



INVESTIGATIONS, SECURITY, &
COUNTERMEASURES

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WITNESS LOCATION, INTERVIEW, & BACKGROUND INVESTIGATION CASE STUDIES

Case Study #1: A Helicopter Crash Investigation



In the mid-1990s I was hired by a large and well-respected law firm to investigate a helicopter crash in New Mexico. The helicopter was ferrying U.S. Forest Service firefighters to and from a large forest fire. The victim toll was great. Two injured firefighters, as well as two dead and the pilot dead as well.

My client law firm was hired by the families of the two deceased firefighters. They initiated a personal injury case in district court. We began our investigation while the cause of the crash was still undetermined. The investigation for cause was focused on either pilot error or a mechanical failure.

An investigation of an aircraft accident moves forward on several fronts. I was talking with witnesses, interviewing aircraft experts and monitoring media coverage of the event. My work took me from New Mexico into Texas and elsewhere.

The Pilot's Smoky Past

After a week or so of investigative activity, my attention became focused on the pilot. A couple of the witnesses I had interviewed hinted that I should look more closely at the pilot's background. So far it was just hints, but you know that where there is smoke, there is usually some fire to go with it.

Once I focused on the deceased pilot, I began to find that, though he was liked and considered a "good guy" by many, he had a troubling past. There were some personal issues that began to emerge as I interviewed his ex-spouse, friends and present and past coworkers.

I was also researching courthouse records looking for criminal or civil filings. The pieces began to come together, yielding a picture of a troubled individual. The pilot had a previous DWI arrest and two family violence assault charges. All but one of these charges were dismissed, but a definite pattern of behavioral problems was emerging.

I discovered that the pilot had left two previous flying jobs under troubling circumstances. It was difficult getting past employers to provide details. They were probably worried about litigation or just didn't want to speak poorly of the deceased.

Details were surfacing though. He was said to not take criticism well, was often late to work, and there were suspicions that he was drinking heavily. He had recently been attending AA meetings. A coworker had complained that he smelled alcohol on the pilot's breath one day when he arrived at work.

I also learned that he had actually been fired from a previous flying job for his drinking. To add to his problems, he was paying large monthly child support payments that often threw him into bouts of depression.

The clear assumption to be made from all of this information was that the pilot should never have been hired. His current employer admitted that no background checks were normally done on referred pilots, only on new hires without a referral.

In the parallel investigation of the possibility of a mechanical failure, no evidence was found to indicate any equipment malfunctions.

Settlement was a Wise Move

The helicopter company's insurance carrier and the attorneys examined all of the evidence gathered in our investigation and the mechanical inspections. There was also evidence that the pilot had been hovering out of "ground effect," too far from the ground.

Ground effect is hovering close enough to the ground to get some buoyancy from the air cushion under the helicopter. That fact coupled with an overweight condition for that hover altitude were probable factors in the crash.

Added to these issues was the admitted lack of diligence in vetting the pilot with an adequate background check before employing him. Had they done so, even some of the information I had uncovered would likely have caused them to refuse to hire him.

My law firm client was quite happy with my investigation. They eventually reached a substantial settlement with the company's insurance carrier on behalf of the families of the deceased firefighters.

Of course, no amount of money can replace loved ones, but it can improve future corporate behavior.

Case Study #2: Background Investigation for a Feisty Deposition

When you're watching most any of the lawyer TV shows or movies, it's fun to watch their tactics with the adversary in trying to get them to say something incriminating or bad for their side of the case. In one deposition, I was working with a brilliant Houston attorney and friend we'll call Mike, and he was in top form working the room.

It was one of many airline crash investigations in the late 1990s. Most of these cases were in Central or South America. Whether it was Panama, Colombia, Guatemala or another country, the process was similar. My job was to locate and interview families of the victims, meet with authorities in the countries and learn what I could about their investigations of the crashes.

In one case, we found that the plane that crashed in Central America had recently been serviced in Miami, FL, so that's where we focused our investigation. The lead attorney scheduled a deposition with the President of the aircraft maintenance firm. Depending on your role at the deposition, it was either embarrassing or quite effective.

Part of my job was to prepare the attorney for depositions with a profile of the interviewee. After a thorough background investigation of the maintenance company executive, I furnished Mike with an extensive profile of the individual. He was a large, well-built and a very proud individual. He was known to be high strung, and he could display a temper he couldn't always control.

The room was all set up when we arrived. There were 8 defense attorneys representing the airline, insurer and the maintenance company. Mike and I were the only two in the room on the plaintiffs' side of the case, representing the families of the deceased.

Mike placed the witness across the table from the defense attorneys, and he stood behind them to ask the questions. This seemed logical, as everyone had a good vantage point and could see and hear what was happening. Mike placed a chair for me against the wall directly behind the witness. He whispered to me to be ready if the witness became upset and caused problems. These details seemed odd to me, but definitely made me very alert. Later the placement and instructions would become clear to me.

Mike stood up and paced back and forth behind the opposing attorneys and began to question the witness. The attorneys couldn't see Mike without turning around, and they had no reason to do so, instead staying attentive to their witness and his answers. The witness definitely could see Mike and everything he was doing while posing the questions.

Mike began his questioning and hit a nerve almost immediately. Any questions even remotely related to his company's training of employees or quality of maintenance work clearly agitated the witness. Once Mike saw this, he zeroed in on those type of questions and kept piling them on.

Every time the witness answered a question, Mike would make a goofy face or some animated gesture. The lawyers couldn't see any of this. Seeing it was having an effect, Mike just kept doing it. The witness was getting more agitated as each new question was asked.

The opposing attorneys were clueless about Mike's antics, but they were definitely becoming concerned about the growing hostility of the witness. I was working very hard to keep from laughing, as I was in a position to see Mike's funny and annoying gestures. It was also fun watching the reactions of the attorneys watching the witness.

These serious attorneys were becoming alarmed, and the lawyers for the maintenance company and insurance carrier were cautioning the witness to calm down and just answer the questions. It was a pretty hilarious situation, and also a bit curious. To this day I can't think of a single reason that the witness didn't tell the attorneys what was going on behind their backs.

It was like watching a volcano, with growing smoke and ash emissions as the ground began to shake. The witness was getting red-faced and was clearly having a hard time controlling his anger. Mike kept pushing his buttons, and finally the volcano erupted.

He stood up and started to round the table to physically go after my attorney friend. I got a nod from him to take care of the situation, so I took the witness down to the floor from behind with a choke hold. He didn't resist much, so I did it without hurting him, just to subdue him.

Of course, the attorneys were all terribly upset with their witness's behavior! They stopped the deposition and told the witness that he was risking jail with his behavior. Mike was in full Academy Award mode, playing the victim and telling the lawyers that this was totally unacceptable behavior, and they should control their client!

That was it for the deposition that day, but Mike was working the room for concessions to make up for this attack on his person. He got some that wouldn't have been possible in a normal deposition. He had clearly planned the entire episode just for its negotiation value.

In setting this up, he used my witness profile and assessment of the witness as volatile. Instead of using a Miami court reporter, he spent a lot more money bringing one with us from Houston. The reporter was in a position to see Mike's antics but had no reason to mention them to the other side or to react.

Lawyers often tangle, but it is rare to throw a strangle in at the end.