



Third Edition

FUNDAMENTALS OF CIVIL AND PRIVATE INVESTIGATION



Raymond P. Siljander

Darin D. Fredrickson

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INVESTIGATION**



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By

RAYMOND P. SILJANDER, M.ED., ALCM

and

DARIN D. FREDRICKSON, M.ED., CPP

With Contributions by

Johnston Blakley

and

Arabella Mazzuki

With a Foreword by

Frank Muscato



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To the memories of

Sylvia Edna Wickizer
(1944–2012)

and

Larry Owen Osgood
1950–2011

FOREWORD

Since the first and second editions of *Fundamentals of Civil and Private Investigation*, there have been extensive changes in the private investigative sector. The Internet and technological advances have revolutionized how investigators work cases. The myriad of skills needed and the essential tools now available are plentiful. Twenty years ago, the private investigative profession was just coming into focus in our society; but today, according to the U.S. Department of Labor, it is recognized as the fastest growing profession in the country.

The PI faces many obstacles when conducting a comprehensive investigation. The PI needs to know and understand the laws relevant to the case, both civil and criminal. An effective PI understands human behavior. Strong verbal and written communication skills are important to ensure that all elements of the case are clear from the start, throughout the investigation phases, and in the final disposition of the case. Experience is important when working a case, but fundamental investigative knowledge is essential. Gathering the information, compiling the evidence, completing the surveillance needs and interviewing those involved can lead to understanding what happened, and to ultimately successfully closing the case. The information must be factual, chronological, and understandable. As this book guides you through these PI fundamentals, it will help you understand the importance of a thorough investigation and good written communication.

Unlike years past, the PI today sometimes works on criminal cases alongside law enforcement (LE) officers. Today the PI professional is more accepted by the law enforcement community than in years past. Many times the law enforcement officer, when working a case he knows is also being investigated by a PI, will seek the assistance of that PI. The PI can often travel farther and spend extended amounts of time gathering information, which officers cannot due to their department regulations/limitations. These partnerships are unfolding nationwide and more and more criminal cases are involving these partnerships, especially those criminal cases experienced by business and retail investigators.

Some of these working relationships with law enforcement are discussed in Chapter 2 under the heading *Organized Retail Crime*. Corporate retail investigators now work side by side with other retailers and law enforcement. In years past, these PIs had to seek help from LE who always seemed to be too busy to assist. During the past few years, that has changed and many times

it is the law enforcement investigator requesting assistance from the retail investigator.

Fundamentals of Civil and Private Investigation will guide you through essential investigative techniques. From the beginning, the authors explain the various needs of the investigator and then show you how to apply those abilities. Not everyone can fulfill the requirements of a PI. Problem solving, understanding people, identifying differences, applying laws, understanding and implementing interviewing techniques, identifying exception rules and a multitude of other abilities are needed to become a professional and productive PI. Unlike in years past, female PIs are becoming highly sought after and recruited by investigative firms and corporations. There are many things a female investigator can do during an investigation that males cannot. This is especially evident during surveillance and covert operations.

In my 50 years of combined law enforcement and private investigations, I have run a gamut of cases. One would think with that much time put in, there was little left to learn. Not the case! This book enlightened me and provided interesting and informative “newfound” investigative techniques. You will find yourself identifying many of the fundamentals in this book that apply to most every case you have worked or will work in the future. You will see that there are techniques here that you will wish you had known prior to reading this book. I know I did!

Frank Muscato

Dallas Police Department Intelligence Division Case Supervisor (retired)

*National Retail Organized Crime Supervisor, often referred to as The Godfather of
ORC (retired)*

Founder/Principle Muscato Group Investigations

PREFACE

The first and second editions of this book appeared in 1984 and 2003 respectively. Technology advancements since 2003 begged publication of this third edition revision. Today, private investigators (PIs) have computer access to diverse sources of information, and communication and photographic technologies have reached levels inconceivable not many years ago.

Since their inception in 2008, video enabled digital single-lens reflex (DSLR) cameras have provided previously unimagined surveillance videography potentials. Then, in 2012, Sofradir EC, Inc. introduced the Special-Order Battery-Adapted (SOBA) AstroScope Night Vision Module, a system that permits using DSLR cameras with telescopes to record night vision video and photographs from extraordinary distances, distances so great that the lesser distance of 0.5 mile (0.8 kilometer) is no challenge. That is, to record subject identification and legible vehicle number plates.

Today, more states require licensing of PIs and many states make continuing education a prerequisite to license renewal. Increased emphasis on professionalism resulted in creation of numerous high quality user-friendly PI-specific online education courses. This edition provides a comprehensive discussion of PI education sources.

