HERE’S LOOKING AT YOU:
Surveillance Tips From a Special Forces Operator

Inside this Issue
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Happy Holidays! By now the new hires for the retail sector are in place and undoubtedly investigators have been busy removing a number of them for illicit activities. In the public sector, investigators are focused on theft from the distribution and logistics portion of the business. Then, the standard business of policing continues.

At IAI we are busy as well. Plans for the Elite Training Day this coming spring are well underway. Our host this year is the McDonald’s Corporation in Oak Brook, Illinois. We have many fine speakers that will be focused on delivering top quality material on investigation, interview, and interrogation components. We hope you’ll be able to attend the Fifth Annual Elite Training Day, as each year we have hundreds of investigators join us in continuing and enhancing their education.

We have the following speakers already confirmed!

Dr. Jack Schafer is a professor at Western Illinois University in the Law Enforcement and Justice Administration (LEJA) Department. He is a retired FBI Special Agent. He served as behavioral analyst assigned to FBI’s National Security Behavioral Analysis Program. He authored a book entitled, Psychological Narrative Analysis: A Professional Method to Detect Deception in Written and Oral Communications. He also co-authored a book entitled Advanced Interviewing Techniques: Proven strategies for Law Enforcement, Military, and Security Personnel. Dr. Schafer is the author of The Like Switch: An Ex-FBI Agent’s Guide to Influencing, Attracting, and Winning People Over. His presentation for Elite Training Day 2017 is titled “Catch a Liar.”

Lisa Mitchell is a Communications Expert, Executive Coach, and Founder of Power Body Language. As a Certified Body Language Trainer and non-verbal skills coach, she specializes in programs that empower leaders to communicate with confidence, increase their influence, and negotiate with results in her keynote session.

Mitchell was also featured in the 2016 Issue 3 of the CFInsider Journal, “Getting the Truth From Your Candidates: The Power of Body Language.”

Plan ahead!

Put it in your calendar and budgets now for April 4 – 5, 2017.

Sincerely,

David E. Zulawski, CFI, CFE
Chairman, IAI Advisory Board
COMING SOON!

IAI is Going Mobile

IAI is looking for your help with creating an app for the IAI Membership. Our goal is to make IAI resources readily available in the palm of your hand whether it webinars or video tips.

Email Member Services Coordinator, Dana Sadwosky at dsadowsky@W-Z.com.
As with most things in life, the most special part of traveling is the people we meet. My personal and professional lives have been drastically impacted by conversations I’ve had with exceptional people who I never would’ve otherwise met. A recent example is a conversation I had with a former Special Forces operator; we will call him “Joe.” Joe and I spoke at the same training event and ended our evening together with a small group at the pub next to our hotel.

During our conversation we discovered we had several things in common, including a professional requirement to gather intelligence by following people around without being seen. Admittedly, I’m pretty sure I never surveilled an individual who was a threat to global security. However, we both have conducted surveillances that could’ve ended “badly”, in relation to our own worlds, if we were discovered. Whether he realized it or not Joe provided the group with several bits of wisdom and one particular answer he gave us caused me to ask him if he would be willing to do an interview and Joe graciously agreed.

Of course we do have a few disclaimers. Given the nature of Joe’s experience there were questions he couldn’t answer and details he couldn’t provide. You’ll see that in one of his answers he references using UAV’s to assist with surveillance and our official statement on using drones during your surveillance operations is as follows: Always confirm and comply with your company policy before, during and after any surveillances you conduct. Every answer may not fit directly into your field of operations, but there are plenty of thoughts and lessons that apply to everything we do.

Joe thank you for taking the time to speak with us. To get started what are the most important things you look for when you are studying your target?

If you’re focusing just on your target it will be important to pick up any mannerisms such as the way he walks or any other behavioral traits. This will allow you, as an operator, to confirm your target if he changes his appearance such as hair or clothing. It is a lot harder for a target to change the way he walks opposed to his hairstyle. Identifying clothing can be important if you are following an unaware target. Some targets will have a favorite jacket for example, but this should never be the driving factor when confirming targets.

How important is it to fit into your surrounding environment?

This is probably the most important part of being a surveillance operator. Not fitting in with the surroundings will highlight you to everyone else in that environment. If you take any major city in the world, the local population will be able to tell who the tourists are. Same deal with surveillance. Now saying that, using being a tourist as cover will work for a limited time. However, you can only get away with it once and you won’t be able to put sustained surveillance on a target.

Environmental training should be part of any surveillance operator’s course. This way students can understand what they will need to do to prepare themselves to work in multiple environments. A thorough environment appreciation should be conducted before surveillance operations are carried out based on
what currency is used, places to avoid or be aware of, and local customs that involve large groups of people coming together for a common cause. A very good example of a lack of environmental awareness leading to tragedy is the case of Corporal Howes and Corporal Woods in Northern Ireland in 1988. Corporals Howes and Woods were off duty soldiers serving in Northern Ireland and through lack of awareness, or a failure to receive information, drove their car into an IRA (Catholic Terrorist Organization) funeral procession. As with most processions in Northern Ireland at that time the crowd was very aware and emotions were running high due to the violent situation in the country. This procession was particularly heightened because the deceased IRA member had been killed by British Security Forces. This was also the second attempt to bury the deceased man as many people were injured when his first funeral procession had been attacked by an Ulster Loyalist (Protestant Terrorist Organization) member. When the Corporals car sped into the funeral procession the crowd first believed they were being attacked again by the Ulster Loyalist and then discovered the occupants were off duty soldiers. The crowd’s reaction proved fatal for both Corporals Howes and Corporal Woods. This situation could have been avoided if the Corporals knew the area, population and the situation better. For the record they were not surveillance operators.

How dangerous is it to completely mirror what your target does?

This will be dangerous if the target has a team doing counter surveillance or if you work in an area where the local population is very aware of surveillance operations. If the target is surveillance weary he may have a routine to try and identify anyone following him. This could be as simple as driving around the block and seeing which car follows him through three or four corners.

What special considerations do you take when you have to follow a target into, and out of, multiple locations?

