



California Network for Licensed Investigators

Fall 2020

Investigator Spotlight:
William Schneid

Body Cams for Service
of Process

Cohabitation Investiga-
tions

ABA: Ethics Rules for
Contacting People
Through Social Media



COHABITATION INVESTIGATIONS 10-30-2020

Randall Alexander
Licensed Investigator / Paralegal

Modification of Support is a common area of contentious litigation, where investigators are brought in to establish evidence in support of their client's litigated matter.

In Family Law litigation, Cohabitation Investigations can be very lucrative for the investigator while also financially beneficial for the client in the form of reduced or terminated support, if the facts and evidence support the client's assertion.

However, cohabitation cases have frequently resulted in a disconnect between attorneys and investigators due to poor litigation results, while futilely expending the client's financial resources.

In my opinion, the cause lies in a few generalized areas:

- (1) The attorney / client may have had a poor prior experience with an investigator resulting in reduced expectations from our industry.

A Tennessee clinic swindled the military out of \$65M. This is how it got caught

Nashville Tennessean
Feb 8, 2019
Brett Kelman

CATHEDRAL CITY, Calif. — Bill Schneid stood in his home office, holding a package of skin cream worth more than gold. He didn't know exactly what he had stumbled on, but he was pretty sure it was illegal.

It was March 2015. A few weeks before, Schneid, 72, a cumudgeonly private investigator, had been snooping around Southern California military bases when a Marine he knew mentioned he had a strange source of side income.

The Marine was being paid to get medicine he didn't need. A Tennessee doctor he had never met wrote him a medicinal cream prescription, which was being filled by a pharmacy in Utah. The military covered the bill and the Marine got a cash kickback from somebody. When the creams arrived in the mail, the Marine didn't actually use them.

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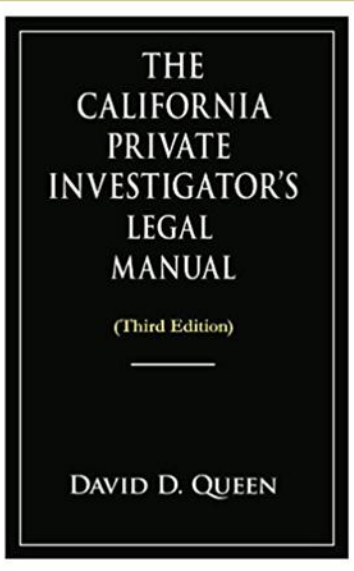


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Taylor v. Bureau of Private Investigators and Adjusters (1954) 128 Cal. App. 2d 219, involved an automobile accident investigation. Taylor was a private investigator hired by one party's insurance company.

Taylor exchanged business cards with a man who represented the other party. Taylor later used that other man's business card to gain access to individuals whose interests were adverse to Taylor's client and falsely represented himself as working on behalf of the witnesses' insurance company although he accurately identified himself as a private investigator.

The Bureau revoked Taylor's license on the grounds that his actions constituted "dishonesty" as prohibited by the predecessor statute to Business and Professions Code §7561.4.

(2) The investigator is not experienced or trained in Family Law and does not quite understand the evidentiary needs to meet the elements of cohabitation suitable to meet the burden of proof.

(3) The client's financial constraints inhibit the investigator's ability to conduct a thorough investigation.

(4) The client presented an inaccurate representation of alleged "facts", hoping for an advantage in the courtroom.

This is where excellence in all three areas of a professional investigation is paramount for success.

Investigative Expertise - knowledge based on training and experience

Comprehensive Reports – detailed reports, that link relevant facts and evidence

Expert Testimony – professionally articulate the facts under oath.

COHABITATION defined: Living together; living together as husband and wife. Cohabitation means having the same habitation, not a sojourn, a habit of visiting or remaining for a time; there must be something more than mere meretricious intercourse.

Cohabitation is far more than just a 3rd party spending the night with a supported litigant or visa versa. An investigator needs to understand "cohabitation" in the legal sense in order to focus his/her investigation in meeting the elements.

The Best Body Cameras for Process Servers

August 26, 2020
Serve- Now

While the use of body cameras in the field is still widely debated for process servers, their use is becoming increasingly popular and the benefits are unmistakable. Below, we've compiled a list of some of the most highly recommended body cameras by the process servers who use them. However, before you invest in an expensive piece of equipment, check your local laws regarding cameras and recording a person's voice and likeness without their consent.

What to look for in a body camera

We've laid out the basics, such as battery life and price, but ultimately what camera you choose depends on your specific needs. If your serves are on the riskier side, you may want a camera that is tamper-proof and durable. If you serve somewhere where it rains often, you may want a waterproof camera. If you take on a lot of serves at once, you may want a camera with lots of memory storage. There are lots of features included with the cameras below and it can be overwhelming as you're researching options. Do you really need built-in Wi-Fi and a flashlight? So before you begin your search, think about how you will use the camera and organize your priorities based on that.

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Rarely, will you find a “smoking gun” in a cohabitation investigation, therefore it’s critical for the investigator to exercise due diligence when conducting their cohabitation investigation, ... proverbially uncovering every stone.

I prefer to look at the compendium of evidence as a brick wall, where every single brick is important, but not individually exclusive to the success of the case.

This overwhelming compilation of direct and circumstantial evidence eliminates the rebuttal of isolated incidents or lone issues that may otherwise be easily refuted in court.

The attorney will want to know: Does the supported party and “new significant other” (3rd party) share one household?

