

# OFO Evidence Collection Procedures

EIAO Training



# Objectives

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- Identify the three types of evidence.
- Explain the term “chain of custody” and the importance of establishing and maintaining correct chain of custody.
- Identify the proper procedures for maintaining chain of custody.
- Complete the forms associated with evidence collection and safeguarding.

# Evidence

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- Agency personnel who collect and review investigative information must understand how to properly collect, safeguard, and dispose of evidence.



# OFO Guidance

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- OFO employees may collect evidence while performing their official duties.
- Follow the methods to collect, safeguard, and maintain evidence as set out FSIS Directive 8010.3, Revision 3.



# Evidence

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- It is important for OFO personnel to understand the importance of handling evidence properly.



# Evidence – Key Principles

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- OFO personnel are to recognize key principles pertaining to evidence associated with administrative cases.
  - Methods to collect, safeguard, and maintain evidence
  - Use of digital cameras for evidence collection

# Evidence – Key Principles

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- Evidence should be maintained properly at all levels in FSIS.
- Evidence should be collected, safeguarded, and disposed of in a consistent manner and in accordance with established procedures.

# Evidence - Key Principles

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- Proper treatment and preservation in the condition which it was originally collected requires that all authorized persons handle evidentiary items with care.
- Accountability must be established at each stage of evidence collection and disposal.

# Evidence - Key Principles

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- Evidence should be maintained in a secure area and accessible only to designated personnel. This includes:
  - Documents received from a plant
  - Copies of plant records
  - Any original documents received from the plant
  - Photographs taken by FSIS during the course of a review.

# Evidence - Key Principles

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- Care should be exercised to limit the number of people involved in handling evidence to a minimum.
- Information pertaining to the case should not be provided to persons who are not directly involved.
- Evidence should be handed in a manner to avoid later allegations of tampering or mishandling.

# Evidence - Key Principles

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- When collecting or receiving documents from a plant, FSIS must account for:
  - Date received
  - Who received it
  - Who provided it
  - How it is maintained.
- When transferring evidence
  - Preserve the “chain of custody”, so that possession can be traced from the initial collector to the final custodian.

# Evidence Types

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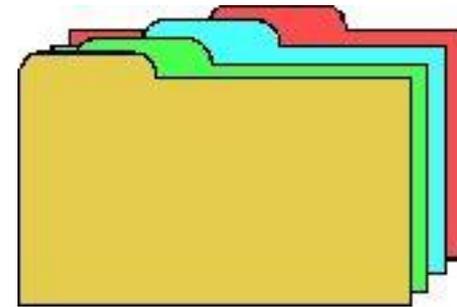
- Documentary
- Photographic
- Investigative samples



# Documentary Evidence

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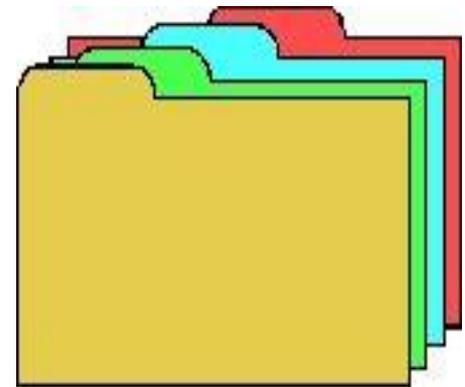
- Develop and compile supporting documents for decisions reached
  - Examples
    - Noncompliance Records
    - FSIS Form 5100-1 (Formerly 5000-8)
    - Food Safety Assessment reports
    - Plant Records
    - Lab Reports
    - Photographs
    - Letters/MOIs



# Documentary Evidence

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- Support investigative findings, Agency decisions, enforcement, legal actions
- “Best evidence” rule



# Federal Rules of Evidence

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- Duplicate
  - Rule 1001(4) - a duplicate is a counterpart produced by the same impression as the original (mechanical or electronic re-recording) or by other equivalent techniques which accurately reproduces the original

