

# **Ethics & Investigation**

SMART CLIENT

HYPOTHETICALLY SPEAK-  
ING, WOULD IT BETTER FOR MY  
CASE IF THE MARIJUANA WERE  
STRICTLY FOR MY OWN PERSONAL  
USE, AND NOT FOR SALE?



## CHAPTER SCR 20

## RULES OF PROFESSIONAL CONDUCT FOR ATTORNEYS

## PREAMBLE: A LAWYER'S RESPONSIBILITIES

SCR 20:1.0 Terminology.

## SUBCHAPTER I

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 SCR 20:1.2 Scope of representation and allocation of authority between lawyer and client.  
 SCR 20:1.3 Diligence.  
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 SCR 20:1.15 Safeguarding property, trust accounts and fiduciary accounts.  
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## SUBCHAPTER VIII

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- SCR 20:8.1 Bar admission and disciplinary matters.  
 SCR 20:8.2 Judicial and legal officials.  
 SCR 20:8.3 Reporting professional misconduct.  
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 SCR 20:8.5 Disciplinary authority; choice of law.

Note: SCR Chapter 20 was adopted by the supreme court on June 10, 1987, effective January 1, 1988; amended January 1, 1989; November 6, 1990; May 29, 1991; October 25, 1991; November 21, 1991; April 19, 1995; November 15, 1995; June 26, 1996; October 28, 1996; July 1, 1997; January 1, 1999; January 1, 2000; November 14, 2001; July 1, 2004; July 1, 2007; January 1, 2009; June 17, 2009; January 1, 2011.

## PREAMBLE: A LAWYER'S RESPONSIBILITIES

[1] A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.

[2] As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

[3] In addition to these representational functions, a lawyer may serve as a 3rd-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these rules apply directly to lawyers who are or have served as 3rd-party neutrals. See, e.g., Rule 1.12 and Rule 2.4. In addition, there are rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in con-

duct involving dishonesty, fraud, deceit or misrepresentation. See Rule 8.4.

[4] In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law.

[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

[6] As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular

# It's the lawyers license



# Do's

- **Identify Yourself Properly**
- **State who you work for**
- **Be truthful**
- **Discuss with lawyer if they want written reports**
- **Write accurate reports**

# Don't

- **Tell a witness confidential information**
- **Give a witness legal advice**
- **Continue talking to a witness who says they want to talk to their lawyer first**
- **Imply that you want an answer that is less than truthful or would have any particular impact on the case**
- **Implant false memories**

# Represented Witnesses



## *Sample Scenarios*

HELP ME

**Victim/Witness asks for advice**

**You discover a conflict**

WARRANT OUT  
FOR YOUR ARREST?

I KNOW A GUY  
WHO KNOWS A GUY  
WHO WILL TAKE CARE OF IT.



BETTERCALLSAUL.COM

**Saul Goodman**  
ATTORNEY AT LAW

**Attorney wants you to do something unethical**

**Witness asks for money**



**Witness wants to  
give you evidence**

**Witness tells you they plan to lie**



# Child Witnesses & Parental Permission



# Misrepresenting Purpose

Mrgethigh Allday

Deja Home



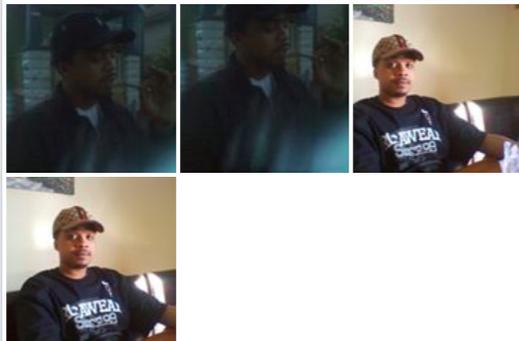
Mrgethigh Allday

Timeline About

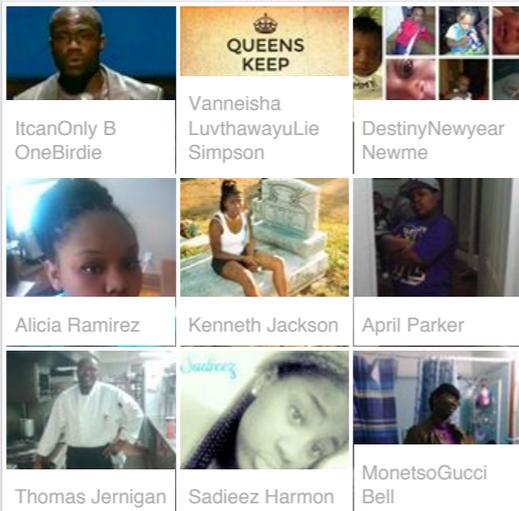
DO YOU KNOW MRGETHIGH?

To see what he shares with friends, send him a friend

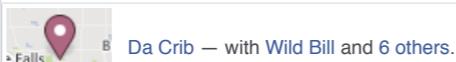
PHOTOS



FRIENDS · 25



PLACES



YOUR APPS MORE



RECOMMENDED GAMES MORE



Add Friend Message ...

Dawn Denise Delgado

Tina Hunt Web

Gabriela Leija Web

Richard Martin 7h

Tanner Kilander Mobile

Cody J Horlacher Mobile

Christian Eichen... Mobile

Raja Bagga Web

Michelle Langer Web

Nora Trinidad-Sch... Web

MORE FRIENDS (10)

Anne Reed Web

More

Add Friend

hit wet the whole prarty,the money talk and I ts keep,tellin me im tha man ,im tha man,40 her hand

int sad if my lil boy grow up g haterz mad cause my gang winning

n thinking bout everything thats been goin on my haed up

Share

Mrgethigh Allday

September 27, 2011

I cant laeve the trap alone,she cant laeve my phone alone,dont know when im goin home,pillz&hoez you know its on,

Share

Sponsored

Host videos, save money

vimeo.com



Wallet-friendly business video hosting + human-friendly VIP support. Get Vimeo PRO.

AT&T U-verse Internet

savings.att.com



\$29.95/mo for 12 mos with 1-yr term. Order Online and get a \$50 Reward Card-see details.

Recent

- 2011
2010
Born

**OLR vs. Stephen Hurley**

**2008 Wisc. LEXIS 1181**

**Criminal defense attorneys walk a fine line. Mr. Hurley held a man's life in his hands. His client faced life in prison....He had a reasonable, factually supported, and good faith belief that Scott's home computer contained exculpatory evidence, making the computer the lynch pin of Mr. Sussman's defense. He had a reasonable, factually supported, and good faith belief that Scott knew how to and would destroy the evidence on his home computer if he were given advance notice of Mr. Hurley's suspicions.**

**So, to provide Mr. Sussman with his constitutionally protected right to effective assistance of counsel, Mr. Hurley had to devise a plan to obtain the potentially exculpatory evidence in a way that would not give Scott advance notice.**

**Mr. Hurley proceeded cautiously in this regard. He diligently analyzed and reasonably ruled out the various avenues available to him to obtain the evidence he sought. His decision was not a hasty one. The testimony also made clear that none of the customary discovery methods would have been adequate under the unique circumstances of this case. In fact, Professor Dan Blinka testified that in his opinion, to have pursued the evidence through such methods would have constituted ineffective assistance of counsel.**

# SCR Rule 4.1

**"Notwithstanding par. (a), SCR 20:5.3(c)(1), and SCR 20:8.4, a lawyer may advise or supervise others with respect to lawful investigative activities." SCR 20:4.1(b).**