

Physical Evidence

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Abstract

One of the first actions that the investigation group after arriving in the crime scene or after receiving that call for a crime that has happening is ensuring that evidence and material prove found or can be found at that mentioned location. Documentation of the prove and evidence are important for the entire investigative process during all phases of criminal proceedings in general. Search, finding, photography, picking, packing, examination and presentation in court are the main steps regarding evidence, whether physical or real, whether they witnessed or en the form of statements. Given that evidence is calculated everything in crime scene, until argued the opposite, then for their management and required a cautious professional approach. This care for proper performance of the road that makes the testimony or evidence material ensures and guarantees the preservation of the chain of testimony. So this whole chain filed past the alignment of finding up to presentation trial.

Keywords: scene, evidence and material evidence, chain of custody, criminal procedure

The evidence, material evidence...

Evidence is something that legally filed with the court as a tool to prove the guilt or innocence of any particular issue. With the test means the actual data contained in the law according to the resources provided on the tests or their holders (people, animals, plants, objects, track) according to which, in a procedure regulated by positive laws, the competent authority determines the presence or not the offense, the form of guilt of a particular person and other circumstances relevant to the decision making merit. In the broad sense of the word, evidence can be defined as the established fact that serves to define the other facts (**Prof. dr. sc. Dushko Modly**, TEORITË BASHKËKOHORE KRIMINALISTIKE, Original title:“**Suvremene Kriminalističke Teorije**“ translating from croatian: prof. **Mustafë Reçica**, Sarajevë / **Prishtinë**, 15. 01. 2007, FSK/S - 14/06, page 120.)

The evidence, as evidence must be objective about the subject matter of argument. Cannot figure as proof not only the fact that present information, which enable the completion of the criminal offense and the offender (same).

The evidence must be relevant objective. These tests are born with planning, preparation, execution, and concealment and use "fruits" of the offense in a manner that came in correlation with the human consciousness (witness, blaming or objects). Evidence does not create procedural body with its actions, but it causes only the commission of the offense in the process of reciprocal action, coherence with the holder of evidence, the source of evidence, the information signal. The proof is always in the secondary relationship to the offense and the offender as perpetrators and primary element. Word is here to distinguish between the facts in dispute (thema probandi) and probation(same). Exhibits are items that have served as tools for the realization of the offense or on which there are traces or have been subjected to actions of the defendant, the product of the offense and any other property that allowed confiscated under article 36 of the Criminal Code of Republic of Albania and any other item that might help to clarify the circumstances of the case (Gentian Trenova, Interpretime gjyqësore të Kodit të Procedurës Penale (ripunim), fq. 220, neni 187, " DITA 200", Tiranë 2009)

Collection of the evidence

Tracks and material evidence to be sought in some countries and individuals as follows:

- a. crime scene** - mostly where we encounter traces and evidence. Since the event has already occurred, then the scene has traces and material evidence related to the case or event. You take a professional approach of the team that conducts the examination, in research, fixing and making these trails and exhibits
- b. victim** - even to victims have traces and material evidence, related to the case. Regardless of what the case involved

evidence, traces or material evidence of the victim, the encounter almost always. In cases of murder, the trail that the victim may encounter is: the wounds caused by the weapon, bodily visible (if clashes or beating, etc)

c. The suspect and his circle - the suspect is also a potential source of evidence, trails and exhibits. Even here, as the case may encounter evidence of more diverse. With district suspects understand the place where the suspect has left (hidden) items or place used after the commission of the offense, whether to hide the means by which the offender, whether to hide evidence and testimony received by the crime scene (Basic Course of Forensics, Physical Evidence, Kursi Bazik i Teknikës Kriminalistike, "Dëshmitë Fizike", Vushtri, Kosovo 2002)

During the inspection must be done carefully, tracks and physical evidence found there, gather, and prioritize trail will be collected first. The tracks are more sensitive to such: fingerprints, blood and other fluids, should take precedence over the meeting, but always taking care and maintaining the track and other material evidence. These traces and material evidence has advantages, precisely because it can break down more easily. Weather conditions: rain, snow, high temperatures are the main factor that affects the decay or contamination of this paradigm.

After fixation, photographing, measuring, these traces and material evidence collected need of care. To achieve a great amount of confidence in these tests, the investigator must be able to care for their collection. So, the investigator must know how to collect, mark, label, hold this evidence in order laboratory tests or examinations will follow and their presentation in court, to be valid and have high reliability (Criminal Investigations, Charles R. SWANSON, Neil C. CHAMELIN, Leonard TERRITO, 7th, ed .2000, page 52)

Some types of evidence

probative evidence

is it evidence which has the form of a declaration or given oath. This evidence is usually subject to questions and additional clarification.

