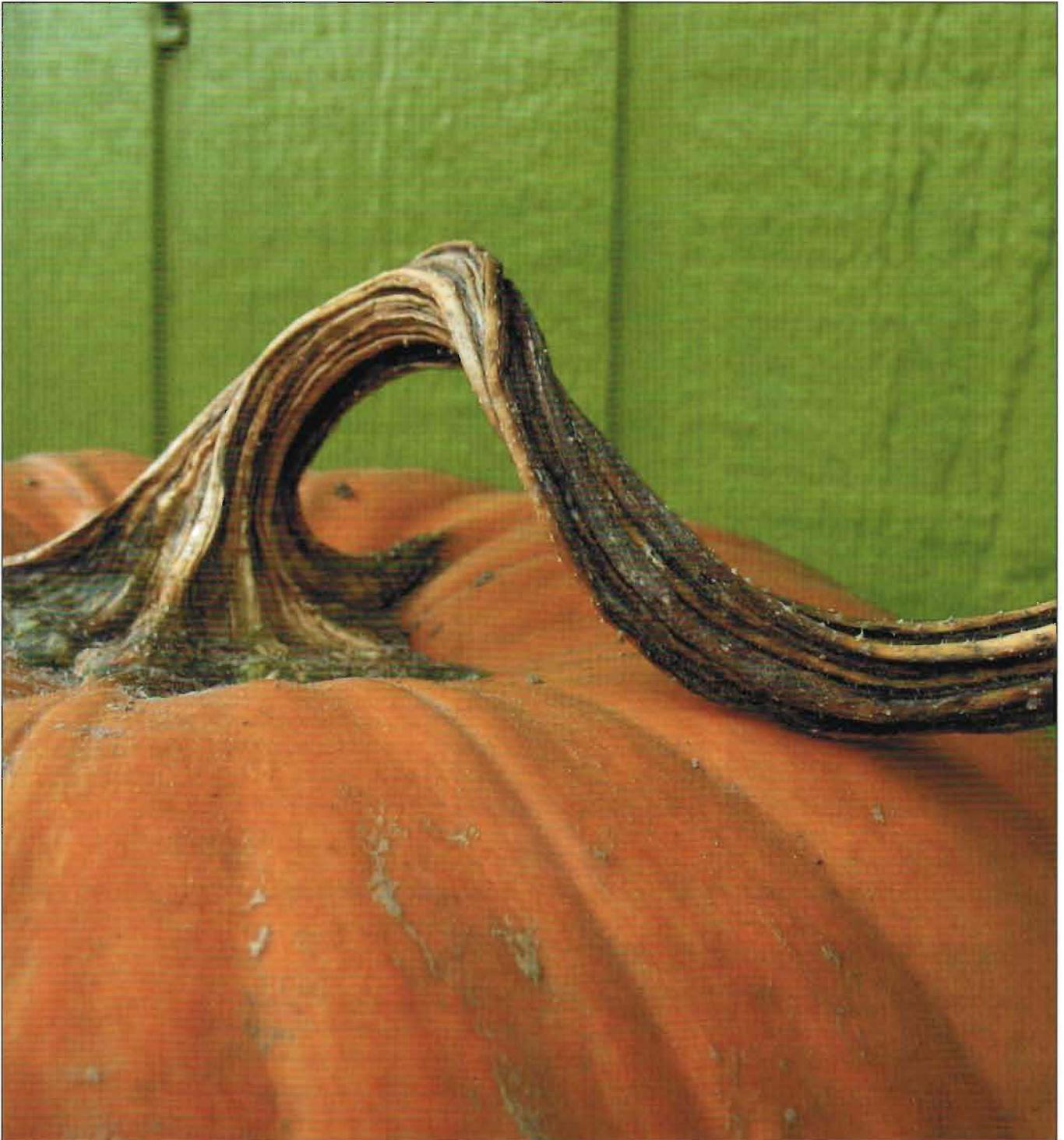


TRIAL TALK

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Investigative Protocol for Civil Legal Investigations of Motor Vehicle Collisions

