



# ***IAPI NEWSLETTER***

***IOWA ASSOCIATION OF PRIVATE INVESTIGATORS***

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## **President's Message By Mark Mills**

Greetings fellow IAPI Members,

Several IAPI board representatives joined members from the NE region for a networking lunch at Granite City in Cedar Rapids on December 6. This is just one way that IAPI works at helping members connect and provide opportunities for growth.

Don't forget to renew your membership for 2020. IAPI is the best resource a professional in the industry can have for training, networking, referrals and marketing. For \$75, you can't beat the value!

I welcome your feedback on how to improve our association.

Best wishes for a prosperous and healthy new year,

**Mark Mills**

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The IAPI Newsletter is published quarterly by the Iowa Association of Private Investigators. Please make checks payable to IAPI and send all inquiries, articles and related informational materials to: Jeff Marlin, Editor, IAPI Newsletter, PO Box 11183, Cedar Rapids, IA 52410 or email [jmarlin@marlinsspecialinvestigations.com](mailto:jmarlin@marlinsspecialinvestigations.com)

# The Downfall of Trustify

November 11, 2019 by Stephanie Irvine

Founded in 2015, Trustify, Inc. was a start-up company dedicated to helping people hire private investigators on-demand. In 2016, Washington Business Journal named the company one of its Startups of the Week, and Trustify amassed a lot of press in its early years for its forward-thinking business model for the private investigations industry. Some likened Trustify's business model to Uber for its quick-access, hire-on-demand, and short-term capabilities. The company rapidly grew before its descent into financial troubles in late 2018, leading to the company's complete demise in 2019. As 2019 winds down with a plethora of lawsuits against Trustify, it seems pertinent to evaluate what impact did this seemingly revolutionary company have on the private investigations industry and what we can learn from it? Let's take a look back and see how Trustify shook up the PI world.

## Trustify's Rise

For those not involved in the business side of private investigations, meaning those looking to hire a private investigator, the ability to download an app, hire an investigator at affordable rates, and get the information they were seeking was an exciting, progressive change to an industry that operated using the same tried and true methods since the Sherlock Holmes days. However, for investigators, Trustify all but turned the industry on its head. The rates being offered by subcontractors in Trustify's network were well under market value, which threatened scores of well-established private investigators and their livelihoods. Though this would certainly have driven down the wages for investigators, it wouldn't necessarily kill the industry. But then, Trustify was seemingly hiring private investigators who weren't licensed or who did not have the appropriate state-required licensure. While private investigators were turning away jobs that didn't feel right, Trustify was taking anything and everything on. Even still, they were on an upward trajectory, as those hired worked as independent contractors, and licensure was up to them. Trustify continued dumping money into advertising in profound amounts, driving up the cost of advertising for established investigators while simultaneously cornering the market. They were rocking the boat of the industry, but longtime investigators pressed on despite Trustify's intrusion on the industry.

## What Happened to Trustify?

What goes up must come down — at least in the case of Trustify. Its meteoric rise led to an equally astounding fall. Things seemed to be going well, as evidenced by the prolific advertising and extravagantly decorated office with lavish furnishings — until things weren't. And at that point, things were very, very wrong.

When the direct deposit for investigators failed to clear, paper checks were issued, which then subsequently bounced. Unpaid bills mounted. Investigators were left wondering what was going on and whether they'd ever get paid for the work they received through Trustify. And then it came to light that Danny Boice, the founder and former CEO of Trustify, was using Trustify

funds for personal matters. The financial woes compounded. The beautiful office was abandoned with Trustify evicted. The company quickly became completely defunct. Virginia-based Private Investigator John Morse of Morse Investigation Services explained, “They had little to no desire to get in compliance, and they imploded from corporate culture that they bred. It’s as much about delivering client expectations as the final product, and I don’t think they were successful at either.” Currently, there are a number of lawsuits against Danny Boice, the founder and former CEO of Trustify. PR firms sued due to unpaid advertising bills. Investors sued for malfeasance, mismanagement, breaches of fiduciary duty, and fraud. Investigators sued because they were not paid. Trustify was evicted from its office, and the real estate investment company sued to garnish wages stemming from those unpaid bills. Boice was sued (lawsuits still in progress) for pretty much anything and everything.

### **Trustify’s Impact on The Industry**

Though Trustify is long gone, there is still the possibility for other companies to come about using a similar business model springing up across the country. Their potential impact could be dangerous should they venture down a similar path.

