



CRIMINAL DEFENSE INVESTIGATIONS

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The aspects of an investigation are basically the same no matter the type of investigation. Simply put, start with the basics. Examine the information at hand and find the loose thread or the piece of the puzzle that does not seem to fit. Once you establish what the loose thread is, pull it. As the picture unravels, follow the thread or evidence wherever it may lead. There are many ways to do this depending on the type of case one is dealing with. For the purpose of this article, let's examine aspects of criminal investigations, or more to the point, criminal defense investigations and the purpose they serve.

The broad purpose of the criminal defense investigation is to provide the defense attorney the information needed to insure the individual's right to a fair trial. This is probably the most important type of case a private investigator can undertake; for the simple reason that many lives are affected by the outcome of the case brought against the accused. The loss of an individual's freedom can not be taken lightly.

More specifically the purpose of the criminal defense investigation is as follows. Identify and interview all witnesses. Uncover and identify any undisclosed or mitigating evidence or circumstances relevant to the case. Examine and verify all evidence presented by the prosecution. For example, we worked a case where a young man stood accused of having unlawful sex with a minor. The young man met a young woman at a retail store where she worked and dated her for quite a while before he was informed by detectives that she was actually under age at the beginning of the relationship. He was informed of this as he was being arrested. The accused had been led to believe this young woman was actually older and had just celebrated what he believed to be his girlfriends 20th birthday about a month before he was arrested. Turns out it was actually her 18th birthday. Through witness interviews we learned that she had been working in a computer store where she had been terminated for lying on the application about her age. One of the requirements of employment was that the applicant had to be at least 18 to be employed with the company. We were led to the company owner who confirmed the application and all identification provided by the young woman was indeed fraudulent. We obtained copies of both the application and photo ID. We were also able to identify several other witnesses and evidence that showed the young woman had been doing this with other young men. This case was eventually dropped by the DA based on this and similar evidence uncovered by the investigation.

Further, it is the purpose of the defense investigation to verify the information contained in the case file. The investigator must examine police procedures to include the collection and chain of custody of any evidence collected. The accuracy of police reports, including the responding officer's hand written field notes, must be evaluated. The documentation of the crime scene must also be examined and verified. One must also take into account the perspective of eye witnesses, what were the circumstances and conditions at the time



of the event in question, and also at the time when statements were given to law enforcement? This may be relevant to the accuracy of the statements given. The list goes on from here.

My first criminal defense case involved a young man that stood accused of several counts of murder. The accused was a relative of a very close friend of mine and I was asked by the family to investigate this case. The facts of this case could fill more pages than would be practical here, but bears mention because not only was this my first criminal investigation but because every aspect of the defense investigation came into play in this case. The case involved a young man who shot several people in a gun fight with gang members. This happened in the street of a residential neighborhood, in front of a house where a party was being held after a high school football game. Through witness interviews we found that one victim who survived the shooting, but is now in a wheel chair, made statements in front of a church congregation about being out to kill someone the night God took his friends and committed him to a life without use of his legs. This statement was documented on video. By careful documentation of the crime scene, it was proven that the police reports were inaccurate. Police procedure was not followed in the collecting and handling of evidence. There were never any photos of the crime scene taken except the ones taken during the defense investigation. Trajectory and bullet impacts as well as shell casings showed there were several weapons being fired at the accused where prosecutors were alleging that only one weapon, a revolver, was being fired at the accused from a different direction. In fact, our investigation uncovered facts that discredited all the evidence presented by the prosecution in the case. The case was eventually ruled justifiable based on the evidence uncovered by the defense. If the defense investigation had not uncovered these facts, the outcome would have been quite different. Every case basically starts the same way. Once you find the loose thread give it a pull and follow it. Often this will lead to other threads or evidence relevant to a case that might otherwise go undiscovered.