One of the first considerations is how many times you have been seen, or could have been seen that day. If you think you’ve been seen then you should err on the side of caution. You could blow the whole surveillance operation if you are not honest with yourself. You also need to define what multiple locations means within your operation. Being seen in several different shops in the same mall or town is probably ok if there is an air gap between each one. However, being seen in two different remote locations is a different matter. By that I mean if you see X in town Y and drive four hours to town Z and see X again, that would be suspect.

What clues do you look for to anticipate your target’s next move?

One key is to follow the pattern of life that you have built up over time of following the suspects. This will allow you to place operators at specific locations in advance as the target does not really suspect people who are already at locations before he arrives. Also, if you are conducting close up surveillance simple techniques like listening to phone calls, looking over his shoulder when he is on the Internet or writing in a diary, and listening to any conversations he has with other targets can all provide important clues.

See which are the most critical components of your preparation before conducting a surveillance turn to page 11.

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LINKS of INTEREST

This podcast is a conversation with Dr. James Mitchell on WCBM Radio. As an interrogator he was very involved in the Enhanced Interrogation Techniques. He discusses “myths” about the use, and the “myths” of what he calls “softer techniques.” I would personally be curious of our CFIs responses after listening to this 14 minute piece. Email Wayne at whoover@w-z.com with comments. Link: http://www.wcbm.com/2016/12/12/sf-interview-dr-james-mitchell-co-author-of-enhanced-interrogation-inside-the-minds-motives/
IAI Now Accepting Applications for 2017 CFI Scholarships

The International Association of Interviewers (IAI) is accepting applications for the 2017 Certified Forensic Interviewer (CFI) Scholarship.

Deadline for applications is Friday, January 11, 2017.

IAI is offering three CFI Scholarships, to include the CFI Preparatory Online Program and the CFI Examination Voucher ($870 value). Scholarships will be awarded to the following individuals:

1. An individual working in the private sector, honoring Fred Wilson, CFI, and former Advisory Board member
2. An individual working in the public sector
3. An individual working internationally

Criteria
The criteria for an individual to qualify for a CFI Scholarship is constantly:

- Striving for excellence and professionalism in the performance of his or her duties
- Exhibiting the highest level of professionalism while interviewing sources, victims, witnesses, and suspects
- Following the CFI Values

Directions to Apply
Applications for are due by January 11, 2017 and the winners will be announced at Elite Training Day in Chicago on April 5, 2017 as well as the CFInsider – second quarter edition. For directions on submitting your CFI Scholarship Nomination click here.
"We received a written statement from a witness that looked like it was pretty much written by a cop. We have the statement on camera at a scene, so we see the witness writing the statement personally, but we also see 2 cops with the witness the whole time. There is conversation about the statement throughout the statement writing process. It almost looks like they are all agreeing on what they are going to have the witness write in the statement.

When the witness was interviewed later on, based on the way that his/she was talking, we realized there was absolutely no way that he/she came up with that written statement on his/her own without input from the officers involved. The wording and everything about the way the statement was written is all in cop lingo but this witness is really the furthest thing from law enforcement.

I was trying to see if you know off hand is there anything regarding the legality or admissibility of the witness statement that was influenced by law enforcement, and also could there be anything that would hold the department and my officers liable for any false statements or false prosecutions?"

CFInsider: We think there are several issues here that should be addressed.

First, is the appropriateness of the officers helping the witness write the statement. In general, it is difficult for any witness to write a statement since they have no understanding what may or may not be important to include in the document. In almost all the statements that we have taken over the years in a field setting or interrogation room we have assisted the individual in formatting the statement content. While the statement appears to be a written narrative it is essentially the responses to questions asked of the subject to assist in including all the pertinent details necessary.

The second issue involves the way the individual interprets the questions asked of him/her by the officers and the tendency for the subject to incorporate the language used by the questioner. Unfortunately, witnesses, victims, and suspects may incorporate the language used by the interviewer into their statement. This is not an unusual occurrence and it is a method which can taint the product of the statement.

The third issue is whether the statement reflects the observations and ultimate testimony of the writer. From the information provided it does not appear that the information provided in the statement was incorrect, but merely that it reflected the words of the officers. If the subject's statement did not reflect what was observed, but was dictated by the officers then the individual's ultimate testimony would be markedly different which could taint the prosecution's case. There's no question that it would be better if the individual had used his own words to describe the situation, however, if the statement truthfully reflects his observations and his ultimate testimony then it will be the credibility of his recollection under cross-examination which will come into play rather than the statement itself. A witness statement helps to refresh the mind before testimony and if it is accurate and truthful the words included become less important.

The final issue which needs to be addressed is if the statement was untruthful, coerced, or dictated or significantly differed from the testimony of the witness there could be a potential for a miscarriage of justice. However, just because a statement was taken at the time of the incident does not necessarily mean that the individual will not change his testimony later for any number of reasons.

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A well written and substantiated statement can be a powerful tool in the hands of a prosecutor who is attempting to undermine the individual’s credibility as he changes his story. While there may be some potential criminal aspects to a coerced statement, it is much more likely that the officers and organization could ultimately face a civil lawsuit resulting from the prosecution. In this case, there is a dash cam video of the statement being taken which would allow an observer to determine the level of coercion, if any, and the nature of the interaction between the officers and the witness.

It would probably be prudent to discuss with the officers the possible difficulties presented by the inclusion of the law enforcement verbiage in the statement. They should be encouraged to have the individual use their own words to describe the situation and then ask follow-up questions to clarify or include additional information. Questions relating to the tainted statement and possible case law would best be addressed with the local prosecutors who would have online access to query the case law.

