

AC 1.3 – Testimonial Evidence

Expert Testimony – Explain what is meant by this, why it is believe and how it can go wrong

EXPERT TESTIMONY IS EVIDENCE PRESENTED TO THE COURT IN WRITTEN OR SPOKEN FORM. IT COMES FROM EXPERTS SUCH AS PATHOLOGISTS OR FIREARMS EXPERTS WHO TRY TO PRESENT COMPLEX EVIDENCE IN AN EASILY UNDERSTOOD FORM FOR THE JURY. EXPERTS CAN BE VERY INFLUENTIAL ON THE OUTCOME OF A CASE BECAUSE THEY HAVE CONSIDERABLE CURRENCY FOR THE JURY. AS A SAFEGUARD, THE DEFENCE AND PROSECUTION HAVE THE OPPORTUNITY TO PRESENT THEIR OWN EXPERTS AND TO CROSS EXAMINE THE EXPERT ABOUT THEIR EVIDENCE.

Real Case – (Sally Clark - Roy Meadows)

IN 1999, THE SOLICITOR SALLY CLARK WAS CHARGED WITH KILLING HER TWO BABY SONS. PROFESSOR MEADOW (THE PATHOLOGIST) WAS CERTAIN THAT THE DEATHS WERE MURDER. HE TESTIFIED THAT THE ODDS AGAINST TWO COT DEATHS IN THE SAME FAMILY WERE 72 MILLION TO 1. HOWEVER, PROFESSOR MEADOW'S CALCULATIONS OF THE UNLIKELINESS OF THESE DEATHS OCCURRING, TOOK NO ACCOUNT OF GENETIC OR ENVIRONMENTAL FACTORS. A STUDY PUBLISHED IN DECEMBER 2004 IN THE LANCET FOUND THAT SECOND COT DEATHS IN THE SAME FAMILY WERE FAR MORE LIKELY TO RESULT FROM NATURAL CASES THAN ABUSE. RESEARCH SHOWED THAT THE TRUE FIGURE FOR TWO DEATHS OCCURRING IN ONE FAMILY COULD BE AS LOW AS 1 IN 77. THIS NEW INTERPRETATION OF THE EVIDENCE WAS PRESENTED WHEN SALLY WAS FREED BY THE APPEAL COURT IN 2002

Disclosure – Explain the Rules surrounding this (obligations of defence and prosecution)

BEFORE A CASE GOES TO COURT, THE PROSECUTION AND DEFENCE MUST DISCLOSE ANY EVIDENCE THEY HAVE IN THEIR POSSESSION THAT THEY INTEND TO PRESENT TO THE JURY, THIS IS THE PROCESS OF DISCLOSURE. EACH SIDE MUST PROVIDE THE OTHER SIDE WITH A LIST OF WITNESSES THEY INTEND TO CALL – THEY CANNOT SPRING A SURPRISE ON THE OTHER SIDE, PHYSICAL EVIDENCE IS ALSO DISCLOSED TO THE OTHER SIDE. THIS IS THOUGHT TO MAKE TRIAL FAIRER AS THE COURT CANNOT BE SURPRISED BY NEW EVIDENCE OR WITNESS PRESENTED BY THE DEFENCE OR PROSECUTION.

Inadmissible Evidence/Entrapment - Explain when evidence become inadmissible

ILLEGALLY OR IMPROPERLY OBTAINED EVIDENCE CANNOT BE PUT BEFORE THE JURY AND IS KNOWN AS INADMISSIBLE EVIDENCE. THERE ARE TWO MAIN SOURCES FOR INADMISSIBLE EVIDENCE. **ILLEGALLY OBTAINED EVIDENCE**, IS GAINED BY BREAKING THE LAW OF VIOLATING A PERSON'S RIGHTS. THIS WOULD INCLUDE EVIDENCE OBTAINED IN AN ILLEGAL SEARCH CONDUCTED, WITHOUT A WARRANT OR THROUGH USING TORTURE OR INHUMANE TREATMENT TO OBTAIN A CONFESSION. **IMPROPERLY OBTAINED EVIDENCE**, INCLUDES THE USE OF ENTRAPMENT OR DECEPTION TO PERSUADE THE SUSPECTS TO CONFESS OR MAKE INCRIMINATING STATEMENTS, FOR EXAMPLE WHEN A 'HONEY TRAP' IS USED. IT MAY ALSO OCCUR IN STING OPERATIONS BY THE POLICE.

Good practice with vulnerable witnesses

SPECIAL RULES CAN APPLY FOR VULNERABLE WITNESSES THAT MAY FIND IT DIFFICULT TO STAND UP IN COURT, SUCH AS VIDEO LINK; RECORDED EVIDENCE; EVIDENCE GIVEN IN PRIVATE OR THE REMOVAL OF WIGS AND GOWNS TO REDUCE THE FORMALITY. AN INDIVIDUAL MAY BE CLASSED AS VULNERABLE IF THEY HAVE ANY MENTAL DISORDERS OR SIGNIFICANT INTELLIGENCE OR PHYSICAL IMPAIRMENTS THAT WOULD CHALLENGE THEIR CONFIDENCE AND HOW THEIR STATEMENTS WOULD COME ACROSS TO THE JURY /MAGISTRATES.

Case Study – Colin Stagg (Explain why some of the evidence against Colin Stagg was deemed inadmissible.

FOLLOWING THE MURDER OF RACHEL NICKELL IN 1992, COLIN STAGG WAS ARRESTED BUT THERE WAS NO EVIDENCE TO LINK HIM TO THE CRIME. POLICE THEREFORE ESTABLISHED A 'HONEY- TRAP', INVOLVING A FEMALE OFFICER, KNOWN AS 'LIZZIE', WHO PRETENDED TO BE INTERESTED IN FORMING A RELATIONSHIP WITH STAGG. DESPITE TRYING TO ENTICE HIM INTO A MURDER CONFESSION, STAGG MAINTAINED HIS INNOCENCE. HOWEVER, INFORMATION GAINED AS A RESULT OF THIS COVERT OPERATION WAS PUT BEFORE THE COURT. THE TRIAL JUDGE DESCRIBED THE UNDERCOVER OPERATION AS MISCONCEIVED AND 'NOT MERELY AN EXCESS OF ZEAL', AND A BLATANT ATTEMPT TO INCRIMINATE A SUSPECT BY 'POSITIVE AND DECEPTIVE CONDUCT OF THE GROSSEST KIND'. ALL THE COVERT EVIDENCE WAS RULED INADMISSIBLE AND THE CASE AGAINST STAGG WAS DROPPED, ROBERT NAPPER LATER PLEADED GUILTY TO NICKELL'S MURDER.