

## **CHAPTER 13**

### **THE HIDDEN**

This is the promised chapter, hidden but now revealed by the *secret code word*. It was hidden much in the same way most seniors hide their feelings. Yes, many see seniors as outspoken and loud. Seniors like that certainly exist. That is the popular image of seniors, as being complainers and difficult people to deal with. But while many seniors are indeed like that, the truth is most are not and they tend to keep the vast majority of their thoughts and feelings to themselves and rarely if ever share the truth.

Unless you know exactly what to ask and how to ask it.

But be warned. If you know what to ask and how to ask you had better be ready for a dose of blunt reality.

Exhibit A: Jackie.

Jackie (not her real name) is an intelligent and “with it” senior who lives in an upscale Southern California Senior Living Community in a beautiful area run by a fairly large corporation. Jackie has a Master’s Degree in English.

She moved in about a year ago after living in Beverly Hills for many years on the third floor of her apartment building. Following a medical situation Jackie determined that she could no longer live there alone. Her children were tasked with finding a place, used a common referral agency that gave them a list, and then her sons visited several places before bringing Jackie to visit the three finalist Communities.

Like so many people she had heard about places “like this,” but had never actually ever been in one. As she and her family walked in to the first one she was absolutely horrified. It was, in her words, a “nightmare.” She turned to her son and said, “You have to be kidding,” and walked out.

The third place she visited was the right one for her. She stressed that moving was absolutely her choice. Jackie chose that specific place and that

specific apartment because she liked it, it was on the first floor and she did not want to ever have to deal with the elevator. She stated that she now feels very safe there and that it keeps her as comfortable as possible.

I wanted to understand her mind and her hidden feelings. When I inquired if her children had asked if she wanted to live with any of them her voice boomed, “Yes, they did but I told them no and never!”

This is the opposite of what most people believe. I wanted to know why she had taken the opposite position that most people believe seniors really want. Her explanation was that she had been independent her whole life, including when married, and that there was no way she would ever change that now. She saw the apartment and Community life as extending her independence, and preferred that the children have agreed upon set times to visit and would never just stop by unannounced. That was the way she liked it. “Children,” she stated flatly, “have a way of trying to tell you what to do.” That was not for her.

I bet you did not see that hidden agenda coming.

As for the Community, I was curious to know how she felt about the staff, the food, and the other residents. She shared that she quite liked the staff. When I dug deeper she stated that many of the staff did not speak English so communication was very limited. She liked the employees very much and thought of them as kind and sweet, especially the caregivers and housekeepers. When I tried to establish what the level of communication and interaction with the Community leadership was she quickly shut me down in explaining that they are simply employees who do what they are told to do to keep their jobs, nothing more, in contrast to the way I had explained how I ran the Community I owned. “You had different motivation,” she astutely stated.

When it came to the food, Jackie started to open up. “The food is pretty bad.” I asked what she had today and she shared that for the first time they failed to bring breakfast to her during her incapacitation period. When I asked how she felt about that occurring she pulled back her bow and arrow and shot me between the eyes by saying, “Listen David, not every day is a bonanza and not every day is a funeral.”

As far as her fellow residents Jackie had a different tone. She could not believe the behavior of some of the residents, as she had “never met people like this before.” Jackie ignored my request to explain what exactly that meant. The most important words, however, seemed to be the ones she was not saying. Forgive me for speculating, but it seemed to me that Jackie had become somewhat resigned to certain things. During the conversation my sense was that this was not in my view an assisted living success story, and this perception damaged my optimism. It was a truth that perhaps I was choosing to hide from myself. I wanted Jackie to be happy and to have found the right situation that would maximize her happiness. Not everyone is focused on the future or on squeezing every last drop of juice out of the orange. Sometimes people just exist and do the best they can and hope for very little other than comfort. At one point she stated something that cut me like a knife and that I had no response for. She was talking about her attitude regarding taking some activity classes at the Community and then almost out of nowhere injected, “I probably will die here, and that will be that.”

There were many other memorable things said, such as when I asked her if she felt most of the people were in better or worse physical shape than her. She responded, “You feel sorry for yourself because you have no shoes, but then you meet someone who has no feet.” She joked that she was “only going to be 90 years old...” Makes me wonder if people like Jackie reach the age of 90 because they have a fatalistic view and do not stress about the small stuff, and that it is all small stuff, or if she changed at some point. My guess is Jackie has never changed a single iota.

