



Lyonswood
INVESTIGATIONS & FORENSICS

Becoming a Private Investigator

2015 ©

This document is licensed only to the recipient and should not be disseminated to any other parties in any manner, physical or digital.

Index

| | |
|---|----|
| Becoming a Private Investigator | 3 |
| Private Investigators, Not Government Investigators | 4 |
| What special powers do private investigators have? | 4 |
| Workers Compensation and Negligence Work..... | 4 |
| The Other Work Investigators Do..... | 5 |
| Gathering Evidence..... | 6 |
| Traits Necessary in a Private Investigator | 6 |
| Different Types of Roles for Investigators and Pay Rates..... | 9 |
| The Positive Aspects of the Job | 10 |
| The Negative Aspects of the Job | 11 |
| Changes in the Industry | 12 |
| Investigating as a Sideline | 12 |
| Commercial Agents | 13 |
| Geographic Considerations..... | 13 |
| A Note on IT-related Investigations | 14 |
| Ex-Police Officers as Private Investigators | 14 |
| Confidentiality | 15 |
| The Relevant Laws | 15 |
| How to Become a Licenced Investigator in NSW | 17 |
| Licensing in Other States | 19 |
| Summary..... | 21 |

Becoming a Private Investigator

Have you ever considered becoming a private investigator? Perhaps you didn't even know that such a job really existed. Private investigators do exist in Australia but the reality of life as a private eye is a bit different from Hollywood's portrayal. There is still the excitement and mystery you would expect but there's also a strong regulatory, commercial and legal framework within which investigators must operate.

As is the case with any potential career, the best way to find out whether you are suited to, or will pass the integrity test to enter the investigation industry is to get advice from someone in the field itself. As director of one of Australia's premier investigation companies, and as someone who has had exposure to many different areas of the investigation industry I have come to understand which traits and skills are needed to develop and grow within the investigations' environment.

There will always be a need for private investigators although the level of demand fluctuates with changes in legislation, society and in technology. Is the role of investigator one that you could take on? Are you reliable, attentive, imaginative and a good communicator? Do you have uncommon sense? We call it "uncommon sense" because in our experience not many people have the kind of common sense that helps solve the kind of problems our investigators are confronted with every day.

We ask a lot of our investigators including that they ensure they understand instructions and a client's requirements, identify key elements of an investigation and execute a plan carefully. The well-known investigator and founder of Lyonswood Investigations, the late Warren Mallard used to say that the kind of common sense required by investigators "Is an ability to see with your ears, hear with your eyes and feel with your stomach!" If you have these skills, you might make a competent investigator. Whether as a part-time endeavour or a job for life, conducting investigations teaches you a useful set of skills, many of which can have broader application. The following guide outlines the nature of private investigative work, sets out what kind of person is suited to the investigations industry and explains how you can become a licensed investigator.

Private Investigators, Not Government Investigators

The first point to make is that private investigators are just that – they are engaged in the private sector. Unless directly employed by a government entity or department (whether federal or state) to conduct internal inquiries, investigators are employed by private investigation companies or are self-employed. Some people think that private investigators are associated with the government or the police. They are generally not however the private investigation industry, in almost all states and territories, is regulated by governmental bodies such as the police. Some investigators are former police but this is not a requirement. Some actually see a police background as a hindrance.

What special powers do private investigators have?

Believe it or not, none! The only real difference between a citizen and a private investigator is that a private investigator can act for a third party and charge for those services. Beyond the rights of a private citizen, private investigators cannot force entry into premises, trespass, seize goods, bug phones, search persons or access confidential government held information. Private investigators are bound by all the laws of the states and commonwealth and also must answer to the relevant private investigation legislation and regulations in each jurisdiction. Private investigators cannot carry firearms in the course of their occupation as a private investigator. The one thing private investigators can do that ordinary, unlicensed citizens cannot is become a member of an exciting and rewarding profession like no other.

Workers Compensation and Negligence Work

The majority of private investigation companies simply carry out insurance work. That is, the companies receive instructions from insurance companies to carry out investigations into the circumstances regarding an insurance claim. Most investigators commence their investigation careers in this field.

For example, a worker in a factory falls over and hurts his back whilst at work. The worker makes a claim under the employer's workers' compensation insurance policy. The managing insurance company decides it wants to check or confirm the circumstances surrounding the claim and it instructs an investigation firm to carry out inquiries. This is where a private investigation is required. Sometime there will need to be interviews conducted and statements taken from the injured worker and any witnesses or associates. A factual investigator will carry out these overt (open and obvious) inquiries. Other times, it will be necessary to conduct covert (discreet) surveillance of the injured worker to determine if the extent of the injuries alleged by the worker appear to be consistent with the worker's allegations of capacity / incapacity. In short, the surveillance operative gathers objective evidence as to whether the claim of injury / incapacity is consistent with the allegations made. The surveillance operative uses optical surveillance devices, such

as cameras and video cameras, wherever possible to capture vision of the allegedly injured person. The factual investigator (one who overtly records and documents the circumstances of alleged events) and the surveillance operative (one who covertly records the allegedly injured person) are the two most common types of investigator in Australia.