Investigation companies like Trustify threatened the industry by not vetting jobs, charging low rates, and not maintaining the proper licensure. Morse related: “Whether it’s Trustify or one of the many others that tried to come up in the pack —they are a danger. They work off of a margin. They’re sales agencies. They just don’t care about vetting the work product. We’ll turn away people and deny taking on cases - a less ethical company would’ve gladly accepted those same people as clients. We’ve worked hard through regulation and state associations to bring PIs from the image of the back-alley trench coat cash in the bag image to professional organizations.”

All is not lost, however. With Trustify’s short stint in the world, many found it to be nothing more than a blip on the radar, with its impact temporary.

### **Where Do We Go From Here?**

In the wake of Trustify, the path to maintaining a professional image is easy. Stay above board. Maintain proper licensure. Charge industry appropriate rates. The future is much the same as what investigators had been doing before Trustify came along.

If there are any pointers investigators should take from seeing the dumpster fire that was Trustify’s operations, it is to not follow their business model. Run the other way. Perhaps hire a marketing company to build your brand. It’s likely the only thing that Trustify excelled at doing.

Looking to the future, Morse advised, “You should know your worth [... and] charge what you’re worth. There are plenty of state and national organizations where there is a wealth of knowledge where information is shared, and leads are referred. There’s plenty of resources out there for someone to go and learn and expand their business. If everyone banded together and refused to take on sub-par, sub-paying projects and operate within an ethical code, then these businesses couldn’t exist.”

# When is a Confidentiality Breach Justified for Private Investigators?

October 28, 2019 by Plnow Staff

## Why is Confidentiality Important?

Confidentiality is central to the preservation of trust between an investigator and their client. As a private investigator, clients will inevitably come to you with delicate cases that sometimes require them to reveal sensitive information about their personal lives. Often, in order for you to do your job effectively, they must be open and vulnerable with you, telling you things they may not even disclose to their closest relatives. In order to get this information, you must promise confidentiality and remain resolute to that promise. Whether this is in writing or simply by your word, respecting your client's right to privacy is essential to maintaining your reputation and building a successful business. It is only in the direst of circumstances that this confidentiality should be compromised.

## Is Breaching Confidentiality ever Justified?

While maintaining trust is of utmost importance in any investigation, situations do arise that call for breaking confidentiality. Here are some instances that justify a breach of confidentiality:

### Disclosure with Consent

The most common justification for disclosing private information is when you obtain written or verbal consent from the client themselves. It is best to heavily document this consent in case of a dispute later, especially if it ends up in court. In order for their consent to be valid, the client must be in a sound state of mind and not coerced in any way.

***Example:** A client permits you to use their story to encourage others with similar stories to come forward.*

### Disclosure Required by Law

Sometimes the law requires you to reveal confidential information. However, police and attorneys do not have the right to demand disclosure without a court order. While you do not have to reveal details without a court order, you still cannot provide misleading information and you must inform law enforcement when the case involves terrorism. If the information could prevent an attack or violence, it is your responsibility to surrender it to the authorities.

***Example:** A police officer comes to you with a court order to surrender information regarding a certain case.*

## **Disclosure in the Public Interest**

Unlike the first two justifications, this kind of disclosure is more subjective and it may come down to the court to decide if it is valid. Often, it is your duty to disclose information when an identifiable victim is threatened and a warning might prevent harm. There is usually a low risk of harm unless a specific individual is threatened, but professional judgment must be used in making these disclosure decisions. Remember that there is a significant difference between public interest and what the public is interested in.

***Example:** While interviewing a suspect, they threaten a specific person related to the case with bodily harm.*

## **Unintentional breaches**

While it is important to know when to break confidentiality, it is also essential to be aware of potential unintentional breaches of information. This can sometimes be as simple as having case files or other relevant information open on a desk where a partner, child, or visiting friend can see them. It can also be hackers or scammers obtaining your information via unencrypted emails or unprotected online file storage. Sharing information online has enabled faster and more efficient communication, but it also comes with an increased risk for information theft. Do not store information you do not need especially if it is sensitive to the client and, if you must, store it on an encrypted personal computer. Destroy physical files as soon as you are done with them.

## **Revealing Information to a Team**

For private investigators that work with a team, check with the client before revealing any information to your team members. Be clear that it will make the job easier, more effective, and that your team is trustworthy. Sometimes, nondisclosures are a disservice to the case because other perspectives could be vital to its success. But even disclosures to relevant team members should be limited to the appropriate information they need to do the job and no more. An important part of this is hiring team members you trust that are vetted and bound by contract.