Turn to page 14, to see how to overcome “I don’t know” or “I don’t remember” responses.
CFI YEAR IN REVIEW

129 NEW CFIs

CFI

International Scholarship Winner
Ephantus Mbui Kathimba

Public Sector Scholarship Winner
Carl Vigil
Became a CFI September 19, 2016

SCHOLARSHIP WINNERS

Fred Wilson, CFI Private Sector Scholarship Winner
Ken Fiori
Became a CFI November 9, 2016

CFI OF THE YEAR
HECTOR ERAZO, LPC, CFI WALMART
NEW ORGANIZATIONS

Bay Area Regional Medical Center
Bernalib County Metropolitan Detention Center
Boddi-Noell Enterprises
Charter Communications
Crime Stoppers
F. Korbel & Brothers Inc.
Freddie Mac
Garda World
Golub Price Chopper
H&M
ID-Lies, LLC
Independent Police Review Authority
Lewis Home Retail Ltd.
Life Changing Moments
Major Mart, Inc.
Manguard Plus LTD
Massachusetts State Police
Miami Valley Gaming and Racing
MMY Consulting Inc.
MXD Group
Napa Auto Parts
Nova Scotia Liquor Corp
NYS Justice Center for the Protection of People with Special Needs
Overwaitea Food Group
Redshift Investigations LLC
Restoration Hardware
Royal Caribbean Cruises Inc.
Sobeys
Sony Electronics
State of Tennessee-Comptroller
TA Operating LLC
The Cellular Connection
The Motorist Insurance Group
The New York Botanical Garden
Turkey Hill Mini Markets
Vitamin Shoppe
Vmware
VXI Global Solutions
Western Union International Bank
Xanterra Resorts
XPO Logistics

Even the most experienced CFIs need to regroup for a second take!

Blooper video?
https://youtu.be/Gb4lmCT0r_8
What are the most critical components of your preparation before conducting a surveillance?

The first critical component is a fully prepared team that has either all done the same training course or has worked together for a good period of time. If possible, the team should have varying degrees of experiences in the areas they work. This will allow the newer members of the team to learn from the more experienced operators. This is more critical when you have a very surveillance aware target so you avoid mirroring the target.

As a matter of course, a good ground and target study should be carried out by a team member or members who report back to the whole team. This way the team isn’t just listening to a brief from someone else. The team also has to be well practiced in all surveillance drills so that the whole team acts naturally when things don’t go to plan - which is guaranteed to happen. Additionally, the team needs to understand what they have to do should a team member get into trouble so they can act quickly.

If you could give one piece of advice to someone conducting his first surveillance, what would it be?

Try and relax as much as possible. You will feel like the whole world is watching. This is where experienced operators come in. Whenever possible, an experienced operator should be in a position to support a new member during his first follow. This will allow the new member to relax because support is close by. Other than that just be confident in your abilities and trust your instinct. If it can be arranged, new members should be put on less aware targets and in easier environments for their first assignments so they can develop confidence.

If you realize your cover has been blown, how do you recommend calmly and safely removing yourself from the situation?

As stated in the question, the most important point is realizing your cover has been blown. Most incidents occur when the operator fails to realize this or tries to push through it. The first thing is to report this to the rest of the team or control unit and try and give a detailed description of where you are and what your plan is so the team can move in to assist if necessary. What happens after that is based on what type of compromise you have had, hard or soft. A hard compromise is where there is an immediate danger to your life and you need support now. In this situation, the team should drop everything and make you the priority. A soft compromise is where you are not in danger but you know the target has seen you. In this situation the team could keep going with the operation, but consideration should be given to the fact the target will be very aware which could lead to a hard compromise. The above two situations will also be dictated by who your target is and what his modus operandi is. In both circumstances, honesty from the operator is key.

Are there ways people can practice surveillance skills outside of work without getting the police called?

It is possible but you have to be aware of what you are going to do if you are seen and the police do get involved. It may not go down too well, in this day and age, with the terrorist threat. You need to determine if you are going to train as an individual or as a team. For both, the best places to train on foot surveillance are shopping malls.

For team training, get one person to play the target and have the team follow him around the shopping mall. The team must have a covert communication system or use cell phones. The target then just needs to walk round the mall, going in and out of shops and conducting day to day business. Malls are fast moving because shops are in close proximity. They can also get crowded with people so a team can lose a target if it does not place itself correctly quickly.

For individual training, just pick random targets and see how long you can follow one, but don’t go for more than one or two shops. This is good training to see how long you can blend in with your surroundings as the target will have gone in there with purpose to buy or look at something and you have not. You will also have to deal with very friendly shop assistants asking you if you need any help - especially in the US! One example of how this can lead operators to become fixated on the target and not aware of their surroundings is when a male operator followed a target into a shop and picked a position to observe the target from. It wasn’t until he was asked if he needed help that he realized he was standing in the women’s underwear section. If that ever happens make sure you have female sizes in your head so you can say you’re buying underwear for someone!
If you are required to conduct surveillance in an area where you can’t easily blend in, how do you make the best of a bad situation?

This is a common problem and the only way to get around it is to try and cover the exits and entrances of the location. This is common in estates or hard neighborhoods. The team should sit on the outside and look for the target on the approach roads. This is where a good understanding of the target and the target’s associates come in to play. As an example the target may not use his car. The best way to get around this challenge is with aerial assets. UAV’s are common now and used by Paparazzi really well. You could follow their lead.

Can you share a few surveillance mistakes you have seen so we can learn from them?

Mistakes usually occur from lack of honesty or not owning up to a mistake. I have called out the wrong direction many times, but I was always quick to admit my mistake as soon as I realized what I had done. As soon as the team knows a mistake has been made they can start correcting it. Everyone makes mistakes so they can be forgiven. However, if someone doesn’t own up to his/her mistake it can be bad for the team, become a danger to team unity and cause friction. I was once part of a team that was in the middle of a surveillance operation that had gone on for 17 hours. We had one hour of sleep and had to eat on the move. There were only five of us for the most of the job and we were all tuned into the target. Towards what turned out to be the end of the job we got reinforced with additional operators. At this time the target went into an area like what was mentioned in previous questions, so we covered the way out of the area and waited. The whole team and the control desk were under the assumption that all friendly call signs were accounted for and away from the target. Suddenly one of the call signs calls us and says the target had tried to run him off the road. This sparked the team to kick into action to potentially take down the target (this team was not a direct action force, so there was risk with this as well). The control desk then started tasking call signs to the last position of the call sign who called in the issue. When the area was checked, he and his car were nowhere to be seen. At the same time he called in and reported what had happened and that he was safe. The whole job was called off at that stage. During the debrief we learned the call sign in question, who was new to the team, had decided to drive into the area for a look without telling anyone and he didn’t realize the target was watching the road for unusual activity. Not only did the new team member drive slowly down the road looking at properties but he turned around and drove back the same way, at which time the target challenged him. The call sign panicked and the target confirmed he was a surveillance operator and got out of there.

