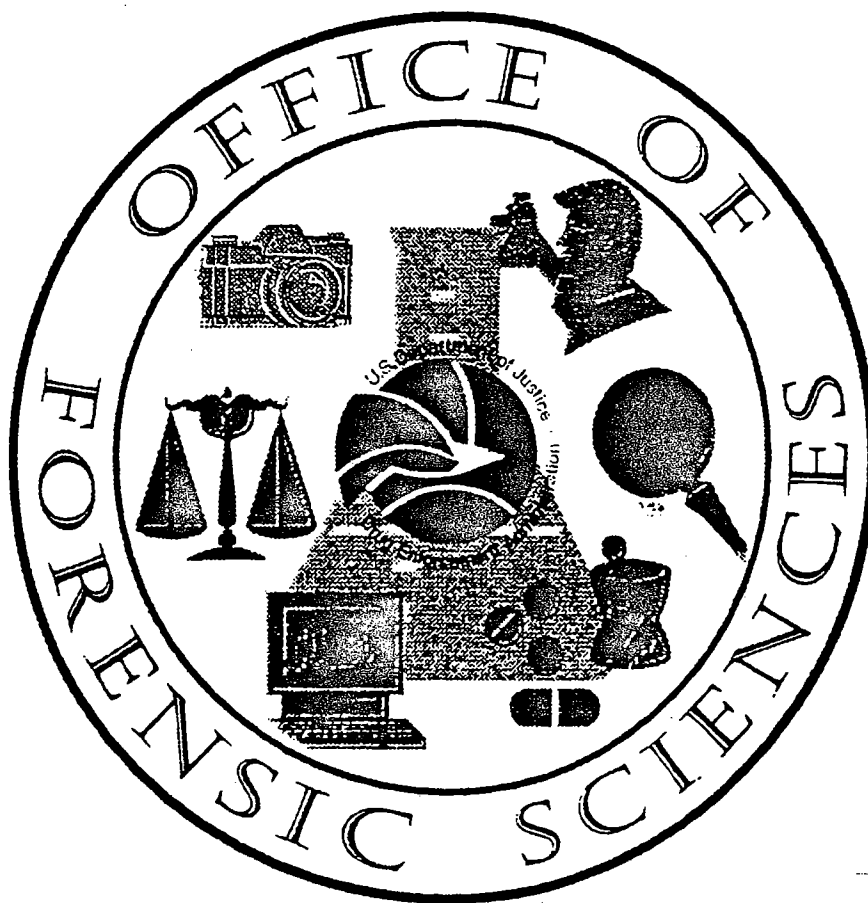




Basic Training Program for Forensic Drug Chemists



Third Edition

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INTRODUCTION

The primary mission of the DEA Laboratory System is the analysis of suspected controlled substances submitted for analysis by Federal, state and local enforcement personnel. Evidence must be handled in such a manner that no viable argument can be made as to its integrity and uniqueness. Various controls have been implemented, to eliminate the possibility of suppression of the evidence in court.

The total accounting of evidence items is known as the "chain of possession," or the "chain of custody." This chain is made up of all individuals who have had custody of the evidence item since its acquisition by enforcement personnel. Because any significant break or "unaccountability" in the chain of custody can seriously impair its eventual admissibility in court, each individual assuming custody of the item must ensure the proper care, safekeeping, and preservation of the integrity of the evidence item while it is under their control. The key to establishing this chain lies in the proper documentation of the transfer and possession of the evidence item from one individual to the next in the normal course of business. This documentation consists of a variety of receipts or other forms, whereby a transfer of possession is recorded.