By Dean Beers

The legal investigator primarily works for attorneys that provide criminal defense and plaintiff civil litigation representation for their clients. The procedures and protocols of this article encompass methodologies from multiple experiences, facets and observations of investigative techniques. These procedures and protocols are not limited to any type of investigation or scope of litigation. This investigative protocol can be applied to investigations of domestic relations, child and family, work place, social service and child protection, law enforcement, insurance and other investigative assignments with the one common goal - **to find the facts**. Justice is served when the facts are found, collected, documented and presented. Justice is not served by selective investigative practices or the failure to conduct and complete a thorough and detailed investigation. Just as building a house takes blue prints, supplies, contractors and team work – so does the litigation and investigative processes.

The painstaking inquiry of the legal investigator is indispensable to the competent and successful trial attorney and to the effective administration of justice in this country. Nat'l Assoc. of Legal Investigators –

What is a Legal Investigator

The only true function of the legal investigator is as fact finders. Legal investigators do not search specifically for the truth; they do so by way of first finding the facts. The truth cannot be known without the facts. It is in the same manner that dishonesty and elements of untruths are revealed. This Investigative Protocol will demonstrate the value of fact finding and following a logical progression to a natural conclusion. Justice and the truth are reliant upon

the facts. Facts are the foundation of justice and following this Investigative Protocol builds on the foundation that is our justice system.

Legal investigators must know where they have been to get where they are going, and all legal investigations are that way. For the attorney to effectively represent their client requires legal prowess - and a skilled and resourceful legal investigator. Each assignment is a learning experience and each assignment is a new opportunity to bring forth the facts to speak for the victims traumatic injuries and death. Motor vehicle collisions are a major leading cause of serious bodily injuries, traumatic brain injuries and death. I know, as 10 years ago my Dad and I became a statistic, and as a Deputy Coroner I worked many fatal scenes – and gave that notification to next-of-kin for which there is no description.

Legal investigators have a duty to the attorney to present a complete picture so that they may better advocate for their client. They are unbiased and with no influence or opinions due to any person's race, sex, sexual orientation, color, creed, national origin, religion, or political beliefs. They have learned to use their skills, knowledge, and professional experiences to leave no stone unturned in all aspects of the case. Legal investigators have heeded the calling of this profession and pursue the facts with passion - the passionate search for the facts. The five stages of this Investigative Protocol is adaptable to every task, assignment and case.

The initial meeting often first takes place several weeks, even months, after the attorney has met the client. This may be after initial settlement negotiations have been

unproductive. In both civil litigation and criminal defense cases there are two important considerations – time and communication. It is encouraged that when the plaintiff’s attorney schedules a consultation for a case in which an investigator is a reasonable possibility, contact the legal investigator to be part of the meeting. This may give the client comfort and the legal investigator can better begin to prepare the needed steps of the case by being part of this initial communication. At the time, this may not be practical, and at a minimum, a meeting should be set up as soon as possible. Another consideration is that investigation may determine that the case is not as initially expected – it is better to learn and know sooner, than be surprised later.

This joint meeting will give all parties the time and immediate opportunity to ask any questions, provide timely answers and receive detailed information from the onset – investigative needs are often different from legal considerations. In the event that the need for investigative services becomes more probable, it is necessary to begin developing investigative and legal strategies immediately.

Stage 1. Prepare

The Prepare stage is the foundation of this Investigative Protocol. Proper preparation by the legal investigator moves the investigation smoothly, accurately, and efficiently. This is the foundation for not only conducted, but completed and detailed investigations. The Prepare stage covers the case, opposing legal strategy evidence and information, and involved persons (including witnesses, experts, etc.). Sufficient preparation and background information is the foundation of a complete investigation that will prove crucial to the legal-investigative strategy.