Can you share a few genius decisions that were made during surveillances that we can learn from?

I was working with another government agency with a non-military surveillance team. On one operation I said I would confirm a target in a shopping centre carpark, only to be told not to go and the team leader sent a women to do it. At the time I thought that he may not trust me. Later I was told to go and do a foot surveillance in a hard estate on my own. When I got back for the debrief the team leader told me that he didn’t want me getting seen on something soft like walking over a carpark when he had women who would blend in better. He wanted to use me in an area where, if something did go wrong, I could probably get out of it due to my background. The point of this story is know your team’s strengths and weaknesses.

Communicating with teammates can be critical and difficult during surveillances. Do you have any advice for communicating quickly and clearly when it counts most?

Surveillance communications need to be short and sharp. The key information the team needs to know is who is following, where the target is, and where the target is going. That should come from the operator who “has” the target. This operator will want to hear who is in immediate support to take the target when he wants to drop it. Some teams use repeat nets to ensure the communications get out. At certain times everyone on the team will have to acknowledge that they are getting this. This does two things, it ensures everyone understands the communication and also lets the team leader/control know that everyone is still safe.

A quick example:

**Joe:** Target is north on Route 95 from Fredericksburg towards DC.

**Mike:** In support.

“When I was new I learned who to look towards in stressful situations because if he was ok, we were ok. Then when I became a team leader I had to realize that people were looking at me and I had to be that guy because when I was ok, my team was ok.”

Continued on page 13
Joe was very open and welcoming of all the questions he got from the group that night in the pub. I wanted to be very careful and respectful of his service, but I had one question I wanted to ask and his answer inspired me to request the interview. I asked him how he learned to control his adrenaline spikes in stressful situations. His answer was simple and profound. He said, “When I was new I learned who to look towards in stressful situations because if he was ok, we were ok. Then when I became a team leader I had to realize that people were looking at me and I had to be that guy because when I was ok, my team was ok.” We are all placed in leadership situations every day with our families, our teams and even in the interview room. When those around us are feeling stressed they will look to us to validate their feelings. If we are flustered, they may fall apart. If we are calm, cool and collected they can control their emotions.

In closing, I want to quickly thank Joe for his time and insights. More importantly, we want to thank Joe and all his team members for everything they have done and sacrificed to keep the rest of us safe.

If being on the ‘No Dispatch’ list was this cute... you wouldn’t need Iverify.

Click here to learn more about Iverify’s Alarm Permit Management solution.

Michael Reddington, CFI teaches people to use the truth to their advantage. As the Vice President of Executive Education for Wicklander-Zulawski and Associates, he developed the Disciplined Listening Method by integrating key non-confrontational interview and interrogation techniques with current business best practices to provide executives with advantages at every table at which they sit. To learn more, contact Michael directly at 800-222-7789 x150 or mreddington@w-z.com
STATE OF WISCONSIN, PLAINTIFF-APPELLANT, V. MASTELLA L. JACKSON, DEFENDANT-RESPONDENT.

CASE NO.: 2014 AP 2238-CR

In this case, currently on trial in Wisconsin from a 2012 homicide, there arose a question of statements made by the defendant both before and after Miranda warnings. Some of the defendant’s statements were used as probable cause to obtain a search warrant for her residence. In addition, the defendant also made post Miranda statements which assisted in the recovery of physical evidence from her home.

The Circuit Court suppressed the defendant’s statements and the physical evidence because of improper interrogation of the suspect. The state appealed the suppression of the physical evidence because there was sufficient evidence to obtain the search warrant without the defendant's statements and the physical evidence would have been inevitably discovered during the search of the residence.

On February 21, 2012, police officers discovered the body of Jackson’s husband, Derrick Whitlow in room 114 at the Road Star in Grand Chute, Wisconsin. The victim’s autopsy revealed that he had been stabbed approximately 25 times.

Later, on the afternoon of February 21, officers met with Jackson and asked her to come to the police station. She was placed in an interrogation room at approximately 4:30 PM with her questioning beginning at 6:24 PM. Jackson was told that she was not under arrest and was free to leave at any time.

After about a half hour of questioning Jackson began to complain of stomach pain and after another half hour in pain at about 7:25 PM Jackson asked to leave. “Can I go home right now, please, I don’t want to talk. Period. Can I go with you to get the medication; can I go home or do I have to stay?” One officer left to make a phone call and the other officer continued the interrogation.

Approximately an hour later at 8:36 PM Jackson began to make incriminating statements. At about 9 PM she admitted going to the victim’s room earlier that afternoon and said that she may have brought a knife with her to the hotel. At 9:37 PM Jackson was allowed to take prescribed oxycodone for her pain.

After Jackson made these incriminating statements, police applied for a warrant to search her house and garage. The search warrant in part relied on Jackson’s statement that she went to see Whitlow at the Road Star that afternoon and that she may have brought a knife with her. The search warrant was authorized and the search of the residence began at about 12:50 AM on February 22. Other officers continued to interrogate Jackson and she was finally given her Miranda rights at about 12:39 AM on February 22. About six hours after the interrogation began, Jackson admitted to stabbing Whitlow. She also acknowledged that the knife and clothing she was wearing during the stabbing were in a garbage can in her garage.

Jackson’s interrogation ended at 2:01 AM on February 22. She was then taken to her residence while the search was still in progress to point out the garbage can where her clothing and the knife used in the murder were located. Inside the garbage can police found a duffel bag containing a Winchester knife, bloodied shoes, and bloodied clothing.

During pretrial suppression hearings Jackson moved to suppress all her statements to police as well as the physical evidence derived from those statements. The Circuit Court ruled on June 16, 2014 that Jackson was in custody for Miranda purposes at 7:25 PM on February 21 and the police intentionally violated her rights by interrogation after that point without providing Miranda warnings. All of Jackson’s statements from 7:25 PM until she was advised of her Miranda rights at 12:39 AM were to be suppressed. The court also ruled that her statements after she received her Miranda warnings were involuntary and were to be suppressed as well. The court ruled that the physical evidence discovered by the search warrant should also be suppressed under the “fruit of the poisonous tree” doctrine because it was discovered as a result of the tainted interrogation.