Finally, I asked what was the one thing that was the biggest adjustment with the move? She floored me by saying something no one had ever told me but makes perfect sense. She shared that it was not the moving in part that was most challenging, but that the biggest adjustment was essentially the moving out part. “It started before the move in. The hardest part was getting rid of all the stuff you accumulate, much of which you don’t even realize you have. You probably have a ton of things in your home, unseen hidden things, that fill closets and boxes and drawers that one never ever looks at and that you even forgot you had. All of that has to go somewhere.” This is a keen observation, and a point few ever think about. However, perhaps we stumbled on a hidden barrier to seniors even considering moving out. The daunting task may be a key non-starter factor for most seniors that the family rarely, if ever, thinks about. The senior,

who often lived in the same home for decades, cannot even imagine starting the daunting task of going through a closet or drawers or photo albums, let alone an entire home.

Jackie had kindly shared with me true hidden thoughts and issues that no one had ever revealed to me previously, and I thanked her for her time, generosity, and openness. Similarly, I had been in a unique social situation with some older people recently, and stumbled, quite by accident, upon another hidden truth about seniors that no one is talking about. Gray Divorce.

Exhibit B: Kate.

I met Kate and her man at a dinner with my wife's family members. She and her husband live together in a ritzy Southern California city and are very involved in playing bridge. During the dinner I asked where she met her husband, a gentleman I had seen before and whom I knew to be a good man.

"Oh, he's not my husband," she said in a whiplash response. It turns out that Kate was a widow, and that he was a widower. They are "together" but not in any formal sense. I had simply assumed that they were married. My mistake.

Kate was a fit and intensely calm self-assured lady with smart glasses. She had a strong sense of herself, kept her chin up at all times, and was clearly intelligent. She was unapologetic in every sense, yet sweetly interested in her man and his contributions to the evening discussions. My understanding is that the pair, who by the way are not of the same background or the same religion, currently live together. Both are in their mid-to-late 60s and they are "together" in every sense of the word, except they are not formally together. While not divorced or the "poster children" of Gray Divorce, they represent the new normal in the senior living world, the unmarried senior.

It was interesting watching how warm and polite they were to one another, like people who were new to a relationship even though I doubt that was true. I particularly enjoyed watching her eyes shine with glee when he sang a particular song that she likely had never heard him sing before. She looked like a teenager at the drive-in in her adoration of him. She was

optimistic and happy in the inverse way that Jackie had been fatalistic and indifferent. This is in no way a criticism on any level of Jackie. Just an observation of perhaps the different stages of life.

Later that night when I was back home I saw articles on the subject of the explosion of Gray Divorce. Recently the LA Times had an op-ed article titled “Gray divorce: Why your grandparents are finally calling it quits.” The article began with a couple married 42 years where the wife filed for divorce at the age of 66. This was almost unheard of one or two decades ago. The wife stayed together “for the kids” until she decided that her parents had lived into their 90s, she felt that she was in good physical shape, and the marriage was “unsatisfying.” Most consider that divorce is for the young, and that once the midlife crisis passes, you are good to go.

Wrong.

While divorce rates declined, the rate of divorce among older Americans since 1990 has doubled. Fifty years ago less than 3% of couples over fifty divorced. Today that number is over 15% and climbing, with approximately 1 out of every 4 divorces occurring being among couples over 50. And 55% of the gray divorces are between couples that have been married over 20 years.

Let all of that sink in for a moment.

What are the reasons?

One is people are living longer and are healthier than ever before. Another is that there are many more second or third marriages, and once you have bailed on one you are less concerned about the stigma or fear of bailing out on another. Perhaps the decline in religious observance plays a part here. Another reason is that women are often working and in better financial shape than their mothers had been, and we cannot discount the idea that Boomers just want to do what Boomers want to do.

So till death do us part? Well, not so much in the end. While many are living longer, their marriages may not be. There is no interest here in analyzing Kate or trying to imagine what Jackie is feeling. One can only truly understand someone else when they are in their shoes. At the end of the day, everyone simply wants to be as happy as possible, enjoy their life,

and dance to the beat of their own drum. Both ladies are dealing with their realities, and both deserve to be as happy as possible.

As I conclude this bonus chapter I want to thank both Jackie and Kate for their strength and wisdom. I also wanted to add a final little extra way to possibly save you money in the Assisted Living world by sharing some unusual points. The following tactic was done to me many times, and I have never repeated it since I did not like it as an owner, but it often worked on me so it will possibly work for you.

