

Real Evidence



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What is presentation of real evidence?

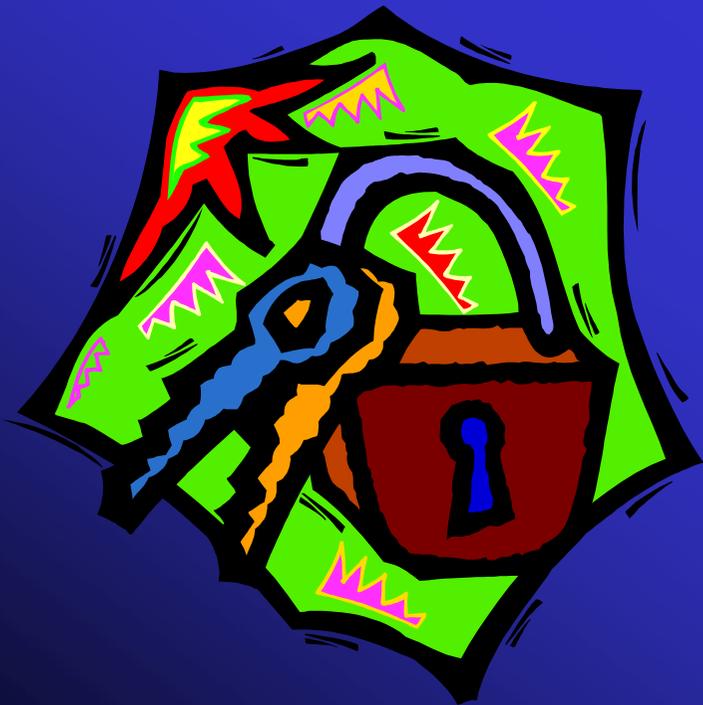
Production of the thing itself



General Care and Handling



**Secure the
evidence so that
it is not lost**



Where are you going to store it?

- The file
- Fireproof lock box
- Garage



Did you note where you stored it in the file?

- **Did you take care to limit access to the evidence?**
- **Did you create a system to document who had access to the evidence?**

Admissibility of Real Evidence

Readily admitted

**Subject to relevancy, materiality,
and prejudice**

Foundation Requirements

**Admissibility is within the
court's sound discretion**

Witness must:

- **Identify the object as being the object in the incident**
- **Show that the object has not undergone a material change**

Identifying the object

Usually sufficient that a witness testify that:

- the object is what it purports to be
- the object “looks like” the object in the incident
- the object “is similar to” the object in the incident

**Showing that the object has
not undergone material
change**

Especially where the object as been inspected and a later inspection reveals something different, testimony showing no change in condition is essential.

**State v. Harbison, 293 N.C. 474, 238
S.E.2d 449 (1977)**



Explaining the alteration

- State v. Fleming, 350 N.C. 109, 512 S.E.2d 720 (1998)



- State v. Handsome, 300 N.C. 313, 266 S.E.2d 670 (1980)





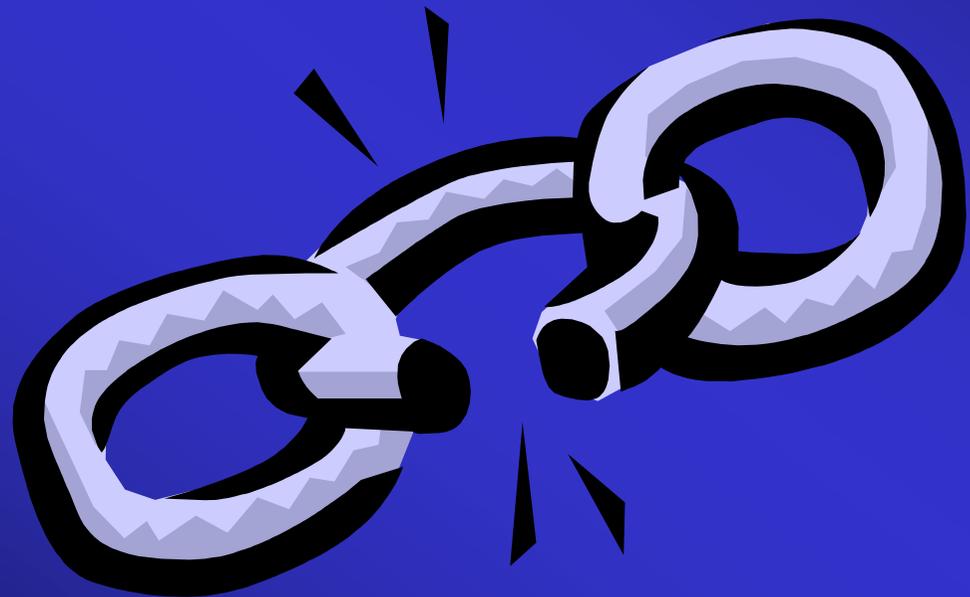
Chain of Custody

Donaldson & Black, PA

Needed where

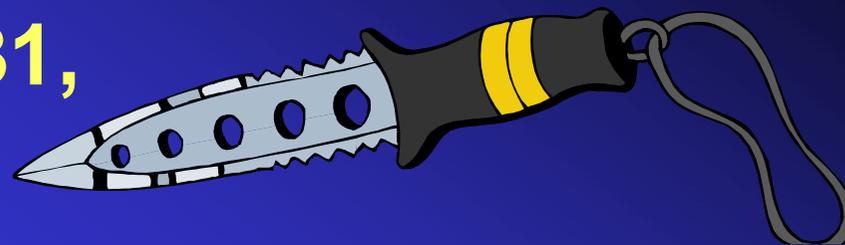
- Evidence is not readily identifiable and
- Reason to believe evidence has been altered

**Weak links in chain of
custody go to weight, not
admissibility of evidence**

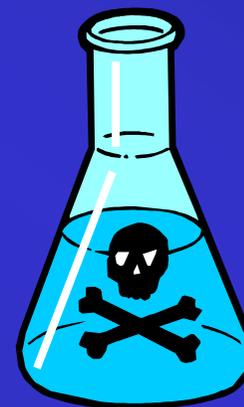


**Timing issues do not always
defeat chain of custody**

**State v. Bell, 311 N.C. 131,
316 S.E.2d 611 (1984)**



**State v. Barfield, 298 N.C.
306, 259 S.E.2d 510 (1979)**

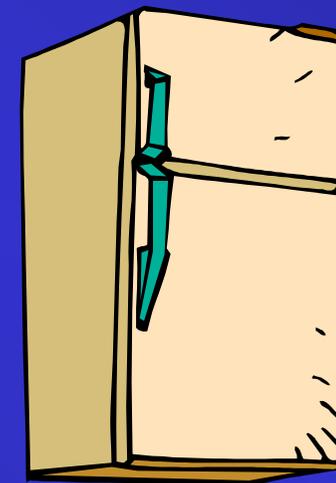


Handling Opposition

Tampering with the evidence



State v. Campbell, 311 N.C.
386, 317 S.E.2d 391 (1984)



**Special jury instructions
related to chain of custody
issues must be specifically
requested**

**Probative value of evidence
is substantially outweighed
by unfair prejudice**

No error to admit:

- **Bloody clothing**
- **False teeth bearing scratch marks**
- **Victim's little finger**

Jurors handling the evidence is okay

Constitutes a demonstration, not an
experiment