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Outagamie County Judge Mark McGinnis ruled at a June 2014 hearing that Grand Chute investigators violated her constitutional rights by not giving her a Miranda warning, and violated her statutory rights by not recording the interactions between Jackson and officers when she was outside the interrogation room. Her statements were also involuntary, he ruled.

"I've never seen a case, been part of a case, or heard of a case that's worse than this in terms of what the police officers did in that interrogation room. ... This is just a clear violation of somebody's rights over a long period of time involving many different officers with lots of opportunities to have one of them step up and say, 'Hey, this is not the way we need to do this,'" McGinnis said at the hearing, according to a court transcript.

The state appealed.

The state argued that the Circuit Court erred in its suppression of the physical evidence because it would have been inevitably discovered and the search warrant itself had untainted portions which would establish probable cause for the search.

In May 2015, the state Court of Appeals reinstated the physical evidence, though it also condemned the officers' conduct.

"We acknowledge that the officers' actions during the interrogation of Jackson were reprehensible," the decision stated. "We do not in any way condone their conduct. However, ... we nevertheless conclude suppression of the physical evidence that was derived, in part, from the officers' misconduct is not an appropriate remedy because the evidence would have been inevitably discovered using lawful means."

The Wisconsin Appellate Court agreed that there were sufficient grounds for the issuance of a search warrant absent the involuntary admissions of the defendant. The court also found that the discovery of the duffel bag with bloodied clothing and murder weapon would have been inevitably discovered without the defendant's statements or assistance. The inevitable discovery doctrine provides that "evidence obtained during a search which is tainted by some illegal act may be admissible if the tainted evidence would have been inevitably discovered by lawful means." State v. Lopez, 207 WIS. 2d 413, 427, 559 N. W. 2d 264 (Ct. App. 1996).

On November 7, 2016, Mastella Jackson stood trial charged with first-degree intentional homicide and misdemeanor bail jumping in the stabbing death of her husband.

"I've never seen a case, been part of a case, or heard of a case that's worse than this in terms of what the police officers did in that interrogation room. ... This is just a clear violation of somebody's rights over a long period of time involving many different officers with lots of opportunities to have one of them step up and say, 'Hey, this is not the way we need to do this,'" McGinnis said.

"The best preparation for tomorrow is doing your best today."
– H. Jackson Brown, Jr.
What are ways to overcome “I don’t know” or “I don’t remember” answers?

CFInsider: First we need to consider the context of the statement. During an interview, especially a cognitive interview, the subject is encouraged to respond with an “I don’t know” or “I don’t remember” and not to make information up. The subject is also told that if he/she does not understand the question it’s okay to say I don’t know or I don’t understand. If the statements are made during an interrogation of a subject, care must be taken to determine its actual meaning. Clearly, I don’t know or I don’t remember is not necessarily an indication of deception or guilt. It might be an actual reflection that the individual does not know or remember an event or parts of an event.

Many false confessions are peppered with “I don’t know” or “I don’t remember” answers because the individual is innocent and has no actual recollection of participating in the event. On the other hand, it is not unusual for a guilty party to use the same statements to defend against the interrogator’s attempt to obtain an admission.

In a confrontational interrogation beginning with a direct accusation of involvement, and often relating to a single specific issue which the interrogator is attempting to gain an admission, the suspect may attempt to defend himself by claiming a lack of memory. One way to discourage this is to conduct an extensive interview prior to the actual accusation. Locking the suspect into a detailed account of the event or his actions makes his later usage of the “I don’t know” or “I don’t remember” appear starkly different from his earlier account. The use of the cognitive interview where the subject is asked to answer open-ended questions with a narrative response will provide the interviewer with any number of follow-up questions to further expand the individual story making it difficult for him to rely on the “I don’t know” or “I don’t remember” strategy.

The cognitive interview for suspects has been validated in several research studies which establish that the interviewer can accurately determine whether the individual’s story is truthful or deceptive between 85% to 100% of the time.

A deceptive individual’s use of these types of statements is often a result of the belief that they are not actually caught. One of the primary reasons why people confess is they believe that the investigator has proof that they are involved in the incident. It may be that the suspect is still not fully convinced that his guilt is known. While we encourage investigators to withhold evidence it may be useful to offer one specific incident that clearly implicates the individual to complete the subject’s certainty he is caught.

These statements also may be completely truthful answers where the subject does not know the extent of his theft activity or the answer to a particular question. Especially in situations where there is a pattern of dishonest behavior, the individual may not know the answer to a specific question posed by the interrogator because of the variety and frequency of his illicit activity. At best, the subject may be able to give a broad estimate which would correlate to his overall activities. For example, we could ask an individual for an estimate of how often eats out in an average month. It’s unlikely that most people keep a log of their restaurant visits, but they could with some accuracy estimate their weekly visits and extrapolate that to monthly visits. Remember, the investigator wants to substantiate the admission in as great detail as possible using the individual statements, company records or other evidence to establish its truthfulness.

Another possible tactic an interviewer could use when it appears there is something holding the subject back from telling his story is to simply ask, “What would prevent a person from telling the truth?” Utilizing the third person in the question creates a hypothetical which the interviewer can address without specifically accusing the individual of the instance. This tactic will likely reduce the possibilities of direct denials which will increase the individual’s resistance to giving an admission.

The interviewer should also consider the age and intellectual wherewithal of the individual being spoken with. Young people and those with mental disabilities can often be confused by the interviewer statements and the overall content of the admission seeking interview. For them the use of “I don’t know” or “I don’t remember” is not likely an admission of guilt but simply the overall confusion with the conversation and situation.

CHAPTER UPDATES

The Northeast Chapter held its last meeting of the year on October 11, 2016 at Tiffany Headquarters in New York. Guest speakers who presented at the meeting included Wayne Hoover, CFI Executive Director of IAI, Detective Thompson of the NYPD who presented on Crisis Communication, and Matt Christman, CFI from Dick’s Sporting Goods who presented on Rationalizations and Expanding the Admissions. The next meeting of the Northeast Chapter of CFI will be held on January 31st from 1-4PM.