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The primary component of the Prepare stage is to review all of the available information. This includes evidentiary disclosures, elements of the civil allegations and defenses, any applicable rules and regulations, as well as policies and procedures. There is also examination of incident scene data - the place or location at which the incident(s) occurred, was investigated, evaluated, and documented. There is an inspection and survey of documented evidence, damage, scene

particulars, and similar tasks. Reports and other documentation are reviewed, including recordings and photographs, to assist with making a thorough examination and evaluation. Witness and party interviews are also key components of all investigations. Preparation includes the foundation of knowledge, appropriate questions, and follow-up.

In civil litigation the disclosures of both parties have specific obligations that the legal investigator should be aware of. It is incumbent upon them

to be both knowledgeable of the procedures and be forthright with their client if there is any question or insufficient knowledge. Working through the evidentiary disclosure processes involves significant investigation. Examples include: medical and dental records, personal and business transaction receipts, education and employment records. Government and law enforcement records to consider includes: jurisdictional law enforcement agencies, government level agencies, and various oversight agencies. The primary task of the legal investigator is to determine, locate, and analyze any prior investigative records of any law enforcement, government and other responsible agencies. This Investigative Protocol also includes reviewing audio and video recordings of interviews (comparing the records to the written reports and transcripts), scene and incident diagrams and photographs (comparing these to the actual scene), victim and witness statements (comparing them to their interviews and the written reports), and any other manner of evidence with the corresponding records and reports. The legal investigator should leave no form of record or report unchecked. Fact finding includes to always look for missing and conflicting information, and confirm the information throughout this Investigative Protocol.

In this competitive and intellectually demanding profession, it is important to act instead of react. It is better to have the tools to find the facts than have the tables turned and be surprised by them. The review of all pertinent records and reports is the key component to developing and implementing a successful investigative course of action.

Being prepared is at the heart of every legal-investigative process. Reviewing the discovery and disclosures before meeting the client, and

meeting the client before conducting interviews, is an example of keeping both informed of the case and keeping the case in perspective. Being prepared prevents the legal investigator from unnecessarily moving into uncharted territory. This is taking action – using skills and knowledge to investigate.

Being unprepared can be perilous to a case – at the least it adds unnecessary expense. Going into uncharted territory, working the case without at least a map and compass for guidance, is not wise. Charting a course is the beginning of a cohesive plan enabling the professional investigator to ask the right questions, of the right person, at the right place and at the right time. It is the foundation of a cohesive plan formulated to ascertain the best evidence – to better advocate for the client.

This cohesive plan is dynamic, formed at the initial consultation and revised as both the legal and investigative strategies work together. It is the teamwork of the attorney and investigator that is ultimately presented at the settlement conferences, plea negotiations or trial.

All incidents are either reported to or investigated by a work place supervisor, parent, law enforcement agency, government investigative agency; but not all incidents are investigated, and an investigation conducted is not necessarily an investigation completed. The legal investigator must know how incidents are reported and determine if an investigation was conducted. Also to be learned are the parameters and key components of that investigative process. The Prepare stage is essential to the success of this Investigative Protocol. Well thought out research preparation and planning will make the legal investigator efficient with the use of available time, fund-

ing, and resources. This preparation will be reflected in the quality of the investigation, the investigative report, and presentation to the attorney – and may be seen by the opposing party and trier-of-fact.

Stage 2. Inquire

The Inquire stage of this Investigative Protocol is not the complete investigative process. The previously described Prepare stage must be part of the investigative process. The legal investigator, unlike first responders, can avoid jumping straight to the Inquire stage. Unlike the inexperienced and untrained investigators - from private sector to law enforcement or government to commercial investigators - the legal investigator does not jump right to the Inquire stage. Doing so is detrimental to the investigative process. Likewise, they do not end at the Inquire stage. The legal investigator both conducts and completes the investigation. The legal investigator does not fall into the trap of their investigation “being conducted,” “was conducted,” or “is conducted” – it is understood that “inquiry-only” based investigations are not investigations - they are simply reported inquiries.

