

Evidence Preservation

For fire and EMS services

v1.0

Firefighters Support Foundation

This program is a resource fire and EMS service personnel.

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Purpose

For their comments and suggestions as we developed this program:

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John Donnelly, Battalion Chief, Dist. Of Columbia Fire & EMS

Acknowledgements

This program is designed to:

- Acquaint you with the importance of evidence preservation at fire, emergency and medical scenes
- Put evidence preservation in the broader context of your job
- Let you know how to handle different types of evidence
- Give you some tips to prepare you for evidence preservation tasks and possible court testimony

Goal

On December 22, 1994, after suppression of a fire in an apartment, a Norfolk, VA firefighter moved through the apartment to ventilate it and to search for people and pets. During his search he noticed a handgun and a quantity of narcotics. He offered this information to the police on scene and a conviction was obtained.

Example

- Many scenes that fire and EMS personnel respond to are crime scenes
 - Even if that's not apparent at first
- Many EMS calls are to crime scenes or potential crime scenes
 - Not just stabbings or shootings
 - Includes vehicle accidents with personal injury
- Many fires are arson or potential arson crime scenes
 - Or are at places of some other type of crime or after-the-fact crime scene

Why a Concern with Evidence?

- You are often the first people on the scene
 - In any case, you are there at some point, right in the midst of the evidence
- Your activities can make or break a case
 - We are all public safety professionals concerned with all aspects of public safety
 - It's not "not my job" any more than life preservation isn't law enforcement's job

You are There

The call begins before you reach the scene. An Austin, TX, firefighter was responding to a call on March 30, 2009 when he spotted a man burning a police uniform and some other questionable items in a fire pit. He made a call to the police who soon captured the culprit and found that he was the one who broke into a parked, unmarked police car and had stolen guns, body armor, other equipment and police ID's. They also arrested two of the man's relatives who had assisted in the crime. All were charged with multiple felonies.

Example

- **Life and safety come first—always!**
- The actions we suggest in this program are meant to be attended to:
 - After life/safety has been attended to by you, or
 - While life/safety are being attended to by others if you “are looking for a job to do”
 - And if you have the time
- Consider “Life/safety first” as the first line of each successive slide
- Note that sometimes you can see/hear evidence *while* attending to life and safety

The First Commandment: Life/Safety First

- Be alert and aware as you enter a scene
- **Don't just tunnel in on the apparent problem!**
 - Scan 360 x 360
 - This is for your safety, first and foremost
- **You may see:**
 - Other dangers
 - More victims
 - Assailants

Be Alert

- Scanning 360x360 before charging in allows you to see the big picture and
 - Possibly see or hear evidence
 - Plot a consistent path to and from the scene to avoid contaminating it
- Firefighters conduct a 360 degree structure survey before entering into it
 - Use the same strategy when entering any space: a room, a field, a roadway, etc.

Look All Around



- Any object, or
 - Any sensory information,
 - That may be relevant to understanding something that happened or may happen.
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- You never know what may be relevant
 - So the general rule is to stay alert and try to notice as much as possible

What is Evidence?

- Words spoken to you
- Observations that you make
- Objects that you see or find
 - At the scene or on people present there
 - As small as a hair to as large as a car or larger
- Documents/photos that you see or know of
 - Hard copies or electronic
- People's actions that you observe
- And any other object or sensory data

What is Evidence?

You will see us advise many times here to write things down. It is important to always have a pad and pen with you in any public safety job, unless you really can't at the time (while in turn-out gear, for example). Even then, a pad and pen should be in your truck so that you can record things as soon as possible.