Does the supported party or the 3rd party benefit from the client’s financial support?

Does the supported party financially benefit from the new significant other?

Is the supported party and 3rd party in an intimate relationship or just roommates?

What evidence supports these contentions?

Where to start? Once we have obtained relevant background information from the client, the first step is database research.

COURT DOCUMENTS

Request a copy of the opposing party’s Income & Expense Declarations, submitted personal declarations and/or depositions.

FAM. CODE § 4323 (a) (1) *Except as otherwise agreed to by the parties in writing, there is a rebuttable presumption, affecting the burden of proof, of decreased need for spousal support if the supported party is cohabiting with a non-marital partner. Upon a determination that circumstances have changed, the court may modify or terminate the spousal support as provided for in Chapter 6 (commencing with Section 3650) of Part 1.*

California Civil Code section 4801.5 provides: “(a) *Except as otherwise agreed to by the parties in writing, there shall be a rebuttable presumption, affecting the burden of proof, of decreased need for support if the supported party is cohabiting with a person of the opposite sex.*”

More insight into the elements of cohabitation can be found in the appeal, in re Marriage of Lieb, 80 Cal. App. 3d 629 (1978). In Lieb, the courts found that cohabitation existed where the supported party and her partner treated themselves as mutual homemakers, housekeepers, companions, exchanging expensive gifts and taking vacations together, etc.

The Family Courts, with regards to subject matter jurisdiction, have tremendous latitude compared to other areas of law when making decisions, where determinations are made on a case by case basis.

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Occlly Linc

Battery life: 22 hours
Video quality: 4 cameras, 280°
Memory storage: Cloud
Size: 3.05 x 2.60 x 0.85in, 2.7oz
Impact and water-resistant
Price: \$249 (contact for specifics)

Additional features: Occlly's Linc includes live video capture, cloud storage, GPS location services, smartphone integration and application, and a panic button that blares a siren, flashes lights, and alerts 24/7 staff and emergency contacts to your location.



Transcend Body Surveillance Camera

Battery life: 3.5 hours
Video quality: 1080P, 130°
Memory storage: 32GB
Size and weight: 3.5 x 0.7 x 2.1in, 3.2oz
Durability: water and shock-resistant
Price: \$200.21

Additional features: The Transcend Body Surveillance Camera includes a separate camera unit with a high sensitivity image sensor, a built-in Wi-Fi function for live streaming, an exclusive app, and extremely fine tonal gradation even in low light conditions.

The PR-200 8GB voice and Bluetooth call recorder is a handset with the added function of being able to record cell phone conversations. It has 20 hours of general recording battery, or 9 hours when capturing Bluetooth calls.

Use it for cell conversations, case interviews, or in-person conversations, meetings and more. Without wires or a headpiece, the thin, light device is roughly 4 1/2 inch long and is easier to hold than today's modern large heavy mobile phones. Just pair this item with any modern smart phone with Bluetooth, and it will begin recording phone conversations once flicked to the MOBILE mode selection.



CammPro Premium Portable Body Camera

Battery life: 10 hours
Video quality: 1296P, 140°
Memory storage: 64GB Built-in
Size and weight: 7 x 6 x 6in, 2.26 ounces
Durability: Water and shock resistance
Price: \$120.54

Additional features: The [CammPro Premium Portable Body Camera](#) includes password protection, simple operation, and infrared night vision.

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Review these documents and keep critical details in mind when conducting your investigation. Contradictions and undisclosed facts by the supported party may demonstrate dishonesty in the eyes of the court.

Also check if the current 3rd party (new boyfriend or girlfriend) is in the process of family law litigation, which is common. If so, pull the docs and review, cross referencing information that may support your client's case.

DATABASE RESEARCH

First consider ... database reports are never considered "conclusive" or definitively accurate ... they are merely an investigative tool. In fact, most database companies attach a caveat to their reports advising that database reports are replete with errors and subject to human error, and must be independently verified.

Moving forward, database research on both the Supported Party (SP) and the 3rd Party is always the first step (I always run 3 different data brokers). It will usually reveal supportive leads in the form of an address history for both the SP and the 3rd Party. There are several things to look for. Did the Supported Party or the 3rd party recently move in with the other and is it reflected in the report?

If so, it's important to follow up on the last known address of either, demonstrating they vacated their previous address, before moving into their new residence. Did either person open a Post Office Box in the area to possibly conceal their current residence?

If the database report(s) accurately support your client's case, detail this in your report and explain how database companies rely on Credit Header personal identification information which is collected monthly and provided by Consumer Credit Agencies (Experian, Equifax & TransUnion).

On the other hand, the database report may reveal the SP or 3rd party actually does maintain separate households. It is up to the investigator to determine if the additional residence is lived in by one of the parties, or is it used by other extended family members or possibly even used as a rental to generate additional income. This is important to determine early in the case which could have an impact on whether cohabitation exists, and whether the case should continue forward.

If children are involved, the database research may also reveal a history of violence or substance abuse by the new boyfriend / girlfriend which may have an impact on custody.

SOCIAL MEDIA

Social media can be extremely helpful depending on the degree of use by the supported party and/or the 3rd party. It may reveal intimacy, trips together, shared events, holidays, etc. If children are involved, check their accounts as well.

Cont. P.6



Useful Links



www.spydialer.com

This link is a pretty good basic search for identifying the names associated with cell phone numbers.



