



Guns for hire or seekers of the truth: Navigating ethical minefields in investigations

DR ALLAN YATES
ANDREW PATTERSON

“Relativity applies to physics, not ethics”

- Albert Einstein

Ethics in the investigation – setting the scene

- Little research on this topic:
 - Aubry, Arthur S. Jr (1962). Ethics for Investigators, *Journal of Criminal Law and Criminology* 16 (53): “The ethical investigator will be a gentleman at all times and will always conduct himself as such”
- The investigator is subject to scrutiny from a variety of sources:
 - Initially: the client; the employer; any legal/union personnel
 - Then: a court; a commission of inquiry; ombudsman; a prosecution body
- Investigations are a ‘human’ activity: no two are the same.

Three tenets of any investigation



OBJECTIVITY



FAIRNESS



INDEPENDENCE

The extent of pressure on an investigation

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A baker's dozen of ethical minefields.

Four areas:

1. The investigator (5)
2. The investigator's behaviour (3)
3. Undue influence (2)
4. Commercial and resource issues (3)

1. The investigator

1. Bias from preconceived views
2. Bias arising during the investigation
3. Conflict of interest: knowledge of parties
4. Conflict of interest: relationship developed beyond investigator role
5. Insufficient skills/credentials/experience

2. The investigator's behaviour

6. Deception/misleading
7. Illegal evidence
8. Proper scope/all evidence (inculpatory and exculpatory)

3. Undue influence

- 9. Management or powers above want a certain result
- 10. Unethical direction/influence from client or management

4. Commercial and resource issues

- 11. Too little work: under resourced and/or unrealistic timeframes/short cuts taken and/or evidence ignored
- 12. Too much work: overservicing the client
- 13. Avoiding difficult results to safeguard additional work

Key take aways

1. Stay focused on the three tenets: Objectivity; Fairness; Independence.
2. *Process trumps outcome*
3. Be a seeker of the truth
4. Sleep well at night

“I have tried as best I could to be a man with an ethic, and that is what cost me the most”

- Albert Camus