# Federal Rules of Evidence

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- Admissibility of Duplicates
  - Rule 1003 - a duplicate is admissible to the same extent as an original, unless a genuine question is raised as to the authenticity of the original

# Chain of Custody

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- Methodology used to maintain, track, and document control of evidentiary items
  - In OFO, the process begins as soon as the EIAO collects copies of the original plant records or photographs, for use as evidence to support various administrative cases

# OFO Evidence Procedures

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- To account for plant records received
- To provide Chain of Custody & Authentication of records received



# Reviewing Plant Records

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- Plant records should be reviewed onsite
  - Preferably at a location provided by the plant such as a conference room



# Plant Records

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- Oral request to responsible management official
- Examine records
- Determine what is needed
- Obtain copies
- Photograph, if necessary

# Plant Records

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- Title 21 U.S.C.
- § 460
- § 642
- § 1034 and 1040
- 9 CFR - Parts
- 310.25, 320.1, 416, 417 & 430

# Plant Records

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- Entrance meeting with the plant
- EIAO will advise plant officials that they will be accessing, examining, taking photographs & copying records
- If EIAO is denied access
- Explain statutory and regulatory basis for record access
- Contact the DO for further guidance if plant still refuses

# Plant Records

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- Plant records should not be taken outside the plant.
- Records should be reviewed at the plant in a provided location such as a conference room or other private setting.

# Property Receipt for Plant Records

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- If records are taken to government office or out of the plant:
  - FSIS Form 8200-1, “Property Receipt” is to be completed and the owner or custodian should initial Block 6B



# Property Receipt for Plant Records

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- Property Receipt form should also be completed when the original records are returned to the plant
  - Owner or custodian initials Block 7B of the form.

# Plant Records

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- Make copies of only those plant records necessary to support enforcement actions
  - Example: if only one page of a hazard analysis is noncompliant copy only that page
  - Example: when multiple issues of a similar nature are involved you may only need representative sample
- Consult the DCS when in doubt

# Plant Records

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- Exit meeting with the plant
  - Return all records received from the plant
  - During the exit meeting advise the plant of records copied to support non-compliance finding



# Plant Records

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- After reviewing and/or copying, the EIAO is to return all originally obtained records to the owner or custodian in the same condition as received.
  - Back side of the first and last page of any copied records should be initialed and dated.
  - Not necessary to initial and date the back of all pages
  - Never initial, write on, staple, or in any way alter original records that are plant/personal property
  - Initiate the Chain of Custody form FSIS 8000-17

# Plant Records

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- Evidence Receipt and Chain of Custody  
FSIS Form 8000-17
- Initiate separate receipt by
  - Type of record/document
  - Date collected
  - Location collected



# Evidence Receipt & Chain of Custody

U.S. DEPARTMENT OF AGRICULTURE FOOD SAFETY AND INSPECTION SERVICE  <b>EVIDENCE RECEIPT AND CHAIN OF CUSTODY</b>	1. FILE NUMBER	2. LOG NUMBER
	3A. COLLECTED BY <i>(Name)</i>	
	3B. <i>(Title)</i>	
	3C. <i>(Badge No.)</i>	
<b>I. EVIDENCE</b>		
4. NAME, TITLE AND ADDRESS OF PERSON EVIDENCE COLLECTED FROM	5. LOCATION OF EVIDENCE WHEN COLLECTED	
	6. DATE COLLECTED <i>(mm/dd/yyyy)</i>	7. TIME COLLECTED
8. DESCRIPTION OF EVIDENCE COLLECTED <i>(if sample is submitted for lab analysis, include serial number)</i>		
9. SAMPLE SERIAL NO.	10. FSIS FORM 7355-2 SEAL BARCODE	

