

Keith Borer Consultants

Forensic expertise — *when you need it*

May 2016

‘Number of dropped Crown Court prosecutions at highest level for 5 years’

For those of us at the sharp end of criminal defence work, this comes as no surprise. And the biggest reason we see is the police not actually having the necessary forensic evidence to sustain the charge. In our view, this is in part caused by the misuse of Streamlined Forensic Reporting (SFR).

It was intended that the Stage 1 report would be available at the PTPH, issues would be identified and further work would be undertaken. We have **rarely seen** further work being commissioned by the prosecution. Instead, cases proceed to court without prosecution evaluation of the Stage 1 evidence. This means KBC is often able to provide the missing evaluation and/or highlight gaps in the evidential value of the Crown’s scientific evidence with important effect.

We highlight below two areas that may present you with real difficulties on how best to advise your client at the PTPH stage:

Sexual Offences

At the PTPH you are likely to have a Stage 1 Report (SFR1) with a test result that your client’s DNA has been identified in recovered samples. There is **unlikely to be any evaluation** of the test result, which in itself does **not give proof of the events** that took place.

In a recent sexual assault case, the DNA test results consisted solely of a low level of the complainant’s DNA on the defendant’s penis. Given the domestic setting of the incident, secondary transfer was a real possibility and rightly pursued by the defendant’s legal team with KBC.

Also in a rape case, the Crown showed no presence from the complainant on the defendant and the semen recovered was not from him. Yet despite the obvious shortcomings, the case continued until the defendant was unanimously acquitted at trial.

DIGITAL CASE MANAGEMENT

KBC has two CJSM addresses, which means that you should be able to send case papers directly to us from the Digital Case Management platform. They are:

For Durham:

kbc@keithborer.co.uk.cjasm.net

For Huntingdon:

Huntingdon@keithborer.co.uk.cjasm.net

Evidence recovered from mobile phones

It is becoming common for the police officer in charge of a case to prepare a statement from the extracted data they have received from their hi-tech crime unit. The OIC, however, often does not have the technical expertise to address the limitations of the extraction tools used, or to comment on the significance of user or default settings for applications. This results in a plethora of misunderstandings and incorrect conclusions being drawn.

For example, in a recent terrorist case heard at the Old Bailey, KBC’s Mark Henderson advised on the significance of data recovered from the defendant’s use of WhatsApp. We all use phones but most of us have little knowledge of how they work and what they record. To advise fully on what can be done, we will need the **make and model** of the mobile phone.



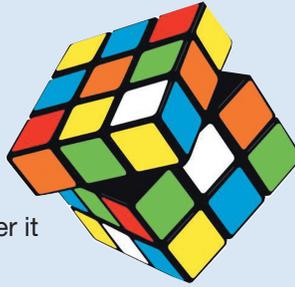
Time is short . . .

If you find yourself with a PTPH looming but need forensic input to advise your client, please contact us. We will know what questions to ask.

Keith Borer CONSULTANTS

Back to the 80's?

On 11th March, the Government published its long overdue national forensic strategy. BBC headlines reported the reincarnation of the Forensic Science Service just 4 years after it was closed.



The detail, however, seems to be more focussed on rationalising the police provision of fingerprint and digital forensics services under a new national biometrics service. This may be no bad thing given the wide range of working practices we see across different forces, not all of them good. Watch this space.

KBC expands its services in the SOUTH EAST & MIDLANDS

KBC has expanded the range of services it can offer with the appointment of **Adrian Armstrong** as a road incident expert. Based in Berkshire, Adrian can provide a cost effective service across the **South East and Midlands**.

Dr Borer commented '*we are delighted that Adrian has joined the KBC team. We are sure that his ability to get to and explain the crux of the case will be much appreciated by our customers*'.

Adrian was formerly a Senior Collision Investigator with the Metropolitan Police and is qualified both as a collision investigator and an automotive engineer.

Full details of Adrian's experience can be found on our website at:
<http://www.keithborer.co.uk/staff/view/adrian-armstrong>



@KBCalison

You can follow Keith Borer Consultants on Twitter for up to date details of CPD training seminars for solicitors and barristers, links to news articles and case excerpts that may be useful to your case.

DURHAM OFFICE

Locard House
Belmont Business Park
Durham
DH1 1TW

DX 715310 Durham 14
Tel: 0191 332 4999
Fax: 0191 332 4990

HUNTINGDON OFFICE

Tel: 01480 432 794
Email:
huntingdon@keithborer.co.uk

And in Scotland
Tel: 01835 822 511

SERVICES

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