

# Crime scene documentation

Law



**EVIDENCE DESTRUCTION** The success of criminal proceedings entirely depends on the amount of evidence that is presented before the court proving beyond reasonable doubt that the criminal indeed committed the aforementioned crime. Sometimes the prosecution is vulnerable to losing major cases as a result of poor mechanisms for preservation of evidence that will be used to implicate the accused (Acker & Brody, 2013). However, investigators or police officers at times deny the probability of prosecution convincing the court due to destruction of evidence by these officers that are done in bad faith (Gorelick & Solum, 2009). In these cases, the accused is always acquitted as charges levelled against him/her cannot stand due to the malicious acts of the officers of destroying evidence that the court was to rely on.

In the case *State v. Blair* 2013 Ohio 1270, the second district appellate court dismissed an indictment as a result of a law enforcement officer destroying a materially exculpatory video, which the defence was set to rely on in the case. The felony that was committed in this particular case was an assault, which was made on a law enforcement officer (Acker & Brody, 2013). There is a legal standard that is in place that bars the state from convicting the defendant in the following circumstances; if the state and in this case the prosecution together with case investigators fail to preserve “materially exculpatory evidence” or if the state acts in bad faith to destroy evidence that is potentially useful (Acker & Brody, 2013).

In any scenario if the evidence involved is classified as materially exculpatory it is not the defendant's duty proving that the state acted in bad faith to the court destroying the evidence however, the defendant only needs to prove to the court, it was the sole duty of the state to preserve that

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particular evidence despite destruction occurring either due to negligence or in bad faith (Gorelick & Solum, 2009). In so doing, the defendant has a duty to convince the court on the importance of the evidence to that particular case (Acker & Brody, 2013). This case involved a situation whereby a police officer tried to arrest a young man. The man in this case Blair tried to resist arrest as the officer had not fully explained to him the felony he had committed. The police officer decided to manhandle Blair by kicking him and choking him in order to arrest him successfully.

Thus, in the process, there was a by-passer who was watching the whole incident and recorded it on his cell phone but noticing, the police officer grabbed the phone and deleted the video clip. When in court the police officer involved told the court that Blair violently resisted arrest and wanted to grab his firearm, claims that Blair vehemently denied. That notwithstanding, shortly after Blair was arrested an internal investigation affair was conducted as the officer watched the video and came up with a report, which did not match the version of the police officer's claims. When questioned, the arresting officer failed to explain why the two reports were inconsistent in nature as the information in each version varied (Acker & Brody, 2013).

The appellate court was convinced that indeed the police officer acted in bad faith to destroy evidence, which was exculpatory in nature and which was deemed important in the determination of this particular case. Thus, the defendant in this case Mr Blair, prevailed in his motion of having the case dismissed as the court would not have any ground of convicting him given the manner in which the arresting police officer acted in relation to evidence. Therefore, it is evident that, the success of criminal proceedings entirely

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depends on the amount of evidence that is presented before the court proving beyond reasonable doubt that the criminal/accused indeed committed the aforementioned crime to making the prosecution vulnerable to losing major cases because of poor mechanisms for preservation of evidence that would be used to implicate the accused. Ultimately, investigators or police officers at need to exercise due diligence to ensure they preserve evidence implicating the accused person to eliminate chances of the accused being acquitted due to lack of evidence.

#### References

Gorelick, J. S., Marzen, S., & Solum, L. (2009). *Destruction of evidence*. New York: Aspen Publishers.

Acker, J. R., & Brody, D. C. (2013). *Criminal procedure: A contemporary perspective*. Burlington, MA: Jones & Bartlett Learning.