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Evidence & Admissibility

PIRFO Debriefer Workshop

18 – 22 November 2019

SPC Conference Center

NOUMEA

New Caledonia

PIRFO



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Objective of presentation

- At end of session, you will be able to:
 - Identify the different types of evidence.
 - Understand the concept of the admissibility of evidence,
 - How to apply this knowledge in your role as debriefers when analysing incident reports.



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Types of Evidence

- Real Evidence
- Documentary Evidence
- Demonstrative Evidence
- Testimonial Evidence



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What is real evidence?.

- Real evidence describes a physical object which has a direct connection to a crime or civil action.
- E.g. the dollar notes used in a bribery case





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Another example of real evidence

- ❑ The actual fish aggregating device being used during a FAD closure



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What is demonstrative evidence?

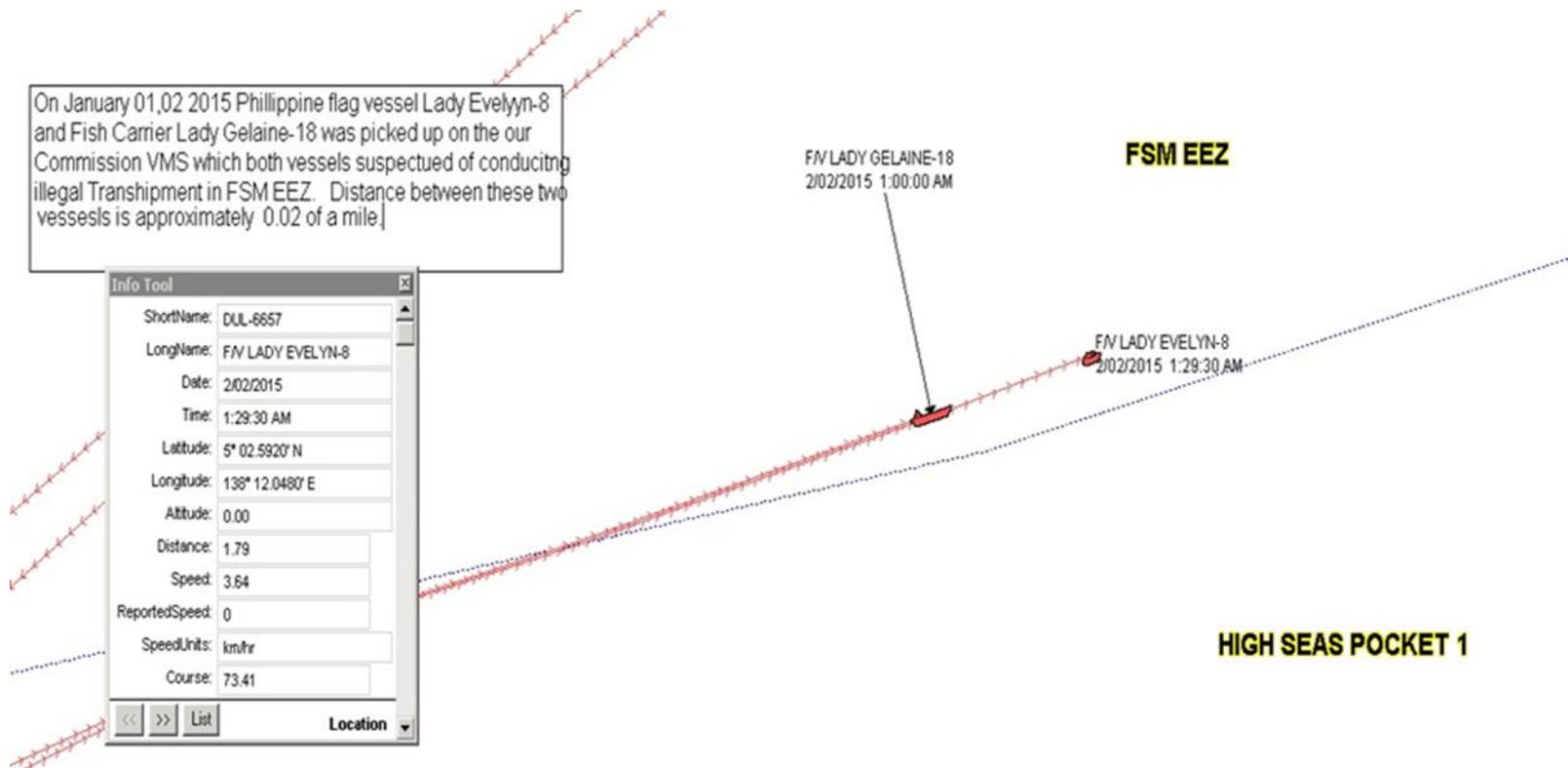
- Evidence introduced directed to the senses without using testimonial evidence.

- Example – showing a snapshot of the track of the vessel in the exclusive economic zone.



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Example of demonstrative evidence – VMS snapshot





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Another example of demonstrative evidence – photograph of whale shark





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What is testimonial evidence?

- Giving evidence in court.





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Admissibility of Evidence

- In order for:
- Real Evidence*,
- Documentary Evidence*,
- Demonstrative Evidence*, and
- Testimonial Evidence* to be allowed in court,

“MUST be ADMISSIBLE”



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What does this mean?

- ❑ In order for the evidence to be admissible or allowed in court, it has to be:
 - **RELEVANT** and **RELIABLE**.

- ❑ **Relevant** – evidence must prove or disprove a fact so it has to be connected to the offence which a defendant is being charged with.

- ❑ **Reliable** – refers to the credibility of the source of the evidence



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Putting admissible evidence into context

- Chain of custody must be complete.
- To maintain chain of custody, evidence must be preserved from the time it is collected to the time it is presented in court.
- This is in order to establish the reliability of the evidence and the authenticity of the evidence.
- If Chain of custody is **COMPLETE** – evidence will be **ADMISSIBLE**



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Chain of custody

Evidence must:

1. Be exactly the same real evidence from when it was obtained until presented.
2. Exact sequence of events relating to evidence to be shown.
3. Not have been tampered with.

If chain of custody broken – evidence will **NOT** be admissible.



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When does evidence become inadmissible?

- When it is **NOT RELEVANT**
- When it is **NOT RELIABLE**



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Examples of inadmissible evidence

- Hearsay Evidence
- Example using Solomon Island law
- Evidence Act 2009, s. 117
- “A hearsay evidence is not admissible except as provided by this Act or any other law.”



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General admissibility of hearsay

- ❑ Evidence Act 2009, s. 118
- ❑ (1) A hearsay evidence is admissible in any proceeding if –
 - ❑ (a) the circumstances relating to the statement provides reasonable assurance that the statement is reliable; and



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Hearsay continued.

- (b) either –
- (i) the maker of the statement is unavailable as a witness;
or
- (ii) in any case where the court considers that undue expense and delay would be caused if the maker of the statement were required to be a witness.



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Definition of Hearsay

- ❑ A statement made out of court that is offered in court as evidence to prove the truth of the matter asserted.





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Example of hearsay evidence

- ❑ Captain Lee is charged with failing to stow away gear when in the Vanuatu territorial sea on Dec 25, 2016, where he was not authorized to fish.
- ❑ Big Ears, the observer remembers that Captain Lee fished on Christmas day, but he cannot remember the vessel's location. He only heard Sneaky the engineer telling another crew member the vessel was in Vanuatu's territorial sea.
- ❑ Observer Big Ears is called to testify against Captain Lee by saying what he heard Sneaky say.
- ❑ **QUESTION – DO YOU THINK BIG EAR'S EVIDENCE WILL BE ADMISSIBLE?**