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~ an Association of Volunteers

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TO: Allied Observers, Investigators, & Attorneys

RE: Sharing 'Rainbow' Documentation

Friends:

In the wake of the Gathering in New Mexico, we have collected a lot of diverse information on police incidents and policy affairs. Now comes the tough process of setting up the documentation for shared access among concerned parties and attorneys – in order to make these materials usable for legal purposes, the whole point of all this.

Appended here as a brief memorandum, FYI:

INCIDENTS & EVIDENCE --
Documentation Guidelines for Investigators
(v.2 – June 1999)

It summarizes the core problems & fair solutions in this evolving work, laying out some practical methods I have developed with inputs from many in the past, and hope to refine with you good ideas in the future. It also suggests simple outlines & formats for compiling information in a consistent way, for ease of common access.

Note that this memo was done over 10 years ago, after the 'Camera Cavalry' mission at a Cumberland regional gathering in Kentucky, May '99. It's significant that we have struggled with these logistics for so long, and still suffer the consequences. Learning to cooperate in assembling info and moving evidence in a reliable way is something that has to get done.

For the long haul, let this memo be a germinus for further research and training, an evolving thing, defining new tools in civil rights protection & advocacy.

I hope it is useful... your ideas are welcome.

for the Kids,

Scottie Addison, Coordinator

INCIDENTS & EVIDENCE -- Documentation Guidelines for Investigators

⇒ In the Capacity of Investigator...

We are in rare company, the few who have seen gross civil rights violations on gatherings AND have decided to do something about it: *Get The Facts & Make Them Work*.

The initiative arises from Official Horror Shows we have observed, responding to the extreme vulnerability of participants (especially 'The Young and the Clueless') to abuses under color of law, and the extreme difficulty of creating grounds for legal recourse under the toughest circumstances in the woods. Ironically, the strength of the gatherings has also been their weakness -- the people who come and then go, the ephemeral happenings, the disappearing victims and unknown witnesses, and the resultant vacuum of evidence to support conscientious claims and defenses.

So we step into the breach, to do what was not done before -- go out to observe & record events, collect statements, and overcome fear -- with a simple, humble understanding:

With Documentation, there is no guarantee of redress; Without It, there is no chance.

Understand further that this work jumps the customary division of labor in legal practice.

~ An attorney might employ a bonded Investigator to find and assemble facts for live cases, or a group might hire one for such purposes. The research deals with events *ex post facto*, and the veil of `legal privilege` extends to this role through a formal professional relationship.

~ In contrast, we try to deal with events *impromptu*, operate independently without protection of formal privilege, and collect facts for `potential` cases and unknown litigants.

So, we must do the Investigator's job and more, without actually Being One...

It's about acting "*in the Capacity of Investigator*", fully meeting the accepted standards and procedures of this work, upholding confidentiality, and thereby Becoming One in effect & in fact.

Then in so doing we claim the protections of legal privilege, and arguably the ability & right of any individual to perform this public service voluntarily, without jeopardy.

That's the theory anyway, and it has worked so far...

...to the extent that we've learned some 'risk management', we know how to control liabilities as individual Investigators, and that getting out and Doing This Work has made things better.

In fact, it has fomented an amazing 'Hundredth Monkey' phenomenon at recent gatherings -- folks are showing up with recorders & cameras, writing things down, learning how to observe --with clear deterrent effect on civil rights abuses against participants.

This is what we wanted... take it further, and take care to do it right.

A word on the scope of this essay:

There is much to say about investigative conduct and methods of collecting facts in the field, but it won't be said here. This discussion is focused on the followup gruntwork of dealing with raw documentation in-hand, and making it usable for legal purposes. We are also making immediate decisions/agreements on handling materials from the "Cumberland Cavalry" project of May '99. This serves as a demanding case study -- with lots of documentation by several Investigators, working concurrently and separately on-site over a 12-day period -- and a useful experience to build on for the future.

⇒ Processing Info

Overall, it takes a few steps to get there:

- > Review & Identify Originals...
- > Make Copies for archives & circulation to attorneys...
- > Log Contents of Tapes & Files...
- > Prepare Lists & summaries for easy reference.

The last part is hardest, so minimize the gruntwork: Agree upfront on the pieces of the papertrail, the scope & formats of several info resources we want to create, for the lawyers and our own future work. And if info items from various sources are compatible in layout, they can be easily mixed & compiled for different uses later on.

First, look at What We Have Now... a pile of papers, tapes, photos, & notes from which information must be extracted and made coherent. Dealing with various items & media, the easiest way is to work from originals `by type`, and make LOGS of each:

- ID the video/audio/photo series (give it a name); log each segment by Index#, Subject/Witness, Date & Time, Location; provide a brief abstract or description. Working from tapes, include witness contact info as given, so you don't have to go back for this info. If needed later, key incidents & testimony can also be transcribed in full from selected segments.

