or is it a multi-state unlicensed detective agency?

Trustify’s founder says the company doesn’t need a license because they only provide a digital gateway for consumers to find a local PI; however, Trustify solicits money from consumers and sub-contracts the work to local investigators, with the largest portion of the hourly fee going to Trustify. Many professionals and some in the regulatory community consider this solicitation of business, which requires licensing in most places. Will Trustify generate controversy like Uber has for the taxi industry? What is the larger question here about how the digital world is impacting the regulated sectors?

This emerging issue will affect future regulation of the private investigative field. This article is only an overview on the subject. I have previously apprised our profession of some of the potential implications of such "Uber" PI type services. The leadership of other national and state investigation professional associations would be wise to make their concerns known to their state regulators and lawmakers.

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The business model of this plan is more than just a membership directory of private investigators; it could be argued that it is an unlicensed detective agency. Furthermore, its promise to refund fees should their referred investigators be unable to obtain the desired results sought by the client, in some situations might border on conducting investigative services on a contingency basis -- a retention method illegal in some states. Thus far, ISPLA is the only national lobbying trade association addressing this issue, notwithstanding the fact that we have reported on this subject in several publications during the past year!

The fact that Trustify states it is not a private investigation agency does not make that a fact. The manner in which Trustify processes its cut of the financial proceeds directly from the client — and provides the initial investigative case assignment to its selected investigator (subcontractor) — appears more like an agency relationship with the assigned investigator and consumer client than a referral service or directory. My guess is that some states will require Trustify to become licensed as a PI agency, and others will not.

For example, Ed Warren, Chief, Bureau of Regulation and Enforcement of the Division of Licensing, Florida Department of Agriculture and Consumer Services, responded to a Florida private investigator (and INTELLENET member) who submitted information to that state's licensing authority relative to the question of Trustify needing a private investigator

license that it does not. ISPLA questions the wisdom of that decision.

Mr. Warren in September wrote: "*In follow-up to your inquiry regarding 'Trustify'; as I noted in my previous e-mail, I thought the business model was similar to that of forwarding companies involved in the recovery/repossession business. With the for-*



warding agencies, if the agency clearly posts a disclaimer in their advertisements indicating that repossession activities are assigned to licensed agencies (within the State of Florida) and that their specific business conducts no repossession activities themselves, then there is no violation of Chapter 493 that needs to be addressed. There would also be no violation for recovery agencies in Florida that accepted work from the forwarding companies." He went on to state: "A review of Trustify's website revealed a similar disclaimer which I have included for your review (cut and pasted from their site): "You acknowledge and understand that Trustify is not a private investigation agency and does not perform any private investigation services. Trustify is the platform that enables you to find, communicate with, retain, and pay a

third party licensed private investigator. You agree that Trustify is not responsible or liable for any private investigation services provided to you by third party private investigators you engage through the use of the Service, except as expressly stated in these Terms and Conditions ... Based on the above, it is evident that Trustify does not advertise themselves to be a private investigative agency nor do they provide private investigative services. This matter was reviewed with the Division's Assistant Director and Senior Attorney Supervisor who concur that due to the similarities, there does not appear to be a violation that would need to be addressed."

However, at the IASIR session on this topic, the Vice Chairman and general Counsel of Trustify, Justin Guilder, who was also present, was questioned by Don Johnson and me. We obtained a copy of his overview regarding the manner on how Trustify currently operates.

HOW TRUSTIFY WORKS Overview...

Trustify operates as a lead generation broker service, directly connecting consumers with private investigator licensed in the state in which the work will be performed. Trustify employees do not perform any investigative work. Trustify does not contract with consumers to provide investigative work; rather, Trustify connects the investigator and the consumer for a direct contracting relationship.

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Trustify explains to the consumer that Trustify is not a private investigative agency and does not itself perform any investigative work that requires a private investigative license. This is disclosed to the consumer on every Trustify website and the Terms of Use.

Consumers speak directly with their investigator once Trustify has matched the consumer with a licensed private investigator.

Vetting of Private Investigators...

After a Private Investigator applies to become part of the Trustify network, a network manager from Trustify confirms the license status of the investigator through the appropriate state website.