First off let's spend a moment on the Community or Entrance Fee. When you reserve an apartment there is generally a move in or community fee. This was for me nearly pure profit although we obviously explain it differently. It is a profit padder, but to be totally honest although it is fair for the community to ask and get it to reserve the apartment and spend time and money to hold the apartment and incorporate you into their systems. In any case, the toughest clients would ask me to apply all of it, or some of it, into the rent. In other words, if they paid a \$2,000 "Community Fee," at times they would say they wanted me to apply it to the third month or rent of the sixth month or whatever. Truth is when my numbers were down occasionally I would do it to seal the deal. I did not like it, and I did not feel good about it, but at times I did it and it often put the family over the top and made them feel good about the tough decision. I am not saying it will work for you, but as an owner-operator, it often worked on me. Secondly, Communities often have "Refer-A-Friend" special offers where one receives \$250 or \$500 off the third month rent or something like that. There tend to be some simple rules to follow (such as you must list the friend on the inquiry sheet at the initial visit) so if you know someone in the Community find out (by checking the newsletter or anonymously calling the Community) before you step foot inside. Then offer to perhaps split it with the current resident of the family. Finally, some families offered to pay an entire years rent up front with a discount (with a side agreement should they move or pass away before year's end), but I only did that once and it was somewhat complex. The point is there's no harm in being creative and if their numbers happen to be down that day you just might be successful.

Hope you enjoyed your special hidden treat!

I love to under promise and over deliver, so as a *bonus* on top of the bonus

enclosed, for those that want it, is a *double bonus*, another hidden chapter titled “Criminal Law for Dummies.”

Best wishes,

David

## **EXTRA BONUS ~ CHAPTER**

### **CRIMINAL LAW FOR DUMMIES**

With such a heavy subject as the future of your parents’ lives hanging in the balance, perhaps a brief break from the emotionally exhausting subject is in order. The process of writing this book has begun to somewhat open up the mental floodgates of my mind as to the past. This experience has been wonderful on so many levels, including, but not limited to, my many years in the SL world.

There was once a world that I inhabited that had zero connection to senior living. That subject was the last thing in the world that I thought about, and my world consisted of criminal law only. I ate, slept and dreamed about criminal law. Like many things in my life, I had never intended to get involved in it at all. In fact, I thought of it as a nasty, dirty and scary world to be avoided at all costs.

Near the end of the first year of law school, students are interviewed for summer jobs. This is a significant time in which grades are suddenly crucial, and a pecking order of talent is established based on which firms hire which students. Generally, the students with the best grades get the best summer law jobs at the best firms. In 1987, I had worked on Capitol Hill in D.C. as a legislative intern and, in the summer of 1988, was very much looking forward to finally getting out of the classroom and library and getting into the real world for a while.

Students receive a list of potential firms that will be coming to interview. The students then request interviews, and the firms review the list. A schedule is then produced of who is being interviewed and when. My list resulted in me going from one room to another after another. In one room, three serious-looking people sat waiting for me. I had just completed the interview with the civil firm I was most likely to work for, and the interview went well. The pressure was off. I went to my next one, and one interviewer immediately got in my face. Taken aback, I asked to be reminded which firm they represented.

“The Los Angeles County Office of the Public Defender” was the response. I had not applied to interview with them, so I politely stated that a mistake had been made, got up and thanked them for their time. “Professor Broderick contacted us about you. He wants you interviewed. He says you should work for us,” said the man who had aggressively started in on me initially. I was confused. Broderick was a former prosecutor and former U.S. attorney. Why had a prosecutor recommended me for a criminal defense job?

“Sit down,” the lady said. “We are not going to bite.” She was a beauty, so I sat.

They peppered me with bizarre questions, scenarios and hypotheticals. It was kind of a fascinating interview, and I probably would have been very nervous except it was meaningless as I basically had secured a job, and they were never going to hire me. The person who walked out of the room as I walked in was on Law Review, and let’s just say I was not on Law Review and leave it at that.

At the end, we shook hands, and I went to see Broderick and asked him if he had suggested me and why. He said that, as a prosecutor, the system only works properly if the defense attorneys are great, sharp and fierce. That if the side representing the defendants are passive or fearful, the prosecution, with the cops and the courts basically on their side, creates an imbalance and justice is not achieved. He told me that few have the talent, passion and backbone to be a defense attorney, to stand up to the abuse and fight and still have moral clarity. He said I am going to be a defense attorney and a great one at that.



