

Crime Scene Management

Scene Specific Methods

Editors

Raul Sutton

Department of Forensic Science, University of Wolverhampton

and

Keith Trueman

West Midlands Police Service (retired)

 **WILEY-BLACKWELL**

A John Wiley & Sons, Ltd., Publication

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This edition first published 2009,
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Registered office: John Wiley & Sons Ltd, The Atrium, Southern Gate, Chichester, West Sussex, PO19 8SQ, UK

Other Editorial Offices:
9600 Garsington Road, Oxford, OX4 2DQ, UK

111 River Street, Hoboken, NJ 07030-5774, USA

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Library of Congress Cataloguing-in-Publication Data

Crime scene management : scene specific methods / editors, Raul Sutton and Keith Trueman.

p. ; cm.

Includes bibliographical references and index.

ISBN 978-0-470-01678-7 (cloth)

1. Crime scene searches. 2. Forensic sciences. I. Sutton, Raul. II. Trueman, Keith.

[DNLM: 1. Forensic Medicine—methods. 2. Crime W 700 C929 2009]

HV8073.C6928 2009

363.25'2—dc22

2008055971

A catalogue record for this book is available from the British Library.

ISBN: 978-0-470-01678-7 (HB)

ISBN: 978-0-470-91679-4 (PB)

Set in 10.5/13 pt Minion by Integra Software Services Pvt. Ltd. Pondicherry, India
Printed and bound in Great Britain by TJ International Ltd., Padstow, Cornwall

First impression 2009

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Introduction and Use of This Text

This book is designed to provide a UK perspective on procedures and practices that are relevant to the processing of crime scenes. The identification and gathering of physical items of intelligence to police investigations at crime scenes that will subsequently become evidence in a court of law, in a manner that will stand the scrutiny of cross examination, requires the bringing together of several strands of knowledge. We are conscious of the relationship between the gathering of evidence and its subsequent scientific analysis in the context of the UK legal system. Without an understanding of the way in which the item may be subsequently analyzed, many of the methods of packaging items carry no significance. Only when the correct procedure is understood in the context of its protection from damage for subsequent analysis, will the rationale for a particular packaging procedure be apparent. Thus, in this book there are chapters devoted to different types of physical evidence, where the link between the evidence item and its subsequent analysis is made clear. The other aspect of evidence gathering is to ensure the continuity of the items so that the location and subsequent analysis of each item can be verified during its passage from the crime scene to the courtroom.

The first edition of this book is intended as an introductory text on common procedures for the identification and processing of evidence at scenes of crime. The course is largely based on operating practices that exist within management of crime scenes in the United Kingdom. The text is primarily aimed at people who are studying crime scenes as part of a study programme, but we think that the work will prove useful to a wider range of readers including:

- undergraduate students studying courses in the criminal justice sector, such as forensic science, criminalistics and policing;
- people employed in the criminal justice sector such as police officers, crime support teams, legal personnel and forensic science services, all of whom may need an introduction to crime scenes;
- members of the general public who want to know more about how crime scenes are processed.

Students who are using this text as a learning vehicle will be expected to study some crime scene work during their course and will need to understand selected fundamental principles, gain a knowledge of processes and the reasoning for operating procedures in order to underpin their subject. Thus, we have aimed to include only those aspects of crime scene processing that would be relevant as an introduction to such. Thus, each chapter begins with an introduction that explains the relevance of the contents. The significance of the material is given importance by the choice of examples, wherever possible. The text expects little in the way of prior knowledge and introduces concepts at a basic level. This keeps each chapter brief whilst covering most of the necessary material that you will require during your undergraduate course.

We realize that you may not feel confident in tackling concepts of which you have had little prior experience. Each chapter thus contains relevant questions that aim to assess your understanding of the materials presented, along with answers provided on the website that accompanies the book (www.wileyeurope.com/college/sutton).

The aim of the website is to provide high resolution images to support the text instead of including them in the book itself. In addition many photographs will lose quality when reproduced in a text such as this, and points that need illustrating may be better represented by images viewed on a PC.

The website contains many images including all the tables, photographs, drawings and many of the forms that are presented. These are in a downloadable format so that they can be adapted or integrated into a lecture series on the subject.

Some of the material covered in the chapters will require rote-learning and this is something that you will have to work towards. It would be impractical for you to remember such materials at the first attempt. Rote-learning can be made easier by breaking a subject down into small parts. The regular review of such material will also aid your memory. It is similar to other ideas that are introduced in the text. Concepts can sometimes seem difficult to grasp, but rereading material that you find difficult, slowly and carefully, will help you to gain a much clearer understanding of its meaning.

This text uses the term 'Scenes of Crime Officer (SOCO)' to denote the person responsible for the processing of crime scenes. In the United Kingdom, these personnel have different names, depending on the constabulary to which they are attached. In some areas, terms such as Crime Scene Examiner, Scientific Support Officer and Crime Scene Investigator are used instead. There is a different emphasis between a Crime Scene Investigator who can be seen as an active thinking investigator, and an examiner who can be viewed as a passive collector of evidence. A modern SOCO will need to be both of these.