Once an investigator's license status is confirmed, the Trustify network manager will conduct a general interview with the licensed private investigator for evaluation purposes, and a more detailed conversation to determine their areas of specialization, regional coverage, and case type preferences.

Trustify also conducts a background check on the private investigator as a final step before including the private investigator in the Trustify network.

Connecting a Consumer to an Investigator...

Once a consumer contacts Trustify

to be connected to a private investigator, a Trustify employee explains that their initial consultation with the investigator will occur within 48 hours.

Trustify then attempts to contact the closest, available investigator with relevant subject matter expertise.



“We offer a pay scale up to \$30 an hour based on their level of law enforcement experience ...”

An email or phone call to the consumer then introduces the consumer to the investigator.

The investigator then conducts an interview with the client to assess whether the investigator will accept the requested job. This initial consultation is free. Any pre-paid fees will be refunded to the consumer if either the investigator or the consumer declines to proceed with the investigation.

Consumer Protection Features...

To ensure customers complete

control over the billing process, Trustify empowers customers with the express authority to pre-authorize all investigative hours. Once an investigator runs out of pre-authorized hours, the investigator must request customer authorization for any and all additional hours. Customers can authorize a single hour or multiple hours. Trustify does not bill a customer for any hours that were not explicitly authorized.

Trustify has obtained \$3,000,000 of professional liability and errors and omission coverage and \$5,000,000 umbrella coverage, including auto coverage, that provides insurance coverage for all private investigators while performing investigative work on any case referred by Trustify to the investigator.

FlimFlam Investigations, now referred to as Trustify, reportedly raised over a million dollars via online crowd funding to launch their free Trustify app that provides consumers on-demand private detective services. Its advertising line of inquiry includes: *“Think your significant other is cheating? We'll help you find out for sure in the easiest and least expensive way possible....Simply give us their picture, time and location where you think they'll be and we'll do the rest. Private investigators have been the go-to way of getting answers, but their high fees*

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and thousand dollar retainers made it hard to justify hiring one. Trustify takes the risk out of working with a PI: with a flat hourly rate, you can find out what you need, when you need to know it." The company will use the seed round for increased marketing and to "reach profitability."

ISPLA also obtained a copy of a FlimFlam solicitation letter to an investigative colleague seeking to retain a licensed private investigator to handle assignments that have been obtained through the Trustify APP. It stated in part:

"The majority of our customers' requests are for minor investigative work ranging from 1 to 2 hours at a time. The hours vary but the amount of work continues to grow. We offer a pay scale up to \$30 an hour based on their level of law enforcement experience. Payment is processed every two weeks, so depending on the amount of work or assignments you take on, your pay is only limited to how much work you want to handle. Right now all assignments are issued through direct contact from our office but soon we will have our APP set up so all investigative work will be issued through the APP and anyone who wants the assignment just initiates the APP and the work is yours. The Client will have a completed request sheet which will be delivered to the person taking on the assignment."

According to a March 2015 Washington Business Journal article, at that time there were 50 private investigators working with FlimFlam, which had been reportedly valued at \$5 million. Charging a base price of \$150 for

a two-hour job (although the firm's website initially stated \$59 per hour as the going rate, the hourly rate is now indicated as \$79), this start-up splits the fee equally between FlimFlam and the contracted private investigator. More extensive investiga-

"ISPLA's opinion is that Trustify is currently operating as an unlicensed private investigative agency based on the documents we have reviewed and the information contained on its website."

tions and background checks are available for additional fees. Their direct approach to the potential client is: "You deserve to know... - if your partner is cheating on you- if your kids are in safe hands- if the person you're dating is who you think they are- if your ex is following the custody rules (or if their partner has red flags you need to know about)- if there's any reason not to hire a candidate- if someone in your life is hiding something- if we can locate someone you need to serve with legal papers."

FlimFlam service, initially launched in Washington, D.C., plans to expand to two other cities and has been contacting licensed investigators in Pennsylvania. The company expects to launch nationwide in 2016. Once they obtain information about the potential client's case, they attempt to

match the client with an investigator experienced in finding the answers the client seeks. Cases typically get assigned within 24-72 hours. They also state: "The information you provide will always be safe with us. And don't worry -- you can cancel any time before your investigation begins and get a 100% refund. That's our guarantee to you!" Costs appear to be from \$59 per hour, one hour minimum. They claim the investigators used are experienced and bonded. Its founder, Danny Boice, initially claimed to have ten employees with access to 2000 licensed private investigators. Subsequently we were informed they had a staff of one hundred.