In this way the LOGS serve as raw 'source docs' from which Summary Lists are derived (by simple cut-&-paste on a computer), any item can be found, and further work can be done.

Then, look to What We Need Next... three clean LISTS of (i) Witnesses [≈'Victims Kicking'], (ii) Evidence [tapes, photos, docs], & (iii) FOIA's [requests & responses].

- These are set up as concise summaries to share and provide to attorneys for fast reference. Part of the logic here is to create full inventories of available documentation, in a convenient short form for copying & faxing as needed. As legal cases develop, these can be supplemented by (iv) Discovery lists, adding to our data base on these issues. (Ex.: Disclosures in the MO & FL roadblock cases have already been very useful in this way.)

Realize the importance of this work: No one else knows where the information is, who the witnesses are, what they say, etc.; so these Lists are the only reference & communication tools that will exist. Like any High Craft, there is also hard gruntwork in making them.

Start with a general framework that makes sense, both in handling and presenting info:

A suggested Outline follows, running an inventory on documentation materials in-hand, and showing where it all goes into line-items on the Lists, within broad categories under each.

{{ Original Documentation... }}

{{ Reference Lists... }}

Witness Affidavits & Blunts
Investigator Affidavits
Witness Stmts/ Audio, Video
Inv'r Narratives/ Audio, Video

I. WITNESS LIST

- A. Witness Affs
- B. Inv'r Affs
- C. Witness TapeSumms (A/V)
- D. Inv'r TapeSumms (A/V)

II. EVIDENCE LIST

Events/ Audio, Video	A. Audiotapes, Videotapes (ea. tape, list sequences)
Incidents/ Photographs	B. Photo Exhibits (by series, ea. shot w/ ref#)
Official Documents (citations, permits, etc.)	C. Document Exhibits (ID/Provider, description) + [[Authentication File...]] (Affs to Authenticate)**

III. FOIA LIST

FOIA Request Ltrs < "X", "Y", ...	"X" FOIA Pkg {Requests + Responses}
FOIA Responses > "X", "Y", ...	"Y" FOIA Pkg ----- (Itemize... ----- ID contents)

The breakdown of the Witness List from various original sources is most problematic. Best Bet: Organize it according to `Source` (which keeps blocks of info consistent with Logs), but distinguish your own 'Investigator Narratives' from witness statements by setting them up as a separate section. (This facilitates & backs up affidavits that we may provide as Investigators).

Further Notes:

- ~ Within this framework, the layout of info can follow the logic of events... e.g., present a separate Witness List for Cumberland '98 vs. '99, or set these apart under the category headings.
- ~ Evidence items should be ID'd by the witness or recorder, to link them easily to supporting testimony &/or authentications. (Ex.: "J. Eichler Photos (#4-11, 15-23)...").
- ~ Remember also that Investigators must 'Authenticate' (by affidavit) all the tapes they recorded, and all documents & written statements they secured. This makes the documentation real & usable for lawyers, and of course you may be called to testify in court.

⇒ Formatting Facts

Documentation is useless if it is not used. Part of the challenge is to set it up in a coherent and manageable form, to give lawyers info they understand, to give them the full picture fast, to provide work-saving tools, to help them win cases with facts. The presentation matters... so a lot of formative thought goes into meeting their needs & biases, and keeping it simple.

Handling recordings is tedious -- no apologies -- but this process is efficient & pulls in maximum usable info. The logic & method, from hard experience...

- A given audio/videotape usually has mixed sequences of recorded Statements & Events... the former are compiled & condensed in the Witness List, the latter in the Evidence List.
- Working from the 1st-round "Logs", simply paste sections into either "List" document, then edit down to long line-items (short paragraphs?) for brevity & clean format.

These two lists are complementary: Work is not duplicated, only presented differently:

The Witness List tallies people with something to say, organized by where their Statements are recorded. The Evidence List shows each whole audio/videotape as an 'Exhibit', with its Event sequences identified and indexed.

A page of suggested information formats for The 3 Lists is appended (see "Formats for Lists", at the end). The visual concept is to present coherent 'Blocks' of info under each line-item, with consistent line-spacing & layout for readability.

Line headings can be used flexibly -- either retained as labels of a "Form" with blanks to fill in, or replaced as tags in a 'Template', simply showing where the info goes.

Input format is flexible... just make each 'Block' consistent in scope, and info easily findable. Use no fancy fonts or document tricks, so info can copy & paste as clean text:

⇒ Handling Evidence

CORE PREMISE: An individual investigator who records or obtains documentation is **individually responsible** for securing the originals, holding their contents confidential, and providing them as needed for legal purposes. This obligation must be upheld in balance with the practical demands of responding to a civil rights crisis, and the process-on-the-ground of communicating & cooperating to bring these facts to bear in support of victims.