Presenters are:
Shane Sturman (Wicklander Zulawski) – Conducting Non-Theft Related Interviews
TJ Flynn (JC Penny) – Prepping for an interview when you were not the investigator

The meeting will be held at: Tiffany & Co 15 Sylvan Way Parsippany, NJ (We are right off of Interstates 287 and 80 and close to routes 46 & 10). All attendees will receive 3 CEUs towards recertification. Seating is somewhat limited so please RSVP to Steve Palumbo by email (steven.palumbo@tiffany.com) as soon as possible.
In the wake of recent, debilitating cyberattacks at Anthem, Sony Pictures, Home Depot and Target and privacy breaches against prominent individuals in the public eye, Theresa Payton remains the cybersecurity and intelligence operations expert that people and companies turn to regarding efforts to strengthen their privacy and cybersecurity. Named one of the top 25 Most Influential People in Security by Security Magazine, she is one of America’s most respected authorities on security and intelligence operations.

The first female to serve as White House Chief Information Officer, Payton oversaw IT operations for the President and his staff from 2006 to 2008. Previously, she held executive roles in banking technology at Bank of America and Wells Fargo, facilitating her broad knowledge of cybersecurity risks and measures in the financial services industry. Currently, as the founder, president and CEO of a world class cybersecurity consulting company, Fortalice Solutions, LLC and co-Founder of Dark3, a cybersecurity product company, she remains the expert that organizations call for discretion and help understanding and improving their IT systems.

Payton collaborated with cybersecurity and privacy attorney, Ted Claypoole, to author two books focused on helping others learn how to protect their privacy online, after receiving a number of pleas from friends and strangers regarding account hacking. Hailed as ‘must-reads,’ Privacy in the Age of Big Data and Protecting Your Internet Identity, outline peoples’ rights, as well as tips and strategies for building and maintaining a positive online image. Cybersecurity experts and investigators will learn new techniques used by cybercriminals and how to combat them. Jon Stewart had Payton on “The Daily Show” to discuss her book and the emerging threats to our privacy and security.

Payton is often sought out by media news outlets to explain complex security issues in business and consumer terms to get behind the hype to understand, in layman’s terms, how to protect your privacy and security. She has been a repeat guest on the Today Show, Good Morning America, Fox Business Shows, Fox News Shows, CBS Morning & Evening News, CNN, NBC News, and even news outlets in Canada and Ireland. Recognized as a 2015 William J. Clinton distinguished lecturer by the Clinton School of Public Service, Payton passionately protects her clients, from the board room to the conference room, and helps them understand the business risks to their organization’s cybersecurity, and she and her team provide insight and methods critical to protecting people and organizations from rapidly evolving cyberattacks.

An Offensive Security Strategy is an Investigator’s BFF

Crooks don’t need to take your complete data set or all of your customers’ data to gain the access they need to monetize their crimes. They just need to collect a few important numbers and facts and then use that information to apply for new accounts or to drain yours. There is quite a cottage industry marketing in buying and selling exploits and malware as well as data already stolen. You don’t have to be brilliant anymore to commit cybercrime, just evil, lazy and have some digital currency to buy what you want.

You may not have realized it but we hit a major milestone seven years ago. According to a Symantec press release, Internet crime outpaced illegal drug trafficking and sales as the major criminal profit maker.

Click to purchase Theresa Payton’s recently updated book entitled, Protecting Your Internet Identity: Are You Naked Online?

Check out Theresa Payton on the series premiere of Hunted on Sunday, January 22nd on CBS.

Continued on page 18
What does your thief look like? One alleged criminal auctioneer was arrested in the United Kingdom. He was thirty-three years old, worked at a Pizza Hut, and hung out in Internet cafes. He created a site called “DarkMarket,” and it allowed criminals to buy, sell, and trade private and personal information. When it was operational, the information they had for sale was stunning and included information that could allow a criminal to answer your bank account’s secret password questions. Your customers’ identities are priceless to you, but he was selling bundled identities for roughly thirty British sterling. He also offered via the site helpful online training so his clients could better Internet criminals. Fortunately, the United States and the United Kingdom worked together on the case and were able to successfully close down the site, arrest the founder, and arrest members in the United States, United Kingdom, Russia, Israel, Turkey, Germany, and France. Unfortunately, replacement sites are popping up every day and are thriving. But, chalk one up for the good guys!

So what can investigators do differently? Start off by being on offense. You cannot investigate a case properly if you did not plan to have a case to begin with. Here are some tried and true strategies we deploy on our Fortalice Solutions client engagements each day.

1. Name your digital disaster nightmare. What data is involved? What happens?

2. Practice that digital disaster in advance. Who do you call? What does the first hour look like? What does hour 8, 12, 24 and beyond look like?

3. Make sure your technology, security, risk and investigative teams all have a good working knowledge of industry best practices on preserving data; a great place to begin is with the NIST 800-86
   a. Make sure that all of the systems that store, copy, forward, transmit your most critical assets have logging capability turned on and that logs are kept for 2 years to aid you in an investigation.
   b. Document the full chain of custody, including 3rd party vendors, for your most critical assets

4. Leverage Open Source Intelligence Techniques (OSINT) to truly review your enterprise as an Adversary does.
   a. Run tools on the Kali Linux platform to see how exposed your domain names, IP addresses, and email addresses are
   b. Run tools against the key employees and leadership of the company to see how much information is known about them for targeted, spear phishing attacks
   c. Tools you may want to consider using to build out your offensive security strategy and to assist you in an investigation are: Cree.py, Tweet Deck, ExifTool, Google Earth, SEO Spider, IP Net Info, Utilizing Advanced OSINT Tools, Kali Linux Suite, FOCA

5. Develop a business continuity plan specifically cybersecurity
   a. Start first with focusing on the digital disasters.
   b. Eventually build out plans for less essential assets.

6. When the incident hits and you first get word, note the date, time, and who told you. This is important and the facts will blur with time.
   a. Document the chain of custody for the investigation (what accounts are being looked at? Machines / drives? Etc.)
   b. Track overall hours for all involved in the incident response
Manage Your Human Capital Risks to Succeed in the Digital Era

Organizations today are challenged with addressing talent needs while balancing critical human capital risk exposures.