During the IASIR roundtable session on the Trustify issue Mr. Guilder admitted that his firm had not addressed the manner in which sales taxes are presently collected or will be collected from clients in states that charge such taxes on private investigative services. He acknowledged that Trustify does not conduct any due diligence on the client or ascertain the legality of the requested services to be furnished and leaves that responsibility to the private investigator assigned. We noted that although Mr. Guilder states that assignments are given to those investigators having the desired skill and experience to service the client best, Trustify's website section seeking private investigators to come work for them states "All assignments are released on a first come first serve basis...."

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When I suggested to Mr. Guilder that perhaps the most effective manner regarding licensing compliance would be for Trustify to just obtain a license where their corporate office is located, he stated that they have not ruled such out but for now seek to engage in their operation without benefit of such licensure, emphasizing the fact that Florida has advised them such is not necessary.

However, in the meantime it should be noted that Trustify is actively seeking investigators to join their operation and has posted the following information on their website:

We are presently looking for experienced investigators to handle a wide

range of surveillance jobs ... To qualify, you must have experience conducting:

Investigations

Field Surveillance (not including CCTV)

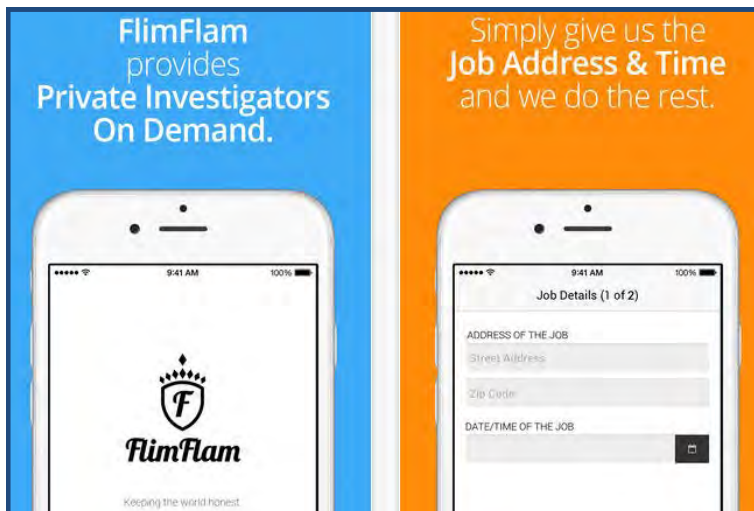
This is not an entry level position, and you must have field surveillance and investigation experience in order to be considered ...

We are also presently looking for experienced investigators to conduct remote desk jobs that:

- **Have access to professional databases (i.e. TLO or Accurint)**

- **Have experience pulling local and/or state records**
- **Are experienced in conducting deep web research, open source intelligence, or financial investigations ...**

The pay is \$30 per hour. Presently we have more work than we can handle so you will have



the opportunity to work as little and as much as you want. You set the hours as the work arrives ... All assignments are released on a first come first serve basis ...

When pressed for direct answers to questions posed by state regulators and private investigators present at the IASIR "roundtable" discussion, Mr. Guilder on several occasions limited his answer to: "We are presently reviewing that subject and I'm not prepared to answer at present." ISPLA's opinion is that Trustify is currently operating as an unlicensed private investigative agency based on the documents we have reviewed and the information contained on its website.

DRONE REGISTRATION UPDATE

On December 14, the Department of Transportation (DOT) announced that drone users will have to register their devices by February 19, 2016, in a new Web-based tracking system set to commence on December 21. That agency is imposing a \$5 fee for drone registrations over the objections of drone advocates. However, the FAA has said it is waiving the charge for the first 30 days of the new requirement.

Transportation Secretary Anthony Foxx called the drone registration system necessary due to an increase in the number of pilots reporting sightings

of the devices during flights.

"Make no mistake: unmanned aircraft enthusiasts are aviators, and with that title comes a great deal of responsibility," Foxx said in a statement.

"Registration gives us an opportunity to work with these users to operate their unmanned aircraft safely. I'm excited to welcome these new aviators into the culture of safety and responsibility that defines American innovation."