The Other Work Investigators Do

Investigations into insurance, including motor vehicle accident, and negligence and theft claims are the bread and butter of the industry. As personal injury laws change (as they have in NSW) then so does the size of the industry. However, personal injury insurance investigative work is not the only work undertaken by investigators. In fact, some investigations firms do little or none of this work at all, instead concentrating on work such as infidelity investigations (cheating partners), locating persons, domestic and corporate theft, background checks, forensic handwriting and computer analysis and other varied work. In fact, there is room under the private investigations' umbrella for people with all types of skills and abilities. In reality, you are really only limited by your imagination, your skills and the demand in the marketplace for those skills.

There are a multitude of services that broad-based investigation firms offer. If you are interested in entering the industry in a pre-existing field then it would be wise to research these services to see what seems to be the best fit for you in your location. We discuss in this guide surveillance operatives, factual investigators and computer forensic technicians. The other types of work you may see investigators perform includes forensic handwriting analysis, fingerprint analysis, technical counter surveillance measures (TCSM or bug sweeping), mobile phone forensics, risk assessment, background searches, assets searches and locating persons. There are many more services provided by investigators and with some research, you will discover most of them.

Background searches, assets searches and the locating of persons is work that is typically done by the investigation firms themselves and not by field operatives, although field operatives can help complement a search-based investigation. It is likely that you would undertake this search-related work if you were directly employed within an investigations firm (as, for example, a manager) or if you ran your own firm.

The other work mentioned above, such as computer forensics, is work that is usually subcontracted out to specialists in the particular field. Becoming a specialist is a longer-term endeavour but this should not necessarily discourage you if the field really does interest you or if you have some level of expertise in that field already.

There are a multitude of courses available, especially in the US, that teach students varied skills such as fingerprint analysis, mobile phone forensics, advanced surveillance techniques and so on. Some of these courses would be of great use in a commercial sense while others would be of almost no use. The key question is always whether there is a demand for your particular service. With some research, you should be able to gauge to an extent what the current and future demand for your preferred service might be. A

broad based private investigation firm could help advise you whether your skill, or the skill you are considering acquiring, is one that is useful to clients and would be in demand.

Gathering Evidence

Gathering evidence is the core element in all investigations. Sometimes the evidence is for legal proceedings or for the purposes of a legal settlement. Other times, the evidence is simply for the peace of mind of the client, for example, a mother concerned about the safety of her daughter, wanting to know where she goes on a Saturday night. Often, the evidence established by an investigator will not necessarily be conclusive, it will simply be part of a larger case or dispute. It is important for this reason and others that the investigator presents the evidence in a reasoned, clear and convincing format.

Traits Necessary in a Private Investigator

When you are tasked with gathering evidence as the primary part of your employment you must have a number of traits to excel.

- You must be a good communicator. You don't have to be perfect but you must be able to communicate effectively in spoken and written English. As a surveillance operative, although the work is generally not overly complex, there will be times when you will need to look through a claimant's detailed medical report for example. In other investigations there may be the need for constant and clear updates to the investigations manager depending on what occurs during a surveillance operation. You need to be able to understand instructions, objectives and preferred outcomes, clarify anything you do not understand immediately, write detailed contemporaneous (recorded as near as possible to the event) reports of everything relevant that was observed and communicate effectively with your colleagues, managers and clients. If you intend to become a factual investigator then you must have advanced communication skills. Factual investigators spend their day communicating in detail with interviewees and reporting the content of those interviews in writing. If you do not excel in written and spoken English and are not a good time manager, then you should not consider the role of factual investigator.
- You must have attention to detail. In many investigations you will be endeavouring to prove things that are difficult to prove definitively, for example the extent of a person's injuries. Unless you are a trained medical professional as well as an investigator you cannot offer an expert opinion as to how injured the subject of the investigation is. Your job as an investigator is to provide as much evidence as possible to help the legal team and the medical professionals prove or disprove the injury. A good surveillance operative will very closely observe what the subject person does with the allegedly injured part of his or her body. The

investigator will capture as much video evidence as possible in the circumstances and describe in detail in writing what happened. This written description is important, even if there is video of the activities referred to as claims and investigations managers often do not have time to look at video. They want the key information laid out in writing in the report so it is easy to understand and access. An investigator must never express an opinion that they are not qualified to give. A factual investigator must keep in mind the many facts of the case whilst interviewing a claimant and so must also pay attention to the detail of a matter. A good factual investigator will appraise the evidence at hand and look for any inconsistencies or unexplained issues arising from witness statements. Sometimes such issues will not be glaringly obvious so a good factual investigator needs to constantly question the material put before him or her. If an answer to a question begs another question, then ask it!

