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ETHICS FOR INVESTIGATORS

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EDITOR.

For many years the law enforcement and investigative fields have been going through a continuous and systematic process of self-analysis, evaluation, and reevaluation concerning many of the basic foundations, procedures, and if you will, rules of conduct for carrying on police and investigative duties. This analysis, evaluation, and reevaluation has among its immediate objectives the goal of providing more and better police services to the community, improvement of the calibre of the services so provided, the improvement of working conditions, and increased salaries to the individuals engaged in the profession. It might be noted in passing that the great majority of the individuals so engaged are very much interested in furthering this work, raising it to a professional level, and are doing so for a wide variety of good and sufficient reasons.

While the foregoing is true, it is readily apparent from no more than casual inspection of the daily newspapers, that there are many individuals in the field who, by their daily conduct and activities, adequately demonstrate the fact that they do not consider themselves to be professionals and have no interest in reaching such a goal, other than perhaps an incidental interest when it happens to coincide with their own immediate and selfish interests.

Investigation is an integral function in each and every agency engaged in law enforcement and investigative activities, and investigators are key men playing vital roles of the very highest importance in carrying out the mission of an agency. It is true that the framework of reference in which investigators are normally and usually considered is as members of various municipal, county, state, and federal agencies (the so-called official agencies), and the majority of investigators fall into one of these categories.

At the same time there is a considerable number of independent investigators who function out-

side of these agencies and as such are not bound by the ethics or ethical standards of conduct imposed by these agencies. Perhaps the best known are the private investigators; and the fact that they are numerous in the United States may be immediately determined by simply referring to the classified telephone directory of any medium to large city.

Just as there is a code of ethics imposed on investigators who are members of official agencies, there should be a code of ethics or ethical standards of conduct imposed on all other investigators who function outside the investigative framework of the official agencies.

In the official agencies, ethical standards are set by the agency, and conformity is demanded of the individual investigator. In other agencies, whatever ethical standards of conduct that are in effect will be imposed to a very great degree by the individual investigator, or the investigative firm by which he is employed, and the only conformity demanded will be with the private investigator's own conscience or the conscience of the individual who sets up the policy of the firm in this regard.

What exactly does ethics mean? What are ethical standards of investigative activity and conduct? How do they apply to the independent investigator?

We may very broadly indicate one of the philosophical concepts of ethics by considering it as the study of human conduct in the light of morality, and in conformity with moral principles. These moral principles limit and apply equally to investigators employed by official agencies, and to all other investigators however employed. The moral principles are the same and apply equally to all. There is a significant degree of difference however in the manner in which the principles apply.

In the official agencies the principles are im-

posed and conformity therewith is demanded; in the non-official agencies the same conformity is self-imposed, but there is little demand for much compliance. In the official agency, the price for non-conformity may be disciplinary action against the investigator up to and including discharge with prejudice for a serious offense. In the non-official agency, there is no price to pay for non-conformity, generally, other than the twinges of conscience, and the knowledge that the job at hand was done unethically.

As investigators, we are more concerned with the utilitarian rather than the philosophical aspects of ethics and ethical standards, procedures, and conduct. As a working consideration, we might view ethics as the science of doing the right thing at the right time in the right manner; in conformity with the normal, everyday standards imposed by society; and in conformity with the judgment society would be expected to take concerning the rightness or wrongness of what we have done.

An ethical code might be considered as a basic set of rules and regulations to which we must conform in the performance of investigative duties. Ethical standards, procedures, and conduct might be considered as the logical workings of our ethical code in its everyday application to our work. Ethics also necessarily involves morals and morality. We must eventually answer the self-imposed question of whether or not we have acted in the right way in conducting our investigative activities in their individual and total aspects.

What then is going to be our code of ethics, our ethical standards, our ethical procedures and conduct? More important, what basic concepts are we going to adopt? A code of ethics, and a common basis of ethical procedures should be of interest to every investigator and to every individual employed in either full or part time investigative activity in any and all of the well recognized general and specialized fields of investigation.

In this regard the investigator will be concerned with the ethical aspects of the following basic considerations: (1) The legality of his employment; (2) the confidential nature of his work; (3) his soundness of character; and (4) his everyday activities.

1. *Legality of Employment.* There is an old maxim that amply illustrates some of the ethical considerations involved in the legality of an investigator's employment. It is, "No man may

serve two masters." To the investigator this maxim has the additional meaning that he may not accept investigative assignments from two different individuals who have a direct conflict of interests of some sort, without violating the investigative code of ethics.

The investigator is also ethically barred from accepting an investigative assignment that presents a conflict of interest with an investigative assignment he has already accepted; or has reason to believe he will be accepting in the future.