Real physical evidence is any evidence that stability objective might be what dimension, size or form, hair (the rape) juice burning (cases of arson), vehicle (accidents)

Chain of custody

Chain of custody shows all past evidence ranging from: finding, collection, packing, transportation, examination, preservation, presentation in court.

Reasons for Conservation of Physical Test

Personality (individuality)

It's what makes a thing different from all the others that are similar to it.

Categories Features

Evidence which is identified with its setting in the special category. Example: hair, blood group, tracks shoes.

Rare Cases

Perfecting the skill of perceiving things under inadequate time, place and circumstances accompanied me material evidence found near the scene.

Probability

Probability of connection that may have with a given situation can be very high when there are a certain number of factors that correspond.

Transfer Theory

The two objects in contact with each other; in this case becomes transfer (exchange) of a quantity of particulate material or from one object to another.

Comparisons

Specific point of comparison between the two objects is clearly overlapping physical.

The crime scene technician should also compare the suspect to the crime scene or the suspect with the victim.

The purpose of Physical Test

1. For to prove that an offense was committed or to form key elements of the offense.
2. To connect the suspect to the victim or the scene.
3. To form the identity of the persons dealing with the offense.
4. To the innocent is justified
5. The testimony of the victim confirmed
6. To make the suspect to confess, even to plead guilty
7. False evidence can help in finding the truth.
8. Physical evidence may be of greater importance than the testimony of an eyewitness

The purpose of evidence, trails and exhibits

1. To establish that an offense has been committed or to form key elements of the offense (Basic Course of Forensics, Physical Evidence, Kursi Bazik i Teknikës Kriminalistike, " Dëshmitë Fizike", Vushtrri, Kosovo 2002)

- used trail and exhibits, visible or invisible, proving that certain criminal offense was committed at the scene. The presence of traces and material evidence confirms or establish key elements of the offense. The presence of the victim in cases of homicide, traces of blood, shells, etc., proves that there has been an event, which consequently have a victim shot and all the tracks or exhibits that we have encountered, we confirm that it is committing an offense.

2. To display the suspect with the victim or the scene (Basic Course of Forensics, Physical Evidence, Kursi Bazik i Teknikës Kriminalistike, " Dëshmitë Fizike", Vushtrri, Kosovo 2002)

The presence of traces of the blood of the suspect in the victim's body or clothes more clearly establishes their relationship. In cases of sexual assault, the presence of trace evidences (hairs, body fluids etc.) Shows the relationship or contact that had the suspect and the victim, at the time when it was committed or attempted to commit a criminal. Linking suspects to the scene is almost inevitable, since every scene is impossible that there is no trace or material evidence left by the suspect or the tools he used while conducting crime.

3. To form the identity of the persons dealing with the offense (Basic Course of Forensics, Physical Evidence, Kursi Bazik i Teknikës Kriminalistike, " Dëshmitë Fizike", Vushtrri, Kosovo 2002) - the presence of fingerprints, which were found at the scene, their examination along with other investigative actions, form the identity of the persons dealing with the offense committed. Finding and fingerprint examination also serves to eliminate the so-called (Eliminimi bëhet për të sqaruar prezencën e gjurmëve të gishtërinjve, që janë gjetur në një vend të caktuar, të cilat i përkasin pronarit të shtëpisë së vjedhur, në rastet e vjedhjeve), carried out during the initial phase of the investigation.

4. exculpating the innocent (Basic Course of Forensics, Physical Evidence, Kursi Bazik i Teknikës Kriminalistike, " Dëshmitë Fizike", Vushtrri, Kosovo 2002) - We must not forget the fact that traces and material evidence blame someone for an offense he committed, but the same steps of exhibits, exonerate the innocent. If the person against whom it is filed suspicion of having committed a particular offense, provides evidence that argue his statement that he was not participating in that work, and that at the time when the offense was committed, he was abroad and that the documents with stamps in his passport, then we can say that, based on evidence that has provided, he justified himself.

5. To verify the testimony of the victim (Basic Course of Forensics, Physical Evidence, Kursi Bazik i Teknikës Kriminalistike, " Dëshmitë Fizike", Vushtrri, Kosovo 2002) - During the examination of the different countries where

criminal offenses have been committed, ever shall determine the victim's testimony, because it can be fabricated by the victim or can be changed and enlarged. In cases of theft, it should be seen well from where it got the thing for which his statements. If necessary, they should consult experts of economic crime, to analyze data and collected all the necessary evidence to prove the victim's testimony. It may happen that, for the benefit of his / her victims to exaggerate claims, or declare if there was a case in point that would later bring various benefits (eg insurance companies, health, or other agencies etc.)

