Chapter 2: Types of Evidence

Objective:

• The student will be able to differentiate between Testimonial Evidence and Physical Evidence and determine the significance of each.

What is evidence?

• Evidence is something that tends to establish or disprove a fact. Evidence can include documents, testimony, and other objects.

Testimonial Evidence:

• Testimonial Evidence is a testimony or statement made under oath. It is what is said by a competent witness.
  – Direct evidence also known as "prima facie": “That's the guy I saw robbing the convenience store.”

• Eyewitness accounts can provide important evidence and therefore heavily influence a judge or jury.
  – This raises the questions: how accurate are eyewitnesses? What might influence their accuracy?
What did you observe?

Factors that influence the accuracy of an eyewitness:

- The crime scene may have been too dark
- The encounter may have been too brief
- The presence of a weapon may have diverted the eyewitnesses' attention
- The stress or fear may sharpen some people's focus or confuse others

When considering the reliability of an eyewitness, important points to consider include:

- The type of crime and how the witness saw it
  - Witnesses are more accurate at remembering certain characteristics like: sex and hair color rather than other's like age, height, or specific race
  - (A witness who is physically similar to the offender is more likely to give an accurate description)

- Victims of serious crimes sometimes have a more accurate memory over a long period of time because they tend to relive the moment in their memory
- Children and older adults don't usually remember or observe details as well as middle-aged or younger adults do
- Learning disabilities, alcohol, drugs, or head injury can all weaken memory and recall

Interviewing techniques can make a difference in the accuracy of an eyewitness testimony
• Research suggests that eyewitnesses are better at answering questions about what happened than questions about the description of the offender.
• Open ended questions get better answers
  – Leading questions tend to decrease accuracy

Other factors to consider:
• Did the witness already know the accused?
  – (If this is the case) What was their relationship?
• How much time has passed between the crime and the identification
• Did the witness already (or fail to identify) the defendant?
• Did the witness already identify (or fail to identify) someone else?

Most cases of an innocent person being convicted happened because of a mistaken eyewitness identification.

Physical Evidence:
• While testimonial evidence can certainly make or break a court case a forensic scientist is most interested in Physical Evidence.
• Physical Evidence are tangible items that tend to prove some material fact; also called “real evidence”

Scope and Range of Physical Evidence
• Physical evidence can be as large as a building or as small submicroscopic DNA.
• Generally speaking physical evidence is more reliable than testimonial evidence

What is the value of physical evidence?
• Physical evidence can prove that a crime has been committed and set the scene for investigation
• Physical evidence can back up witness testimony or prove it false
• Physical evidence can link a suspect or victim with a crime scene
• Physical evidence can determine the identity of people associated with a crime (fingerprints, DNA, etc.)
• Physical evidence can allow investigators to reconstruct a crime scene to better study it.
How is it used?

- Usually a questioned or unknown sample is taken from a crime scene and compared to a known or control sample for identification.
- From this identification it can be determined whether or not the evidence is actually relevant in the investigation.

Significance of physical evidence: individual vs. class evidence

- Individual evidence is evidence that can be linked to an individual or single source, which requires a comparison of materials.
- Most evidence however is “class evidence” or evidence that cannot be individualized but rather can be associated with groups of items that share characteristics.
- In order to improve the probative value (or the ability of evidence to prove something that is material to a crime) is to find as many different types of objects as possible to link the suspect to the crime or victim.
  - Linking of circumstantial evidence

- Indirect evidence does not prove a fact and only provides a basis for inference about the disputed fact.
- Circumstantial evidence is evidence based on suggestion rather than personal knowledge or observation and implies a fact without actually proving it.

Significance of Physical Evidence

**Individual Evidence vs. Class evidence:**

- Individual evidence: material that can be related to a single source.
- Class evidence: material that can be associated only with a group of items that share properties or characteristics.