BRB Publications, LLC. is the nation's premier publisher of reference sources and websites used for locating public records. BRB's books and electronic products point the way to over 28,000 government agencies, to 5,800 accredited post secondary school, and to 3,500 record vendors who maintain, search, or retrieve public records.



Immediately preserve the evidence in the form of print, downloads and screenshots, then refer to them as attachments in your report(s).

FYI, the California Evidence Code 1552(a), addressing computer generated evidence reads:

(a) A printed representation of computer information or a computer program is presumed to be an accurate representation of the computer information or computer program that it purports to represent. This presumption is a presumption affecting the burden of producing evidence. If a party to an action introduces evidence that a printed representation of computer information or computer program is inaccurate or unreliable, the party introducing the printed representation into evidence has the burden of proving, by a preponderance of evidence, that the printed representation is an accurate representation of the existence and content of the computer information or computer program that it purports to represent.

Keep in mind, the date social media images are posted is not necessarily the date they were taken, so further efforts will need to be exercised in determining and cross referencing evidence so the images serve an evidentiary purpose.

UTILITY SEARCHES

Utility searches may be helpful but, in my experience, the utilities are usually paid by the party the residence is owned, leased or rented.

MUTUAL FINANCIAL ASSETS & ASSOCIATION

A great form of evidence is searching for the comingling of finances and mutual associations. A couple years back I had a case where the Supported Party and the boyfriend purchased a car together as well as a boat. Their names were listed on the registration and the loans. Additionally, they joined a yachting club together, listing their relationship on the application as "Cohabiting" as opposed to roommates.

In the matter of Rheuban v. Rheuban (1987), the supported party, (appellant ex-wife) Patricia Rheuban, purchased a home with Gary Gutwirth following her divorce from the respondent. The supporting party, (respondent ex-husband) Steven Rheuban, sought a support modification order based on alleged cohabitation and prevailed in family court.

Upon appeal, the appellant stated her purchase of the household with Gutwirth was a business relationship, and that personal living expenses were kept separate. Ironically, the appellant admitted that she shared the same bedroom, the same bed and has had a continuous sexual relationship with Gutwirth. The trial court found that Patricia Rheuban's commitment between herself and Gutwirth was much more substantial than she admitted, and determined that cohabitation did in fact exist. Appellant argued that the trial court's finding constitutes an abuse of discretion.



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The court of appeal determined the present code section requires the court to find the parties were cohabiting, which clearly requires more of an analysis of the living relationships than merely sharing living accommodations.

In Rheuban v. Rheuban, the Court of Appeal's concluded:

Based upon the evidence and the inferences reasonably drawn therefrom, the trial court found that Appellant and MR. GUTWIRTH were cohabiting, as that term is used in Civil Code Section 4801. 5.

Appellant's argument that she over came the presumption of reduced need through uncontradicted evidence is without merit. There are numerous contradictions, both between Appellant and Respondent, and within Appellant's own testimony. Those conflicts are resolved in favor of the trial court's ruling.

The trial judge's ruling was both reasonable and sound, in light of all of the evidence before that court. The trial court did not commit an abuse of discretion by not affording the Appellant's evidence as much credibility as she would wish. This court should affirm the trial Court's decision and dismiss Appellant's appeal.

The point of sharing this case research is so the investigator understands a cohabitation investigation requires far more due diligence than just determining if the two parties are spending the night together.

DOCUMENTED LIFESTYLE - SURVEILLANCE

Surveillance will obviously be the most time consuming and possibly cost prohibitive, so it's necessary to have a solid plan and explain the reasoning to the client. I explain to the client that it is usually a 3 to 4 week process, and sometimes longer depending on the circumstances are, and what the ongoing investigation reveals.

FYI – P.I. 101: Always use a camcorder with Date & Time Stamp capability. With the advances in digital technology, in the form of quality cell phone camera images and apps, I have also incorporated using my cell phone with a free Time Stamp App that superimposes the date & time stamp on the image, and incorporates the location as well, based on cell tower triangulation.

Okay, back to surveillance. The first week is usually the most extensive. You will already have most of your background research in hand. The client hopefully provided you with routines or patterns of the Supported Party, and possibly the known employment of the 3rd party.

Rarely does the client have the financial means to employ the investigator day and night, watching the residence and one or both parties, so it's important to develop a surveillance strategy. The plan is to quickly develop a lifestyle pattern, since most people ...



Business and Professions Code §7534. Advertising is broadly defined to include business cards, stationary, flyers, brochures, news letters and even fax forms, in addition to traditional purchased advertising such as phone book listings. However, every one of those forms of advertisement must include the licensee's business name, address or telephone number, and the investigator's license number exactly as they appear in the Bureau's records.



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I return early the following morning before they awake, to document the vehicle locations are the same as the night before. It's important to note if there condensation on the hood or in the windows? Chalking the tires can be okay to some extent however, I prefer not being randomly caught doing so or leaving telltale signs that the tire was marked. The case will dictate whether this is a feasible option.

... people are creatures of habit, which will allow the investigator, as time goes on, to refine the surveillance to particular days and hours, developing supporting evidence, while being cost effective.

If the client has the financial resources, I will sometimes, conduct a 2:00 am spot check, documenting the vehicles in the middle of the night.

You cannot however, selectively pick only specific days to conduct your surveillance and not others (ex: only Saturday and Sunday). You must due samplings throughout the case, ie:

Things to note everyday:

Week 1 - Monday and Wednesday night in conjunction with the following mornings.