6. Make the suspect to confess, even to plead guilty (Basic Course of Forensics, Physical Evidence, Kursi Bazik i Teknikës Kriminalistike, "Dëshmitë Fizike", Vushtri, Kosovo 2002) - When the suspect confronted with facts that are presented by investigators, he can fall into a situation where states, even admits that he has committed or participated in the commission of that offense. All this is just confronted the suspect with evidence, material evidence which clearly show the presence or assistance given by him to commit a criminal, even if he himself has committed the offense in question.

7. false evidence can help in finding the truth (Basic Course of Forensics, Physical Evidence, Kursi Bazik i Teknikës Kriminalistike, "Dëshmitë Fizike", Vushtri, Kosovo 2002) - If the statement given by a particular person, which means that someone has set fire to his bar and that's not true, but is invented by him for personal gain, then collected evidence and physical evidence that the investigation team finds during the examination of the scene, and the statements of eyewitnesses. If they indicate that this person has set fire to himself, and then we can say that, trying to present false evidence, he has already helped in finding the truth.

8. The physical evidence may be of greater importance than the testimony of an eyewitness Basic Course of Forensics, Physical Evidence, Kursi Bazik i Teknikës Kriminalistike, "Dëshmitë Fizike", Vushtri, Kosovo 2002)

Testimony and evidence provided by the investigation team, which was collected during the investigation (either during the examination of the scene, or during the subsequent investigations) are of particular importance and are almost more important than the testimony of witness's eye. This is because, witnesses could not remember precisely how it happened, might be afraid to tell the truth, as I could also be threatened, and the evidence and material facts always speak for themselves, without fear from anyone.

The collection of these tests be done in the best possible way, crime scene investigator must be careful to:

- a. Evolution of traces and evidence and
- b. their description

Evaluation of tracks and material evidence

The question that often arises from the scene investigators is: if the object is suspected as trace or evidence, is really a trace or evidence. Also required and detected traces of material evidence in the places where there are facilities justified the presence of the perpetrator of the crime, but in the case of the offense. The investigator determines that given the circumstances and conditions of the scene, making the right and professional evaluation. If you come to the conclusion that certain object is trace or material evidence, then it must be noted in the notes of evidence and what evidence should be taken properly. By no means should not rash to assess whether it is or not trace or material evidence, the assessment is done only after certain control and conclude that trace or evidence material to the circumstances, conditions and opportunities that allowed us to the scene (Protection and searching the crime scene. Vushtri Kosovo 2002) .

Description (Determination)

That tracks and material evidence collected, to know exactly from where they were taken and collected, crime scene investigator should these traces and material evidence to identify later. To achieve this in the right way, should the investigator to mark and label the evidence so that, when necessary, he may be able to identify them. These notes and labels should be placed in evidence, etc. in their packaging, and all these must be recorded in the notes. In some type of packing material evidence, packaging paper, required some information as where evidence was found, by whom, when,

etc. Further, the placement of traces card or unknown latent prints, required information where it is found the way, when, by whom; even required, by the drawing, the present location where it was found.

Marking the tracks and material evidence

Note the traces and material evidence becomes so investigator, later, to be able to know where the received trace or evidence and present it in the time that is required. Notes test placed in that position where non-perishable invisible features and tracks found in. These notes or signs are placed, if possible, in locations invisible (object, tool etc.) Or in the box or envelope, or paper, plastic bags, etc. and marked with signs that the investigator will identify in his record. Preferably metal pencil sharp, as with other colors can be deleted or lose later.

These tests should also have their labels. These must be recorded the date, time, place where the evidence is taken, the name of the investigator who obtained the description of distinguishing marks or their names. Each test must have own distinctive mark by other evidence, the same by appearance, in order not to join the other as a single test. This note can also be based on the numbers that were originally set during the processing of the scene. Note the clarity and full of traces and material evidence is also important to avoid any damage to their intentional or negligent.



Fig. 8 bar closing and packaging of evidence (photo by:
https://www.lynnpeavey.com/product_info.php?cPath=30&products_id=650)

A form titled "EVIDENCE" with the following fields:
Case No. _____ Inventory # _____
Type of offense _____
Description of evidence _____
Suspect _____
Victim _____
Date and time of recovery _____
Location of recovery _____
Recovered by _____
CHAIN OF POSSESSION
Received from _____
By _____
Date _____ Time _____ AM PM
Received from _____
By _____
Date _____ Time _____ AM PM
Received from _____
By _____
Date _____ Time _____ AM PM
At the bottom, it says "LYNN PEAVEY COMPANY 800-255-6499".

Fig. 9 Information on the packaging of evidence
https://www.lynnpeavey.com/product_info.php?cPath=30&products_id=581