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TRACING MISSING PERSONS FOR ATTORNEYS AND OTHER LEGAL PROFESSIONALS

FACULTY

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Charles-Eric Gordon, Esq., Investigative Counsel, Missing People Traced Resourcefully

Charles-Eric Gordon, Esq. practices investigative law concentrating primarily in locating missing people, especially those who have been absent for an extended period of time and/or about whom little information is known.

Gordon received his Juris Doctor from Brooklyn Law School and his bachelors from SUNY Cortland. He is admitted to practice in New York state and local federal district courts. He is a former New York City administrative law judge and served as Attorney-Special Investigator in a New York City agency. He contributed a chapter on creativity in investigations to "The Art of Investigation" 2020, CRC Press and has been interviewed by the New York Times, the New York Law Journal, the Wall Street Journal, the New York Post, Long Island Business News, Crain's New York Business, Newsday, WPIX Channel 11, Australian Dateline and other media outlets.

A member of the Board of Directors of the Society of Professional Investigators, Gordon's other memberships include the World Association of Detectives, the National Law Enforcement Associates, the American Academy for Professional Law Enforcement and the New York State Academy of Trial Lawyers.

TRACING MISSING PERSONS FOR ATTORNEYS AND OTHER LEGAL PROFESSIONALS

Skiptracing is usually defined as locating missing person, especially debtors, but also heirs, witnesses, defendants, and other absentees.

The following are avenues of exploration for locating missing persons in connection with legal proceedings or in anticipation of litigation which, pursuant to the Fair Credit Reporting Act, the Gramm-Leach-Bliley Act and federal and state Drivers Privacy Protection Acts, allows deeper access to generally restricted sources.

I. Searches of Computerized Databases:

A. Free Searches

1. google.com
2. bing.com
3. zabasearch.com; a people locator but not always very accurate
4. spokeo.com (only limited information is free, but it may provide some leads)
5. yahoo.com
6. indeed.com (to view resumes, that were posted by job application)
7. A.C.R.I.S of N.Y.C. Department of Finance records
www.nyc.gov/ACRIS
8. Various federal, state, county, and municipal governmental websites
9. Pipl.com

B. Proprietary (Confidential) Databases:

1. Accurint
 2. Lexis Nexis
 3. IRB
 4. LocatePlus
 5. TLO
 6. Tracers Information Specialists
 7. Palltech (Pallorium)
- It should be noted that the Fair Credit Reporting Act (FCRA), 15 USC s. 1681 et seq. generally regulates the use of full consumer credit reports, listing the names of creditors, amounts of debts, etc. The Gramm-Leach-

Bliley Act of 1999 (GBLA) applies to the use of address file information, which are also known as “header files” and contain the subject consumer’s present and former addresses, date of birth or age and truncated or full Social Security number.

- Using the header information must comply with Federal, State or local laws, rules or other applicable legal requirements such as locating defendants for service of process, or locating heirs, debtors, etc. Separate permissible purposes are to locate persons for whom the party obtaining the address file information is acting in a fiduciary or representative capacity or is holding a legal or beneficial interest and to protect against or prevent actual or potential fraud.

C. Social Media

1. Facebook
2. LinkedIn
3. Instagram
4. Twitter
5. Tinder

II. **Voter Registration:**

- Each county in the country has a Board of Elections, Supervisor of Elections, Superintendent of Elections, etc., except in Connecticut and Massachusetts and other New England states, where voter registration is administered by the city, town or village.
- New York City has a Board of Elections office in each borough with citywide search capabilities.
- Some states such as Virginia and Minnesota do not provide access to registration databases. Others (California, Washington State) will only confirm certain information that the investigator may already have.
- County Boards of Elections in some states, such as New Jersey and Texas can perform statewide voter searches.

III. Motor Vehicle Records: Drivers Licenses, Vehicle Registrations

- Access to address file information is governed by the federal and various state versions of the Drivers Privacy Protection Act (DPPA) absent written and notarized consent by the subject. The federal version of the DPPA is at 18 USC s 2721 et seq. The State of New Jersey, for example, has a separate and additional DPPA; N.J.S.A. 39:2-3 et seq.
- Fees vary from state to state when available and require completing detailed request forms.

NOTE: Some D.M.V. information may be available via proprietary databases such as LocatePlus and Accurint, subject to DPPA. This information may not be totally up-to-date.