(1) Document all vehicles and license plates at the residence.

Week 2 - Tuesday and Thursday night in conjunction with the following mornings.

(2) Document vehicle locations.

Week 3 - Friday and a weekend night in conjunction with the following mornings.

(3) Habits of neighbors, possibly interacting with both parties.

Years back, I had a client that wanted to argue cohabitation in court. The problem was the boyfriend only spent weekend nights at the supported party's residence and maintained his own separate residence during the week.

(4) Mailman & delivery services,

(5) Days for trash truck pick-up, who brings trash receptacles to the street

Generally speaking, I will start early Monday morning, until at least one or both parties leave, depending on the known habits and employment facts. I usually follow this with a lengthy afternoon and evening surveillance, documenting when they arrive and then put them to bed so to speak. Your goal is to establish their daily lifestyle through photographic evidence.

(6) The clothing of the supported party and 3rd Party. Does the person staying overnight, wear the same clothing the next day when they leave or do they maintain a change of clothing at the residence.

(7) Walking pets, together or does one walk the other's pet?

(8) Engaged in what could be perceived as familial activities.

(9) Does 3rd party drop-off and / or pick-up supported party's kids at school

(10) Any signs of intimacy

(11) Access to the residence; use of keys and garage remotes

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(12) Does the 3rd party intentionally park their vehicle away from the residence to deceive.

After the first couple of days of surveillance, the investigator should have established a pattern or routine for the supported party and the 3rd party or boyfriend / girlfriend. From this point, the investigator, generally speaking, can reduce the surveillance to documenting arrival and departure times the following morning.

TRASH CHECKS

Trash checks can be extremely useful in the form of evidence and leads for the attorney to subpoena. Searches can reveal junk mail to the address with either or both party's names, possible bank accounts, printed communications, etc.

Keep in mind, per California v. Greenwood (1988) 486 U.S. 35, trash receptacles located at the street-side curb to be considered discarded or abandoned.

Here, we conclude that respondents exposed their garbage to the public sufficiently to defeat their claim to Fourth Amendment protection. It is common knowledge that plastic garbage bags left on or at the side of a public street are readily accessible to animals, to children, scavengers, snoops, and other members of the public. See Krivda, supra, at 367, 486 P.2d, at 1269. Moreover, respondents placed their refuse at the curb for the express purpose of conveying it to a third party, the trash collector, who might himself have sorted through respondents' trash or permitted others, such as the police, to do so.



MISCELLANEOUS

While the case in point is cohabitation, the real underlying issue is the reduced need for financial support. Does the former spouse live a lifestyle consistent with his/her personal declaration, I&E's, etc. or is he/she living beyond their means or concealing relevant facts from the court?

Aside from establishing cohabitation, the attentive investigator needs to be mindful of:

- (1) Spending habits which may be revealed in surveillance and trash checks.
- (2) Unreported income in the form of cash jobs or personal cash based business
- (3) Possible routine gifted income
- (4) Is the supported ex-spouse employable?
- (5) If claiming disability, is lifestyle consistent with claim of injury?

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... where they feel they are being disloyal to one parent or choosing sides, unless of course there is a child endangerment issue, but that's not what this article is about.

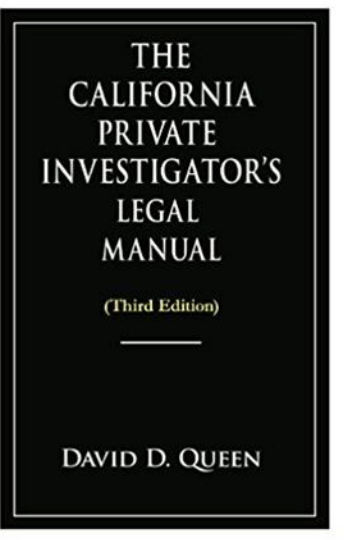
INVESTIGATIVE REPORT

Investigative reports and corresponding evidence can be voluminous in cohabitation matters. I prefer to write my reports, as I have this article, in plain English without cop jargon; written clear and concise, presenting the facts in chronological order, void of personal opinion. It should read almost like a story. I also prefer to write the report in 3rd person by surname (not "The Investigator"), to reduce reader confusion since there may be multiple investigators working the case.

You should always assume the report will be presented as evidence and viewed by opposing party, as well as the judge or commissioner. Therefore, take your time to present the detailed facts, in an honest, logical manner. Always advise your attorney of any potential leads established through the course of the investigation that may require a subpoena (loan docs, work and school records, etc.).

In closing, this article does not include all possibilities or investigative avenues, but is intended to demonstrate the depth and complexity of cohabitation cases.

Best regards! R.



MAIL FORWARDING ADDRESS FORM

As you near the end of the case, the attorney will usually subpoena the 3rd party that may be living at the supported party's address. It's may help support the case to check the 3rd party's mailing address prior to serving the documents.

With the deposition or witness subpoena in hand, complete the USPS Mail Forwarding Address Form. Each post office creates its own process or response policy however, regardless if you receive the document immediately, or returned in the mail, it will have the postal date stamp and completed FOR POST OFFICE USE ONLY section completed, possibly confirming the address. This may be used as supporting circumstantial evidence.

WITNESSES

In the matter of interviewing witnesses, most neighbors will have knowledge but are not willing to cooperate since they do not want to get involved since they have to live next to them. You also take a chance of tipping off the supported party which will almost assuredly result in a change of lifestyle status. As a result, once alerted, it is not uncommon for one party to lease an Air BNB to give the court the impression they maintain a separate residence.