Important Note

- Preserving the scene is the most important thing you can do w.r.t evidence preservation
- It is impossible to be at a scene without disturbing it somewhat
- Make a best possible effort to limit entry and exit routes from the scene
 - This isn't possible when fighting most fires
 - But it may be possible once the fire is out
 - It is possible at many medical calls
- Use same route for entry and exit
 - Show police your route when they arrive

Scene Preservation

- Note its condition; snap a mental picture
 - Lights on or off
 - Windows down or up
 - Shades drawn or open
 - Position of furniture
 - Signs of forced entry
 - Anything unusual
 - TVs, radios, computers on or off
- Record all this as soon as possible



As You Approach Scene

- Do your job, but try to safeguard the scene
 - Assign a person to do this, if available
- Set up a perimeter if you can
 - Use tape if possible—even tree flagging tape works
 - The police will move the tape if they prefer another perimeter
 - Scenes attract onlookers; a perimeter will let you do your job more easily
- You have responsibility for safety, and therefore the authority to keep people away
- Note and record everyone who comes into the scene, and when, if possible

If You are First on Scene

- Try and hold all witnesses just outside the secure area
- At a minimum, try and get their name and information
- Do your best to limit conversation between them—separate them if possible
- Remember and record their (relevant) statements

If You Arrive Before the Police

- Choose the routes where there appears to be the least amount of evidence
 - This might be the most overlooked and most important effort you can make
 - Consider carrying flagging tape in your truck and marking these routes at every scene
 - Even at minor scenes to give your people practice and training
- Limit the number of responders at a scene
 - Only those who need to be there
 - This includes extraneous supervisors!
- Escort all non-critical citizens away from the scene, paying attention to a proper exit route
 - Have an area to bring non-injured victims to
 - Likewise for other people with an interest in the event (family members, etc.)

Scene Preservation Tips



- **Body materials**
 - Blood, semen, hair, tissue, skin, etc.
- **Objects**
 - Glass, dirt, metal, tools, weapons, documents, etc.
 - Microscopic to very large
- **Impressions**
 - Footprints, fingerprints, bite marks,

Three Kinds of Physical Evidence

- Refers to traces of substances transferred by the contact of objects or substances
 - Fibers
 - Hairs
 - Paint chips
 - Glass fragments
 - Body fluids/body parts
 - Explosives/gunshot residue
 - Cosmetics
 - Fingerprints
 - Etc.



Trace Evidence

- Skin under the fingernails is a form of trace evidence
 - You may see it when examining a victim
- If possible, look for it when any kind of assault has taken place or is suspected
- If victim has scratched assailant, cover victim's hands with paper bags and tape loosely at the wrists

Skin Under Fingernails

- Do not disturb it
 - Don't pick it up or touch it
 - Don't move it
- Mentally note and mark (e.g., with a piece of paper) its location
- Tell a police officer as soon as possible
 - Note or record his/her name
 - Record the time, place and date of the telling

If You Find Trace Evidence or Other Small Evidence Objects

- Don't disturb it
- Note the location and person its on
- Tell a police officer as soon as possible
 - Note or record his/her name
 - Record the time, place and date of the telling

If Evidence is Observed on Clothing



- Do not remove clothing unless necessary
- Do not cut through evidence such as knife or bullet entry/exit holes if possible
- Look for trace evidence on clothing
- Removed clothing:
 - Isolate and minimize its handling
 - Do not turn upside down
 - Bag if possible
 - Wet clothing in a paper (not plastic) bag
 - Not for more than two hours
- Do not mix clothing from different people in one bag



Clothing – General Handling

- Tool marks
- Fracture matches
- Bite marks
- Ladder impressions
- Footprints
- Tire tracks
- Fingerprints (such as in chewing gum)
- Etc.



Impressions Evidence



- Computers
- Guns/weapons
- Anything with fluids or trace evidence attached
- Roadway debris at an accident
- Etc.
- Documents

Larger Evidence Objects

- Do not disturb it
 - Don't pick it up
 - Don't move it
- Mentally note and mark (e.g., with a piece of paper) its location
- Tell a police officer as soon as possible
 - Note or record his/her name
 - Record the time, place and date of the telling

If You Find Larger Evidence



- Do not disturb it
 - Don't pick it up
 - Don't move it
- Note and mark its location
- Tell a police officer as soon as possible
 - Note or record his/her name
 - Record the time, place and date of the telling
- Render non-firearms safe by moving or securing them only if necessary
- Render firearms safe only if really necessary and only if you know how
 - Same for securing them

If You Find a Weapon

- Sexual assault response protocols can differ from jurisdiction to jurisdiction – know yours
- General advice, aimed at evidence preservation, includes, if possible:
 - Do not allow victim to bathe
 - Do not allow victim to change clothes
 - Do not clean bite marks
 - Do not allow victim to eat or drink in cases of oral penetration
- In all cases, get a sexual crimes investigator to the scene as soon as possible