The investigator may not ethically accept any employment or an assignment of an investigative nature when the object of the employment or investigation is, *per se*, illegal, or will contribute to the furthering of an illegal act. Examples of this would be an investigation to remove or to conceal or destroy evidence of a criminal act; or to deprive any individual of any of the rights guaranteed by the Constitution.

The investigator is also ethically bound to accept only that investigative assignment, the results of which are to be or may be employed for a just and lawful purpose. The ethical investigator may not accept employment from any organization of a subversive nature, or any other organization which aims or is attempting to overthrow the government of the United States. He is also ethically bound to refuse investigative employment from any group or organization inimical to the best interests of the United States.

2. *Confidential nature of work.* Many investigative assignments are entered into on a rather informal basis, often with nothing more than a verbal agreement concerning fees for time and services. Regardless of pre-existing agreements, however, the results of any and all investigative effort performed by the investigator for his employer are the exclusive right and property of the employer, are to be held in the strictest confidence by the investigator, and are under no circumstances to be disclosed to anyone other than the employer or his duly authorized representative.

Such disclosures may be made, however, if and when the employer so directs in writing. The investigator is ethically bound to adhere to both the letter and the spirit of these limitations. The investigator is also ethically bound to observe all of the well known aspects concerning the protection of the identity of confidential informants, and the other general investigative

procedures and techniques involved in dealing with confidential informants.

3. *Soundness of Character.* The investigator is ethically bound to adhere to the highest possible standards of personal character in all of his dealings involving investigative activity; and generally in all other public and private aspects of daily life and activity.

Any and all aspects of investigative work, particularly reports, memoranda, and other media through which information is transferred, will be strictly factual, completely honest, and as accurate and complete as the expenditure of time and effort can make it. Any deviation from this standard is strictly unethical, as is expressing an opinion or relating hearsay as fact.

Oftentimes investigations are complicated, very extensive, and very time consuming. Due to these causes some investigations cover lengthy periods of time up to and including several months and more. In normal investigative activity the investigator will be paid for the expenses incurred by himself during the course of the investigation. It also occasionally happens that the investigator will be reimbursed for expenses incurred by someone other than himself during the course of the investigation. It also occasionally happens that the investigator collects expense money for expenses that he has not incurred which have been added to the final account for the simple purpose of defrauding the employer. Every investigator is aware to some degree of the practice of "padding" expense accounts and knows, furthermore, that this practice is rather common.

Regardless of all other considerations, however, the ethical investigator will keep a strictly honest, factual account of all of his legitimate expenses incurred during the course of the investigation, and will not succumb to the practice of padding his expense account.

In a similar manner, the ethical investigator will spend no more of his employer's money than the amount actually necessary to complete the particular investigative phase of the assignment he is currently working on. He will, when he has a choice of several techniques or procedures for gathering information, or carrying out some other aspect of an investigation, select the most economical means consistent with the securing of the best possible results.

An ethical investigator will avoid the use of any

and all illegal means in conducting an investigation or any aspect of an investigation. Any and all procedures which violate the rights of the individual will be strictly abhorred. The ethical investigator will also strictly avoid such practices as illegal entrapment; and the identification as fact of any statement or fact known to be either false or biased, or emanating from a source known to be either false or biased. Additionally, the ethical investigator will never identify as fact anything known or suspected with good reason to be based on hearsay.

4. *Everyday activities.* The ethical investigator will live up to the highest standards of personal conduct at all times, and not only while he is engaged in the performance of investigative duties. He will live in accordance with the requirements of society that he be at all times a decent, honest, reliable, and completely trustworthy individual; and that each and every one of his actions reflect nothing but the very highest credit upon his own actions in particular, and the profession he represents in general.

The ethical investigator will maintain at all times a completely objective attitude and impersonal approach towards his investigative duties and responsibilities; he will concentrate all of his skills and energies towards securing the truth of the matter under investigation; and he will never be satisfied with any results he secures unless he can honestly tell himself that they are the very best possible in any particular investigative situation; and until he can assure himself that every positive lead has been run down to its ultimate and logical conclusion.

The ethical investigator will conduct himself at all times as a professional man; and will practice the unemotional performance of duties, which is one of the characteristics of the professional individual. Needless to say, the ethical investigator will be a gentleman at all times and will always conduct himself as such. With these facts foremost in mind, he will constantly weigh and evaluate all of his actions in the light of whether or not his actions reflect to the credit of his profession.

The ethical investigator will, at all times, strive to the very best of his ability to increase his knowledge of his profession, and to improve his technical skills and competence in the various procedures and techniques germane to the profession.