Information gleaned from children via the parent, can be a great source of information but always try to follow up and independently verify their comments. In my opinion, no child should be forced into a courtroom to testify in cohab cases, ...

Respondeat superior is just a fancy Latin phrase for "the boss is responsible." This principle is important to private investigators for two reasons: your employees can get you in trouble and, in turn, you can get your client in trouble.

Equally important, however, is that the liability includes action "not authorized by the employer." In other words, you cannot escape liability for your employee's actions simply by adopting a policy which prohibits a certain type of action (e.g. trespassing in order to get a better vantage point for surveillance).

Plancarte v. Guardsmark (2004) 118 Cal. App. 4th 640





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PatrolEyes Body Camera

Battery life: up to 10 hours
 Video quality: 1296P, 140°
 Memory storage: 32GB storage
 Size and weight: 3.03 x 2.2 x .87in
 Durability: waterproof up to a depth of 3ft
 Price: \$399.00

Additional features: The PatrolEyes Body Camera includes built-in Wi-Fi with app control, automatic night vision in low light, advanced electronic image stabilization, the ability to record 30 seconds prior and post hitting the record button, password protected date and time-stamped videos to avoid tampering, and one-touch recording.



BOBLOV Body Camera

Battery life: 9 hours
 Video quality: 1296P, 170°
 Memory storage: 128GB
 Size and weight: 0.98 x 2.36 x 3.35in, 1.28lbs
 Durability: Waterproof
 Price: \$189.99

Additional features: The BOBLOV Body Camera includes built-in infrared LEDs to enable night vision, protected data upon recording, a digital LCD screen display, motion detection function, and one-touch recording.



Miufly Body Camera

Battery life: 10 hours
 Video quality: 1296P, 140°
 Memory storage: 32GB built-in
 Size and weight: 3.7 x 1.2 x 2.2in
 Durability: Waterproof and Dustproof
 Price: \$129.99

Additional features: The Miufly Body Camera includes a 2 inch LCD monitor, password protection for recordings, 60 seconds pre-event recording, motion detection, GPS coordinate recording, a flashlight, and HD night vision.

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**Service of Process Exemption
Licensed Investigator**

Ca Business & Professions Code
22350 (b)(4)

(a) Any natural person who makes more than 10 services of process within this state during one calendar year, for specific compensation or in expectation of specific compensation, where that compensation is directly attributable to the service of process, shall file and maintain a verified certificate of registration as a process server with the county clerk of the county in which he or she resides or has his or her principal place of business. Any corporation or partnership that derives or expects to derive compensation from service of process within this state shall also file and maintain a verified certificate of registration as a process server with the county clerk of the county in which the corporation or partnership has its principal place of business.

(b) This chapter shall not apply to any of the following:

(4) A licensed private investigator or his or her employees.



He was in it for the money, not the medicine, after all.

Suspicious, Schneid launched a ruse to investigate, persuading the Marine to re-route the shipments to his house. Soon, Schneid received a shoebox-sized parcel that held several tubes of cream about the same size and consistency as sunscreen that was supposedly used to treat pain and scars.

This medicine had been prescribed, supplied and delivered seemingly for no reason at all. Nobody needed it. Nobody wanted it. So what was the point?

“After the second delivery, I realized this was some kind of fraud,” Schneid said in an interview. “I believed there were about a dozen Marines involved, and they were being actively recruited to be prescribed this cream.

“It was a conspiracy, and it was growing, but I just didn’t know how huge.”

Today, court records make clear the enormity of the conspiracy. The scheme that Schneid stumbled upon in 2015 stretched from California to Tennessee, involving people and companies from at least four states.

In Tennessee, two doctors and a nurse practitioner have pleaded guilty to defrauding a military insurance program, called Tricare, out of \$65 million. At least two more suspects are still facing charges. Federal prosecutors also are attempting to seize swaths of East Tennessee farmland, a strip mall, and a large estate they argue was purchased with health care fraud profits.

Outside Tennessee, an ex-Marine in San Diego has confessed to recruiting Marines for the scheme and a Utah pharmacy company is under indictment. That company is also linked to an even larger scheme in Mississippi, where seven people have pleaded guilty to using similar medicinal creams to defraud the federal government out of an additional \$400 million.

“It was just a setup to pay cash to patients and then turn around and prescribe them this expensive cream,” said Jerry Martin, a former U.S. attorney who specializes in health care fraud.

Martin reviewed the pain cream case at the request of The Tennessean, calling the conspiracy “extraordinarily brazen.”

“If these allegations are true, that is just a criminal enterprise,” he added. “There is just nothing legitimate about it.”

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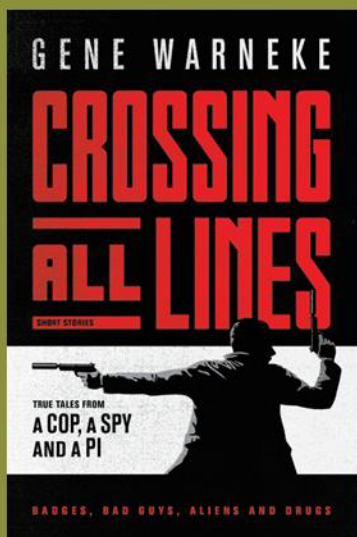


Investigator Spotlight

William Schneid has been a state licensed investigator for decades. He recently uncovered the largest military fraud scheme in our nation's history. That and decades of successful investigative work and community outreach, have garnered an "Investigator of the Year" award.