- You must be able to manage your time. This is a big problem for some investigators who would otherwise be at the top of their field. Because a factual or surveillance operative does not work 9 – 5 hours, he or she must be on top of scheduling and commitments. This sounds straightforward but it is one of the major difficulties for investigators who are managing investigations from different investigation companies as well as domestic commitments and possibly illnesses, study, sport and other time-consuming activities. Although the hours are not regular, they are not necessarily long – you have a level of choice as to what days you will work. But you must be able to keep on top of your own schedule, know when you are available and when you are not and allow enough time to write your reports in a timely manner. The evidence you establish for a client is useless if it is not provided to them on time. Some investigators take on too much actual work and do not allow for sufficient report writing time. An investigation without an investigation report is worthless. An investigation that is not compliant with instructions and not produced in line with deadline requirements is often seriously deficient.
- You have to get on with people. Depending on the kind of work you do within the industry, you'll either be dealing with clients, fellow investigators, investigations managers and / or claimants and witnesses. Although a surveillance operative won't spend much time face-to-face with any of these persons, if you do not like dealing with people or find it hard to maintain good relationships with a few key people then you probably will not thrive in the investigations industry. Also, a good surveillance operative will often not necessarily spend that much time alone. The better operatives constantly approach people in the field who might assist the investigator gather information about the person being investigated. Obviously, this is not done directly and the investigator usually lawfully assumes another identity under subterfuge. For example, if it is established that the subject of the investigation is not home, a good investigator might make inquiries with neighbours about the subject whilst posing as a friend of the subject or a salesman or someone else. This skill is a valuable one for an investigator. Such discreet inquiries need to be lawful. A factual investigator spends a great amount of time

interviewing and communicating with a variety of persons and so must be comfortable dealing with people. In either case, you will be taking instructions from your manager regularly and sometimes receiving constructive criticism regarding your work or report. If you are not open to growing and learning within your role then you won't make a good fit as an investigator.

- You need to think outside the square. This is possibly the most important trait for any serious investigator. If you are good at solving problems or devising unique approaches to achieve a goal then you will probably be suited to the role of private investigator. You will not get the evidence the client wants in every matter but managers tend to give work to those investigators who go the extra yard and try different approaches on difficult jobs. Even if you do not get the desired evidence, if you can demonstrate that you have expended every avenue of inquiry, then the investigations manager and the client will be inclined to be less disappointed.
- You must be accountable for your actions. If you indicate you are able to take on a work commitment then you must indeed fulfill that promise. In some circumstances clients only get one chance to get evidence in their particular matter. If you fail to meet your commitments then you will have failed your client. There will be no chance of taking on other work from your client and it is very unlikely he / she will be recommending you to any acquaintances. The power of referral is quite strong in the investigations industry. You are only ever as good as your last investigation.
- There are also the practical requirements of the occupation. If you are to become a factual or surveillance operative then you will need a drivers' license and a vehicle. A surveillance operative should have a common car (such as a Toyota Corolla) in a common colour (such as white). White coloured cars are preferable as they are common and during the summer they do not get as hot as darker cars. If you are a surveillance operative you will need a good quality video camera, a covert video camera, a smart phone that will allow you to send and receive emails on the road and a laptop or a means of sending photographs from the field to the office. You will need to know how to use word processing software and you will probably need to understand how to extract photographs from the DVD footage you produce for inclusion within your report. These are not complex issues and a small amount of research should give you the information you need. Note that factual investigators need a good knowledge of areas such as workers' compensation law, torts law and they should have an idea as to how insurance claims work. Prior to actually becoming factual investigators, persons who end up in this role typically are involved in the industry as surveillance operatives, investigations managers or do work for insurance companies or government departments where they have exposure to claims.

Different Types of Roles for Investigators and Pay Rates

We have already discussed the fact that there are a variety of different roles within the investigations industry. A person without any special training (other than the regular private investigators training certificate) or skill will generally enter the industry as a surveillance operative or a factual investigator. Hourly rates for these investigators are generally between \$28 - \$38 an hour for a surveillance operatives and \$35 - \$45 for a factual investigator. Operatives in some states and regions may earn more. You are usually paid for some travel (from the charge-out centre to the investigation location and the return trip) and for kilometers (usually around 50 – 70 cents per kilometre). Different agencies have different rates of pay. Some have a flat, all inclusive hourly rate.

Persons with more specialised skills, such as handwriting analysts or forensic IT technicians, will of course earn more. To become one of these specialists is generally a longer-term endeavour than becoming a surveillance or factual investigator. Persons such as handwriting analysts or forensic IT technicians are only really useful if they are accepted by courts as expert witnesses in their field. To become accepted as such it is necessary to have a requisite level of training or experience in the particular field and to have produced evidence in that field of expertise that was relied upon by the court as being an expert report. These kinds of investigators are not always required to be licensed as private investigators or private inquiry agents themselves.

