Karen Squibb-Williams, barrister – Written evidence (FRS0087)

Background: Karen is a senior practising barrister with an extensive, and probably unique, high level experience of the use of forensic science within the UK criminal justice systems, spanning the last 19 years.

She was the National Strategic Policy Adviser to the UK government for Prosecution policy in her specialist areas from 2001 – 2013.

She then established her own chambers, providing independent legal services in the use of forensic sciences, technology, expert witnesses, domestic/ gender abuse, commercialisation, procurement processes, regulation and quality assurance mechanisms within the UK and International criminal justice contexts

At the Crown Prosecution Service (CPS) headquarters, Karen was the national lead for prosecution policy in cases involving mainstream and innovative forensic sciences, expert evidence and disclosure issues.

She was responsible for briefing, supporting and advising successive Attorney Generals and Directors of Public Prosecutions, on strategic policy developments and legal issues within her specialist portfolio topics.

Karen worked with Ministers at the Home Office, the Ministry of Justice, the Attorney General’s Office, the Association of Chief Police Officers (ACPO), the judiciary at all levels including the Lord Chief Justices, the Masters of the Rolls and Senior Presiding Judges, leading forensic scientists and commercial forensic analysis providers, as well as experts from a range of specialist fields, leading academics and the Forensic Science Regulator.

She has given live oral evidence at Parliamentary Select Committee inquiries, on behalf of the CPS or Attorney General’s Office, and was a key member of the cross-government steering group responsible for creating the role of the UK’s Forensic Science Regulator.

Her strategic experience includes: membership (10 years) of the UK Home Secretary’s Pathology Delivery Board, Chair of the Register of Forensic Pathologists Disciplinary Review panel, the Home Office Forensic Science Transition Board, Chair of the DNA Specialist Working Group for the Forensic Science Regulator; a member of the Association of Chief Police Officers (ACPO) Forensic Science Portfolio Board, the United Kingdom Accreditation Service (UKAS) Crime Scene working group and the European Network of Forensic Science Institutes (ENFSI).

Questions

1. Is forensic science contributing to the delivery of justice in the UK?

   Answers

   a. FS is the lifeblood to the CJS in delivering justice; it holds the power to exculpate or convict.
b. Misuse and misunderstanding of what each type of forensic analysis can and cannot do, lies at the root of miscarriages of justice.

c. The statutory need for FS providers’ compliance with appropriate standards and processes is already in place via the Criminal Procedure Rules.

d. The absence of an effective FS government strategy is directly attributable to the continual churn of government departmental heads.

e. Misunderstanding the role and power of FS in the CJS is directly attributable to poor understanding of FS capability by the media, the judiciary and the legal community.

2. What are the current strengths and weaknesses of forensic science in support of justice?

a. Weaknesses are:
   1. Commercial agendas of FS providers, eg; shareholders’ interests vs duty to the court (to disclose validation processes);
   2. Police Forces being the primary contractor with FS providers has fallen foul of the budgetary cuts imposed by central government;
   3. Police Commissioners have failed to understand the essential need for forces to ensure all and any in-house FS provision is accredited to the standards required by the FS Regulator.
   4. CPS failure to carry out FS training programme that was created circa 2011, which would have enabled all staff to have a better understanding of the FS legal landscape.
   5. Judicial Studies Board failure to include broad strategic training of judiciary in understanding FS capabilities.

b. Strengths are:
   1. When properly and consistently interpreted, FS provides strong evidence in support of either the defence case (exculpation) of the prosecution case, leading to a guilty plea (cost efficient) or conviction (certainty).
   2. When used in conjunction of original intentions behind SFR (Streamlined Forensic Reporting), which were to facilitate parties’ compliance with the Criminal Procedure Rules, particularly rule 1, 3 and 19, FS is highly cost efficient, particularly for CPS and MoJ.

Understanding and use of Forensic Science in the Criminal Justice System

3. What is the scientific evidence base for the use of forensic techniques in the investigation and prosecution of crimes? Are there any gaps in that evidence base?

   1. There are so many different techniques (traditional, modern, wet, dry), that this cannot be answered as presently phrased. To illustrate, the ‘scientific evidence base’ for algorithmic DNA analyses is not comparable to the ‘scientific evidence base’ for mobile phone/ internet cloud storage analysis.

4. How can the Criminal Justice System be equipped with robust, accurate and transparent forensic science? What channels of
communication are needed between scientists, lawyers and the judiciary?
1. Universal compliance with the CPIA (disclosure of validation and QA processes as unused material) and Criminal Procedure Rules, rule 1, 3 and 19 (statutory effect).
2. CPS approved FS training modules, enabling inter-agency consistency of interpretation and utility.
3. Oversight of a co-ordinated, consistent, well informed ‘ombudsman’ type of body. The present FSR role has had 10 years at the helm and is still clearly missing the proper involvement of prosecution authorities and, despite the availability of Criminal Procedure Rules, has still not secured police force compliance with the standards set.

5. What is the level of understanding of forensic science within the Criminal Justice System amongst lawyers, judges and juries? How can it be improved?
1. It is generally very poor, with patches of excellence. Consistent prioritisation and engagement with law enforcement (at least 43 different forces / agencies) and prosecuting authorities (3 primary authorities across UK) is vital before consistent, clear understanding can be achieved.

6. Is the current training available for practitioners, lawyers and the judiciary appropriate?
1. No. Poor, patchy and inconsistent use of language, terms and interests. See Q4, 2. above.

Standards and regulation

7. Is the current market for forensic services in England and Wales sustainable? Are changes needed to ensure forensic science provision is maintained at the level required? What are the risks of a market approach, for example what happens if a provider goes out of business? And what is the impact on quality?
8. Is the system of accreditation working successfully to ensure standardised results and the highest quality analysis and interpretation of significance of evidence?
9. What role should the Forensic Science Regulator have? If the Forensic Science Regulator is to have statutory powers, what should these be?
10. What lessons can be learned from the use of forensic science in Scotland and Northern Ireland? What can be learned from the use of forensic science overseas?
1. Because the jurisdictions are so different from the England and Wales jurisdiction, in practice, lessons are not smoothly migrated. The misunderstanding that this is possible, is a significant reason behind the failure of government to provide and strategise the CJS to make the best use of FS. Other territories have different systems, ie; inquisitorial or adversarial; no other jurisdiction has the CPIA obligation to disclose unused material – which is a key area for potentially undermining a case involving forensic evidence – see response to Q4 1. above.
   1. Absolutely not. It is too investigator centric and its fails to apply some of the critical recommendations and lessons learnt since 2004.

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