The military shaped Schneid right out of high school. Selected from hundreds of thousands of National Guardsmen, he trained and fought in Southeast Asia during the Vietnam War and afterward as a clandestine agent with a lethal counter-intelligence unit. Bill served as a police officer and with the federal government prior to becoming a private investigator.

Bill's lengthy career is the subject material for the book, *Crossing All Lines*.



Pain creams cost \$14,500 — each

In Tennessee, the crux of the cream conspiracy was Choice MD, a small, now-shuttered clinic in Cleveland, a manufacturing town near the Georgia border.

A Choice MD nurse practitioner, Candace Michelle Craven, has admitted she conducted fake telemedicine evaluations with Marines in California so that two Choice MD doctors, Susan Vergot and Carl Lindblad, could write nearly 4,500 cream prescriptions to Marines they had never met or diagnosed.

Each prescription cost about \$14,500. American taxpayers covered the cost.

Vergot and Lindblad pleaded guilty to conspiracy to commit health care fraud in April, and Craven pleaded guilty in November. But all three are still licensed to practice medicine in Tennessee. Their sentencing hearings have been delayed until March, likely to provide time for them to testify against other suspects in the case.

Steven Moore, an attorney who represents Vergot and Lindblad, said the doctors knew the prescriptions "weren't right," but were unaware of the larger conspiracy.

"It wasn't their scam," Moore said. "They just kind of buried their heads in the sand, and that's why they've taken responsibility by entering a plea. But it's important to know they aren't the big fish here."

The big fish — or at least a bigger fish — are the owners of Choice MD, Jimmy and Ashley Collins, of Birchwood, Tennessee. Federal prosecutors have indicted the couple and are attempting to seize four of their properties that authorities say were bought with profits from the prescription scam.

One of those properties — a 4,500-square-foot mansion on a 60-acre estate with an ornate iron gate emblazoned with a large "C" — was bought by Ashley Collins for \$843,000 with money directly traced to fraud earnings, federal court documents state.

The Collinses, who have pleaded not guilty, are accused of using kickbacks to create a fake customer base for their prescriptions. Court documents say they led a network of prescription recruiters who targeted Marines around Camp Pendleton, often by convincing the Marines they were joining a drug trial for the pain and scar creams. Marines were paid about \$300 in illegal kickbacks each month, court records state.

The leader of these recruiters was Joshua Morgan, a former San Diego Marine who pleaded guilty to his role in the conspiracy in February. Morgan was at one time roommates with the Marine at the beginning of this story, who is not being named because he has not been charged with any crime.

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... their own demand for compounded medications,” prosecutors say in court records. “The pharmacies illegally engaged a series of marketers to provide incentives to doctors to write prescriptions for compounded medications and divert patients to the pharmacies.”

To understand the details of this Tricare fraud, The Tennessean reviewed and cross-referenced hundreds of pages of court documents from 15 separate federal court cases, including criminal prosecutions, search warrants, forfeiture proceedings and a whistleblower lawsuit that Schneid filed in an effort to collect a reward for his discovery.

Schneid's attorneys would not permit him to comment for this story, but a Tennessean reporter previously interviewed Schneid and inspected the medicinal creams at his home in 2015.

Court records unsealed last year reveal that the federal investigation into Choice MD officially began three weeks after Schneid discovered and reported the suspicious prescriptions, showing he may have kicked off the entire criminal investigation.

A Tricare investigation begins

Not long after Schneid began receiving the cream packages in the mail in 2015, he decided to warn the government about what he had found.

Sitting in his messy home office, surrounded by paperwork from his long career as a private investigator, Schneid tapped out an email to Tricare's fraud department, saying he had uncovered a “fraudulent multi-level marketing scheme.”

A Tricare representative responded a few hours later, believing that Schneid had found a routine “phishing” scam designed to steal his private information, according to email records ...

Prosecutors have filed charges against CFK Inc., the parent company of The Medicine Shoppe, a pharmacy in Bountiful, Utah, that made millions from the Choice MD prescriptions. Prosecutors say the pharmacy was bought by CFK in December 2014, then the business model changed overnight.

The pharmacy's billings to Tricare, which once amounted to about \$40 apiece, rose to an average of more than \$13,000. During the first five months of 2015, The Medicine Shoppe billed Tricare for \$67 million.

Court documents identify the owners of the pharmacy by only their initials — W.W. and T.S. — but business records appear to reveal the full names of at least one. CFK is owned by another company, Walters Holdings LLC, which in turn is owned by Mississippi businessman Wade Walters.

Walters is the subject of a criminal investigation in a separate but similar case in Mississippi where authorities have raided at least three of his pharmacies and arrested 12 people, including four pharmacists, a doctor, an oral surgeon and two nurse practitioners. Seven of the accused conspirators have confessed, another was convicted at trial, and at least three more are expected to go to trial this year.

Walters has not been indicted in either case, but prosecutors have frozen his assets.

“To maximize profits from the fraud scheme, the pharmacies created ...

DID YOU KNOW?

The Pinkertons inspired the term “private eye.”

As the company's profile grew, its iconic logo—a large, unblinking eye accompanied by the slogan “We Never Sleep”—gave rise to the term “private eye” as a nickname for detectives.