Of course, there is also the option of running your own investigation company. As you will note when you research the industry, there are a number of well-established investigation firms in any major metropolitan area in Australia. Entering the industry is, in itself, not difficult - we see new players offer their services regularly online. The difficult part for new companies is maintaining a presence and building a reputation. There are a great number of factors that go into operating a private investigation company properly – marketing, dealing with clients, resourcing investigators, learning about and learning how to use the databases required to conduct the searches that necessarily augment a surveillance operation, managing accounts, keeping on top of changes in the areas of law that relate to investigations, training investigators properly and etc. Establishing a successful private investigation company to the point where it is profitable is a long term endeavour. It would be unwise to try to start your own company until you had some exposure to the industry as either a surveillance operative, factual investigator or as an investigations manager. Of course, how successful you are as an owner will dictate your pay rate.

An investigations manager is a person who assists the owner of a private investigations firm deal with clients, issue work and manage investigations. These jobs are limited and only become available from time to time. If you are interested in taking on such a role then you would be best advised to contact as many firms as you can, provide them with your details and indicate you would like the opportunity to work for them managing investigations. If a role then becomes available in the future then you might get lucky. It would generally be necessary that you were a licensed investigator to take on such a role.

The pay rate for someone in such a position would be expected to be between \$40,000 - \$100,000 per annum.

The Positive Aspects of the Job

The best part about being a private investigator is the fact that you are not doing exactly the same thing over and over. Even when working predominantly on personal injury matters there will always be variations in the jobs – location, injury, subject of investigation, the observations made, the ease with which you can establish evidence and the challenges presented. You are always working in a different area and dealing with different variables. Of course, if you work for a firm that does more than just personal injury matters then you will be exposed to a very wide range of matters. A broad-based investigation firm takes on work including infidelity work, family law work and locating persons. You may need to establish evidence of a person's assets, movements, spending patterns, responsibility as a parent, associations or employment. You may deal with instances of extortion, theft, harassment, illicit drug-taking, malicious damage, franchise fraud, breaches of intellectual property, defamation and a whole raft of other matters. This could be considered one of the central attractions of being a private investigator – the variety.

Additionally, you are learning skills that are useful and can be transferred to other endeavours. It is useful to know how to gather evidence for the purposes of any difficulties you may encounter in your own business or personal dealings. If you carry out background checks or searches into the whereabouts of persons, you will also learn about what kind of personal and business information is generally available in Australia. You will ascertain how to discover things about people and you will also understand the limits of what you can lawfully access. You will be able to give friends and family good advice about ways in which they can protect themselves and ways they can go about solving problems they may have. If you are in the industry for some time, it is likely that you will develop good contacts in the law.

Also, if you are a surveillance operative, factual investigator or other specialist investigator, as a subcontractor you are able to some extent to dictate when you will work. You can accept work when you are free to work and, when you are busy, advise your managers that you can't take work on at present. Of course, if you are rarely available then you won't keep getting calls however there is a level of flexibility. This is attractive to those with other commitments. Bear in mind however that those who are generally available and make the investigations manager's job easier are more likely to obtain continuity of work.

A proficient investigator will also become familiar with the areas of law that affect the industry. In truth, there is a great deal of the law that has some bearing on the role of the private investigator but there are a few key areas that all investigators should be aware of. Although it might appear daunting at first to learn how to read legislation and understand laws, it is an investment of time well worth your trouble. You need to know everything

you are able to do to try to get the evidence without crossing the boundary into law-breaking. This knowledge is valuable and is information you can use to your benefit and your associates' benefit as well. See below under the heading entitled '**The Relevant Laws**' for a discussion of the law in this area.

The Negative Aspects of the Job

If you are a surveillance operative then you will not have much company during your work so if you crave human interaction then this is not the line of work for you. You will also endure extended periods in your vehicle so this might be difficult for those with particular injuries. Surveillance is often best-placed from the early hours of the morning onward to detect the first activity of a subject. The early starting hours will be unattractive to some. Exposure to the elements is also a detractor. It's not much fun on a 43 degree day being cooped up in the rear of a vehicle. Remember, if you have to leave a vehicle to relieve yourself then you may affect the integrity of an investigation. You may have to make arrangements to do this in the vehicle. This may not be attractive or possible for some.

There is not necessarily always a constant stream of work for investigators, especially at the commencement of their careers. It can be unlike a regular 9 – 5 job in that there are no set hours and investigators get issued with jobs as and when they come up. Once you have been in the industry for some time and made good contacts with a number of agencies (or an agency that favours your services) then you will likely have a steadier flow of work however this may not necessarily be the case early on.