## **Ask for Help**

Since private investigators work so closely to the law, having an attorney to turn to for legal advice is useful and sometimes necessary. In the case of confidentiality breaches, clearly document your reasoning and seek advice from a trusted attorney before taking any action.

# Serving Papers to the Disabled

October 21, 2019

by Stephanie Irvine

While the task at hand may be the same, process servers will tell you that every serve is different. Serving the disabled puts servers in a unique situation because the circumstances may require a server to effectuate service a little bit differently, and it may even present challenges for process servers unfamiliar with the correct protocol. An individual could be deemed physically disabled if he or she is incapacitated, in a coma, or is living with other types of disabilities. Process servers have to be certain that they complete the serve appropriately under the guidance of the law. Keep reading to learn what you need to do as a server to ensure you have effectuated service properly.

## Service in a Hospital

Because service may need to be effectuated when someone has been recently injured or sick before they have been deemed disabled, you may find yourself having to serve someone in the hospital. If you are given the task of [serving an individual who is currently in a hospital](#), you will want to see if you also need to serve the person in charge at the hospital, as some states' laws dictate that this is necessary. If you do need to serve an individual who works at a hospital, it is important to double-check whether it is the hospital being sued or an employee. If the hospital is being sued, you will need to serve the registered agent for the hospital. If you are serving an employee, such as a nurse or doctor, it may be easier to serve them at home or in the office, as hospitals are large facilities with plenty of restricted access. If you must serve them at the hospital, be sure to allocate a lot of time as you may need to wait for the doctor or nurse's availability, and it may take a while to locate them. You must also respect other patient's privacy as there are [HIPAA laws](#) in place, and you will want to refer to your state's laws on civil process to see if there are any restrictions on serving an individual in a hospital.

## Serving the Guardian for Incapacitated Individuals

If you have to serve someone who is incapacitated or otherwise disabled, you will likely need to also serve his or her guardian. This is true in many cases in which an individual has [Power of Attorney](#) over another individual, such as in cases of severe mental deficit and/or [dementia](#), among other medical conditions. In some cases, you may be able to serve the individual at his or her [place of residence as long as it is in front of a competent adult](#). As always, be sure to check with your state's specific regulations regarding service of process as state laws vary.

## Serving Physically Disabled Individuals

Individuals who are physically disabled should be served in the same manner as someone without a physical disability, insofar as that they have the mental capacity to understand and accept service. If the individual has both a physical and mental disability, please reference serving incapacitated individuals.

## Handling the Service Affidavit

When you have an atypical serve (e.g., service on someone in a hospital or someone who is disabled) you will want to ensure that you document the service with every detail possible. No detail is too small to omit as it is better to be safe than sorry. No matter who you are serving, it is important to always be professional, empathetic, and respectful. Additionally, until civil process service laws are federally mandated, be sure to check with the state in which the service will occur to be sure you are serving in accordance with the proper laws.

# Making a Citizen's Arrest

September 30, 2019 by Stephanie Irvine

With a [nationwide shortage](#) of police officers, many departments across the country are running [short-staffed](#). The effects of this shortage proliferate into communities large and small, as there are fewer “good guys” around to stop the “bad guys,” and officers are often dispatched from call to call, resulting in [longer response times and, in some cases, no response at all](#). What does this mean for individuals faced with a crime in progress? Keep reading to learn more about making a citizen's arrest.

## When Can Someone Make a Citizen's Arrest?

Many individuals believe that if a crime happened or is happening, they can make a citizen's arrest. While making a citizen's arrest is an option in the United States, each state's laws vary, just as with most issues related to [process serving](#) and private investigation. It is always best to review your state's statutes to be aware of legislation regarding citizen's arrest to ensure you do not break the law if put in that position. In the event that you unlawfully enact a citizen's arrest, you could be arrested yourself for false imprisonment and/or impersonating a peace officer among other potential charges. Furthermore, this could lead to lawsuits by the person you arrested.

Though state laws vary, most states have some provision allowing a citizen's arrest in certain circumstances. For example, in California, private citizens may arrest another individual who commits a public offense in that citizen's presence. They can also make an arrest if that individual has committed a felony regardless of whether it was committed in their presence.

Conversely, in states such as Texas, Arkansas, Kentucky, Louisiana, Massachusetts, Michigan, Nebraska, Ohio, South Carolina and Wyoming, a citizen's arrest may only occur if the offense is classified as a felony or an offense against the public peace. This list is not meant to be exhaustive as some state's laws may be unclear and/or up for interpretation.