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Ehomful Body Camera

Battery life: 3 hours (can be charged while recording)
Video quality: 1080P, 140°
Memory storage: Max 64GB (SD card not included)
Size: 4.3 x 0.9 x 0.6in
Durability: n/a
Price: \$37.99

Additional features: The Ehomful Body Camera includes loop recording (when a memory card is full, the newest file will overwrite a prior file), a small size, an integrated USB port for charging and file uploading, and one-touch recording.



WOLFCOM Halo Police Body Camera

Battery life: 10 hours
Video quality: 1296P, 140°
Memory storage: Cloud
Size and weight: 4.6oz
Durability: Waterproof with IP-67 rating
Price: Request a quote

Additional features: The WOLFCOM Halo Police Body Camera includes automatic night vision capability, built-in GPS stamps, pre and post-record, data encryption technology, WiFi enabled, and a 360° rotatable clip.



BC-300 BODYCAM by Pro-Vision

Battery life: 12 hours
Video quality: 1296P, 150°
Memory storage: 32GB built-in
Size and weight: n/a
Durability: Meets military specifications with an IP-68 waterproof rating
Price: Contact

Additional features: The BC-300 BODYCAM by Pro-Vision includes night-vision video, customizable features, a built-in LCD screen, a flashlight, non-removable data storage, and optional cloud software.



SAFEVANT Body Camera

Battery life: 7+ hours
Video quality: 1296P, 140°
Memory storage: 32GB Built-in
Size and weight: 3.5 x 2.4 x 0.4in, 1.19lbs
Durability: Water and shock resistance
Price: \$129.99

Additional features: The SAFEVANT Body Camera includes 16X digital zoom, high-intensity infrared LEDs that enable night vision, and 2.0in LCD display.



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The CBS investigation said military troops across the country were being prescribed “cure-all” medicinal creams that did next to nothing but cost taxpayers a fortune every month.

The creams were marketed as “compounded” medication. Compounding is a practice in which a pharmacist mixes several medicines into one to create a treatment tailored for a specific patient. Because every mix is unique, compounded medicines are not reviewed by the Food and Drug Administration and often cost much more than standard medicine. As of 2015, Tricare covered the full cost of compounded medicine for active-duty troops.

“We’re on track this year to spend over \$2 billion unless we get our hands around this,” said Maj. Gen. Richard Thomas, then-head of Tricare, in the 2015 CBS report. “It’s just been astronomical, an explosion of the charges in a relatively short period of time.”

Schneid's jaw dropped as he watched the CBS report.

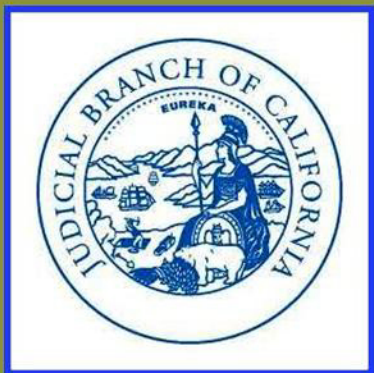
He thought over all the clues he had seen in the last three months — the unnecessary creams, the cash kickbacks, the Tennessee doctors, the Utah pharmacy and the abrupt interest from federal inspectors.

Suddenly it all made sense.

“I had thought it was just this very localized fraud,” Schneid said. “It wasn’t until then I understood the enormity of this thing.”

The Choice MD conspiracy is far from the only cream scheme to take advantage of Tricare’s compounded medical loophole. In June, the U.S. Department of Justice announced it had charged 601 suspects in a nationwide

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www.courts.ca.gov

The California Courts webpage is a tremendous resource for court forms, court rules, addresses, contact information and self help.

... obtained by The Tennessean. Schneid wrote back, insisting Tricare was missing the point.

“It’s deeper than that,” Schneid wrote. “(The Marine) makes a percentage of the commission as do the others that signed him up.”

Suddenly, the government started listening.

In a matter of days, Schneid had guests on his doorstep. Eleanor Gailey, an inspector from the Department of Defense’s Office of the Inspector General, flew to California to inspect the creams, emails show. She was accompanied by officers from the Naval Criminal Investigative Service, which investigate crimes in the Marine Corps.

In an interview, Schneid said authorities would not reveal exactly what he had stumbled upon, but he agreed to help anyway. They made a plan: Schneid would continue to play dumb, receiving the Marine’s cream prescriptions in the mail, then he would wrap the packages in evidence tape and hand them over to the NCIS. He did this for a few months until the prescription ran out and the cream stopped coming.

Then, in May 2015, it became clear what was going on. That was when CBS News published an investigation revealing a Tricare loophole that appeared to be costing taxpayers millions, if not billions, of dollars.



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HUMOR

I enrolled to online Private Investigator Course but they are not answering...

I'm not sure if they just ignoring me or this is my first case.



Investigator to angry client:

"That isn't true Mrs. Jones, I can find my ass with both hands. And if you want me to prove it, it'll be \$150.00 an hour, plus expenses!"

health care fraud investigation into dozens of similar but unconnected fraud schemes, many of which used compounded medications and kick-backs to swindle Medicare, Medicaid or Tricare. The investigation was called the largest health care fraud investigation in American history.

The U.S. Attorney's Office declined to comment for this story, citing ongoing investigations in Tennessee, California and Mississippi. Attorneys for Walters, Craven, Ashley Collins and CFK either declined to comment or did not respond to calls and emails requesting comment. Jimmy Collins currently does not have an attorney and could not be reached for comment.