As mentioned before, changes in areas of law such as personal injury can dramatically affect the private investigation industry. Changes to personal injury laws and torts legislation around 2002 shrunk the industry substantially in NSW as the number of claims investigated slumped. Those who follow the news will know that in NSW there have been recent legislative changes that have also acted to make claiming workers' compensation more difficult. If you are considering entering the industry then you should follow law changes in this area so as to be aware of changes in the demand for investigators' services. Those investigations agencies that undertake a broader range of work such as infidelity investigations, intellectual property breaches, IT forensic work, locating people, etc will be well placed regardless of changes the law in any one particular area. You can primarily find such agencies by conducting searches on Google. Finding agencies that concentrate on workers' compensation investigation require more research as they often do not market themselves on the internet.

Keep in mind you can't always get a client what he or she wants. In any investigation you are dealing with the unknown. Police don't solve every crime and investigators don't get evidence in every matter they take on. It can sometimes be disappointing to fail to get the evidence your client was seeking. Provided you have covered all bases and acted prudently and planned the investigation well you should be comforted that you have done your best and most understanding clients will appreciate this.

As an investigator, you are often dealing with people who are not at their best. You might be investigating a fraudulent claimant, a lying husband, a client's daughter's boyfriend who is a bad influence and so on. Sometimes clients are criminals or unpleasant people who are worse than the people you are investigating! Just as lawyers and doctors find themselves stressed from helping vulnerable people with serious problems, the investigations industry can be an anxious place to be, especially if you really want to help your clients achieve the result they seek.

Changes in the Industry

No doubt, there will be changes in personal injury law and other areas of the law that applies in certain ways to investigators in the future in all states. As governments change you can expect the laws to change as well.

Of course, prior to the advent of the Family Law Act investigators conducted a lot of work to get evidence of infidelity which was necessary to facilitate a divorce under the Divorce and Matrimonial Causes Acts. It was presumed that the Act would mean that investigators would lose a lot of work. However, the state of family law in Australia today means that investigators are often required to gather evidence in more circumstances than before. Examples include investigations into whether a former spouse or partner is working, residing with another party, improperly treating the child of the relationship, hiding assets, breaching court orders and so on. Of course, there are still plenty of investigations into infidelity - the evidence is simply not required for court now.

The point is that, as independent and impartial observers, investigators will always be required. However, you should not necessarily presume that you will always have as much work as you want, especially when starting out in the industry.

Investigating as a Sideline

When starting out in the investigations industry you may not necessarily receive a constant flow of work. There is no bar to someone in this situation, or even a more experienced investigator, undertaking surveillance or factual work on a part-time basis. In fact, it may be the best way to get involved in the industry as you are not fully committed to something you are not certain about.

A number of investigators operating within the industry have other skills that complement their role. For example, some are commercial agents, some are involved in the security industry and some have unique investigative skills beyond surveillance and factual work. Your other job need not be in the investigations / security industry but it may provide some synergies if it is.

Commercial Agents

Commercial agents are persons who undertake activities such as serving process, collecting debts and repossessing goods. Some private investigators are also commercial agents but they are different jobs and require different qualifications. In NSW, the two roles are regulated by the same Act.

Once you are a private investigator or even before you become licensed in that field you may consider undertaking studies to get your commercial agents license as well. With both licenses you will be able to perform a broader spectrum of work for a broader range of firms. This means you will capture more work. It can be useful for a private investigator to also be licensed as a commercial agent as there is some crossover in duties. For example, imagine a client is trying to locate a subject person in order to serve process on that person. Inquiries are conducted and there is some evidence that the subject is resident at a particular address. In order to definitively confirm whether the person is resident at the address, surveillance is necessary. You can simply turn up and try to serve the person but a wary subject will simply not answer the door making a commercial agent's job difficult or impossible. Also, the person may quickly move house if he or she knows somebody is trying to effect service of court documents. In such circumstances we recommend to clients that it is optimal to undertake a period of surveillance at the address to confirm whether the subject person is indeed resident at the address. If you are qualified as a private investigator and a commercial agent then you can conduct the surveillance and, if the subject is observed, attempt to serve him or her with the documents.

Commercial agents also undertake investigations into the whereabouts of persons which is work a lot of private investigators undertake as well.

Geographic Considerations

Obviously, the majority of investigation work is in urban centres. The more people in a certain area, the more investigations are undertaken. This is not to say that there will not be work in more rural areas however it's unlikely to be a constant flow of work and you may need to travel between different areas regularly.

If you are considering setting up in a less populated area then it will probably only be a worthwhile endeavour if you are in it for the long term. You will need to build contacts within the industry so people know you are there. Over time, you will receive more work. Part time investigation work would probably be well suited to those in rural areas.

You should also consider what level of competition you have in your area. If there is a well-established agency in the area, you may find it quite challenging to get work, unless you offer better service or something that agency does not.

Many experienced surveillance operatives who are based in urban centres take on jobs in rural areas from time to time.