## Before You Make a Citizen's Arrest

Before you make a citizen's arrest, you must determine whether or not there is probable cause, as well as reasonable suspicion that a crime was committed. Keep in mind, if no crime was committed, you should not attempt to arrest an individual.

Reasonable suspicion applies the logic that you, as the arresting citizen, have specific facts and rational inferences that the specific individual committed a crime. If you're interested in reading more about reasonable suspicion, you can read two legal opinions published on the matter: [Terry v. Ohio](#) (1968) and [Ybarra v. Illinois](#) (1979). Probable cause, though similar to reasonable suspicion, is a bit different. [Probable cause](#) indicates that there must be facts and circumstances that would lead a reasonable person who is completely objective of the situation to believe that the individual subject of the citizen's arrest has committed, is committing, or is about to commit a crime.

Furthermore, it is important to know your ability to restrain yourself as you must only use reasonable force to make the arrest. If you exhibit excessive force and end up physically harming an individual, you may find yourself in hot water with the law — and with the courts as the arrested individual can sue you.

### **How to Make a Citizen's Arrest**

If you are confident that you are within the scope of the law and you are faced with a situation in which you deem it prudent to make a citizen's arrest, this is how you should go about doing it:

- If possible, contact emergency services (9-1-1) before attempting to detain an individual. If you are unable to contact emergency services prior to making a citizen's arrest, it is imperative that you contact them immediately after placing the citizen under arrest.
- Announce what capacity you are arresting the individual. Make it known that you are a citizen; this must be clear, especially if you are a private investigator so as not to be mistaken for a police officer and later charged with impersonating a police officer.
- Announce what you are doing and why. For example: "I am placing you under citizen's arrest until the police can arrive and/or furnish a warrant due to [XYZ] crime committed and/or witnessed."
- Using reasonable force, place the citizen under arrest and contact police if you have not done so already.

### **Citizen's Arrest as a Private Investigator**

As many are aware, private investigators are not peace officers, and as such, you should follow the guidelines established for private citizens — even if your state requires licensure and professional training, and even if you carry a badge and a weapon. In fact, for those carrying such items, there is a greater risk that you may end up being charged with impersonation of a peace officer. It is imperative that if you find yourself in a situation in which you intend to make a citizen's arrest that you make it clear that you are not a police officer, and it would be wise to have emergency services on the phone as the situation unfolds. It is always helpful to have a recording of the event, so having such technology on your person (body cam, cell phone recording), may protect you from harm in the future.

### **Be Wary of Making Citizen's Arrests**

Ultimately, the laws are not exactly black and white, and there is an inherent danger in arresting someone as a private citizen. Not only should an individual be concerned for his or her safety at the time of the arrest, but there is the potential for consequences legally as well as a physical danger. An individual arrested may choose to sue you if you arrest them, especially if that person is subsequently not penalized by the legal system. Additionally, as we mentioned previously, there is a possibility that you could be charged with false imprisonment, impersonation of a peace officer, and more, especially if things get physical while you are detaining an individual. Since there is such a risk, it is important to thoroughly weigh the pros and cons before choosing to make a citizen's arrest. Our

police departments, no matter how understaffed they may be, are there for a reason. Use them.

### **When Citizen's Arrests are not Possible**

If you deem that you are unable or rightfully unwilling to make a citizen's arrest, there are still steps you can take to aid law enforcement. Noting their physical appearance, any defining and unique characteristics, their license number, when and where the crime took place, and any other details of the crime are all beneficial to an investigation.

If it is safe, video or voice recordings of any interactions provide valuable and often irrefutable evidence. Just because a citizen's arrest is not possible does not mean your cooperation and evidence is not of use. Always be sure to contact law enforcement as soon as possible.

In your attempts to keep your community safe, be sure that your wellbeing is also safeguarded.

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The following is the Iowa Code for making a citizen's arrest.

### **804.9 Arrests by private persons.**

A private person may make an arrest:

1. For a public offense committed or attempted in the person's presence.
2. When a felony has been committed, and the person has reasonable ground for believing that the person to be arrested has committed it.

### **804.10 Use of force in arrest by private person.**

1. A private person who makes or assists another private person in making a lawful arrest is justified in using any force which the person reasonably believes to be necessary to make the arrest or which the person reasonably believes to be necessary to prevent serious injury to any person.