The flow of a piece of evidence through a DEA laboratory takes the following course, i.e., the "normal course of business." The evidence is received either via registered mail, return receipt requested, which provides documentation of the transfer, or by hand delivery to the laboratory. If other delivery services are used, it is essential that accountability of the evidence is maintained. The evidence custodian receives the evidence, checking to ensure it is properly packaged, sealed and documented. In order to ensure that the integrity of the evidence submitted is maintained, it is accepted only if the evidence container, generally either a plastic heat sealed evidence bag or a cardboard box, is properly sealed (Laboratory Operations Manual 7302.42). It must be sealed in such a manner that there is no possibility that the package contents can be removed, altered or a substitution made without the seal being obviously disturbed. The container must also be annotated with the identity of the individual who sealed it, the date it was sealed, and a numerical identifier (case number and

exhibit number). This will ensure that all references are to this particular evidence and that no substitution could have occurred.

The evidence custodian then logs the piece of evidence into the Laboratory Index Book, assigning it a sequential laboratory number to identify and distinguish it from all other pieces of evidence in the laboratory. The evidence is then stored in the vault until it is assigned to a chemist for analyses. The evidence custodian will also prepare an Evidence Accountability Record (DEA Form 307) to provide details of the location and custody of the item while it is in the laboratory. The DEA Form 307 is kept in a secure file to serve as the primary source of information to locate the item, as well as proof of custody. Each time the evidence changes custody within the laboratory, the transfer must be recorded by annotating the DEA Form 307.

After data is entered into the computerized System To Retrieve Information from Drug Evidence (STRIDE), the evidence is assigned to the chemist. The chemist will request the evidence from the evidence custodian. The transfer of the evidence is documented on the DEA Form 307. It is recommended that the evidence container be annotated with the date and the initials of the chemist. After the analysis has been completed, the chemist will return the evidence to the evidence custodian, and the proper notations are made on the DEA Form 307. The evidence is then stored in the vault, or returned to the originator.

Subsequent transfers of the evidence such as for court, are documented on a Receipt for Cash or Other Items (DEA Form 12), with a copy being placed in the laboratory case file. Additionally, the DEA Form 307 is kept up to date until the evidence is destroyed or transferred. At which time, the DEA Form 307 is placed in the closed case file.

Upon receipt of the evidence, the chemist checks the seals and verifies the gross weight (Laboratory Operations Manual 7302.41). When the chemist first opens a piece of evidence, it is required, if possible, to leave the original seals intact and open the package somewhere else, such as the bottom of the heat sealed evidence bag. This will demonstrate that the agent's seals were intact, and preserve whatever identification was contained on them. When the contents of the evidence container are removed, each item should be compared to the submitted documented to ensure conformity. Any inconsistency should be brought to the attention of the supervisor. Each item should be identified with at minimum

the chemist's initials, date encountered, and whatever distinguishing numbers are assigned (e.g., case and exhibit number or laboratory number). This minimum identification should appear on every part of the evidence that could conceivably be separated. The rationale here is twofold: first, it references the piece of evidence to whatever paperwork, charts, graphs, etc., may be in the case file; second, in the courtroom, the evidence may be separated from its outer evidence packaging for purposes of presentation, and the chemist may be required to identify the separated items.

Marking of the actual substances (tablets, capsules, powder, vegetable material, etc., is not necessary; however, their immediate containers must be properly marked and identified. Size constraints may dictate the amount of identification that can be put on a piece of evidence. Marking is best done with an indelible felt tip pen. A chemist should realize that pieces of evidence will often have other marks of identification placed there by seizing agents and witnesses. The chemist should handle, identify, and repackage the evidence in such a way as not to obliterate or obscure these other marks.

It is beyond the capabilities of the chemist to retain independent recollection of every exhibit. Hence, a document called a Forensic Chemist Worksheet (DEA Form 86) is used to record the description of the evidence item and its packaging (including numerical identification), recording the information as the items are initially removed from the evidence container. Additionally, this document is used to record actions taken during the analysis of the evidence item. See LOM 7302.53 for specific requirements. Pertinent analytical material, such as chromatograms, spectra, charts, etc., must be properly identified with the laboratory number or case and exhibit number along with the date and the handwritten initials of the chemist performing the analysis. If a standard or published method was used, that information must be noted on the worksheet along with any deviations from the method. It is essential that notations made on the worksheet and accompanying documents be legible which will permit the examining chemist, or the supervisor testifying from the record, to adequately reconstruct all aspects of the examination, even if recall is delayed for a period of several years.