The Inquire stage of this Investigative Protocol highlights the value of complete background investigations, actual contact with victims, witnesses, and other involved persons - expanding the investigation as necessary. Also highlighted is the value of making recommendations to the attorney and requests for additional information as warranted. The legal investigator is also called upon to conduct and complete a parallel investigation. This parallel investigation is the analysis of the initial investigation (i.e. law enforcement, insurance adjuster); while simultaneously completing an independent investigation. It is important to know

and follow procedures and protocols specific to the type of case and evidence. There are often three main faults found in an improperly conducted investigation, which may result in a bad trial outcome, these are: incomplete investigation, failure to follow procedures and protocol, and false information. The legal investigator will use all of their skills, knowledge and resources to think both inside and outside of the box.

Poorly trained or inexperienced investigators, including those in the government, commercial and private sector may use the Inquire stage concept as the starting point of the investigation. This is also often the point at which the investigation may prematurely end. Generally, these are when the findings of the case have met the imposed requirement of proof – usually by statute or policy. Specifically in non-criminal cases is the *preponderance of evidence*. This is particular to entities that need only establish liability for claim purposes, such as the insurance industry; the *preponderance of the evidence* is defined as, “*Evidence which is more credible and convincing than that presented by the other party or which shows that the fact to be proven is more probable than not.*”²² Find Law – Electronic Legal Dictionary – www.findlaw.com

Generally, unless these cases are further litigated, nothing more needs to be done - the facts, as presented, remain undisputed and the investigation, as conducted (but not completed) also remains unquestioned. To conduct and complete a proper investigation each of the five components of this Investigative Protocol should be practiced. This will show the strengths and weaknesses of the case - and a case is only as strong as its weakest link (fact, evidence, procedure). The

Inquire stage is the single largest component – in time, funding and resources and of course findings – of this Investigative Protocol. This stage will easily require the predominance of the time, funding and resources. This stage is also where the strengths of the legal investigator are most readily seen and benefited from.

Stage 3. Analyze

The Analyze stage of this Investigative Protocol follows a series of important organizational planning steps. The legal investigator has gathered information and separated the factual evidence versus the information as provided in the disclosures. There has also been a detailed examination and evaluation of the processes of law enforcement, government, and business or insurance investigators. The Analyze stage is both a subjective and objective reasoning exercise completed within every assignment until the case is completed. The investigative assignments often have factors outside of the legal investigator’s control: legal calendaring requirements, availability of records and reports, and the priority and availability of witnesses, and so forth. The legal investigator looks at the totality of the evidence in the examination and evaluation. First is the analysis of the provided records and reports, followed by the analysis of the Inquire information. The final comparison is of these two packets of information - ultimately determining what is factual, possible or plausible, and what is partially to wholly fiction.

The legal investigator has two primary areas to be analyzed: provided information and information developed in the investigative process. The analysis is not usually as time intensive as other stages of this Investiga-

tive Protocol. Legal investigators have two important skills: to be inquisitive and analytical. They work with and complement each other. As with transitioning from Prepare to Inquire, the transition from Inquire to Analyze is natural for the seasoned legal investigator. This transition may be during the Inquire stage, depending on the assignment, or it may be a completely separate function. As an example, the analysis at the scene may be concurrent to that inquiry, with further in-depth analysis usually done at a later time.

The Analyze stage includes a complete comparison of all information and factual evidence provided and discovered in the course of this Investigative Protocol. The legal investigator is also a check and balance to ensure that no evidence is being forced upon a theory, or that no theory is being forced upon the evidence. This process has continued throughout each assignment until the case is concluded.

Stage 4. Document

The review and documentation of the factual information and evidence involves three components: evidentiary disclosures, attorney and client, and the legal investigator’s work product. The purposes of the Document stage is to memorialize: existing and excluded information - cross-referenced across components - and to maintain evidence protocols and procedures. This is done through reports, logs and memorandums for reference and evidentiary reporting protocol. The Document stage provides an informative flow of data for reference and cross-reference. This will benefit the legal investigator and attorney when nearing deposition, possible settlement, disposition, negotiation or trial.

