

Guidelines for PI's: "Staying Out of Trouble"

Prepared by Linda Montgomery, Linda Montgomery Investigations, Inc.
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1. **Know Your Client**

Who are they? Why are they hiring an investigator? What are they going to do with the information that you give them? Is there a reasonable purpose for the investigation?

2. **Be Aware and Respectful of Privacy Rights.**

Be familiar with laws and court cases regarding privacy rights. Courts have defined the "implied" constitutional right of privacy as "the right to be let alone and the right to live one's life in seclusion without being subjected to unwarranted and undesired publicity."

3. **Dissemination of Personal Information**

Remember, "an investigator has a duty to exercise reasonable care in disclosing personal information to a client" (from the article "Analysis of Boyer Decision", PI magazine, Jordan Ulery/Ulrich Litigation Support). Do not give out residence addresses to private individuals. If someone calls and requests a locate on a "friend" tell them you will be willing to find the friend for them and ask the friend if it is ok to give them their address. If the client is not willing to do that you should not take the case. Similarly you should not give out any personal information (like SSN's) to private individuals unless there is a justifiable reason for them to have it.

4. **Private Financial Information is Private**

It is a federal criminal offense (felony) to obtain financial information using a pretext. Unless the financial information is in public records, it should be considered "off-limits". It is not permitted for PI's to obtain credit reports unless there is a signed authorization specifically listing the PI/Agency as authorized to retrieve it.

5. **Use of Pretexts**

There are potential risks and pit falls if you obtain any information using pretexts. The utmost caution and consideration is advised before a PI decides to use a pretext. Never put in your report (especially surveillance reports) that you used a pretext or made "indirect contact" with the subject.

6. **Misrepresentation**

Do not use another person's real name or a legitimate company name if you do use a pretext.

Never say, imply, or suggest that you are associated with law enforcement or the government.

7. Interviewing Witnesses

When interviewing witnesses for court cases always properly and clearly identify yourself and who you represent.

Do not give out negative information obtained from one witness to another witness (unless there is a justifiable reason to do so).

8. Surveillance

Block the sound on your video camera. It is a gross misdemeanor in the State of WA to record someone's conversation without their permission.

Only obtain film of a claimant/subject when they have no "expectation of privacy" (where they can be viewed by someone passing by).

Do not trespass on the claimant/subject's property to obtain film.

9. Confidentiality

The information you obtain for your client is confidential according to the PI law. Do not give out any information related to your case without your client's permission.

The fact that your client hired you is confidential. If you want to use your client's name as a reference (or tell anyone they are your client), you have to get their permission.

10. Work Product Privilege/Working with Attorneys

If an attorney hires you, your investigation is the attorney's work product and is covered by the attorney's work product privilege. This means you cannot be deposed or required to give out the information obtained during your investigation. If you do give out information obtained for the attorney to an outside party, you breach the privilege of confidentiality. You could then be forced to divulge the information to adverse parties.

When working for attorneys, your actions are subject to all regulations and ethics codes that govern the law profession. This means, among other things, that you cannot talk to someone directly or under pretext if they are represented by an attorney.

11. Laws Change—Stay informed

Laws regulating and/or relevant to the PI profession (including privacy rights and the obtaining of information) are frequently changing. Being an active member of one or more PI associations is the best way to stay current. In addition to State associations, the National Council of Investigation & Security Services (www.nciss.org) is an excellent source for keeping up on the changes.