All corrections must be carefully noted on the worksheet, along with the reasons for the corrections. Such corrections must be lined out and initialed, but never completely

obliterated such as by the use of "white out." The DEA Form 86 is to be annotated with the original data, i.e., data should not be recorded on other documents (scraps of paper) then transferred to the worksheet.

The result of the laboratory examination are likely to be used in a criminal trial. It is essential that recording of information be limited only to the worksheet, attached documents and the subsequent official report of examination, Report of Drug Property Collected, Purchased, or Seized (DEA Form 7), and that no other records be maintained. This is important because two sections of the *Federal Rules of Criminal Procedures*, 18 USC, govern proceedings in criminal cases in Federal court:

1. Upon motion of the defendant, all documents and original notes relating to the testimony of the expert witness must be delivered to the defendant for examination and use.
2. Results of scientific tests or experiments which are intended for use by the Government and are material to the preparation of the defense must be made available to the defendant upon request.

Placing the information describing the actual examination in a bound notebook could easily result in the entire notebook being entered into evidence and lead to subsequent disclosure of information which is irrelevant to the examination of the evidence.

Proper resealing of evidence after analysis is important to preserve its integrity. Boxes are to be fiber taped shut with an official seal prominently placed across the intersection of the tape. Heat sealed plastic evidence bags are sealed according to guidelines in LOM 7302.42C. The advantages of the clear plastic containers are that interior contents can be viewed without damaging the integrity of the closure or seals.

Evidence must remain in a sealed condition throughout the chain of custody. This allows certain individuals to be exempted from testifying about their participation in the chain of custody, based on the fact that they handled a sealed package and did not break the seals (e.g., Postal carriers). Routinely, the only individuals having access to evidence within

the sealed container will be the original seizing agents and the chemist who analyzed the evidence. When the evidence is presented in court, it may be opened, and items contained within removed. Therefore, the chemist should secure and identify each inner package of evidence. This procedure will ensure that if the original container is opened, the chemist can testify and verify that the integrity of the contents was maintained. This step may also prevent controlled substances from being spilled in the courtroom. Specific evidence handling requirements are detailed in the LOM and LOH.

REFERENCES

1. *Laboratory Operations Manual*, Chapter 73.
2. *Laboratory Operations Handbook*, Chapter 73.
3. Dobres, H.L. *Microgram* 1979, Vol. 12, pp 202-208.
4. Travinkoff, B., Kvick, R.J. *How to Examine a Chemist in Drug Abuse Cases: California*, 1971.
5. Stein, B.; Laessig, R.H., Indriksons, A. *Wisconsin Law Review*, 1973, pp 727-789.
6. Shapiro, R. *Nat. J. Crim. Defense* 1976, Vol. 2, pp 131-147.
7. Oteri, J.S.; Weinberg, M.G.; Pinales, M.S. *Contemporary Drug Problems, A Law Quarterly*; 1973, Vol. 11(2).
8. Additional evidence handling material assigned by your instructor (e.g., transcripts).

EXERCISES

1. Trace the flow of evidence in the laboratory from initial submission to eventual disposition. Include the flow of paperwork associated with that exhibit and which individuals are involved.
2. Describe the documentation of the chain of custody in the laboratory. Be sure to include the proper names and numbers of all forms that are used. Where is this information stored, and who has access to it?
3. List all of the conceivable circumstances in which evidence may be opened after it leaves your possession. Describe any circumstances that would require further action on your part.
4. How is evidence stored in your laboratory? How is that evidence indexed, and which individuals have access to it? If evidence is not routinely stored, where is it sent, who sends it, and what records are kept of that transaction?
5. Explain the significance of the phrase "normal course of business" and how it is used.
6. What are the procedures for removing evidence for examination by a defense analyst?