The legal-investigative strategy will be dictated to some degree by the court system calendaring process. As the attorney's legal strategy becomes more focused based, due in part to the legal investigator's findings, the analyzed data becomes more necessary and is organized throughout the documentation. Developing the necessary protocols and procedures, as well as understanding those of other investigative agencies is another check and balance of assuring that all involved investigative personnel have each adhered to the best professional practices and accepted standards. For the legal investigator, developing and following the Document stage of this Investigative Protocol will provide a strong indication of any missing or incomplete components of the investigative process.

The Document stage is for the purpose of knowing what is in the working case file, and that of the opposing party. This may include the investigative report or evidentiary exhibits for deposition, conferences or trial. This benefits the attorney with documented factual evidence to support and enhance their legal strategy. Most of the tasks in the Document stage have been completed as information comes in and is generated in the course of this Investigative Protocol. The Document stage is both a task and a check to ensure completion.

Stage 5. Report

The best investigative work, in any field, is only as good as the timeliness, thoroughness, cohesiveness and accuracy of the investigative reports. Reports typically follow with completion of each assignment or regular intervals, and in the manner requested – from oral reporting to the detailed written report. The complete package of investigative reports and documen-

tation should place the client, or any reviewer, in the investigative process, as if they were there.

The legal investigator may report verbally or in writing, depending on the need and discretion of the attorney. For this article, consideration is to the formal written report; however, the same components may be related verbally. The investigative report is the legal investigator's presentation of the assignment comprised of the legal investigator's skills, knowledge, findings, analysis, documentation and further recommendations based upon this Investigative Protocol. The investigative report is also a presentation of the investigation to the attorney, and potentially opposing counsel and trier-of-fact. The investigative report is more than about the skills and findings of the legal investigator - it is about the case that the attorney is working diligently to best represent and advocate for their client.

The investigative report should consist of several components, following a similar process as this Investigative Protocol. The investigative report will include the investigative process and findings, evidence review and analysis, and evidence presented. Also included will be any incident investigation and analysis. The investigative report should be as concise and brief as possible - to the degree that it does not omit any relevant and factual evidence. All reports and records, witnesses and personnel, evidence and facts should be as detailed as necessary to convey the legal investigator's findings concisely.

The body of the investigative report details how this Investigative Protocol was applied and is generally broken down into three sections and components of each section. The investigative report is similar to a trial - the

opening argument (Case Initiation), evidentiary stage (overall presentation – multiple appropriate headings), and the closing argument (Summary).

Each report may also be similar to the written agenda for business meetings. Agendas are divided into categories, as are report headings; open and closed items, or case assignments and progress; old business and new business, or review of actions; and comments, or recommendations. Using a consistent and informative style provides the attorney with the benefit of knowing what to expect in the investigative report, easily reviewing the pertinent information and considering both the status of the case and recommendations.

Key Concepts in Investigating Motor Vehicle Collisions

The legal investigator is trained, skilled and experienced in conducting investigations and assisting with other litigation support matters. Legal investigators do not conduct legal research; write briefs or direct legal strategy. That is left to the trial attorney, paralegal and legal assistant. Legal investigators best manage the investigative time, resources and funds. Litigation is expensive and a challenge – a challenge that is accepted by legal investigator to work the minefield of records pertinent to the investigative component of the case. Legal investigators have developed a multitude of resources and avenues of investigative information and methodologies – often reducing the impact of unnecessarily expended time and funds. This challenge can first be met head on prior to accepting a case – to determine the basic facts and provide the tools for the attorney to evaluate. The challenge continues with determining with the attorney the best investigative strategy that sup-

ports the legal concepts; the legal investigator is best experienced to direct the investigative methodology, giving the attorney and legal staff the opportunities to meet the legal challenges. Meeting the goals of the case and litigation process is similar to manufacturing. Each stage of manufacturing is actually piece-by-piece into larger components. This is the legal and investigative arena – each individually building key components that are then brought together to assemble the complete investigative-legal strategy and case. A motor vehicle collision is a common event that is litigated with the assistance of the legal investigator.