*** END ***



United States Attorney's Office
Southern District of Southern California

NEWS RELEASE SUMMARY
September 30, 2020

National Health Care Fraud and Opioid Takedown Results in Charges Against 345 Defendants Responsible for More Than \$6 Billion in Alleged Fraud Losses; San Diego Defendants Charged

SAN DIEGO – Federal officials today announced a historic nationwide enforcement action involving 345 charged defendants across 51 federal

districts, including more than 100 doctors, nurses and other licensed medical professionals located in San Diego and across the country.

These defendants have been charged with submitting more than \$6 billion in false and fraudulent claims to federal health care programs and private insurers, including more than \$4.5 billion connected to telemedicine, more than \$845 million connected to substance abuse treatment facilities, or "sober homes," and more than \$806 million connected to other health care fraud and illegal opioid distribution schemes across the country.

In San Diego, the U.S. Attorney's Office announced charges against defendants in several unrelated cases who collectively attempted to defraud Medicare of nearly \$1 billion and Tricare of over \$70 million. In addition, some defendants were charged with distributing fentanyl causing deaths in San Diego County.

*** END***



ETHICS CORNER: 12 Rules for Ethically Dealing With Social Media
February 16, 2017
Daniel J. Siegel

The practice of law constantly changes. Despite the technological changes, it remains remarkably similar to how we practiced 10, 30, or even 50 years ago. Although computers, smartphones, and social media didn't exist when many of us passed the bar exam, neither did MRIs or other medical tests, and they didn't prevent doctors from changing.

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ABA Continued ...

Consider email, whose rise in popularity was highlighted by the phrase, "You've Got Mail," which even became a popular movie. Eventually, lawyers began to embrace this method of communicating. Next came the Internet, which begat websites, Google, smartphones, and, eventually, social media. Yes, social media, those massively popular websites where people—including clients and lawyers—gossip and reveal their deepest secrets.

Attorneys may not contact a party or a witness by pretext. This prohibition applies to other parties and witnesses who are either identified as a witness for another party or are witnesses the lawyer is prohibited from contacting under the applicable Rules of Professional Conduct.

Attorneys may contact unrepresented persons through social networking websites, but may not use a pretextual basis for viewing otherwise private information on those websites.

Gossip has existed since man could talk, and will endure long after Facebook goes the way of MySpace and Friendster and other previously "hot" websites. But for lawyers trying to contain the damage from rash, thoughtless, or spiteful comments or postings by clients (or the lawyers themselves), social media creates new challenges:

Attorneys may advise clients to change the privacy settings on their social media page. In fact, lawyers should discuss the various privacy levels of social networking websites with clients, as well as the implications of failing to change these settings.

Attorneys may instruct clients to make information on social media websites "private," but may not instruct or permit them to delete/destroy relevant photos, links, texts, or other content, so that it no longer exists. This rule is no different from the obligation not to destroy physical evidence, i.e., evidence is evidence, regardless of how it was created.

How can lawyers limit the spread of important client-related information on social media? Fortunately, the American Bar Association Center for Professional Responsibility, and numerous state and local bar ethics committees have issued ethical guidance to help lawyers understand the obligations that arise with social media. From those opinions, I offer the following 12 tips gleaned from that guidance (remember to review the opinions from jurisdictions where you are licensed to confirm that they agree with these opinions):

Attorneys must obtain a copy of a photograph, link, or other content posted by clients on their social media pages to comply with requests for production or other discovery requests.

Attorneys may not contact a represented person through social networking websites.

Attorneys must make reasonable efforts to obtain photographs, links, or other content about which they are aware if they know

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ABA continued:

... or reasonably believe it has not been produced by their clients.

Attorneys should advise clients about the content of their social networking websites, including their obligation to preserve information, and the limitations on removing information.

Attorneys may use information on social networking websites in a dispute or lawsuit. The admissibility of the information is governed by the same standards applied to all other evidence.

Attorneys may not reveal confidential client information in response to negative online reviews without a client's informed consent. Thus, responses should be proportional and restrained.

Attorneys may review a juror's Internet presence.

Attorneys may connect with judges on social networking websites provided the purpose is not to influence judges in carrying out their official duties.

This advice is identical to the advice an attorney would give to clients in the pre-Internet and pre-social media world. Telling clients not to talk about their cases and to preserve evidence, reminding lawyers they cannot reveal confidential information without consent, and knowing that lawyers cannot contact parties and witnesses by pretext, is same advice they gave before the Internet, but is merely repackaged for technology. In short, the more things change, the more they really stay the same, including issues related to ethics and social networking.



Evading Service of Process

Part of this newsletter covered body worn cameras. When serving legal documents (regular or difficult), I always have my cell phone out and recording when I attempt service with a Date & Time Stamp app.

If the person refuses service, I drop the docs at his/her feet or the doorstep when the door is closed, then photograph the docs on the doorstep with a Date & Time Stamp cell phone app. To finish the service, I mail another copy of the docs to the address with a tracking number, then I complete the proof of service, with a declaration and attachments (photos, USPS receipt, etc.).

Here are a few cases that support completed service on evading subjects.

Crescendo Corp. v. Shelsted (1968)
267 Cal App 2d 209

In re Ball (1934)
2 Cal App 2d 578, 579, 38 P 2d 411

Trujillo v. Trujillo (1945)
71 Cal App 2d 257, 162 P 2d 640

Thomdyke v. Jenkins (1943)
61 Cal App 2d 119

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