I thought he was insane. With a smile, I thanked him and walked away.

Weeks later, the firm I was going to be working for sent me a letter that, due to the bad economy, they were not hiring as many interns, and I was out. Describing how devastated I was is not possible. Everything hinged on the summer job, and suddenly I was out.

The next day I received a letter. The Public Defender's Office offered me the job.

What followed was essentially ten years of insanity, hilarity, sadness, tears, blood and guts. I learned more about life, and about myself, in my time in the PD's office than at any other point of my life. I am tremendously grateful to them for affording me this incredible opportunity. It was real life but with the dial turned up to 11.

Allow me to share some of the funny stuff that you simply will not believe. I will start with some of my least favorite stories that you will find surprising.

In the PD's office, you work in a million courthouses, and they move you around constantly so you do not get too comfortable with any one place. Working close to home is a prize, and unusual until you are more senior. The good side to that is that you have anonymity and more privacy. One day, I am in my local supermarket near my house. I used to like to shop late when it was empty after a long day at work. As I am checking out, the cashier suddenly says, "Oh my God!"

I looked around to see who he was looking at only to discover he is looking at me. "You saved my life!" he said, grabbing my hand and shaking it like he just met the President and was unable to believe it. He explained that I had represented him in court a year before. He had gotten into trouble, and I had somehow helped him and got him a great deal (knocked it down to disturbing the peace with a small fine), and that he had learned from it and turned his life around, and it was all because of me. I had no idea who this guy was or why he would not let go of my hand. I often represented 20-30 people a day every day for years and had no idea who he was but was happy to have helped him.

As I finally walked away, I turned, looked around and saw that no one else in the market was close or listening, and asked him what he had originally been charged with. “Masturbating in public,” he said with a huge smile. I thought of our handshake. I never went back to that market ever again.

I am calling this chapter Criminal Law for Dummies because, initially, it was suggested that I contact the “Dummies” people and see if they wanted to make this book, Senior Living for Dummies. But I do not like the “for dummies” part, and I did not want to be part of someone else’s thing because I wanted to keep this pure and 100% me.

At the beginning of one’s career in Crim, you do a lot of low-level stuff until you really know what you are doing. You learn on the job, and random cases come to you. You do the very best you can under the limitations you are under.

So, one day, when I was working in the Van Nuys courthouse, I was handed a case of possession and prostitution. The young lady, named Julie, was a confused-looking simpleton. The police report stated that she had been walking the streets, got picked up by a john, they bought some crack to smoke, and, as they drove to have their little party, they got pulled over. She then got arrested while already being on probation for a similar offense.

When two or more people are arrested at the same time, Step 1 is to make sure the office did not represent the second defendant simultaneously, because they may have different and conflicting interests and defenses. It appeared, however, that I could not determine the identity of the second person.

Something about the case bugged me, but I was very new (months into the job) and frankly had little idea what I was really doing. But my instincts said something was wrong with this story. The missing identity of the second person was odd, and she was going to jail no matter what due to the previous conviction and the somewhat obvious probation violation since she was not supposed to be hooking or possessing drugs. So, she was basically cooked.

This is where PDs earn their paycheck daily. Making lemonade out of lemons or, in this case, out of crack. We have terrible cases, and often clients who do such stupid things are beyond comprehension. We save them daily.

Having nothing to work with, I called my investigator. All I had was a license plate number. She was the passenger, so there must have been a driver. I gave the weird license number, which was something like DACHEF, and asked him to run it. Thirty minutes later he called me up and said, “Do you know what you have just done?” There was a disturbance in the court as camera people entered to take pictures of something. This happened more often than not as celebrities and other famous people get popped every now and then, and the press love to photograph them for the papers. This was when people still actually read papers, and before TMZ.

“The license plate belongs to the Chief of the Fire Department. Your hooker got picked up by him. They apparently went to score some crack and got arrested. They were covering it up, and you figured it out. The press might be coming. You’re about to be hit by a huge s#\*& storm.”

DACHEF meant “The Chief.” The cops had arrested both of them and then scrubbed the police report, maybe as a professional courtesy, and that is why I could not find the co-defendant. She had no idea who he was. I had stepped on a landmine, but this was good because, now that it was out, they would have to prosecute him, and that meant they would need her to testify against him. Suddenly, I had leverage and something to work with.