Technology continues to advance but in spite of that, traditional investigative methods persevere even though sometimes in modified form to accommodate high-tech tools. Undoubtedly, PIs today do foot surveillance the same way that Charles Frederick Field did it in England over 160 years ago. The difference is that modern PIs carry a pocket size camcorder, compact binocular, and a cell phone. Additionally, modern PIs interview people and examine records just as Charles Field did but today's PI checks many records using a computer. Charles Field established a PI agency after his 1852 retirement from Scotland Yard in London, England. This third edition revision presents modern equipment and methods.

Global circumstances are changing. In response to that, this edition features an expanded VIP protection chapter and an updated examination of commercial undercover investigations.

R.P.S.
D.D.F.

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CONTENTS

	<i>Page</i>
<i>Foreword</i>	vii
<i>Preface</i>	ix
<i>Acknowledgments</i>	xi
 <i>Chapter</i>	
1. The Private Investigation Profession	3
2. Investigation Types, Methods, and Procedures	33
3. Sources of Information, Skip Tracing, and Locating Assets	62
4. Commercial Undercover Investigations	83
5. Physical Surveillance	101
6. Visual Aids for Physical Surveillance	137
7. Surveillance Videography and Photography	151
8. Interviews, Statements, Report Writing, and Courtroom Testimony	196
9. VIP Protection	223
10. The Legal Environment of Private Investigations	265
11. Managing a Private Investigation Agency	277
 <i>Appendix A. Certificate of High School Equivalency – The GED</i>	 289
<i>Appendix B. Visual & Auditory Errors in License Plate Numbers</i>	291
<i>References</i>	293
<i>Index</i>	297
<i>About the Authors</i>	305

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Chapter 1

THE PRIVATE INVESTIGATION PROFESSION

Employment of private detectives and investigators is expected to grow 21 percent from 2010 to 2020, faster than the average for all occupations. (U.S. Department of Labor, 2012, March 29, n.p.)

INTRODUCTION

Private investigation is a complex and multifaceted profession that some private investigators (PIs) and legal scholars describe as a legal minefield. Each reader is responsible for knowing the laws of their jurisdiction, developing strong tradecraft skills, and conducting investigations in a legal and professional manner. This book provides information for educational purposes, but myriad field circumstances determine when and how various investigative methods are applied. Indeed, a method that is suitable for one circumstance is not suitable for another. Similarly, a method that is legal in one situation may be illegal in another. What is legal varies by state and by jurisdiction within a state, a good example being the secret recording of audio. That is, the secret recording of people's verbal conversations. It matters whether the PI works in a One Party Consent state or Two Party Consent state. The authors and publisher cannot and do not assume responsibility for a reader's misuse of or experience with any products and methods discussed in this book. Readers must operate according to circumstances and laws and they must exercise the sensibility and maturity that is prerequisite to being a competent PI.

Private investigators commonly refer to themselves by the initialism PI, which for

purposes of brevity appears throughout this book. Other terms for the PI include private detective, private eye, sleuth, snoop, gumshoe, dick, and private dick. Many of those terms are as archaic as the 1920s terms secret intelligence agent, secret intelligence operative, and secret service operative. More recently, many PIs prefer the title Professional Investigator and Licensed Private Investigator.

For a fee, after obtaining a signed retainer agreement, PIs conduct investigations for private citizens, attorneys, insurance companies, and various other types of businesses. Investigations conducted by PIs address a variety of personal, financial, and legal issues.

Although private investigation is a complex and multifaceted field, PIs typically obtain information by only three methods. The methods are:

- Research – Examination of public and private records and documents.
- Visual observation – Physical surveillance, which commonly includes videography or photography.
- Speaking with people – Interview and interrogation.

The occupational background of PIs is diverse. Some entered the profession with a

background unrelated to private investigations and some arrived with related experience. For example, some PIs were insurance claims representatives and some were paralegals. Others are former police officers or investigators, former military in varying capacities, and former intelligence agents. The list could continue to near infinity.

PIs are civilians with no police powers. As such, they have no more legal authority than other citizens have. In contrast are the investigators employed by law enforcement agencies, which are government entities. Law enforcement agencies are paramilitary organizations responsible for the enforcement of federal, state, county, and local laws and ordinances. Law enforcement agencies are responsible for the prevention and detection of crime, the apprehension of criminals, and generally maintaining public order. Police investigate crime on behalf of the people while PIs, for a fee, investigate civil and criminal matters for individual clients.

PIs locate and evaluate information from various sources and then provide the information to the client in the form of a written report. Often, in addition to the written report, the PIs work product consists of video and photographs (still pictures), or both. Most often, though, because of the types of cases worked by PIs, photographic images are in the form of video.

