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REPORT



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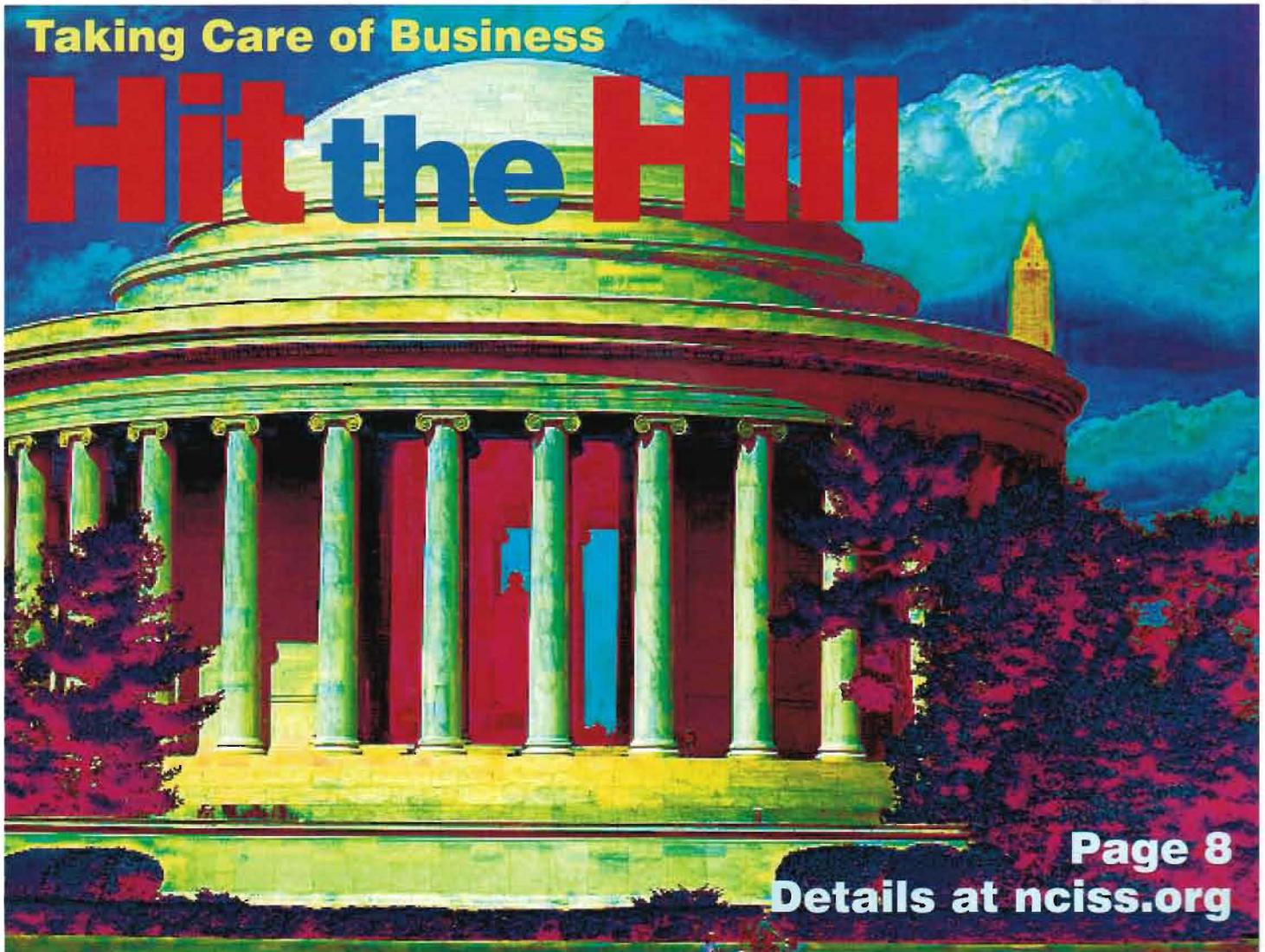


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The Psychological Autopsy

By Dean A. Beers, CLI

A psychological autopsy is most often referenced in relation to an equivocal death investigation, which is, simply stated, making clear the circumstances of a death. For professional investigators, would it be fair to say that the vast majority of our cases are equivocal and that we are making clear the circumstances of an incident? This is done by careful analysis of police reports, evidence, witness statements, and all other forms of information that are provided to us, together with our own investigation. We are fact finders – hoping the truth is out there somewhere. The truth is usually a gray area sandwiched between the information of two opposing sides from which we must sift out the facts and determine a few of our own. This is accomplished through professional hard work and know-how.

