

TruNarc strengthens chain of custody

Handheld analyzer's test report and ability to audit drug evidence supports due process.

Introduction

In police work, chain of custody (CoC) refers to chronological documentation of the seizure, transfer, analysis and disposition of physical or electronic evidence used in legal proceedings. This so-called "paper trail" is vitally important in the legal process, as it documents who had custody of the evidence from the time it was seized to when it was used in an actual court trial.

Recently, there have been several episodes around the US involving the mishandling of evidence. Guns have gone missing; cash has disappeared; and drugs in plastic bags have been replaced with other substances. Consequently, in those jurisdictions, cases against alleged offenders have been dismissed while many others may be in jeopardy. In addition, the otherwise impeccable reputations of some police departments risk being tarnished.

To understand the role of CoC in policing better, we asked Detective Brian Coen of the Quincy (MA) Police Department to elaborate on the issues around handling drug evidence. Detective Coen has been a police officer for 15 years, currently serving on the Quincy Drug Control Unit. A participant in 2500 drug investigations, he has testified as a drug expert in Norfolk Superior Court on numerous occasions.

Q: What is chain of custody and why is it important in police work?

A: The CoC starts with the seizure of evidence and includes proper documentation of the evidence using a police case number, photographs, evidence number, defendant name, date and time. The CoC will include the proper packaging of said evidence. The CoC will include where evidence is stored from the time of seizure until trial, and what safeguards were in place to assure the evidence was not tampered with. The CoC will include



the person testing the evidence, how the tests were performed, and whether that person was qualified to test said evidence.

When suspected drugs are seized from a defendant, a police officer will take custody of the drugs, package it in the proper evidence bag, and document the evidence before submitting it to a police evidence locker. The drug evidence officer will then take custody of the evidence and submit it to a lab for analysis. The lab technician will sign off on a drug receipt, documenting they took possession of said evidence. The forensic analyst will then take custody of the evidence for analysis. An analysis report is generated. Following analysis, the evidence is placed back in an evidence vault at the lab and is ultimately returned to the drug evidence officer. The drug evidence officer will return evidence to the police evidence locker and the drugs will remain there until the trial. On the day of the trial, the drug evidence officer will turn the drugs over to the arresting officer who takes the evidence to court and, ultimately, submits drugs into evidence during the trial. All these steps are documented.

A common defense strategy is to challenge the chain of custody. Any break in that chain can exclude the evidence from being introduced to the judge or jury, and ultimately lead to a dismissal of charges.

Q: How do breaks in the chain of custody occur, and why do they occur?

A: There are many ways a break in the CoC can occur, including these:

- When the chain is not properly documented;
- The police case number does not coincide with the lab evidence number;
- Evidence is not properly stored in an evidence locker and is subjected to tampering;
- The evidence is missing, or some of it is missing;
- The police report detailing evidence seized does not coincide with actual evidence tested; and
- The analyst testing the drug was not qualified in the science used to analyze said drugs, or failed to follow appropriate testing methods.



Q: What are the consequences of these breaks?

A: Breaks in the CoC can prevent evidence from being introduced during court proceedings and, ultimately, cause the dismissal of charges against a defendant. In some cases, the consequences of breaks in CoC can be disastrous, especially if tampering has occurred. If the tampering of evidence from purposeful manipulation or negligent handling is suspected, an entire laboratory or agency can be subject to heavy scrutiny. Our courts will then be forced to consider every criminal case, both past and present, which may have been impacted by the tampering. Incarcerated criminals, some violent, may have criminal charges dismissed, allowing them back out on our streets.

Q: What role can the Thermo Scientific™ TruNarc™ analyzer play in CoC?

A: TruNarc can provide proper documentation in the CoC. The TruNarc scan report contains pertinent information that not only contains the analysis of a substance but also the information that is entered into the customized fields (case number, defendant name, description of seized drugs, who seized the drugs, who tested the drugs, and criminal charges). Additionally, the TruNarc scan report will document the date and time of analysis, which is very helpful when criminal charges are brought forward.

The TruNarc can be helpful with evidence audits for most drugs that require a direct scan or point-and-shoot scan through plastic. Once drugs are seized, they will be packaged in a heat-sealed plastic evidence bag. This bag is initialed across the seal and dated. After the drugs are analyzed from the lab, they are also sealed in the lab's evidence bag. The only time this bag will be open is during a trial. The TruNarc could be used to analyze drugs within the sealed evidence bags, if tampering is suspected, to ensure drugs were not replaced with some other substance.

TruNarc played a vital role during the Hinton Laboratory investigation in Boston, after former analyst Annie Dookhan was found guilty of tampering with drug evidence. Investigators at the Massachusetts Office of the Inspector General used TruNarc drug analyzers to assist with their investigation, and successfully analyzed packaged drugs that were previously handled by Dookhan.

Q: What is the outlook for chain of custody and evidence preservation around the country?

A: I believe jurisdictions that do not have a protocol or standard operating procedure for CoC and evidence preservation should start to consider one. We can look to our law enforcement leaders within the International Association of Chiefs of Police who can help develop a national standard or suggested guidelines for evidence preservation for all police agencies. This should include regular audits of evidence rooms. Training in CoC procedures and proper evidence handling will continue for all evidence custodians, officers and units.

Thank you, Detective Coen. We appreciate your time.

Find out more at www.thermofisher.com/trunarc

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