Motor vehicle collisions are common cases involving the legal investigator and attorney. Common underlying causes are driver related, vehicle related, and environmental related. An incident may involve one to dozens of vehicles. The most common are those involving two or more vehicles at a busy intersection. The collision may involve criminal offenses, civil torts or both. In the civil arena, the legal investigator is tasked with a post-incident investigation. Other investigators involved will include law enforcement – initially criminally and by association also the civil investigation. All motor vehicle collisions will involve insurance companies and adjusters – possibly in criminal cases for restitution purposes, but primarily civil and in the best interest of the insurance company. The legal investigator may find himself or herself working opposed to, or with, another private sector investigator, law enforcement investigator or insurance adjuster.

Driver associated motor vehicle collisions may be due to negligence and reckless behavior, being under the influence of alcohol or other drugs,

inattentiveness, inexperience or distractions, and even a medical condition. Vehicle associated collisions may be due to a mechanical failure, known or determined to be a manufacturer's defect(s), or a combination of the driver and vehicle with inappropriate skill and training. Environmental factors may be manmade, natural or a combination. Manmade contributing factors may include roadway design, construction or maintenance, placement and maintenance of landscape, and traffic control design and maintenance. Natural factors may include weather, terrain, wildlife or blinding sunlight. The legal investigator will find that many collisions may also have underlying causes that are a combination of factors. An example would be an experienced driver that was intoxicated and driving friends to a party. He was speeding on an unfamiliar winding and hilly road when he strikes a deer crossing the roadway. The legal investigator's job, in part, will be to determine the sequence of events and contributing factors of each element to the cause of the collision. In another example, an elderly driver pulled into his neighborhood, experienced a heart attack, then pushed on the accelerator, striking a pedestrian just before striking a utility pole. Both the driver and pedestrian were dead at the scene.

The legal investigator will often focus on the incident scene and direct contributing factors of the motor vehicle collision. Typically, the investigation will include a review of any law enforcement or similar reports, witness statements and additional interviews, and photographs of the scene. The legal investigator is skilled and tasked with providing a complete investigation. Medical and social histories are important factors in investigating collisions. It is important to determine if

any medical history (i.e. cardiac history or diabetes) has any mitigating or aggravating role. It is also important to determine if any social history (i.e. chronic alcohol consumption or recent depression) has any role in their driving habits or direct cause of the collision. Motor vehicle collisions also involve multiple scenes (incident scene, vehicles and injured or deceased persons). Each aspect of the collision should be included in the legal investigator's review and investigative process, as demonstrated in this Investigative Protocol.

It is not uncommon for an investigator to be contacted and asked to interview witnesses Jane Doe and John Jones and unverified contact information provided. The legal investigator's role is to provide services to the attorney that makes the attorney effective and perform investigative tasks the investigator is experienced in – removing this responsibility from the attorney and legal staff, allows them to focus on other areas. At the onset of the investigation, the legal investigator should receive or request, and review, the following (not all are applicable and the list is not all-inclusive):

- Preliminary Medical and Social Histories (all parties to the civil or criminal action)
- Witnesses and Statements
- Vehicle Maintenance and Recall Records
- Roadway Records (design and maintenance – including traffic control devices)
- Weather Reports
- Operator Driving Records (including court records)
- Law Enforcement Records (including handwritten field notes)
- Evidence (including reports and records)

- Scene Photographs and Diagrams
- 911 Call Incident and Activity Reports
- Emergency Medical Services Response (i.e. fire and ambulance)
- Hospital, Clinic and Medical Provider(s) Records
- Outpatient and Physical Therapy Records
- Autopsy Reports (including toxicology reports)

After the initial review of the presented facts and information, the preferred method of reviewing a case is to have access to all of the evidence and involved persons in the case. All motor vehicle collision investigations should include records and reports reviews, scene investigation, scene photography and ideography, witness contacts and interviews, neighborhood canvas, discovered witness contacts and interviews, and documentation of information that supports, mitigates and contradicts reported information.