In a criminal defense case, for example, we are tasked with reviewing the discovery evidence, developing the investigative strategy, conducting the investigation, and potentially mitigating the case for the purposes of plea negotiations and sentencing. You may from time to time win the good fight and unequivocally prove innocence or win exoneration of a wrongfully convicted person. In civil investigations of personal injury and negligence, we will find ourselves applying different strategies.

However, there is one aspect of

criminal defense investigation common to a wrongful death investigation for a plaintiff or insurance defense attorney in the civil arena: the psychology autopsy.

The psychological autopsy is best described as looking into a person's mind and lifestyle to determine why and how he or she died. We are often looking for the probability of a person being susceptible to influence by other persons, life circumstances, and their environment. For example, the application of the psychological autopsy in probate cases is self-explanatory, in that it assists with determining the mental state of a person at the time of death or when a will or other legal document was executed.

Psychology is the study of the mind and the word autopsy is derived from the Latin "to see with one's own eyes." Isn't that what we do as investigators? The psychological autopsy is not exclusive to death investigations. A modified

process can be used to assess witnesses and parties to a civil action.

The Psychological Autopsy Interview

As part of the process we may develop a theory as to what did or did not happen. Our investigative process is fluid enough to accept when our theory is wrong and forge ahead when it is correct. We are not actually trying to prove a theory, but instead prove or disprove individual facts or elements of the theory. In the context of a



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criminal charge or civil complaint, we are either proving or disproving the elements of the allegations or charges brought forth. One example would be anticipating line-of-sight or lighting conditions when investigating a death or serious injury that resulted from a motor vehicle collision. Your investigation simply continues from element to element, proving or disproving an element. Your investigation may return to the beginning, take an unexpected turn or forge ahead. Rest assured, it will almost never

stop where you initially expected it. For starters, consider integrating the following factors into your interview questions regarding the history of a decedent or, as we have noted, any other subject:

Subject’s History of Personal, Family and Social Relationships...

- Involvement in similar incidents, events, or roles;
- Similar behavior patterns;
- History of violence, substance abuse, mental health disor-

ders, or other non-conforming behavior;

- Hospitalization or treatment for mental health disorders or substance abuse;
- History of transient or hypermobile lifestyle;
- History of impulsiveness or false bravado;
- Medical history that includes periods of amnesia, traumatic brain injury, or similar impairment due to history of substance abuse, or medications;

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- Low self-esteem, elevated self-negativity or poor social adjustment; and
- Inordinately elevated tolerance -- or intolerance -- to behavior similar to the elements of the civil or criminal allegations.

This list is an adaptation and is certainly not all inclusive. We use many of these to test the credibility of involved persons, the information they have related, or the information contained in reports and records. Some of these traits are seen when we “meet” the subject (dead or alive), are told to us by the subject or another person, are found in any number of records, or learned through other investigative means. The key point is to ask the questions or find the information that will answer the questions on this list. Include those that you might add based upon your own experiences and case specifics.

Evaluation of Information

The next component concerns the information you have gathered. Does the information fit and tie together, or are differences present -- minimally contrasting to vastly contrasting -- to the incident? Next, how does your newly developed personal history profile correspond to the incident or allegations? Is this person a strong or weak component of the case, supportive or detrimental? I have broken down the evaluation of the information gathered during the psychological autopsy on the following scale:

0. Apathy
1. Weak and Detrimental
2. Strong but Detrimental
3. Average Baseline
4. Weak but Supportive
5. Strong and Supportive