General Dynamics IT delivers next generation personnel risk measures to support customers in complying with EEOC guidance and legislative mandates, reducing cyber security threats, decreasing collusion with external threats, preventing accidents, and increasing ethics, service, and productivity.

Our proven 4-S Approach to Human Capital Risk Management helps organizations coordinate the essential organizational pillars of service, safety, security, and strategy for success in the digital era.

For inquiries about workforce assessments from our Human Capital Risk Management team, or our consultative solutions that can help improve your bottom line, please contact Eric Hutchison at eric.hutchison@gdit.com or 312-242-4428.
RATIONALIZATION OF THE QUARTER

Group: Holiday Rationalizations

Rationalization: No Christmas Bonus

State It: Sometimes a sudden change at the holidays causes a person to make a decision they would not ordinarily make.

Story It: Let me give you an example. I know a person who, years ago, worked for a long time at one of the big national video store chains. He had worked his way up from the video stores into a good job at the corporate office. One of the things he loved was that the corporate office had the best holiday parties. There was always a full dinner with open bar at a hotel ballroom somewhere. Spouses were invited, and the executives gave everyone great gifts, including free DVDs, a meet and greet with some A-list movie star, and there was always a bonus check handed out at this party. It wasn't anything too crazy, but it was $500. The evening of the party would come around in December, and the boss would make the rounds with checks in envelopes, give them to each person, and it was a great night for celebrating a year of hard work. Year after year that check came in so handy for buying gifts for family, maybe making an extra car payment, or a plane ticket for a vacation. After a few years, this employee and most of his coworkers came to rely on that bonus, not so much for extra luxury items, but for regular monthly expenses. It always seemed like inflation and the bills increased faster than his salary raises could catch up…to the point that after several years of attending these holiday parties, he and other employees were really coming to expect the checks. It didn't seem so much like a bonus, more like an extra paycheck, and they were counting on it. And with all of his obligations and expenses, by his tenth year on the job, by the time that check was put in his hand, he knew that he had already spent that money three different ways. Well as you know, all good things come to an end, and the video rental industry was no different. It crashed hard. One year December came around and it was announced that there would be no holiday party due to financial hardship the company was facing. This guy knew he was counting on the bonus money to get some overdue bills paid. He worked up the nerve to ask his boss if there was any information about possible Christmas bonus checks. As you can imagine, no check was coming, at least not for the people at his level. You can imagine that the executives walked away with a holiday bonus, but not the rest of the professional staff. And so, while in a million years, he would never have made this decision otherwise, he knew he was in a tough spot because he was counting on that $500. He needed it. He had no other way to get it. So he made a decision that was completely outside of his nature as a person, and he decided that since he had access to his boss’ office, and since he knew where his boss kept a little extra cash, he made the decision to take some of that money after hours to pay for what he had been counting on the bonus check for. His thought was that his boss, this company executive, was certainly getting a holiday bonus, and it wasn't fair. It just wasn't right that the most highly paid employees were being rewarded, when he and the rest of his colleagues doing most of the work were walking away with nothing but bills. So, he snuck into the desk, took the money, paid his bills, and hoped that no one would ever find out or that if they did, maybe they would blame it on the cleaning crew that came through at night.

Moral It: It doesn't mean he was a bad person. He was just in a hard spot and made the decision that you or me or any of us could probably understand.

Link It: But that's why people like me come around in these kinds of situations, because we really want to understand why something played out the way it did. And we would not know the true financial situation a person is in unless they share that information with us.

For more Rationalizations join IAI at:
www.certifiedinterviewer.com
By Kevin Larson, CFI- Kroger Co.

If you have ever been to a conference, seminar or industry meeting, odds are pretty good that you have crossed paths with Tom Meehan. Tom is the Director of Investigations and Technology with Bloomingdale’s. In his role, he is responsible for physical security, internal investigations, threat assessments, AP systems, and data analytics. His specialty is in new technology deployments, business intelligence, industrial intelligence, and systems implementation and design.

Tom’s career in Loss Prevention started differently than most. He owned a small IT company and was looking for another job to help with insurance. Before long, he was apprehending shoplifters and he never looked back. His career took off and he slowly progressed through the ranks.

Tom received his CFI certification many years ago, but he admits it was one of the best things he did for his career and development. “It was refreshing to see that there was information that I didn’t already know, says Meehan.” “I learned about aspects of interviewing that I had never been exposed to. It also gave me an additional layer of confidence in the process in general. My organization and I believe it is the gold standard for interviewing.” Meehan continues, “The CFI is the absolute gold standard for interview readiness. It is a requirement in my current organization for certain investigations jobs.”

One of the things that Tom credits for his leadership and success is his mentor. “I have two, Paul Paglia and Chad McIntosh, says Meehan. “Paul, as a leader, always took the time to share knowledge. Paul is the type of leader that makes you want to better yourself and grow. Chad’s progressive attitude allows people to try new things. His leadership style encourages openness and abstract thinking. Both are leaders I strive to mirror.” What Tom learned from his mentors, has allowed him to be a mentor to others. “I pride my career around growing folks around me,” Tom shared.

Tom is extremely grateful for all his career has given him. “The leaders I have worked for allowed me to excel and pushed me to the limit,” says Meehan. “I am most grateful for my current role because Bloomingdale’s is a company where results matter and they allow me to work independently. Here, I can create a program and watch it grow.”

What are his keys to success? “Never stop learning, read, and ask questions. Participate in the AP/LP community. Work hard, work hard- then work harder,” says Meehan.

Tom has some great advice for those starting out their LP career. “Don’t try and reinvent the wheel. Focus on keeping the good going. Lean on your peers.”

