



Intellectual
Property
Office



CITY OF LONDON
POLICE

Police Intellectual Property Crime Unit

PIPCU

Guide to the seizure of exhibits



Introduction

In any criminal investigation it is the responsibility of the police and prosecuting agencies to compile the case against the suspect. The standard of proof required to convict a suspect in a criminal trial is beyond reasonable doubt. Beyond reasonable doubt is an extremely high standard of proof for the prosecution to achieve.

Failure to achieve this level of proof in a criminal trial will result in the prosecution case failing and the acquittal of the suspect. Exhibited evidence often forms the backbone of any criminal investigation. It is therefore of great importance that investigators detail and record how they acquire and retain evidence in the course of an investigation as this will attract a great deal of scrutiny by the defence council.

What is an exhibit?

The evidence that the defence council are likely to scrutinise in the criminal investigation is evidence in the form of exhibits. An exhibit is defined by case law as;

'A document or other thing shown to a witness and referred to by a witness in evidence (R v Lushington ex p Otto [1984] 1 QB 420).'

The way that the prosecution manage and store exhibits is detailed in the codes of practice under the Criminal Procedure and Investigations Act 1996. It places a duty on investigators to record and retain material which may be relevant to the investigation. This places a burden on both police to accurately preserve the continuity of the evidence.

What is continuity of evidence

The way the defence council may seek to scrutinise the exhibit is by bringing into question or doubt the continuity of evidence. The continuity of evidence is often referred to as the 'chain of evidence' which in simple terms is the way the evidence has been handled from the moment that it is found, seized, or produced to the point that it is presented in court as an exhibit.

In order to effectively ensure the continuity of evidence an investigator will need to be able to demonstrate the following:

- Who seized / produced the item
- Where the item was found
- Where the item was seized / produced
- The time and date that the item was seized
- Where the item was placed after it was seized.

In order to achieve this information must be recorded on the evidence bag and a witness statement will need to be completed.

Key points

To ensure that material items are clearly identified and that the chain of continuity is maintained, investigators should use appropriate bags, labels and tags to identify exhibits.

In assessing how to seize the item(s), investigators should consider the relative size, weight, condition of the item that they are seizing. There are a multitude of different sized bags. Should the exhibit not fit into an exhibit bag, exhibit tags and labels may be used in its place.

Evidence bags

The key details on the evidence bag that will need to be filled in are as follows;



Court exhibit

- Each exhibit will need to be capable of being presented by the witness in court. To identify the exhibit the witness will need to exhibit the item. This can be done in a number of ways. Most commonly this is done by placing the investigator's initials followed by the number of the exhibit. An example of this is AS/1, AS/2 etc.
- Other common way this can be achieved is by placing investigator's initials followed by the initials of the location of the seizure and the number of the exhibit.
- To illustrate this if an investigator with the name Adam Smith seized two items at No. 10 Downing Street the items would be exhibits as follows;
- AS/10DS/1 and AS/10DS/2
- This should be followed up with a witness statement which includes the following;
 - **On the [DATE] at [TIME] I seized / produced [ITEM]. Having seized [ITEM] I then produced / seized these items as AS/10DS/1 and AS/10DS/2...**
 - **Having seized / produce this item I then place it in an evidence bag with seal number [SEAL NUMBER]...**

Bag description

- A clear description of the exhibit will need to be placed on the evidence bag so that it can be identified. An example of this would be

'...Black Acer laptop, serial number xxxxx...'

It may also useful to document any obvious issues with the condition of the exhibit which the investigator feels needs to be highlighted and could have an impact on the investigation. For example if the black Acer laptop had a cracked screen the investigator could consider;

'...Black Acer Laptop, serial number xxxxx, with a cracked screen...'

This draws attention to the fact that the screen was damaged before being placed into an exhibit bag. This can also be elaborated on in the investigator's witness statement.

Opening evidence bags

- Best practice is that evidence bags should remain sealed until the court hearing date. However over the course of the investigation there will inevitably be occasions where the evidence bag needs to be opened. There any number of reasons why this may be needed but one such example is where electronic devices need to be analysed in a forensic laboratory.
- If an occasion arises where the evidence bag does need to be opened it is best practice to examine the exhibit in the presence of a witness who can corroborate the time / date / and condition of the exhibit. However it is acknowledged this it will often be impractical to follow best practice where there are lots of exhibits that need to be examined or there are staff resourcing constraints.
- Where the bag is opened the continuity label at the back of the bag should be signed, initialled and dated.
- A corresponding witness statement (MG11) should be completed stating times / date and reason the bag was opened.

Following examination the bag should be re-sealed as soon as practicable. Best practice is to seal the bag using forensic tape shown in the image on the right.



If forensic tape is not available then sealing the bag with cello tape is accepted practice. The investigator can place a sticky back white label over the break in the evidence bag. The investigator should then sign the sticky back label and then place the cello tape over the incision in the bag and the white label which will thereby preserve the integrity of the evidence. The continuity label on the back of the evidence bag should be filled in and this should also be documented in the continuity witness statement with times date and location documented.

If is impractical to reseal the bag once opened this should NOT be discarded but should be RETAINED. A new evidence bag should then be used to place the exhibit into. The damaged evidence bag(s) should then be placed into a new evidence bag along with exhibit. This procedure should then be documented in a witness statement and the new evidence bag seal should be recorded.

Every time an evidence bag is passed to another person, the receiver should complete the continuity box on the bag label to record receipt of the item.

Continuity Statement Proforma

Witness Statement

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN:

Statement of:

Age if under 18:

Occupation:

This statement (consisting of page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: (Witness)

Date:

I am the above named person and I work as ... **[Job Role]**....for**[Company]**..... Based at.....**[Address]**.....

On **[Date]**.....I ... **[Seized / Produced]** **[Item Description]**... and exhibited the item as**[Exhibit reference number]**.....

I then placed the exhibit in to and evidence bag ... **[Evidence seal number]**...

The exhibited item was then stored at ... **[Location]** ... / ... I then handed the exhibit to ... **[Person]** ...