Sexual Assaults

- Remember the usual rules about limited routes to and from the scene
- The debris may be evidence
- Skid marks are evidence
- Be alert for signs of alcohol or drug abuse
- Do not discard any clothing
 - Either victim's or any other involved person
 - Might contain trace evidence



Vehicle Accidents

- Anything that you hear
 - Noises
 - Words, utterances
- Must generally be heard first-hand
 - “I heard”, not “Bob told me he heard”
 - The latter is *hearsay* evidence and is not generally admissible

Audible Evidence

- Excited utterances
- Statements made by a dying person
- And about 30 others...

BUT

- Ignore this distinction
- Report everything you hear and let the police and the DA worry about what's admissible
- Just because its not admissible evidence doesn't mean its not useful to an investigation

Hearsay Rule Exceptions

- Record it as soon as possible
 - Write it down
 - Note place heard, person heard from, date and time
 - Keep these notes – you may be required to produce them
 - And/or tell another person what you heard
- Tell a police officer as soon as possible
 - Call them over and have the person repeat it for him/her if possible and it doesn't interfere with your duties
 - Note or record his/her name
 - Record the time, place and date of the telling

If You Hear Audible Evidence

- Report to a police officer unusual patient/subject conditions
 - Apparently under the influence of drugs or alcohol
 - Unusual appearance
 - Suspicions of abuse or self-injury
 - Injuries or conditions inconsistent with their story
 - Known medical history (as necessary for safety of patient or others)
 - Other known facts from previous encounters
- No patient-EMT confidentiality in most states

Patient/Subject Conditions

Unless necessary for safety or to treat a patient, do not:

- Untie knots or cut ropes that victims are bound by
 - Much better to cut a rope or cord far from a knot than to untie it
- If you have to undo tape, do not crumple it up
- Move things or pick up things
- Turn things on or off
- Unfold any papers
- Remove anything from a victim

Do Not

In the mid-90s, in Greenfield, MA, paramedics responded to a woman tied to a bed and claiming a sexual assault. The investigation by police determined that the knots were in positions such that she could have tied them herself, and her claim of assault was suspect.

If the paramedics had untied the knots, the investigation would have been hampered.

Example

- You may have to testify, so:
- Remember who you were working with on your crew
- If your agency doesn't keep accurate records, keep your own incident log and write a brief report after each incident, including in addition to your own actions:
 - What time you were dispatched, and time of arrival and departure
 - What the conditions were when you arrived
 - Weather, doors open or shut, appliances on or off, odors, position of victim, other people present, what you heard, etc.
 - When other agencies arrived; who arrived before and after you

Keep a record



Keep good records because by the time you are asked about them under oath, it may be years after the incident. Also, there may be multiple trials and appeals related to your evidence, stretching on for years.

On May 14, 1993, the Elkhart, IN schools were transporting students in a van when the van got into an accident. One child was killed and another rendered a quadriplegic. Crucial to the judgment of the appeals court *in 1998* was a firefighter's recollection of whether or not one of the victims was seat-belted in.

Example

- *Chain of custody* refers to the paper trail that records every person that handles evidence, and the times of the handling, from its discovery and collection, to its presentation before, and finally disposal by, the court.
- It is critical that the chain of custody remain intact and unbroken
 - Otherwise the evidence is suspect and may not be admissible

Chain of Custody

- Whenever you mark the location of evidence, tell a police officer about it, or move it, you become part of the chain of custody
 - That's one reason why it's important to carry a pad and pen and note what you do, where, and when.
- Do not release or give any potential evidence to anyone but a police officer unless absolutely necessary

Chain of Custody Issues

- Don't eat, drink, smoke or urinate at scenes
- Don't leave anything there (wrappers, etc.) to the extent possible
- If you try an IV and miss, mark the site and record

Important Other Stuff

- Failure to comply is a crime and punishable
- In court, don't be concerned with the outcome, just tell the truth
- The DA may go over your testimony with you beforehand
 - They are not trying to sway your testimony
 - They are preparing themselves and you for your testimony

If Summoned to Court