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IN A PERFECT WORLD

Real statement taking in an imperfect world

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At the shooting range officers are taught to load, shoot, hit the target, reload and shoot. By establishing muscle memory the probability of having lifesaving reflexes will be emblazoned upon the mind. What happens, however, if the shooter doesn't understand that he/she must stand still as paper, facing forward and wait for the officer to tag him within the first three concentric circles on his shirt front? That's why true professionals practice odd scenarios and work with war game simulations.

This is not much different from an investigator learning the rudiments of taking a statement. It is taught that we should be prepared, understand the case, have paper, pens, recorder, batteries, double checked addresses and a most appropriate time to attempt said statement. There are dozens of text books, courses and instructional manuals giving variations on that theme. That is all fine in a perfect world. The experienced investigator understands that **there is no perfect world**. The manual drill of statement taking is easy to understand. The form, necessary language and procedure are all rote to the muscle memory of the personal injury or criminal defense investigator. The reality of the situation is most often quite different.

In my world, the world of inner city criminal defense, civil rights and personal injury, it is hardly ever something from the books. Without demeaning people or acting elitist it is appropriate to state that many of our citizens do not live in lovely homes, have 9-5 jobs or trust that the investigator is not affiliated with a police organization or prosecutor's office. It is most likely that there will be antagonism in even entering a home to sit at a dining room table to take a statement. In many cases the dining room table doesn't exist. It is more likely that multiple mismatched sofas', carpet-less old wooden floors, television sets on at maximum volume and assorted children and animals take up the space instead.

My daily world is replete with challenges to my ability to adapt. My goal each day is to be as calm, focused and agreeable as possible under any situation thrown at me. And believe me, the ability of witnesses to toss challenges is as normal as spines on a porcupine.

A TYPICAL AND REAL SITUATION

It was 14 degrees outside. Ice hadn't been shoveled from the sidewalk or steps. I carefully ascended to the outdoor porch which was identical from the other 11 row houses on the block. They were differentiated only in color and degree of dilapidation. Trash day was delayed because of Christmas and New Year's arriving within a week of each other and the accumulation of trash on all the porches limited walking space to the door. I knocked as the bell was a broken piece of plastic. A young man opened it. He was the witness to whom I needed to speak. I asked if his mother was home and he yelled upstairs. She responded that he should bring me up. She was ill and in bed. I hesitated and her weak voice beckoned me. Downstairs was totally dark. No windows were open. The Christmas tree still stood and I couldn't see anything else because of the lack of light. Light, however, emanated from upstairs, so I reluctantly followed the child upward. A variety of items including clothing and dishes spilled down the stairs to one side. Using the cleared area I walked carefully on the

bare wooden risers, clinging to the unstable railing to my left. My right hand remained in my pocket on my pepper mace. I'm glad I didn't see the dead mouse that I strode over until I was almost on the next step. A long narrow hallway littered with candy wrappers, clothing and toys confronted me. Mom called from the front room and I followed the light with gratitude. Upon entering the bedroom I saw a double bed pushed against the window wall. A large television set on at loud volume revealed Maury Povitch chastising a woman who had a baby after sex with four different men.

They were going to give DNA tests to all the potential Baby Daddy's who sat amiably talking to each other on stage. Turning to my right I saw a woman in a hospital bed with numerous cables and ports feeding liquids from hanging bags into her body. She was almost inert, obviously in pain and in the throes of a difficult time. While my heart went out to her I realized that taking a statement in her presence might be difficult for the child and for me. I greeted her cordially, extending my hand and introducing myself.

She was aware that I would be coming and was about as pleasant as her situation allowed. I forced myself to look her in the eye and treat her with as much dignity as possible. Illness is not something we do to ourselves on purpose and I've learned over time that everyone needs and deserves respect. I knew I would walk out of that house. I was not so sure that she would enjoy the same pleasure. She pointed to the bed and said, "Sit there." Hackles rose on my neck as I pictured bed bugs and who knows what due to the unkempt nature of the entire home. It wasn't possible however to talk, write and juggle documents without sitting.

So I balanced myself on the very edge of the bed doing quad strengthening exercises with my legs to remain stable. The child sat next to me and we began our discussion as the mother listened. The television set blared into my right ear making conversation difficult. I looked pleadingly at the mother and requested that she please lower the volume or turn off the set for the brief time that I would be present. I claimed a hearing loss; which I was certain would be a reality if the television wasn't muted. Several minutes into our conversation I became aware that the child was polite, verbal, intelligent and a real trooper. He couldn't look directly at his mom, but when he did a wincing of pain creased his face. Then we both turned as the mother began to moan and cry. He cringed, but kept talking. I couldn't ignore the obvious pain. Tears streamed down her face. I asked the child if there was another adult in the home who was caring for his mother. He replied that an older sister was home and I instructed him to get her immediately. Minutes later a rather large woman in her early 20's holding an infant appeared at the door. She muttered something about forgetting to give a shot of pain killer and headed toward her mother.

Turning, she dropped the child into my lap on top of the papers and opened folio. Quads burning with the extra weight, I hoisted the baby into one arm as mother and daughter dealt with the machinations of injections and changes of bandages. I informed the daughter who I was, but all she said was, "I know." The child and I continued our project. We were doing well with his recollection of the incident he had witnessed and I was now explaining to him that I would have to memorialize this into a statement. I told him I needed his assistance and asked him to bear with me a little longer. He smiled and said, "That's ok, this is fun." My only thought was sad. If giving a statement was fun then there was obviously very little of that in his life. Another moan caused us to both turn as we unfortunately had the privilege of seeing the daughter helping her mother onto a bedpan. I couldn't rise to leave as I was juggling a

now sleeping infant in one arm and doing a reasonably good job of writing on my lap with the other. The boy ignored the situation as if he was used to it, so taking his lead, I did the same. Twenty minutes later the statement was complete. Mom was off the potty. Her tears had ceased as the medication obviously kicked in.

The baby had begun to stir and the daughter started to leave the room. Before I could utter anything she yelled loudly, grabbed a broom that had been leaning against the wall and whacked it repeatedly on the floor. Then turning to her little brother she ordered, "You get that mouse out of here, you hear?" I interrupted and told her I was done. I wanted to return the baby and I needed a signature from the mother who had witnessed my interview with her minor child. My missions accomplished, I needed to now step over two dead mice to even exit the premises. I thanked all parties and requested that the child accompany me downstairs into the darkened living room and lock the door behind me. At the door I praised him for his maturity and thanked him for his cooperation. He beamed.

My statement was well organized. I identified my witness properly. He told a chronology of events with great detail and recall. I included the proper authorization from his mother to interview this minor child. I included the language necessary under law for a statement or declaration. Both mother and son signed the document and dated it. It was a successful statement. None of that would give me solace as I sat in my car and fought back tears for the poor child who had to grow up in an environment that might have been loving but was anything but wholesome or happy.

I'm an investigator and I take statements. None of my experiences are covered in the books teaching this craft. There is no such thing as normal. There is no perfect world.

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