

NEWS

Information & Insights from **RICK JOHNSON PRIVATE INVESTIGATORS**
& ASSOCIATES OF COLORADO, INC.

1649 Downing Street, Denver, CO 80218-1528 • Office: 303-296-2200 • Fax: 303-296-3038 • Nationwide: 800-530-2300
www.denverpi.com e-mail: rja@denverpi.com

Domestic Relations: The Surveillance Option

In domestic relations cases, surveillance often is a useful, even necessary, option.

Actual Cases

A mother suspects that her ex-husband is dropping off his children on visitation days with a third party and going off to work or to play golf, as usual, in violation of the decree. He was. We provided video evidence of it.

A father suspects that his ex-wife is drinking in violation of the court's visitation order. She was. We provided video evidence of it. In fact, we found her drinking right before picking up the child.

A mother suspects that the new lady friend of her ex-husband represents a danger to her children, who are in a joint-custody arrangement with the ex-husband. We found that the lady friend had a drug and alcohol arrest record, and, via surveillance, we found her

driving the children without a valid license or insurance.

The Suspected Affair

The most obvious time when surveillance is requested is at some point when one spouse suspects that the other spouse is having an affair.

Quite often in my 30-plus years of experience, a spouse already has enough information to know what's going on and really is just looking for independent validation.

That's a poor and expensive reason for surveillance.

But there are valid reasons for surveillance both before and after a divorce action.

Sound Reasoning

We may be conducting surveillance in Denver for a spouse who lives in another state, who suspects that the other spouse, in the guise of regular business trips, is having an affair in Colorado.

A no-fault law may apply, but the issue could be to identify the other party in order to determine whether

marital assets have been diverted to that party and need to be accounted for.

There clearly are times, of course, when simple suspicion needs to be put to the test.

The possible wayward spouse may be strongly denying the affair. And the suspicious spouse may need validation in order to attempt a reconciliation, rather than to precipitate a divorce.

In other circumstances, a couple may have reconciled a previous infidelity or other marital problem and now one or the other suspects that the problem has arisen again.

When children and shared parenting time are at issue, surveillance can be necessary to determine whether one or the other of the parties is living up to the terms of the separation agreement, in one instance, and the divorce decree in the other.

Important Concerns

When surveillance is contemplated, there are serious considerations regarding privacy, propriety, and confidentiality.

Issues of Law

No party to a divorce should expect a responsible investigator to provide surveillance of any kind on some non-specific desire by one party to "check up on" the other. The same goes for one party's interest in the other party's new mate. There can be precious little difference in such cases between surveillance and stalking.

No responsible investigator will agree to trespass or illegally record or eavesdrop upon someone in the guise of a marital dispute, or illegally pry into Email or other computer-related files.

The Goal: Likely Success.

A specific starting point and a reasonable time frame are essential. Trying to pick up the subject of surveillance in a broadly public place with multiple access points and no specific range of hours when contact could be made is merely an expensive exercise.

Even a good starting place and time is no guarantee of success; for example, a spouse leaving home in the early evening after dinner for a night out with the boys or the girls, with a probable destination in mind.

That's a common circumstance, but expected traffic conditions and the subject's driving style need to be accounted for.

Contrary to the movies and television, investigators don't go speeding willy-nilly through traffic, ignoring red lights and stop signs, endangering life and limb of themselves and bystanders. Even under ideal circumstances, traffic conditions can cause surveillance to be lost.

In another example, a strange vehicle sitting for long periods of time in a quiet residential neighborhood can draw the attention of nearby neighbors, who, more often than not, will call police to investigate the strange vehicle. Someone may even approach the vehicle to check it out personally. In such instances, surveillance may need to be rotated among vehicles and locations.

Equipment is available that will permit video or photographs in many types of public locations.

In any case, the use of video equipment and still cameras must be in places and under circumstances where the use is a normally expected and never under circumstances that constitute a violation of the privacy of third parties.

Finally, it often is the case that requests for surveillance really turn out to be best served by a background or asset investigation, which certainly are less intrusive and probably more cost effective.

Surveillance may be an option, but it almost never is a first option.



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**24-Hours/7 Days a Week
303-296-2200**

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