A Note on IT-related Investigations

As you can imagine, regardless of what occurs in the traditional surveillance and factual field, IT and computer network-related investigative work is the growth area of the industry. As discussed above, in order to be a proper IT forensic investigator it is necessary to have substantial training and / or experience in the field. If this is a career path that interests you then you will need to make a serious investment of time, not to mention the funds for the IT infrastructure and software that you will require. Nevertheless, it is a fascinating area to be involved in with plenty of potential for growth.

A forensic IT technician examines data on computers for the purposes of using the evidence gathered for legal purposes. There are many situations where such evidence might be necessary. For example, an employee leaves a company and it is believed the employee has stolen intellectual property or confidential information from the company such as confidential client lists. The company then engages a forensic IT specialist to try to find evidence on the hard drive of the actions of the employee who may have emailed the information, printed it out or copied it to a USB stick.

The work of a forensic IT technician is complemented by and dependent on a number of other roles. Technicians will often require IT-savvy assistants to help manage their work. They will typically need investigations managers to capture clients and explore the full range of investigative avenues available to those clients. They will need lawyers who are cognisant of the law relating to the computers and the internet. These roles will all need to be filled in the future as IT fraud and the forensic IT industry grows in size.

Ex-Police Officers as Private Investigators

In some ways, police officers already have skills that are useful in the private investigations industry. They can think factually, they know what kind of evidence is admissible and they have an understanding of the criminal law, an understanding that will assist them as investigators. However, some investigations firms will tend not to hire ex-police officers due to the perception that an ingrained public service work ethic will render the ex-police unable to adapt to the demanding commercial environment of a private investigation firm. If you are an ex-police officer intending to work as a private investigator then you should emphasise your work ethic in your application to any agencies and give examples of occasions where you have performed duties beyond those expected of you. You should expect that you will have to complete an investigation irrespective of other commitments. In the public sector you are not paid any more for excelling or working harder - this is the major difference between the private and public sectors.

Members of the public do not pay police to investigate however in the private sector they do and they expect a commensurate service.

Confidentiality

Confidentiality is integral to all investigations and paramount. To breach confidentiality may well have serious legal ramifications. Be certain not to breach confidentiality of a client or informant with whom you have an agreement or contract of service.

Included in considerations of confidentiality are considerations as to security of client information. Do not leave instructions or files in your car, able to be viewed by persons passing by or taken by someone who might break into your car. Ensure you have proper anti-malware software on your computer to protect your emails and reports. Consider purchasing a safe to keep your clients' confidential information securely stored.

The Relevant Laws

Firstly, the Act regulating the private investigation industry for each state. You should become familiar with the Act that regulates the industry in your own state. If you intend to conduct work interstate then you may need a license for that state as well. See below for a list of the relevant Acts:

NSW: Commercial Agents and Private Inquiry Agents Act 2004 (NSW)
http://www.austlii.edu.au/au/legis/nsw/consol_act/caapiaa2004429/

VIC: Private Security Act 2004 (Vic)
http://www.austlii.edu.au/au/legis/vic/consol_act/psa2004217/index.html

SA: Security and Investigation Industry Act 1995 (SA)
http://www5.austlii.edu.au/au/legis/sa/consol_act/saiia1995422/

Tas: Security and Investigation Agents Act 2002 (Tas)
http://www.austlii.edu.au/au/legis/tas/consol_act/saiaa2002378/

QLD: Security Providers Act 1993 (QLD)
http://www.austlii.edu.au/cgi-bin/sinodisp/au/legis/qld/consol_act/spa1993250/index.html

WA: Security and Related Activities (Control) Act 1996 (WA)
http://www.austlii.edu.au/cgi-bin/sinodisp/au/legis/wa/consol_act/saraa1996404/index.html

NT: Commercial and Private Agents Licencing Act 1979 (NT)
http://www.austlii.edu.au/au/legis/nt/consol_act/capala346/

It is important to also be familiar with the laws that regulate basic forms of surveillance which are, again, constructed on a state-by-state basis:

NSW: Surveillance Devices Act 2007 (NSW)

http://www.austlii.edu.au/au/legis/nsw/consol_act/sda2007210/

Vic: Surveillance Devices Act 1999 (Vic)

http://www.austlii.edu.au/au/legis/vic/consol_act/sda1999210/

QLD: Invasion of Privacy Act 1971 (QLD)

http://www.austlii.edu.au/au/legis/qld/consol_act/iopa1971222/

SA: Listening and Surveillance Devices Act 1972 (SA)

http://www.austlii.edu.au/au/legis/sa/consol_act/lasda1972326/

WA: Surveillance Devices Act 1998 (WA)

http://www.austlii.edu.au/au/legis/wa/consol_act/sda1998210/

ACT: Listening Devices Act 1992 (ACT)

http://www.austlii.edu.au/au/legis/act/consol_act/lda1992181/

Tas: Listening Devices Act 1991 (Tas)

http://www.austlii.edu.au/cgi-bin/sinodisp/au/legis/tas/consol_act/lda1991181/index.html

NT: Surveillance Devices Act 2007 (NT)

http://www.austlii.edu.au/cgi-bin/sinodisp/au/legis/nt/consol_act/sda210/index.html

Note here that many people (including police, solicitors, investigators, members of the media, politicians and others) are not cognisant of the full implications of these laws. Many of the aforementioned parties believe it is simply illegal to record conversations. It is not always illegal to record conversations! Make sure you understand this fact. Familiarise yourself with the laws in your state and learn in what circumstances it is permissible to record a conversation. If in doubt, take qualified legal advice.