When Tom is not working hard, he loves to explore his passion for photography and his two children (ages 8 months and 4 years) always challenging his learning.
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Purchase the CFI Online Prep Program. 9 out of 10 people who complete the online prep pass the exam

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Apply for and schedule your CFI exam. Testing facilities are available internationally and throughout the United States.*

MONTH 5
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CFIs IN THE MEDIA

LPM Insider
Mike Keenan, CPP, CFI wrote “Inspecting What You Expect: Performing an In-Store Audit, Part 1, 2, and 3.”
Karl Langhorst, CFI was mentioned in “Mobile POS: The Brave New World of Retail” by Chris Tlilca.
Adam Smith, CFE, CFI wrote “The Moral, Societal, and Legal Obligation for Theft Prevention.”
Jason Odell, CFI wrote “Professional Development: Mentoring the Big Jump.”
Adam Smith, CFE, CFI wrote “Objective LP Investigations versus Confident Interviews.”
Brandon Brown, CFI wrote “Hacking Loss Prevention Employment: Are You Playing The Money Game Like A Pro?”
Harold McIntyre, CFI, LPC wrote “Employment Diversity in Today’s Asset Protection.”
Adam Smith, CFI, CFE wrote “An Inside Job: When an Employee Commits Store Robbery.”
Mark VanBeest, CFI was featured in “Using Big Data to Reduce Loss Prevention Investigation Workload.”
Johnny Custer, LPC, CFI wrote “To Stop Or Not to Stop the Shoplifter: Is This Still a Question?”
Walter Palmer, CFI, CPP, CFE wrote “Physical Inventory Control Methods.”

LP Magazine September-October 2016 Issue
David E. Zulawski, CFI, CFE and Shane G. Sturman, CFI, CPP wrote “What Has Changed in Fifteen Years of Interviewing.”
Stuart Levine, CFI, CFCl is interviewed in “The Importance of Continuing Education for LP Professionals.”
Byron Smith, CFI was mentioned in “Crisis Management: What Walgreens, 7-Eleven, And Other Crisis-Prepared Retailers Have In Common.” by Garett Seivold.
Mike Cox, CFI was mentioned in “A Profile in Partnership.”
Joseph Flynn, CFI was mentioned in “Key Control Efficiency through Digital Resources.”

RLPSA Newsletter
Ken Gladney, CFI was featured in the “Member Spotlight: Ken D. Gladney, CFI.”

D&D Daily
Axel Diaz, CFI was mentioned in “ORC Leaders Jose Rivas and Axel Diaz, CFI Paving the Way for a Strong LP Community in Puerto Rico.”
Karl Langhorst, CFI was mentioned in “Leading Retail Loss Prevention Executive Joins ALTO US Team.”

ACFE Capítulo México
Dr. Muna D. Buchain, CFE, CGAP, CRMA, CFI wrote “Fundamentos sólidos de una investigación.”
ON THE MOVE

SEPTEMBER
Steve Kang, CFI was promoted to Director of Asset Protection Operations & Analytics for lululemon athletica.
Jennifer Thomason, CFI was promoted to Director of Loss Prevention - Emerging Markets at Nike.
Briana Burgess, CFI, LPC is now a District Loss Prevention Manager at Marshalls.
Chad Barnhill, CFI, LPC is now a District Loss Prevention Manager at Dick's Sporting Goods.
Jonathan Grogan, CFI is now a Regional Loss Prevention Manager PBM at CVS Health.
Casey Wright, CFI was promoted to Director of Warehouse Operations at Eby-Brown Company.
Aldo Lopez CFI, CFE, LPC, PI is now a Regional Loss Prevention Manager at Spirit Halloween.
Jacquelinne Aderhold, CFI has a new position; AP Team eCommerce Fraud Manager – Sears Holdings Corporation.
Michael Oren, CFI named Director, Loss Prevention & IA at Natural Markets Food Group.
Mason Willard, CFI has a new position; Regional Loss Prevention Manager – Aeropostale.

OCTOBER
Bruce Couling, CFI was named Asset Protection Manager – Canada for 7-Eleven.
Tracey French, CFI was named Director of Loss Prevention for Boddie-Noell Ent.
Anthony Gabino, CFI was promoted to Corporate Loss Prevention & Security Manager for Chico's FAS.
Shaun Vanderwerf, CFI was named Regional Loss Prevention Manager for Bath & Body Works.
Teresa Rios, CFI was promoted to Director of Loss Prevention at Daniel's Jewelers.
Karl Langhorst, CFI was named Executive Vice President for ALTO US.
Ryan Bauss, CFI was named Director of Center Store Asset Protection for Retail Operations at Kroger in Cincinnati, Ohio.
Mike Magrum, CFI was promoted to Director of Asset Protection for Harris Teeter Supermarkets.

NOVEMBER
Nathan Latsha, CFI was named Loss Prevention Investigator for TJX Companies.
Daniel Lumbard, CFI was named Regional Operations Manager for Burlington Stores.
Martin Lisitza, CFI is now a Regional Loss Prevention Investigator at Lids Sports Group.

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The objective of this certification program is to create comprehensive, universally accepted professional standards combined with an objective measure of an interviewer’s knowledge of those standards. The ultimate goal is that every person and every organization with a stake in interviewing will benefit from the program, as will the reputation and effectiveness of the entire profession.

CFI Code of Ethics
The Certified Forensic Interviewer is a professional with the expertise to conduct a variety of investigative interviews with victims, witnesses, suspects or other sources to determine the facts regarding suspicions, allegations or specific incidents in either public or private sector settings.

The Certified Forensic Interviewer demonstrates understanding of legal aspects of interviewing and proficiency in interview preparation, behavioral analysis, accusatory and non-accusatory interviewing, documentation, and presentation of findings. Click here to link to the complete CFI Code of Ethics.

http://certifiedinterviewer.com/about-us/our-values/
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Andrew Barborak, Gander Mountain
David Miglin, Big Lots
Dan DiMatteo, Portland Police Department
Cheryl Floccare, Tractor Supply Company
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Greetings!

From wrapping up the year in our 2016 CFI Review, to Dave’s note on looking forward to 2017 Elite Training Day, to the new IAI app in 2017, time marches on. We hope you make time to review the regular features including Legal Aspects, Questions from the Field, CFI Spotlight, and CFI’s in the Media; learning from the three quarterlies (Video, Quote, and Rationalization); and reading the feature articles from Michael Reddington, CFI, and Theresa Payton. From the staff at the CFInsider and our sponsors General Dynamics, CONTROLTEK, InstaKey, Iverify, LP Innovations, Protos Security, Verisk Retail, The Zellman Group and Rocateq USA, we look forward to an even greater 2017.

Sincerely,
Cary Jones, CFI