IV. Telephone Directories:

- On-Line Resources include 411 Info, Verizon.com, zabasearch.com, spokeo.com, infobell.com, etc.
- Telephoning Verizon's directory assistance service at 411 costs money but may be worth it because the operator will confirm whether the subject (or a party with the same surname) has a non-published or non-listed number at a suspected address, assuming that he/she is a Verizon landline customer.
- Local White Page telephone directories as well as Yellow Pages may be useful resources. White Pages are free to telephone subscribers throughout the state and Yellow Pages are free for your county and neighboring counties. Unfortunately, telephone directories are not as useful as in the past as only Verizon landline customers have numbers that are listed.
- Yellow pages can assist with searching for certain professions, trades relating to subject's vocation and for locating churches, stores, etc. that subject may have attended or patronized where the staff may have knowledge of his/her current whereabouts.

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- Cross Listing Directories: Search by address and/or telephone numbers. It will provide names and telephone numbers (and often, length of residence) of near-by neighbors and will also provide the name and address of individuals or businesses when only a telephone number is known. These directories are published by Cole, Donnelly and Info USA City Directories.

V. **Real Property Records:**

- Includes deeds, mortgages, property tax and in some jurisdictions, personal property tax collections. These records are generally filed on a county level, although throughout most of New England and New York City, these documents and related records may shed light on a subject's whereabouts as filed on a local, municipal, town or village level.
- In New York City, this information is available about properties, individuals or businesses in Manhattan, Brooklyn, Bronx and Queens, via the New York City Department of Finance ACRIS database: www.nyc.gov/ACRIS. Unfortunately, very little information is available regarding Staten Island.
- On Long Island, upstate New York, as well as in New Jersey, in addition to consulting specific counties, it may be helpful to contact, town, village and municipal offices, especially on Long Island, which may have more detailed property assessment records.
- It may also be ascertained that a subject has applied for and/or has been granted a dog license, business license, hunting license, etc.

VI. **Postal Service:**

- To obtain a forwarding address (if one is on file) or the street address for a post office boxholder, complete and file a F.O.I.A. Request for Information Form (as per Administrative Support Manual).
- Obtaining a forwarding address or the street address for a post office box holder must be in accordance with 18 USC 1801 and 39 CFR 265.6 (d) et seq. which mandates that the information be needed for service of legal process.

- GOOD ADVICE: Attaching a short, friendly note on a “post-it” stating that time is of the essence may result in a faster response.

VII. “Human Intelligence”:

- Using Residential telephone directories (where available), Yellow pages, internet searches, trade or hobby publications, contact organizations that the subject could have been a member of, or publications that he/she may have subscribed to.
- College Alumni offices may also have information and although they may not provide the information directly, they may be willing to take a name and telephone number and forward a message to the subject asking that he/she call back.
- Funeral homes and cemeteries where subject’s very close family member had a funeral or was buried, may have contact information or may pass a message to the subject.
- Using cross-listing directories or a canvassing of the subject’s last known addresses, speak with former neighbors, nearby merchants, superintendents, etc. who may have information on where he/she moved.
- If the subject rented an apartment, contacting the landlord or managing agent might elicit a forwarding address or other information about the subject and/or his or her family members. In all boroughs except Staten Island, the property owners’ identities can generally be ascertained through ACRIS, supra.
 - GORDON’S COROLLARY #1: Use the schmooze. Speak to governmental employees, business people, neighbors in a friendly, sociable manner.

VIII. Possible Incarceration:

- If it is believed or even suspected that the subject is, or has been incarcerated, it is advisable to contact the local, state and even federal correctional systems to ascertain if he/she is currently serving time and, if so, in what facility, on what conviction and to ascertain the subjects’ release date.
- In the event that the subject had been incarcerated, but was released on parole, it should be possible to obtain the name and telephone number of his/her parole officer, who can then pass a

message to the subject. (or to serve him/her with legal process if required):

- Local: NYC Department of Corrections Inmate locator: (212)266-1000 and (718)546-0700
- State: NYS Division of Correctional Services Central Files: (518)457-0003
- Federal: US Bureau of Prisons Locator: (202)30-3126 or www.BDP.gov

IX. Active Duty Military Service:

- Department of Defense Manpower Data Center, will advise whether the subject (by name and date of birth and, preferably, by Social Security number), whether he/she is active in the military. Their website is www.dmdc.osd.mil/appj/scra/scraHome.dod. The DMDC Support Center's phone number is 1-800-477-8227.
- This is also how to obtain non-military certification that can be annexed to a Non-Military Affidavit.

X. Possibly Deceased Subject:

- Nationwide Death Index comprised of data provided by the Social Security Administration. Effective only if the death was reported to Social Security Administration.
- This information is available on-line through Accurant (proprietary information vendor) or through ancestry.com. Ancestry's records only extend up to March 26, 2014.
- Verification of a death may be confirmed and limited information obtained through the Social Security Administration but only if the subject's Social Security number is known.
- The New York City Department of Health and Human Services Bureaus of Vital Records at 125 Worth Street, Manhattan, maintains a city-wide death index from 1949 to the present time. The fee for a death certificate (or a three-year search) is \$15.00. Their website is www.nycdohvr@health.nyc.gov. The telephone number is (212)788-4520.