You should also be aware of Acts such as the following which regulate surveillance in the workplace. Note that not all jurisdictions in Australia have such independent work-related surveillance Acts. The Victorian Surveillance Devices Act for example contains provisions relating to Workplace Surveillance within the Act.

NSW: Workplace Surveillance Act 2005 (NSW)

http://www.austlii.edu.au/au/legis/nsw/consol_act/wsa2005245/

ACT: Workplace Privacy Act 2011 (ACT)

http://www.austlii.edu.au/au/legis/act/consol_act/wpa2011203/

You should also pay close heed to a couple of Commonwealth Acts which regulate telecommunications interceptions and unauthorised access to data held on computers:

Cth: Criminal Code Act 1995 (Cth)

http://www.austlii.edu.au/au/legis/cth/consol_act/cca1995115/index.html#sch1

Specifically in this Act you should draw your attention to the provisions relating to unlawful access to computer data. Search “computer” within the Schedule for more information.

Cth: Telecommunications (Interceptions and Access) Act 1979 (Cth)

http://www.austlii.edu.au/au/legis/cth/consol_act/taaa1979410/

It is a daunting task to read the Evidence Act but an understanding of this legislation is actually very important in any legal matter, criminal or civil. If you have the opportunity to familiarise yourself with the Act in any way then take that opportunity because knowing how evidence is adduced is simply invaluable. Each state has its own Evidence Act – they are all broadly similar.

Beyond the stated pieces of legislation above, there is really no limit to the legal knowledge that could potentially assist you in the investigation industry. Other than undertaking investigations into the whereabouts of long-lost relatives or undertaking infidelity investigations, most work you do will be for legal purposes so, the better your knowledge of the relevant law, the better your knowledge of what you are trying to prove. This will also allow you to present evidence in court in a much better capacity.

Below are some links to industry representative bodies / organisations that you should familiarise yourself with:

www.investigateway.com.au This is a investigators’ portal and discussion forum.

www.imal.com.au This is the Institute Of Mercantile Agents who represent Debt Collectors, Process Servers and Private Investigators nationally.

How to Become a Licenced Investigator in NSW

If you have made the decision to become an investigator then there are a number of steps involved before you can undertake work.

You must have a masters licence.

When you apply for a private inquiry agents’ (the official name for private investigators) licence, the first licence you are issued with is a Probationary Operators Licence. Under the Commercial Agents and Private Inquiry Agents Act 2004 (NSW), the legislation governing the licencing of private inquiry agents in NSW, the Probationary Operators Licence has effect for one year from the time at which it is

granted. A link to the page where you can find the application form for an Operators Licence is below:

http://www.police.nsw.gov.au/services/security_licensing_and_enforcement_directorate/commercial_and_private_inquiry_agents_capi/application_forms/operator_licence

Most private investigation firms will not employ you without a Masters Licence. In fact, they should not employ you because, under the Act the only way to employ someone on a probationary licence is by directly employing that person! Surveillance operatives and factual investigators are usually not directly employed – they work on a subcontract basis.

So, to summarise the above: as soon as you have made the decision to become a private investigator, you should apply for a Probationary Operators Licence, a licence which you retain for a year. We understand that the only work you can do within this year is work as a direct employee of a Masters Licence holder. It is generally unlikely such work will be available but that should not stop you contacting private investigation agencies and applying for office work if you believe you would be suited to that kind of administrative role. During the year you must retain your Probationary Licence you will need to complete your Certificate 3 in Investigative Services (see below). Once you have finished this course and after you have had your Probationary Licence for a year you can apply for a Master Licence. It is likely the kind of Masters Licence you will need will be a Masters Licence Corporation – Owner / Operator. This allows you to work as a subcontractor for any private investigation firm that issues you work. A link to the page where you can find an application form for the Masters Licence Corporation – Owner / Operator is below:

http://www.police.nsw.gov.au/services/security_licensing_and_enforcement_directorate/commercial_and_private_inquiry_agents_capi/application_forms/master_licence_corporation_owneroperator

Note that you must not have been convicted of a criminal offence for a certain number of years to qualify for a licence.

As mentioned above, you must complete the Certificate 3 in Investigative Services.

You need only Google this phrase to see the many bodies offering the course.

You can undertake this course during the year you have your Probationary Operators Licence. You can only be issued a Masters Licence once you have completed this course (and once your initial Probationary Licence has expired).