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*For this reason, at least one (1) full set of Copies & Dubs is needed for circulation to prospective attorneys/ litigants, and/or cooperating Investigators.\* Where the copies go depends on the status of developing cases, who the attorneys are, and who is dealing with them:*

*Conversely, the Investigator who personally receives or records documentation should retain the Originals, and only relinquish these upon specific request of an attorney for their use in court. Make copies to keep, and record the transaction in an itemized letter of conveyance.*

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- If you are acting as an Investigator to personally assist victims in finding lawyers and get cases underway, you can provide review copies of potential exhibits & testimony to attorneys (who are professionally bound to confidentiality), at your own careful discretion.

Understand that this is the most delicate & vulnerable phase of the process -- Technically you are not protected by privilege, but still must act in a manner that preserves evidence and assures that it is usable:

The materials are received from witnesses and conveyed to attorneys "in confidence", meaning that the Investigator enters a singular confidential relationship with each kicking victim on one hand, and each prospective lawyer on the other.

By giving Notice both ways that you are handling facts confidentially, you engage 'informal privilege' by acting consensually on this premise.

- If another Investigator is doing this `legal assistance/ liaison` work, that person should receive all relevant Copies & Dubs, so that he/she can provide known documentation for review by interested attorneys, in part or as a complete set.

That Investigator's "confidential relationship" with those attorneys must be respected -- This is how victims' rights are best protected, legal facts best preserved, and liabilities best controlled... during the tough phase of hustling help for redress of harms.

When a lawyer is hired and 'formal privilege' is established, with the client's consent the lawyer can extend its protections to your Investigative role. Then he can discuss the facts of the case, and you can assist with witnesses, strategies, & legal research.

At this stage the lawyer can talk to cooperating Investigators about what they observed, their knowledge of witnesses, and the materials they can provide.

These are `empirical` guidelines, in that they describe methods developed from hard experience in extreme circumstances, cutting the safest path through legal constraints.

There is room for innovation, for example... carrying an attorney's letter of introduction (as I did in KY) can provide better cover for investigative work; and, it may help to give *written* affirmation of confidentiality to witnesses & lawyers on the information received & provided.

So the focus here is to identify the raw-bones constraints and demands of documenting legal facts as volunteers, with no pretense of laying down final protocols. This is an arena of evolving knowledge and tools, which calls for serious research and refinement.

⇒ **Extended Archives**

In an ideal world, we might envision a single 'Master Archive' of documentation, i.e. -- assembling a full copy set of materials as a central library for confidential review in current & future litigation. To a great extent I have done this with the recent history of case files, and have provided attorneys with reference docs on related issues for the past few years. However such case materials are a matter of public record, by definition... they are problematic only in their increasing bulk & copying costs, not because of complex issues of confidentiality.

In the real world, we already have 'Extended Archives' around the country, with an extended "Family" of people who have collected facts on incidents, and still hold these materials for some future use. It is the prerogative & discretion of each to share this information, and probably not practical or desirable to centralize it all (especially not c/o Ocala Defense Fund).

So take advantage of what we have: The critical thing is to know What is out there and Where originals are secured... *by means of the Lists we create*. As others are encouraged to compile & share such Lists of their own, an 'Inventory' on available documentation will build up.

Having done this informally with various folks for a few years, I am aware of special testimony & docs that certain people can provide, and how it might be used... so it can really help.

Given the circumstances & personalities, it is realistic to Ask for a List, and expect to Get It.

Information in the "Extended Archives" works efficiently in a discreet network (not a hierarchy), and it is safer -- holding it diffusely, and allowing individuals to control their risks.

~ *Scott'e Addison / June 1999* ~

__// Formats for Lists __

I. WITNESS LIST__//

11. Name _____ Phone _____ E-Mail _____
Address _____ City _____ ST _____ Zip _____
(Alt. Contacts, Notes) _____

Incident... _____
Date _____ Time _____ Location _____
Record... _____ (e.g., affidavit, tape/ index#, etc.) _____

Summary... _____

¶
¶

*((2-line space
between items))*

12. Name (etc.) _____

II. EVIDENCE LIST__//

6. Item/Tape ID _____ Type (A/V/Ph/Doc) _____
Event: _____ Location _____ Mo/Yr _____

Provider (name) _____ Wtnss # _____
Device _____ Authentication/ date _____
Original /Copy provided _____ Location of original _____

a. Index #-# _____ Incident "a" _____
Location _____ Date/Time _____

b. Index #-# _____ Incident "b" _____
Location _____ Date/Time _____

7. Item/ Tape ID (etc.) _____

III. FOIA LIST__//

2. Requester (name) _____ (Wtnss#) _____
Subj: _____
♦ Request Letter ___/Date ___/Notes _____ (# pp.) _____

To: _____ Agency, Location _____
Attn: _____ Cc: _____ Contact: _____
♦ Response Letter ___/Date ___/Notes _____ (# pp.) _____

a. ___Doc/Item "a" _____ (# pp.) _____
b. ___Doc/Item "b" _____ (# pp.) _____

3. (Requ. by) ___Name _____