The legal investigator is trained and experienced to conduct multiple components of a motor vehicle collision case for the litigation attorney. Following are some examples of what a legal investigator can contribute and assist the attorney with in conducting and completing a thorough investigation.

- Review the accident reports and diagrams;
- Site survey and traffic control device survey of the collision scene;
- Photograph and video the scene – including to coincide day and time of incident;
- Contact and interview direct witnesses – including reviewing their written statements;
- Request and obtain copies of traffic engineering reports from

the appropriate authority;

- Conduct a social background check of the impacting vehicle operator; and
- Interview the responding law enforcement and emergency personnel.

The legal investigator should visit and document the scene in such a manner that the description accurately portrays the scene to the attorney and trier-of-fact – as if placing them at the scene. This will include the scene as observed and documented by each of the initial investigating agencies, witnesses, client and subsequently the legal investigator. Information should include location, road surface, terrain, landscaping, intersection design, natural and manmade environmental factors, and weather conditions. Also to be determined and verified are any reference points, points of impact and point of rest of all vehicles and evidentiary debris and victims that may have been struck or ejected. The scene investigation will detail if the scene was initially investigated properly and if the information reported by law enforcement, insurance adjusters, involved persons and witnesses are independently, and possibly collectively, accurate.

Most motor vehicle collisions generally share the same basis of investigation. Specific types of incidents and circumstances will dictate the specific investigative principles. Key considerations include, but are not limited to:

- Witness statements – supporting or contradicting, including inconsistent or differing observations
- Speed and movement (or stationary position) of involved vehicles
- Locations of involved persons and persons of interest
- Actions of involved persons and

persons of interest

- Visibility and visual perspective of involved persons and persons of interest
- Lighting and any landscaping issues or obstructions
- Analysis of law enforcement investigation – including scene documentation and obtaining statements of relevant witnesses

Motor vehicle collisions provide the legal investigator with the opportunity to conduct a variety of investigative tasks and enhance their skills and experience. This includes from reviewing records and reports to neighborhood canvasses, and scene investigations to evidence collection and review. It may encompass each of the multitudes of skills that the legal investigator possesses, as well as the resources for those he or she does not. Motor vehicle collisions occur in a variety of locations and environments, and with a variety of causes and contributing factors. They happen to persons of all ages, health, and socio-economic backgrounds – motor vehicle collisions have no biases. They may involve multiple vehicles and impact the lives of involved persons with consequential soft tissue or serious bodily injuries, even death. They impact the personal daily lives and can be financially destructive.

Legal investigators are key participants in the teamwork with the attorney or party who retain them. They will provide criminal or civil defense, and more often civil plaintiff investigative representation for redress in making the victim whole again – or as best as possible for the victim and/or the family. In all cases, the function of the legal investigator is to assemble the facts for presentation as evidence. There are approximately 10-12 key

areas that legal investigators routinely manage in personal injury and death litigation. Two of the most common are scene investigation documented by photography, and interviews of involved persons and witnesses. These are managed using the described Investigative Protocol for a thoroughly conducted and completed investigation on behalf of the attorney – no stone is left unturned.

Scene Photography and Videography

The most important purpose of the scene documentation in the Inquire stage is to document and assist with determining the cause of the incident, property damage, injuries and other related assignments. Photography (or videography) is one of the most important forms of documentation – it can be worth the value of a desired verdict. Subsequent additional photographs may then depict the subject matter as the involved persons observed it at the time of the incident. Additional photographs may be used to demonstrate how the incident occurred, what may have prevented the incident and what may have contributed to the causation of the incident.

It is important to document the specifics of the photographs - usually in a report or log. The more complete the context of the photographic process, the less necessary the detail of the log and report. It is important for the legal investigator to document the scene accurately as he or she has observed it. The documentation and depiction will include such details as traffic and traffic patterns, structural integrity or position of deconstruction, areas of inflicted and consequential damage, areas of injury, and areas that reflect none of these – these are negative photographs. This is to show that there is a lack of damage or insuffi-

cient damage, other information “negative” or contrary to the information reported, and information contrary to the civil allegations or defenses.