2. A private person who is summoned or directed by a peace officer to assist in making an arrest may use whatever force the peace officer could use under the circumstances, provided that, if the arrest is unlawful, the private person assisting the officer shall be justified as if the arrest were a lawful arrest, unless the person knows that the arrest is unlawful.

# Interacting with the Police as a Process Server

November 18 by Stephanie Irvine

While for the most part process servers have a solo job, there are times in which they have to interact with the local police or call the authorities themselves. For the most part, the local police's presence while effectuating a serve results in a positive and welcoming experience. Keep reading to learn how interacting with local police can be a benefit.

## When to Call Police

Because process servers are not peace officers, they are [limited in what they can do](#), which at times makes it prudent to involve the police. Even though many retired or off-duty police officers act as process servers as a side job, they are acting as a process server and are not on-duty police officers in those situations. While there are a number of scenarios in which the police could be called, the most common for process servers come into play when the [process server's safety](#) is compromised or after the police are called on them.

In the event that a process server feels their safety and/or well-being is in danger during a serve, the process server should contact local police immediately. Unfortunately, [process server assault](#) is a sincere concern that should not be taken lightly. There are a number of states with legislation that [makes process server assault a felony](#). Even if you do not wish to file a police report, having the police present can help de-escalate the situation and document it. Process server Jeff Bell out of Citrus County, Florida explained, "I have not called [law enforcement] for assistance but one time and that was at gunpoint."

The other situation in which the police should be called is in the event that you are told that the police were called on you. In those instances, do not leave; however, get to a safe area if you are in danger. Once there, it may be helpful to call the police as well to let them know your location and the situation from your perspective. As both a police officer and process server, Ken Ringo of [Ringo's Detective Service](#) in College Station, Texas, explained, "If you are told the cops are called do not leave. Make sure you are in a safe area and give them a call as well. Let them know the situation they are getting into."

## What to Do When Police Are Called

If a defendant calls the police while you are attempting to serve that individual, the most important thing to remember is to stay calm. Negatively reacting to the police being called on you, (or if you are in a situation in which you need to contact the police), letting emotions fly only complicates matters. Staying calm and respectful is the best disposition. Always follow the commands of a police officer on scene.

Additionally, make sure that the police know who you are and why you are there. Have the papers you intended to serve in hand. Process server Ringo further advised, "Show the documents you are there to serve, explain who you are and if you can access your bodycam. Show the footage. I have always had a positive reaction because I follow those exact rules."

Ringo also related a situation in which the police were called on him after he attempted a serve: "I had one instance where I never had any contact from someone inside. I left the residence to see the police going to it. Had one turn around on me, I pull over, [and] he approached me. I followed those rules and they escorted me back and helped me complete my task."

## How Police Help

While it should not be standard practice to call law enforcement to help with serves, when necessary, they can absolutely be helpful. In Tennessee, process server Chris Wilkinson advised, "I always have great response from our local police departments... they've been great!" The same sentiment was felt in South Carolina from Diane Giddings, "Always had law enforcement support me. Never really had a negative experience with them." From providing protection to diffusing situations or even helping you get the individual served, law enforcement is in your corner.

For example, if a defendant contacts the police, they may provide an added benefit of confirming the identity of the individual to be served. Process server Jeff Bell also related: "When local police arrive, they usually inform you as to the recipient's identity. I have dropped served a few after PD verifies the complainant's name. So yes, [it] can be helpful. Also, then I state [on the affidavit] as identified by local PD and witness by officer."

Additionally, in some situations, police officers are potentially able to help with accessing an individual to be served. If an individual who needs to be served does not believe you can go on their property to serve them and the situation becomes contentious, the police can help explain your job and allow you to complete the serve.

However, this may not be the case in every county in every state, so keep in mind that a crime may need to be committed before police will respond. Retired police officer and current process server Dave Goodman explained, "Police in my county will not get involved unless a crime has been committed. The standard response is that if you are a registered process server the risk is an inherent part of the job. I am a retired police officer, so I understand their side of it."

There are other situations in which an individual to be served is trying to evade a court order, in which law enforcement may feel obliged to step in. Such was the case in one instance for Ohio process server Matt Greminger, who related his experience: "I had local police and TSA give me an armed escort PAST security straight to the plane where I was to serve someone with a civil protection order. The court didn't want her to intentionally violate the order and so they wanted her served as she reentered the state. Both Cleveland Police and TSA cooperated and got me right to the plane before it was even unloaded. BEST SERVE EVER!"

## Stay safe!

If you find yourself in a situation in which the local police department is called to your serve, things likely escalated. No matter how important the job, always put safety first.

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