



# SURVEILLANCE GUIDELINES

## ASSIGNING AND MONITORING INVESTIGATIONS

**Matt Mills** Marshall Investigative Group, Inc.

Whether a claim is new or old or when indicators/red flags warrant a closer look, an investigation should be conducted. Early investigation intervention helps to establish a baseline of a claimant's activity level, prior to legal representation. Later on during the life of a claim, additional investigations can prove or disprove their allegations. Surveillance has a dramatic impact on a claim especially when video documentation is obtained. Obtaining contrary video of a claimant early in the claim process can prove to be invaluable to the defense of the claim.

As the claim gets closer to trial, hearing or mediation, the more likely the claimant will be inactive and/or on the lookout for investigators. The possibility of being coached by an attorney exists and a claimant may be told to stay home or not leave home without visible medical apparatus.

### SHOULD I INVESTIGATE?

When someone investigates a claim, essentially an adjuster or attorney is performing due diligence on the claim they are handling. The insurance professional should be able to articulate the reason for conducting the investigation. For example, they might be conducting an investigation if there was an unwitnessed injury or an injury does not

match the accidents severity.

When investigations are conducted, several factors should be taken into consideration:

1. What is the goal of the investigation?
2. How will the information obtained be used?
3. Is the cost of the investigation versus the claim value merited?

An early investigation such as an Internet Presence Investigation, background check or an arising out of employment/cause of employment (AOE/COE) investigation may uncover information that reveals patterns of similar claims activity or previous settlements for similar accidents. These types of early investigations can also help show that the previously determined value of a claim is lower than it was thought to be. Sometimes these early investigations can even close a file without surveillance being necessary.

On the other hand, the early investigation of a claim may help determine that the claims dollars being spent are warranted. Either way the early investigation is of value in the claim process.

The guidelines below will assist an adjuster, attorney or risk manager in determining the proper investigation to assign a

vendor as well as what to expect from the investigation being conducted.

### CHOOSING YOUR VENDOR

Your vendor should be insured for both workers' compensation and general liability.

Your vendor should be able to provide copies of licenses in the states in which they are conducting your investigations and insurance certificates as proof of their ability to work in the areas you need them.

*NOTE: Using an unlicensed vendor will negate any evidence obtained no matter how important it is to your claim.*

### DEFINE THE BUDGET/TIME LIMITS OF THE INVESTIGATION

The vendor should be given a budget that includes a dollar amount and/or the amount of time authorized. By doing so, you will help the vendor plan the investigation that will deliver maximum results for the allocated resources, and in turn you will not be shocked by the related costs at the end of the investigation.

Be flexible since the needs of the investigation may change, especially after the pre-surveillance checks are completed. For example, two investigators may be required

due to the location of the claimant or the claimant may have moved, creating the need for a location investigation.

### SPECIAL INVESTIGATIONS

Special Investigations cover a vast array of different investigations that can be used alone or in conjunction with surveillances. They are usually preformed as a flat rate service.

Background checks are a great way to get an overview of the claimant and potentially determine if additional investigation is required. Background checks cover everything from civil and criminal checks, financial checks including bankruptcy, motor vehicle records, potential hobbies, social networking sites, boating and aircraft registrations.

Internet Presence Investigations cover all information regarding your claimant available on the internet, including social networking sites and information on an additional 200+ online sites, including blogs, pictures and video. These searches can be saved in a searchable PDF format and authenticated for trial use.

Additionally, medical and pharmacy canvasses are a great way to locate records that may prove your claimant was injured prior to the injury being claimed. It is necessary to have a signed release to obtain copies of the records.

### ASSIGNING THE INVESTIGATION

While all information can be important, at a minimum you should include the following in your initial investigation assignment: full name, address, phone number, date of birth, social security number, physical description, telephone numbers, known vehicles, claimed injury, medical restrictions, whether the claimant is represented by an attorney, if they are married and if they have children, known hangouts and any other possible activities.

Is there a supervisor at the insured or a confidential informant who can be contacted? This should only be done if you are sure of the confidentiality of the contact.

Provide the vendor with any photographs, police reports or previous surveillance reports available.

Always advise the vendor of any time restrictions, deadlines or if the file needs to be considered a "rush assignment."

### CLARIFY ALL INFORMATION

Spell out names of streets, note street directions N, S, E or W and whether it's a street, avenue, parkway, drive, court or circle. Always spell out proper names.

### PROVIDED ADDRESSES ARE SOMETIMES WRONG

Whenever possible, the person assigning a file should make sure that they provide the most recent address information to the vendor. Sometimes claimants intentionally provide the wrong address to avoid detection such as a relative's address that simply serves as a mail drop for the claimant.

### PRELIMINARY INVESTIGATIONS

As a precursor to surveillance, a preliminary investigation should be conducted. Database and other sources should be checked to confirm the information provided.

Is the claimant residing at the provided address?

Who owns the residence?

Is it the home of a relative or friend?

What types of vehicles does the claimant use and to what address are these vehicles registered?

Does your claimant have a suspension or revocation?

An investigator should have access to a vast array of resources to draw from to obtain valuable information in a timely and effective manner.

### TIME OF SURVEILLANCE

The surveillance should be done during the most likely time the claimant will be active. Indicators of the "most likely time" include what type of job and what time of day the claimant worked before the injury.

### SURVEILLANCE EQUIPMENT

If an investigator has skills and all the right sources but does not have the best available equipment, the chances of obtaining the more relevant information for defense of the claim are decreased exponentially. Surveillance is a slice of a claimant's life and daily activities. A video camera with a high-powered lens and a covert body worn camera can mean the difference between obtaining the evidence that can close a file and missing an opportunity that may never exist again. During the surveillance, a facial identification shot must be obtained so that positive identification of the claimant can be made.

### MONITORING THE INVESTIGATION

Your investigative vendor should keep the lines of communication open and update you daily on the activity observed. They should understand your reasons for the investigation in order to better design the investigation to your needs. The investigation is a living project and will most likely change during the life of the investigation. The assigning

party should be aware of the potential for change and be flexible enough to changes to budgets or timing of the investigation.

### UNDERSTAND THE DIFFICULTIES OF SURVEILLANCE

Following a subject for more than a few blocks is far more challenging than it seems, especially when their attorney has told them to be aware of the potential of being watched or perhaps they have been coached in counter surveillance techniques.

Following a savvy claimant without being seen is the most difficult task in the field of investigations. Keep in mind that the investigator conducting surveillance may have to endure long hours, in extreme temperatures and work on weekends and holidays.

### WHAT TO EXPECT

An investigative vendor should provide quality investigations, prompt and consistent service, clear and concise reports, still and watchable videotape at fair and reasonable rates. While service and rates can be more easily evaluated, determining if a firm is providing quality investigations can be difficult.

An investigator is essentially an *independent third party observer*. Their value should not be determined by what happens on the claimant's part during an investigation, but rather how the investigator reacted to what happened.

There will be times that the right technique is to sit and watch what happens, allow things to develop. There will be times that following someone aggressively will be the right course of action.

The difference between a good investigator and a great one is: the wisdom to know what to do and when to do it, along with the understanding of what, how and why people do what they do in order to translate this important information into an effective and comprehensive report.



*Matt Mills has been in the surveillance and investigation industry for over 31 years. He is currently the vice president of business development handling accounts nationally for Marshall Investigative Group. Over his career, he has conducted and managed investigations throughout the U.S. and internationally. He is an active member of numerous insurance claims and insurance defense associations. He regularly participates and presents at industry seminars and conferences.*