I went to the prosecutor, whose face was now redder than a baboon’s behind, and told him that he was going to dismiss the case against her and put her in drug rehab instead of jail for the probation violation so she could get some help. In exchange, she would testify against DACHEF. I had him and he knew it.

We basically agreed to delay the case until the smoke cleared so that we could work out the deal. The press jumped all over me, and I said a few things to them, and it was over. The next day, however, in the Metro section of the Los Angeles Times, there was a huge article with a picture of me and her on the front page. By the time I got to work, everyone (except for me) had seen it and I was the target of both admiration, jealousy and mockery from my colleagues. People joked that I had the “magic touch” and was

suddenly the “golden boy.” PDs rarely get attention that private counsel do, so I was a mini-celebrity for a good five minutes. In the end, my boss came to me and told me he was taking the case away from me because the more senior attorneys complained that the “newbie” should not keep the case. Due to politics, they took the case away from me despite my severe objection. I was later told that the deal I had set up did not happen, and I was upset about it for months and never forgave my boss.

Los Angeles County’s population is bigger than 15 of the nation’s states. It is enormous. If LA County was a state, it would be the 8<sup>th</sup> largest state of the union with 10 million people. That is a lot of people and a lot of cases. I once tried to figure out how many people I actually personally represented during the seven or eight years I was an attorney there and the two summers I worked there. I stopped counting when I got above 5,000.

One of the funny highlights (or lowlights, depending on how you wish to look at it) of my career was a prostitution case in Hollywood (I worked in Hollywood a long time and was actually sworn in by Judge Wapner, the son of the legendary Judge Joe Wapner of TV fame). Another prostitution case... another sad story.

This young lady apparently worked in the sketchiest massage parlor in Hollywood, which was really saying something. Long story short, the vice squad arrested her for soliciting an officer. Pretty basic stuff until I interviewed her. She stated that the man told her he was a cop and had gotten a special massage in exchange for leaving her and the others alone, and then had turned around and arrested her anyway. I had heard girls say this many times before.

She considered this hazard duty and was prepared to go to jail. I asked her if she could describe anything unusual or specific about him physically that only someone who had seen him without clothes would know. Officers are not allowed to engage in illegal activity, obviously, so if he was naked and she could prove it, then I had something.

“No,” she said sadly, “but he did leave his socks. I kept them.” They did not give her time to get her shoes, so she grabbed them in the chaos of the arrest and put them on for warmth and simply kept them.

“Where are those socks now?” I asked. She silently pulled them out of her purse. They were basic black socks but they had an odd small insignia on them that made them rather distinct. That was all I needed. I went over to the prosecutor and pulled him aside and told him he should dismiss the case. We had worked together for quite a while and somewhat trusted each other, but only to a point.

In front of the officer, I told the prosecutor that I had something that would prove the officer was lying about what happened, and that they needed to dismiss the case. The prosecutor wanted specifics, but I could not reveal my hand in case I got stonewalled here and had to play my only card during trial. The officer, however, was a big and very intimidating guy, and he was eyeballing me hard. When the prosecutor told me to pound sand and walked away, I suggested to the cop that he get the prosecutor to dismiss. He was rattled by my confidence and stared as I walked across the now empty courtroom. When I got to the other side, I looked around, and with no one else watching, I pulled his sock out of my pocket. At first it did not register, but when I put my finger on the insignia, the smile ran away from his face and he looked queasy. I raised my eyebrows while staring at him, and he instantly left the room.

Minutes later the prosecutor came back in and told me that the officer had been called away for an emergency so they wanted a continuance. I told him what he could do with his request. They dismissed the case later that day.

My client was stunned and propositioned me on the spot (in front of the prosecutor). I politely declined and thanked her and suggested she seek a different profession. She politely declined and, within a month, was rearrested and went to jail.

After all of this silliness, the prosecutor asked me what I had up my sleeve. We had built up a respect for one another, and we went into a side room where I explained it all and showed him the socks. They asked if they could have them. I declined until I spoke to my supervisor. My supervisor felt that they would best handle internally, so he told me to give him the socks, which I did. I never saw that cop again.

Have you been sufficiently distracted from old people and senior living? If yes, then I have rebooted you and we can get back on topic here. It

is too bad, because I was just about to tell you how I represented Ice Cube (before he was famous) and what happened when he was asked to sing. I guess that will have to wait for my next book, the sequel to this one.