Private investigation is a growing profession with growth expected to continue for many years. The *Occupational Outlook Handbook*, 2012–13 Edition, published by the Bureau of Labor Statistics, U.S. Department of Labor, confirms this anticipated growth under the title *Private Detectives and Investigators*. The handbook (2012, March 29, n.p.) re-

ports that, “Employment of private detectives and investigators is expected to grow 21 percent from 2010 to 2020, faster than the average for all occupations. Increased demand for private detectives and investigators will stem from heightened security concerns and the need to protect confidential information and property of all kinds.”

This book presents an introduction to the private investigation profession, which is a multifaceted vocation. General investigators accept the types of cases that most PIs accept such as locating missing persons (skip tracing), background investigations, asset searches, disability insurance fraud video surveillance, and so forth. Niche investigators are PIs with an area of specialized knowledge and expertise such as fire investigation, vehicle accident reconstruction, process serving, legal investigations for attorneys, asset recovery, VIP protection, honey trapping, and Organized Retail Crime (ORC) investigations.

This book provides the foundation of knowledge required for an understanding of the PI profession. After reading this book, the aspiring PI will have a better idea of what direction they wish to go with their career. Hence, they will know where to direct their education efforts. For example, a reader who finds the chapter discussing surveillance videography and photography inspiring will realize the need for advanced study of the topic. Some individuals will enroll in community college videography and photography courses, sign up for online courses on the topic, and engage in self-directed study with the aid of the book *Clandestine Photography* written by Raymond Siljander and Lance Juusola.¹ They will also be aware of other areas requiring advanced study because of individual needs and interests.²⁻⁶

1. R. Siljander & L. Juusola, *Clandestine Photography: Basic to Advanced Daytime and Nighttime Manual Surveillance Photography Techniques – For Military Special Operations Forces, Law Enforcement, Intelligence Agencies, and Investigators* (Springfield, IL: Charles C Thomas, Publisher, 2012). This book has 656 pages and 556 illustrations.

2. R. Siljander and D. Fredrickson, *Fundamentals of Physical Surveillance: A Guide for Uniformed and Plainclothes Personnel* (2nd Ed.) (Springfield, IL: Charles C Thomas, Publisher, 2002). This book has 342 pages and 160 illustrations.

The primary target populations of this book are individuals who desire to become a PI, individuals new to the profession, and those who desire to broaden their professional knowledge. In addition to the primary target audiences, people in other niches will benefit from the information this book provides. Such people include:

- Experienced PIs can use this book to support the mentoring of inexperienced PIs.
- People who employ PIs can interface with them more efficiently by understanding their profession.
- Insurance claims managers and adjusters who use the services of PIs will benefit by an improved understanding of the PI profession.
- Attorneys and paralegals can use the services of a PI to better advantage when they understand the PI profession.
- Paralegals that do in-house investigations will benefit by a greater understanding of PI tradecraft.
- Police officers and other government investigators will find the transition to private investigations easier after reading this book.
- Police officers and other government investigators who will never become a PI will benefit by understanding PI tradecraft. For example, the authors have seen instances wherein law enforcement personnel expressed uncertainty about how to do surveillance on subjects at a particular location. The nature of the location and activity was such that a PI accustomed to video recording insurance

disability fraud would quickly have had the location staked out and a camcorder running.

- Criminal justice students.
- Law students.
- Paralegal students.
- Career changers who believe they may enjoy being a PI.
- People who desire to conduct their own investigations rather than hiring a PI will find the information in this book beneficial.

Knowledge and awareness are essential in today's rapidly changing world, which is becoming increasingly troubled socially and politically. Indeed, more than ever before the PI needs technical knowledge, critical thinking skills, social awareness, and the ability to read people's body language. The PI needs the ability to see things clearly without personal bias, limited prior knowledge, and concern for so-called political correctness skewing perception.

Facts are stubborn; changing them is not possible although they are subject to misinterpretation, misrepresentation, and denial. Never must the PI fall victim to such things. Prerequisite to being a superior PI are sound logic and reasoning skills coupled with motivation and a commitment to excellence. Being a superior PI requires being rooted in the so-called real world.

A fortunate circumstance for high quality individuals is the fact that employers experience difficulty finding suitable employees. That situation creates a competitive advantage for first-rate individuals. Unfortunately, though, it works both ways. The aspiring PI

3. P. Jenkins, *Surveillance Tradecraft: The Professional's Guide to Surveillance Training* (Harrogate, UK: Intel Publishing, 2010).

4. V. Rich, *Rural Surveillance: A Cop's Guide to Gathering Evidence in Remote Areas* (Paladin Press, 2003).

5. R. Hankin, *Navigating the Legal Minefields of Private Investigations: A Career-saving Guide for Private Investigators, Detective, and Security Police* (Looseleaf Law Publications, Inc., 2009).

6. W. R. Johnson, *Thwarting Enemies at Home and Abroad: How to Be a Counterintelligence Officer* (Washington, DC: Georgetown University Press, 2009).