Interviews

Interviews should be conducted in accordance with the instructions of the attorney and following all applicable ethical and procedural requirements. Interviews should include all persons that exhibit knowledge of the incident. Doing so gives the legal investigator the opportunity to develop information and facts that will become pertinent when interviewing involved persons present at the onset of the underlying incident.

For the purposes of this article, the interview is divided into two primary components: narrative and comparative. The narrative first gives the interviewee the opportunity to relate the events from a time period before to a time period after the incident. Details will include the who, what, when, why, where and how of the incident – in as much detail as possible. After this narrative, the legal investigator has the opportunity to follow up with specific questions for clarity and detail, and which may also assist with further memory recollection. The next component is the comparative – simply confirming and clarifying what is provided in written statements or reports. It is not unusual for interviewees to add or detail information that is not otherwise provided. More importantly, if their statements are summarized in a report (i.e. law enforcement or insurance), there may be significant details missing or incorrectly reported. The interviews will also include components that will assist the legal investigator in determining if there is any bias, animosity, or other positive or negative contributing factor in the potential of the people being deposed or testifying. It

is better to know and be forewarned, prepared than surprised.

The first essential purpose of the interview is to determine what the persons of interest recall, what their participation and actions were and whether they have been contacted by other investigators, attorneys or insurance representatives. The second essential purpose is to document their recollection of events. The third essential purpose is to determine if there are any other unknown persons who should be contacted and interviewed. How the interviews are conducted (recording or not, written report or not, etc.) is prescribed by the attorney.

There has been much written about conducting interviews. The essential points must be covered, depending on the role of the person interviewed. Persons interviewed may include involved persons, witnesses, investigating law enforcement officers, responding emergency personnel and treating medical personnel. In the event of a fatal event, the medical examiner, investigator and forensic pathologist may be interviewed.

Conclusion

One important trait that the legal investigator should develop and hone is intuition – to trust that gut feeling. Intuition is there for a reason – not that it is wholly trustworthy, but that it is telling the legal investigator something based upon their education, training, skills and experience. That something is worth the consideration of attention, if it is necessary to look into the evidence or not at it.

The legal investigator does not take any case lightly. High ethical standards – and the professionalism to know the importance of their duties –

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5. Pick one or two main exhibits. 7. Test your exhibits on mock jurors.

Pick a couple of poster boards that depict the main themes of your case (i.e. a Rules of the Road board). Make the backs of those boards memorable. Make the back a deep red color while all the other boards are white or create a colored trim around the edges. This way, when you line the boards up along the back wall with their backs to the jurors, jurors can look at that one board and know exactly what was on the other side.

6. Use a flat finish.

As simple as it sounds, it is a common mistake. Glossy finishes often catch glare and jurors cannot see them. Do not waste money or risk your case on a preference for a glossy finish – always use matte.

Focus groups and mock trials are great places to test your exhibits. Find out if jurors remembered them, what they thought of them, what confused them. If your budget is tight, run a focus group purely to test exhibits. It is much less expensive than a full focus group or mock trial and while you will not get information on the case facts or on how jurors perceive the case as a whole, at least you will know that your exhibits are showing what they were intended to show.

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are the foundation for conducting and completing the case investigation. Cases are difficult to investigate and then bring to fruition, particularly in the civil arena. The legal investigator will find that additional knowledge and resources are often needed – and many cases may test all of the various skills. Careful planning and execution is necessary.

It is often that an investigator will focus on what they find to be the issue(s) and not the full investigation. It is important to convey that a proper investigation is all-encompassing of all of the information and factual evidence. All investigations are contextual – to remove one or more evidentiary components can alter the final conclusion. Doing so is both improper investigative techniques and

a disservice to the attorney and client.

The legal investigator will be involved in both plaintiff and defense attempting to prove or disprove culpability liability or mitigate any damages and sentencing by finding the facts. In all cases, the function of the legal investigator is to assemble the facts for presentation as evidence. That is the passionate search for the facts.

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