Although the FAA has been in the process of developing rules for commercial drones, the new DOT registration rules will also apply to recreational devices. Drone advocates had urged the FAA not to impose registration

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fees in the new documentation system designed to allow the federal government keep track of all UAVs, arguing that the charge would deter drone operators from complying with the new requirements.

"To be successful, an efficient drone registration system with widespread compliance must be simple, easy and free," the Consumer Technology Association said last week.

"Even a small fee — essentially a drone tax — could undermine the FAA's objective of widespread compliance and Transportation Secretary Anthony Foxx's goal of associating a drone with an owner as often as possible," the CTA continued.

FAA Administrator Michael Huerta said his agency is launching the registration system for drones ahead of the holiday season because sales of the devices are expected to be brisk this year. They call the \$5.00 registration fee nominal.

"We expect hundreds of thousands of model unmanned aircraft will be purchased this holiday season," Huerta said. "Registration gives us the opportunity to educate these new airspace users before they fly so they know the airspace rules and understand they are accountable to the public for flying responsibly."

Under the FAA's proposed small UAS rule released earlier in 2015, commercial UAV operators would be required to register their platforms. The Association for Unmanned Vehicle Systems International contends that extending this requirement to consumer UAS operators will help pro-

mote responsibility and safety.

In a release by the Academy of Model Aeronautics, a member of the task force that helped develop recommendations for this rule, they argued that registration makes sense at some level and for UAS flyers operating outside the guidance of a community-based organization or flying for commercial purposes. However, its executive director David Mathewson stated:



"Unfortunately, the new rule is counter to Congress's intent in the Special Rule for Model Aircraft and makes the registration process an unnecessary burden for our more than 185,000 members who have been operating safely for decades."

The Competitive Enterprise Institute (CEI) claims the FAA has violated federal requirements for allowing public comments on the drone registration proposal, which usually lasts for a period of 30 to 60 days and are threatening to sue that agency over this new requirement that drone users pay a fee and register their UAVs.

In October the FAA formed a task

force of aviation industry representatives from the manned aviation industries, federal government, and other stakeholders to weigh in on the recent drone registration requirements. However, the CEI said the task force was a not a proper substituted for the federal government's public comment rules for pending legislation.

"The FAA's claim that complying with notice and comment requirements for small drone registration regulation is 'impracticable and contrary to the public interest,' so that it can therefore ignore them, is as predictable as it is absurd," CEI transportation policy expert Marc Scribner said in a statement. He went on to say, "In issuing this unlawful interim final rule, [Transportation Secretary Anthony Foxx] and [FAA Administrator Michael Huerta] are practically demanding litigation."

Scribner had expressed prior concerns with the legality of the FAA's effort to require drone users to register their devices.

"While we appreciate the fact that the task force apparently recognized that the Department of Transportation does not have the authority to require point-of-sale registration, we are still disturbed by the way in which the Department is aiming to implement the rule," he said in an October statement the FAA was finalizing the drone registration requirements.

"However, as we noted in our November 6 comments in response to the task force's formation, mere registration will not mitigate aviation

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safety risks potentially posed by drones," he continued. "Yet, for the FAA to dispense with notice-and-comment requirements, it will need to show proceeding through the normal rulemaking procedure will endanger public safety. This makes the forthcoming FAA interim final rule unlawful and will almost certainly result in litigation."

Scribner added "further, in requiring that all drones over 250 grams—which includes many harmless toys—the FAA will also be violating Congress's 2012 prohibition on the regulation of hobbyist small drone use...Congress pro-

hibited the FAA from regulating model aircraft in 2012's FAA reauthorization."

However, on December 14 the FAA defended the legality of the drone registration system indicating it has authority to regulate all "aircrafts" that are flown in the U.S. and that by statute all aircraft are required to register stating: "Congress has defined 'aircraft' to include [drones], regardless of whether they are operated by modelers and hobbyists"



ISPLA will continue to keep our colleagues apprised of further developments on Trustify's PI licensing status as well as UAS regulations of the FAA and proposed federal and state legislation affecting such use by investigative and security professionals. Please consider donating to ISPLA to assist us in our continuing mission. Go to www.ispla.org



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George Michael Newman

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