

Supporting Police, Protecting Communities: Proposals for Legislation

Response from the Forensic Institute, 3.5.05

About the Institute

The Forensic Institute is a network of forensic experts and organisations that provide the four main business areas of: Operations (analytical facilities); Consultancy (casework and management); Education & Conferences (on-site and on-line); and Research and Development. The Institute's forensic services are requested worldwide from our UK offices in Glasgow and London from where we deliver high quality scientific and medical services along with training relevant to civil or criminal justice. Expert witnesses and consultants are also available on-line to deliver confidential opinion.

Summary

This response will focus on forensic science service elements of section 2 of the consultation. The forensic service in Scotland, as currently constituted under the aegis of the police has some significant inadequacies. The service: is not seen as being truly operationally independent; does not have externally developed and scrutinised professional standards; is fractured between different forces and lacks the strong linkages with the education and research sector that would give it a cutting edge quality. The Forensic Institute supports the creation of a world renowned centre of excellence in forensic sciences in Scotland operationally independent from the police that would provide forensic services directly to police forces at a lower cost. It would also utilise the extensive talents of the service staff to create a knowledge based business selling its scientific services in the international market place. At the very least the new forensic science service, under the operation of the Common Police Service, should have the ability to source services from external bodies to meet the increasing demand and should be subject to external professional standard setting and scrutiny.

Current provision

Currently, forensic services are provided to the Police via four Police-operated laboratories (Glasgow, Edinburgh, Dundee and Aberdeen). However, this is being reformed to bring the four laboratories under single management.

Independence from the police

It is increasingly difficult to sustain the maintenance of perceived impartiality in the science delivered to the Criminal Justice System almost totally (and uniquely in the UK) in Scotland by laboratories created, financed, and controlled by the police service, or indeed the State. Several reports and Royal Commissions have emphasised the need for the availability of independent facilities for the provision of Forensic Scientific expertise. Indeed a recent book featuring Simon A. Cole titled 'DNA and the Criminal Justice System' recommended the following: "Serious consideration should also be given to removing forensic scientists from the employ of law enforcement agencies or finding ways of combating conscious or unconscious pro-prosecution bias; to provide for external oversight, regulation, and proficiency testing of forensic laboratories; and to providing resources to defense counsel for truly independent evaluations of forensic evidence and the scientific foundation of forensic techniques."

Increasing demand

The current structure of forensic science in Scotland makes it increasingly unlikely that it will be able to meet the forecast increased demand of 10% pa for its services as a result of the increasing reliance being placed upon forensic evidence by the Criminal Justice System.

Increasing revenue and utilising talent

The current system does not capitalise the value in the knowledge base, skills and expertise of staff, or the great scientific asset within the service by business development or a structured approach to the increasing needs and aspirations of higher education providers in the field of forensic science. Forensic science in Scotland has an international reputation which, under the current system, we are unable to exploit. There is an international demand for consultancy and training. There is also an opportunity to exploit intellectual property. Maximising these opportunities will enable the reduction in the costs of providing forensic services to the Criminal Justice System.

Meeting local needs

The proposed top-slicing of force budgets to fund the centralised service will diminish the ability of Chief Constables to spend their budgets to meet local needs. The budget mechanism and lack of a match between funding and use will continue the cycle of increasing backlogs and inefficiencies present in the current system.

Professional standards

Some very high profile perceived failures in forensic science, in common with other professions, has led to an increasing need to ensure that professional standards are developed and implemented. The current system in Scotland allows laboratories to use whatever systems they wish with little or no external assessment. Even those systems that are being developed, such as the Council for the Registration of Forensic Practitioners (CRFP), are essentially a cohort of 'experts' agreeing with each other but without an appropriate level of external scientific validation. It is important to separate the quality setter from the service provider. This will also enable a closer look at how to do the right thing as opposed to the current fashion for looking at whether things are done the right way (i.e. you may do the test properly but you may be testing for the wrong thing).

England and Wales

Scotland is the only jurisdiction in the UK using the police operated system. The Home Office, after review, has moved the forensic science service in stages from a Home Office funded and managed facility, to an Agency, then Trading Fund, and now approved it as a wholly commercial enterprise. Chief Constables in England and Wales now have a choice and the Metropolitan Police, for example, have recently contracted Forensic Alliance to provide the bulk of their forensic science.

The President of the Forensic Science Society has said, "Despite some initial misgivings and some tidying up that still requires to be done, I believe that we can safely say that the opening up of the forensic science market in England and Wales has proved to be a good thing. In particular, it has provided both the prosecution, and the defence, with the beginnings of proper choice, it has let some fresh air into the profession and indirectly it has hastened the introduction of accreditation of individual forensic scientists....It also holds out the real prospect that one day the supply of services will have risen to meet demand which will please the police and the courts.." *Science & Justice*, Vol. 43, p.59, 2003.

The options

An independent Scottish centre of excellence in forensic science and medicine

This would be a not-for-profit centre which would deliver and expand forensic scientific and medical services to Scotland's Criminal Justice System. The aim would be to create an independent resource which, while meeting the forecasted increase in demand for forensic services, would be free from the suggestion of police influence and also be an international centre of excellence in forensic science and medicine.

It would be formed by creating partnerships across the entire range of forensic and allied activities. The centre would have a central organisation that would provide the administrative and strategic infrastructure to a number of wholly or partly-owned components. Those components providing public operational services would be not-for-profit entities and involve public service board-level representation to ensure governance, accountability and transparency.

A major component would be a partnership with one or more universities to accredit and validate the educational and operational products and services. The income generating components would purchase the resources (knowledge and material) as required from the not-for-profit sector thereby reducing the cost of the public sector provision. The centre would have a number of income streams and increase its international presence via consultancy, training, research, and an expanding operational component.

The centre would also consider, and share, the exploitation of Intellectual Property Rights (IPR), technology transfer, and potential patent and licensing arrangements using the skills already existing within the Universities. In training, the centre's activities would include University courses leading to certificates, diplomas, undergraduate and postgraduate degrees.

This option has the capability to provide additional and expanding resources to fund the ever-increasing reliance of the Criminal Justice System on forensic science without additional demands on public funds.

The Institute wants to see an organisation which: establishes and scrutinises professional standards; that utilises the huge amount of intellectual property within forensic science; and that creates an independent revenue stream and makes efficiency gains on expenditure that both reduce pressure on the public purse.

External setting of standards and outsourcing

This option is only suggested if the Scottish Executive insists that the forensic science service remains under the control of the police. The proposal is firstly to allow professional standards to be set and assessed by an external body in order to separate the quality setter from the service provider. Secondly, it is proposed that the services can be sourced from external bodies to expand the capacity of the service.

For more information please contact Professor Allan Jamieson on 0800 977 4204 / 0184 557 0240.