- This can be a complicated process. If a court proceeding has already commenced it may be less burdensome to obtain and serve a “so-ordered” subpoena on the Department’s Office of Legal Counsel.

The Department’s address for service of process is New York City Department of Health, Office of General Counsel, 42-09 28th Street, 14th Floor, Long Island City, NY 11101.

- For due diligence purposes, the Surrogate’s Court in the county where the subject was last known to reside should be searched, as a probate or administration file will contain documents including the will, letters testamentary or letters of administration, probate petitions, etc. that will have information pertaining to heirs and contact information on the executor/executrix or the administrator/administratrix.
 - GORDON’S COROLLARY # 2- When you cannot find the person that you are searching for, begin searching for someone, such as, a close relative or known friend, who may be with the subject or knows where he/she is.

XI. Suggested Reference Works and Other Resources:

It would be helpful for attorneys and their staff to maintain a relatively inexpensive reference library containing the following resources:

- A detailed world atlas (or at least of the United States) which clearly indicates county boundaries in each state and the names of various county seats.
- The Legal Pages (The Red Book) and the Lawyers Diary and Manual (1-800-444-4041). These publications provide the names, addresses and telephone numbers and sometimes the websites or e-mail addresses for various local and New York State courts, agencies, etc. and out-of-state and federal agencies along with other useful information.
- The “Green Book” online free searches at NYC.gov/greenbook replaced the physical “Green Book” which lists addresses, telephone numbers and name of many

governmental officials (including some state and federal ones). Direct numbers for City officials may be available.

XII. Legal and Ethical Obligations and Considerations:

As explained more fully throughout the course presentation and this syllabus, it is essential that attorneys (and their paralegals) keep the following in mind:

- An attorney is legally and ethically bound to ensure that all information obtained during the course of an investigation is obtained legally, even when obtained from a third-party source; e.g., from a proprietary database such as Accurant, or from an “information broker”.
- The attorney must always be mindful on the limited circumstances in which certain information may be accessed. For example, pursuant to the FCRA, 15 USC s. 1681 et seq., full credit reports indicating the names of creditors and details pertaining to the subject’s credit lines, can only be retrieved when a verifiable debt or judgment exists, pursuant to court order, etc. By contrast simple “header” address file information may generally be used to locate witnesses, defendants, respondents or other parties to legal proceedings without a court order.
- The Gramm-Leach-Bliley Act of 1999 regarding financial privacy protection must be strictly adhered to. This means that any manner of pretext cannot be used to obtain “financial information” from an individual or a financial institution (e.g., banks, investment firms insurance companies or even third parties).
 - Violation of Gramm-Leach-Bliley is a federal crime, punishable by fines of up to \$10,000.00.
 - The attorney’s knowingly using a skip tracer or private investigator who uses such pretext can be imputed to the attorney.
- Although voter registration information is a public record within the State of New York, it is totally unavailable in certain states such as Georgia and Virginia and is provided under limited circumstances on other states such as California and Pennsylvania. In these and in other jurisdictions, forms or even affidavits may have to be completed or executed by counsel. Any false statements especially material ones

may constitute perjury or at very least, the filing of false instruments under the particular state's laws and may result in a felony or misdemeanor conviction pursuant to that state's law. This could lead to disbarment in New York pursuant to Section 90(4)(a) of the Judiciary Law.

- It should also be remembered that the Disciplinary Rules of the Code of Professional Responsibility, a lawyer or law firm shall not violate a disciplinary rule or circumvent a disciplinary rule through actions of another, engage in illegal conduct that adversely reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer or engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

ETHICS ALERT:

It is considered unethical to use false identities on social media to obtain information but utilizing a plain-email address that doesn't state that you are an attorney, should be acceptable, provided that no pretext or dishonesty is used.

It should also be acceptable to open a social media account using your first and middle initials with your surname and not listing your occupation or listing an alternative occupation, if you have one, e.g., real estate broker, antique dealer, etc.

XIII. European Investigations:

- Regulation (EU) 2016/679, the European Union's General Data Protection Rule (GDPR) severely regulates the use and dissemination of personal data, including dates of birth and addresses, as well as names surnames and identification card numbers.
- Basically, all dissemination of information regarding individuals is forbidden unless expressly justified by the law.
- If the subject of the investigation is not a defendant and his/her interests will otherwise not be prejudiced by their assisting an attorney or investigator, a foreign consulate may take your telephone number and e-mail address. If they know the subject's whereabouts they will forward your information to them. The consulate will not provide the subject's information.



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