

## Private Investigator Can Prove Significant to Trial Outcome



### Ask The Expert

The featured expert this month is John D. Waugh, an Arizona licensed private investigator at Lochmoor Investigations, LLC. Waugh is a retired FBI special agent with over 30 years of law enforcement experience. Lochmoor Investigations, which employs only former FBI agents, specializes in providing support to civil litigation and probate matters as well as providing services to both private and public corporations and businesses.

Waugh addresses the purpose and benefits of working with a licensed private investigator and when attorneys should consider involving a private investigator.

### Q Why hire a private investigator?

One of the most significant decisions an attorney can make is how and when to hire a private investigator. A good PI can sometimes be the difference between a prosperous and dismal outcome. Ask any successful trial attorney and more often than not, they will unofficially praise the work of their investigator.

An experienced PI can provide a vast array of services. In today's "high tech" society, many agencies specialize in providing computer-based research such as locating debtors; conducting pre-employment or pre-marital screenings; identifying hidden or moved assets; and conducting criminal background checks.

Most PI firms, however,

rely upon people skills in providing services. These include surveillance, interviewing, and other unique services. It is important to keep in mind that private investigators are extremely adept at the artful task of gathering information that is either unknown or unavailable to the non-professional (including paralegals). An experienced, qualified investigator has well developed "people skills" that enable him or her to obtain information from many sources.

Many PIs have prior law enforcement experience, and thus are well versed in dealing with and talking to a wide variety of people. A PI's interviewing skills and the ability to establish rapport with all types of people can provide a potential wealth of information to the attorney.

For example, by identifying, locating, and interviewing potential witnesses, the PI saves time and effort and provides an assessment as to the potential value that an individual might provide in a deposition or trial situation. The PI's written interview report provides a preview of potential testimony, and alerts the attorney as to the person's attitude, demeanor, and ability to articulate his or her thoughts. Oftentimes, interviews can clarify facts early enough in the litigation process that effective strategic decisions and strategies can be formulated—saving time, effort and money.

### Q What types of information can an investigator obtain?

Although PIs are generally limited to public records sources, most also subscribe to one or more internet data bases which contain credit header and other information

not generally available to the public. This information can be particularly useful when attempting to identify or locate individuals. By combining information from several such sources, fairly complete background can be developed on an individual. This can be very useful when the attorney is making an assessment of a potential witness or attempting to locate a person.

By contacting and interviewing potential witnesses, the PI can not only verify previous statements, but oftentimes provide the attorney with a great deal of new information. This can lead to not only the discovery of previously unreported facts but also of completely new sources of information such as additional witnesses or previously unknown historical background information.

Other services that the investigator can provide include physical surveillance, asset searches, and due diligence investigations. Certain technical specialties, such as checking for wiretaps or other forms of electronic surveillance, as well as computer forensic examinations, are offered by a limited number of qualified PI firms.

### Q How do I choose a qualified investigator?

In Arizona, all PIs must be licensed by the Arizona Department of Public Safety. In order to be the owner of a PI firm, or Qualified Party, an individual must demonstrate they have extensive investigative experience, undergo a background investigation, and be bonded. The DPS Licensing Unit investigates all complaints against PIs, and will disclose any record of complaints or disciplinary action they have on file against an individual or PI firm. When contemplating the hiring

of a PI, ask about their affiliations with professional organizations, such as the Arizona Association of Licensed Private Investigators, or the Society of Former Special Agents of the FBI.

It is a good idea to formally interview the prospective investigator to ensure that his or her skills directly relate to your area of expertise. PIs, like attorneys, usually specialize in specific areas. By making such an inquiry, you can retain the services of a PI well matched to your needs.

In the area of compensation, it is also important to note that whether the attorney or the client retains the investigator will impact the status of the privileged nature of the investigator's work product.

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