

## **Do your own detective work before hiring a PI**

*By Massachusetts Lawyers Weekly*

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*The Council of International Investigators (CII) [www.cii2.org/](http://www.cii2.org/) is pleased to announce that their CII member John Jajoie was featured in the Massachusetts Lawyers Weekly.*

Ten years ago, when Cleveland attorney Elizabeth Kelley needed a private investigator to help her on a case, she asked several fellow criminal defense lawyers for recommendations.

"They recommended a particular individual, and I have used him since on every case I have had," she says.

Kelley's go-to investigator, Tom Pavlish, head of Empire Investigations in Cleveland, meets her top criteria for a private eye: "doggedness in the field, creativity and integrity."

"Having an investigator is important for a couple of reasons," she says. "In many criminal cases, you absolutely need one to track down documents, track down witnesses and investigate various leads your client may give you."

Beyond that, she says, "The failure to use an investigator in a criminal case can later be grounds for ineffective assistance of counsel if it can be shown that an investigator [would have discovered] information that likely would have resulted in a not-guilty verdict or something less than a full conviction."

Pavlish says the majority of witnesses in criminal cases are often "hostile" witnesses. So he tries to find out when and where they work and catch them off-guard to get their statements.

Pavlish also does a lot of "skip tracing" - locating valid addresses for witnesses.

But basically, he says, he lets the attorney determine his role.

"They identify what needs to be done, so I'm continuously in contact with them," he explains.

Paul Luvera, head of a 10-attorney personal injury law firm in Seattle, Wash., says a good investigator has certain qualities: investigative expertise, contacts in the local police department and an ability to get reluctant witnesses to open up.

Luvera has worked closely for more than 40 years with C. Bob Davis, 75, a Seattle-area investigator.

Since retiring from full-time work about 10 years ago, Davis only works during non-fishing season. But he still helps Luvera prepare for trial by finding witnesses, investigating accident/injury scenes, and locating and prepping expert witnesses.

Davis, who had a background as an insurance adjuster, says he considers himself more of a civil claims preparation expert than a private investigator.

**Working the crime scene**

John Lajoie, head of an eight-person investigation agency in Boylston, is one of only 75 legal investigators in the country certified by the National Association of Legal Investigators. Legal investigators specialize in plaintiffs' civil and criminal defense cases and work closely with attorneys to investigate cases from the client's perspective.

Lajoie considers himself part of the attorney's trial team.

In a criminal defense case, for example, the PI "would know the elements of the charges, look at the discovery the attorney has at that point, and then mold the theme around the theory of the defense. That is the relationship you should develop with the attorney - kind of symbiotic," Lajoie says. "You are a team, and the bottom line is you work together for the best interest of the client."

Terry R. Cox, also a certified legal investigator, is head of The Lonewolf Group investigation firm in Booneville, Miss. He works an accident/crime scene much like a police detective, acquiring police reports, photographing the scene, locating and photographing vehicles, interviewing witnesses listed on the police report, and trying to track down additional witnesses.

A former narcotics agent and criminal investigator, Cox advises screening potential investigators with care. "You want to vet somebody very well," Cox says. "Ask them if they've ever worked this type of case what

the results have been. You may ask for references from other law firms they've worked for."

#### Hiring the right PI

Before hiring a private investigator, several attorneys and detectives advise checking to see if the PI is:

- Licensed

Private investigator licensing requirements vary by state. If the investigator does have a license, public records will show if any complaints have been filed.

- Insured

Commercial/professional liability insurance can protect the attorney if the detective gets involved in a car accident, for example, while on the job.

- Certified

Certification from professional organizations, such as NALI, indicates the detective has met certain professional requirements.

- Credible in the courtroom

Lajoie suggests asking court officers how a detective comes across in the witness box.

- Based in the area where the accident/crime occurred

"Local is best 99 percent of the time," Lajoie says. "They know the culture, the mores, they've developed contacts in the area, they know the local laws, what to do, what not to do. They know the local police."

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