You need an ACN.

In order to undertake work as a subcontractor you should register a company and get an ACN. You should seek tax advice from an accountant if in doubt as to whether your relationship with the company you propose to work for is properly constituted.

You need workers compensation insurance for your own company as you are not a direct employee of the company that issues you work.

You need the appropriate equipment.

This includes a vehicle and the equipment referred to earlier for the particular role you intend to take on.

Once you have satisfied all the above criteria then you are ready to approach firms and offer your services as an investigator. You should indicate that you have the necessary licence, an ACN, workers compensation insurance and the relevant equipment.

You can find a range of investigative firms online. Networking with other investigators and people in the industry will no doubt help you learn about other companies that are not listed in search engine results.

Investigation managers want to hire people who are already competent – the less time they have to spend training the better. So, if you can show in your application that you can manage the role then this will probably get you in the door. Include a sample report of a surveillance operation if necessary to show your language skills are appropriate. If you are able to network with other investigators prior to applying for work then you should be able to learn about report-writing from them. It is important to remember to be descriptive and clear in your reports. Do not try to say too much at once. Take your time with your descriptions and analysis.

Note that certain persons are not permitted to become private investigators, for example, those who have been convicted of criminal charges within a certain number of years. Questions about this should be directed to the regulatory body. The Security Licensing and Enforcement Directorate (SLED) is the police body that regulates the industry. The website contains a range of information you should peruse:
http://www.police.nsw.gov.au/services/security_licensing_and_enforcement_directorate

Licensing in Other States

We understand that licenses are not required for private investigators in the ACT. In the states and territories other than the ACT and NSW, one may perform work as a private investigator as soon as one is licensed. In order to be licensed in Victoria, QLD, SA and WA, one must pass the Certificate 3 in Investigative Services.

The Australian Security Academy provides a good overview on a state-by-state basis of the specific requirements at the following webpage:

<http://www.australiansecurityacademy.com.au/flex/state-licensing/44/1>

The Australian School of Security and Investigations also provides a good overview:

<http://www.trainingschool.com.au/licensing.html>

Regardless of which state or territory you are in, you should comply with the following requirements in order to become a proper subcontractor. You should take legal and accountancy advice in this regard. The requirements of the ATO in relation to employees and subcontractors and the tests that apply are quite complex.

- 1) You may need a licence (see above).
- 2) You may need an ACN (Australian Company Number).

In order to undertake work as a subcontractor you should register a company and get an ACN. You should seek tax advice from an accountant if in doubt as to whether your relationship with the company you propose to work for is properly constituted.

- 3) You need workers' compensation insurance for your own company as you are (likely) not a direct employee of the company that issues you work.
- 4) You need the appropriate equipment.

This includes a vehicle and the equipment referred to earlier for the particular role you intend to take on.

- 5) Once you have satisfied all the above criteria then you are ready to approach firms and offer your services as an investigator. You should indicate that you have the necessary license, an ACN, workers' compensation insurance and the relevant equipment.

You can find a range of investigative firms online. Networking with other investigators and people in the industry will no doubt help you learn about other companies that are not listed in search engine results.

Investigation managers want to hire people who are already competent – the less time they have to spend training the better. So, if you can show in your application that you can manage the role then this will probably get you in the door. Include a sample report of a surveillance operation if necessary to show your language skills are appropriate. If you are able to network with other investigators prior to applying for work then you should be able to learn about report-writing from them. It is important

to remember to be descriptive and clear in your reports. Do not try to say too much at once. Take your time with your descriptions and analysis.

Note that certain persons are not permitted to become private investigators, for example, those who have been convicted of criminal charges within a certain number of years. You should direct questions about this to the relevant regulatory body.

Links to regulatory bodies:

QLD:

<http://www.fairtrading.qld.gov.au/private-investigator.htm>

VIC:

http://www.police.vic.gov.au/content.asp?Document_ID=114

WA:

<http://www.police.wa.gov.au/Ourservices/PoliceLicensingServices2/Security2/tabid/1803/Default.aspx>

Summary

It might seem like a bit of work to get started but becoming an investigator is much more straightforward than becoming a lawyer, for example. The role of investigator is a rewarding and intriguing one where one stands to learn a lot about people, the law, dealing with clients and about solving problems. It is a career where people with the appropriate skills and work ethic can excel and develop new abilities. It probably won't make you rich but if you invest time and energy in the industry and you make the right decisions, it will enable you to earn a living and give you some great stories with which to (discreetly) entertain your friends. There are not many jobs that give you the opportunity to feel the thrill of capturing evidence of a crime or a serious civil wrong and to feel as though your work was instrumental in helping bring about a just outcome.

If the information in this guide has been of benefit to you, you may wish to place a positive review on our Google My Business Listing. Please also follow Lyonswood's Facebook page as we will offer opportunities from time to time for suitable candidates.