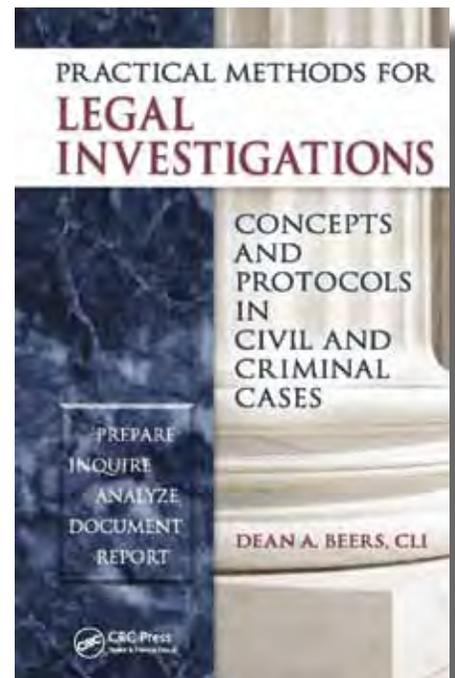
Let's not forget the gray area: Nothing is really black and white, although your subject may see

-- or have seen -- things that way. You need to understand why and if there are any influences to this mindset. The gray area can often be found in relation to the time period of the incident in general. If information components remain consistent, regardless of where they lie on the scale above, then you know who or what you are dealing with. If the components are out of character or change at the time of the incident, and especially if they revert back to post-incident characteristics, then you have a potential client, victim, or witness objectivity issue. Objectivity does not equate, or negate, truthfulness. In the case of witnesses, they may feel they are being honest but are in fact either patently or latently influenced by a person or related events, or both. In essence, their objectivity has become subjective.

Conclusion

The psychological autopsy is a guide to help determine if the person we are contacting, or whose records -- or life -- we are examining or analyzing, is being patently or latently influenced, how that may affect their observations and statements, and ultimately how that influences the ongoing investigation.

Individually the evidence, reports, interviews, and scene investigation may be consistent. When taken as a whole by each individual's involvement and contribution, our investigation should reveal information and characteristics that vary from “Strong and Supporting” to “Weak and Detrimental.” As professional investigators we have a duty to make a fair and accurate assessment of the person and the information brought to our attention. ❖



Dean Beer's new book is a comprehensive look at preparing for civil and criminal cases.

© 2010 Dean A. Beers, CLI (beersda@Forensic-Investigators.com) is with Forensic Investigators of Colorado, LLC (www.Forensic-Investigators.com) in Larimer County, Colorado. Dean is a Certified Medicolegal Death Investigator and former deputy coroner. This article is excerpted from his book, *Practical Methods for Legal Investigations Concepts and Protocols in Civil and Criminal Cases*, published by CRC Press and due out in January 2011.

Subject Risk Assessment

In a criminal investigation, a law enforcement officer may investigate only to the point of establishing probable cause for an affidavit. Many investigators have told me they conclude interviews in 15 minutes -- especially if they are only recording and not taking notes. I tend to be puzzled by this, mainly because I'm always looking ahead. Some questions I always ask myself:

- Will I be able to contact this witness again?
- Can I get information for mitigation?
- Do I know enough about them to validate or invalidate statements they make?

In a criminal defense investigation, a witness may have contacted us from a newspaper ad or were referred to us by another witness. More information is needed from these interviews. If the witness is from

a police report you should allocate sufficient time to that interview to access what the witness knows about the victim, a suspect, or anything related to the case. During these interviews, the psychological autopsy will begin to take shape -- of not only the decedent, but the witness as well as others.

In situations like these you can apply the concepts of the psychological autopsy:

- What makes this person tick?
- Do they see any wrong in your client or the subject -- why?
- Do they see no wrong in your client or subject -- why?
- Do they have subtle or latent biases?
- What is your interaction like? ♦



The Equivocal Death Investigation

Before beginning the psychological autopsy, it is necessary to break down the equivocal death investigation into components and subcomponents. The original components would include, for example, information on:

- Scene
- Victim
- Location
- Environment
- Suspect

Each of these would then be broken down into common sub-components; photographs, video, reports, trace evidence, etc.

Reviewing each component and applicable information will bring the investigation into focus and reveal the areas that need attention. You will begin to see opportunities to support a legal theory of the case, to prepare your client for any issues, and how to strengthen the case for depositions and settlement conferences. ♦

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