II. CHAIN OF CUSTODY (Continued on page 2)

# Evidence Receipt & Chain of Custody

## II. CHAIN OF CUSTODY *(Continued on page 2)*

DATE & TIME	RELEASED BY	DATE & TIME	RECEIVED BY	PURPOSE OF CHANGE IN CUSTODY
	SIGNATURE		SIGNATURE	
	NAME, TITLE		NAME, TITLE	
	SIGNATURE		SIGNATURE	
	NAME, TITLE		NAME, TITLE	
	SIGNATURE		SIGNATURE	
	NAME, TITLE		NAME, TITLE	

## III. FINAL DISPOSAL ACTION

DESTROYED BY: <i>(Print Name)</i>	TITLE
<i>(Signature)</i>	DATE

# Evidence Receipt & Chain of Custody

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- Upon collection of evidence the EIAO completes FSIS Form 8000-17, “Evidence Receipt and Chain of Custody”
  - Block 1 – leave blank or if known insert AER case number
  - Block 2 – leave blank
  - Blocks 3A and 3B - signature and title of the EIAO
  - Block 3C – leave blank

# Evidence Receipt & Chain of Custody

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- Block 4 – name of the EIAO
- Block 5 – Indicate location collected
- Block 6 – Date collected
- Block 7 – Time collected
- Block 8 – Describe the evidence
- Blocks 9 and 10 – not applicable for OFO administrative cases

# Forms

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- Copies of the forms associated with these procedures are available on the FSIS Intranet.
- <http://inside.fsis.usda.gov>



# Receipt of Evidence - District Case Specialist

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- All collected evidence, with completed FSIS Form 8000-17, is sent to the District Case Specialist via approved agency carrier
- Do not use regular mail

# Chain of Custody

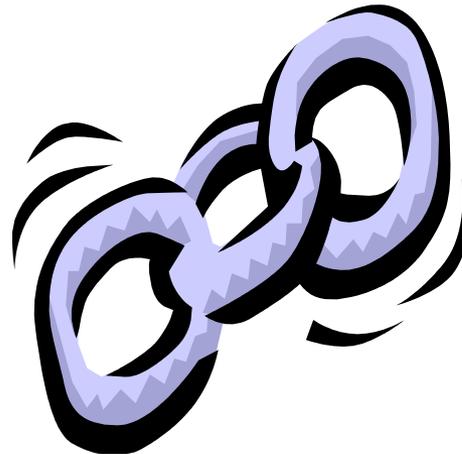
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- Original evidence associated with the case will remain in the District Office once it is received by the DCS.
- If original evidence associated with a case needs to be sent to other persons, such as OGC, the DCS should seek further guidance about the process for transmitting the evidence utilizing the change of custody process as described in Section II, of FSIS Form 8000-17.

# Chain of Custody

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- Accounts for all evidence received from the plant or other industry officials
- Ensure that the one “hard” copy of the case is maintained in the District Office
  - Contains the original copies of records received



# Summary

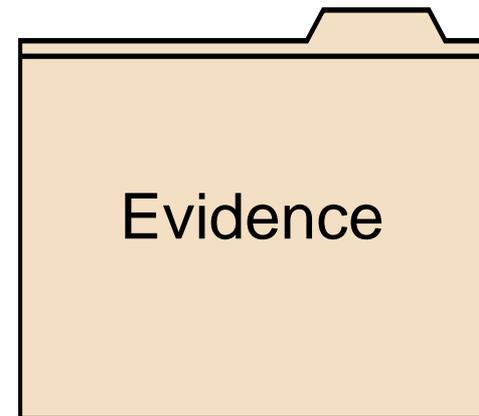
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- Evidence must be properly collected and safeguarded
- Completion of FSIS Form 8200-1 Property Receipt Form
- Completion of FSIS Form 8000-17 Evidence Collection and Chain of Custody

# Summary

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- EIAO will send all evidence to DCS via approved agency carrier upon completion of FSA
- Complete Section II of FSIS Form 8000-17 to show the change in custody



# Questions

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