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EVIDENCE & PROPERTY ROOMS – LIKE FORT KNOX - cont'd.

The reality facing law enforcement agencies is that all property and evidence does not come in uniform sizes and dimensions, thereby making calculations for configuring space requirements difficult. Along with high-profile cases also comes greater scrutiny from the public, media and other law enforcement agencies. The higher the profile of the victim, crime or perpetrator, the greater the expectation of justice. Because of this, many property room personnel feel like the "old woman who lived in a shoe, who had so many children she did not know what to do." They are tasked with the daily challenge of space allocation, knowing the laws require long-term storage of DNA, homicide and sexual assault / rape kit evidence.

Evidence retention laws vary from state to state. For example:

• In California, Penal Code section 1417.9 mandates government agencies generally retain evidence from a criminal case as long as the convicted inmate is imprisoned.

• In Illinois Criminal Code 725 ILCS 5/116-4, "… (b) After a judgment of conviction is entered, the evidence shall either be impounded with the Clerk of the Circuit Court or shall be securely retained by a law enforcement agency. Retention shall be permanent in cases where a sentence of death is imposed. Retention shall be until the completion of the sentence, including the period of mandatory supervised release for the offense, or January 1, 2006, whichever is later, for any conviction for an offense…"

Legislative compliance continues to be a contributing factor for law enforcement agencies to keep up with changes in statutes of limitation and other areas of criminal law impacting long-term storage requirements, which has resulted in third-party suppliers rallying to the support of law enforcement to provide solutions for their long-term evidence storage needs.

The National Center for Victims of Crime prepared a report, Evidence Retention Laws, A State-by-State Comparison. At the time of the report, the report findings indicated that 16 states did not even have evidence retention laws on their books at the time. Additionally, we are seeing examples of this as evidenced by the two bills AB 3118 and SB 1449, passed in the California Senate, and now headed to the Governor's desk for signing. California AB 3118 and SB 1449 will require law enforcement agencies to 1) conduct audits of all untested rape kits in their possession and report to the Department of Justice; and for untested rape kits to be processed within a prescribed time, with subsequent documentation and preparation for uploading into the national CODIS database.

As humorous or sad as it may be (depending on which side of the aisle one stands), even a former president of the United States learned on a very personal level how damaging DNA evidence can be, even in those illicit "consensual" scenarios, especially when there is a spouse (and/or lover) not in agreement with the "scenario." DNA evidence continues to play a major role in bringing the guilty to justice and, as equally important, exonerating those falsely accused. One can only imagine the "the significantly reduced fiscal impact" on law enforcement and our judicial system, had DNA evidence been introduced at the beginning of a criminal trial. This could potentially result in more accurate verdicts, resulting in the reduction of lawsuits and the cost of incarceration for those wrongfully imprisoned, as well as the cost and expense to the families impacted by those said wrongful convictions. In the end, we all pay for it one way or the other.

The good news is that third-party storage provides an important service to law enforcement agencies as it relates to long-term secure chain-of-custody storage of DNA, homicide, sexual assault / rape kits. An Innocence Project review of their closed cases from 2004 through June 2015 revealed that 29% of cases were closed because of lost or destroyed evidence. Further, that 29% potentially symbolizes the increased possibility that justice will not be served on behalf of the victim(s), that the actual perpetrator of the crime is likely still free and presents a threat to society, and someone may be sitting behind bars, wrongfully accused of a crime they did not commit on the taxpayers' dime.

The Innocence Project has championed the cause of those falsely imprisoned through the utilization of DNA evidence, especially in instances where DNA testing wasn't available and/or used, but the evidence was preserved. Founded in 1992 by Barry Scheck and Peter Neufeld at Cardozo School of Law, the Innocence Project exonerates the wrongly convicted through DNA testing and advocacy to reform the criminal justice system and to prevent future wrongful convictions and incarceration. In the early days of their work, there were no laws that supported the right to access post-conviction DNA testing.

Alternatives to Traditional Property & Evidence Rooms

Even though each exoneration and/or prosecution represents its share of complexities and challenges, ensuring the evidence has remained in secure, strict chain-of-custody is paramount, and is one of the main reasons we're seeing the developing trend of utilizing third-party storage.

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