The management of SOCOs varies between police forces. This can fall under the remit of a Scientific Support Department (that is sometimes called Scenes of Crime Department) but this is not always the case. Since the way in which SOCOs are

managed does not impact materially on their day-to-day activities we shall refer to management structures using the term 'Scenes of Crime Department'.

Where possible, chapters include a list of suggested further reading where it is in the public domain. Much of the training materials given to SOCOs are restricted and not publically available. In some chapters there is also a reference list where it is felt that this may help the reader.

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PART I

Crime Scene Principles

1

The Crime Scene Context

Raul Sutton

1.1 Introduction

The management of the process of scene recording and evidence recovery is at a crossroads. The introduction of new technologies such as digital cameras, database storage systems for scene information management, automated three-dimensional scene reconstruction software, digital fingermark recovery systems, real-time methods for trace analysis amongst others will change the face of scene management. The development costs of introducing such equipment are expensive but the legal requirement of ensuring that continuity and integrity of items gathered at the scene mean that these methodologies are already being introduced for use in major crimes. However, after the recovery of development costs, the price of such equipment purchase will inevitably drop, making their introduction to the management of volume case work a realistic possibility.

In addition, there have been rapid changes to the way that Crime Scene Examiners are trained in the United Kingdom. There has been a growth in forensic science courses in Universities in the United Kingdom. A proportion of graduates are looking to gain employment within the area of crime scene examination. Such graduates, if properly educated, will inevitably add scientific rigour and graduate level of understanding to the crime scene aspect of forensic science. The Forensic Science Society has acknowledged this by incorporating crime scene investigation into the criteria for its accreditation process.

There is also a need for other stakeholders who may have to attend scenes of crime to be aware of the role and remit of scene processing, understand the nature and types of evidence that can be found at scenes of crime and take appropriate measures to preserve and protect such evidence. These may include persons such as paramedical personnel, firefighters as well as serving police officers. Within the English legal system the increased role of forensic analysis in the successful prosecution of crimes has suggested that legal agencies need to be aware of the entire forensic process of which crime scene management forms a part.

1.2 What is a crime?

Crimes by their definition are those acts which are deemed contrary to the criminal law governing the country of concern. Nation States operate this in different ways, but they are underpinned by a philosophical framework. In European legislation the articles of the European Convention of Human Rights (1959) define the overarching philosophy. In summary, this states the following:

- Article 1: Protection of property.
- Article 2: Right to life.
- Article 3: Prohibition from torture, inhumane or degrading treatment.
- Article 5: The right to liberty and security of person.
- Article 6: The right to a fair hearing or trial.
- Article 8: The right to respect for private and family life.
- Article 10: Freedom of expression.

These are embedded in various forms within the EU Member States, by acts in the partner countries and the legal framework within which law enforcement takes place must meet these obligations. The United Kingdom has embedded this convention by means of some Acts of Parliament, the latest of which is the Human Rights Act (1998). The national bodies responsible for implementing legislation have qualified some of these rights by virtue of the general well being of society, thus the rights may be curtailed if any of the following conditions are met:

- if the action is prohibited by law; *and*
- necessary actions within a democracy; *and*

- for any of the following reasons:
 - national security;
 - territorial integrity;
 - public safety;
 - preventing disorder or crime;
 - protecting health;
 - protecting morals;
 - protecting the rights of others.

Reasons of strategic handling of offences, that are deemed to be criminal acts within the United Kingdom, mean that crimes are normally categorized into two types: volume and major.

Crimes that are often categorized by Police Service/Force/Constabulary according to their seriousness include:

- murder (Common Law);
- manslaughter (Common Law);
- infanticide (Infanticide Act 1938);
- rape (Sexual Offences Act 2003);
- serious wounding (Offences Against the Person Act 1861);
- armed robbery (Theft Act 1968);
- aggravated burglary (Theft Act 1968);
- kidnapping (Common Law);
- terrorist offences (Terrorism Act 2000);
- any offence deemed 'major' by its significant impact on society (i.e. contamination of goods).

Many of these types of crime have a high media profile and so the treatment of the investigation of these assumes a priority and more time, effort and financial resources will go into investigating these.

Minor crimes make up the majority of Police Service/Force/Constabulary work and encompass anything not deemed to be a major crime. A small range of these criminal offences are called volume crime. The definition of these is:

- street robbery (Theft Act, 1968);
- burglary – dwelling (Theft Act, 1968);

- burglary, non-dwelling (Theft Act, 1968);
- theft (including shoplifting) (Theft Act, 1968);
- vehicle crime – theft of (Theft Act, 1968);
- vehicle crime – theft from (Theft Act, 1968);
- criminal damage (Criminal Damage Act, 1971);
- minor drugs offences that are linked with acquisitive crimes.

as defined by Association of Chief Police Officers (ACPO) (Garvin, 2002). The intensity with which minor and volume crimes are investigated will vary from force to force depending on available resources, initiatives etc. This situation, whilst not ideal, represents the best available use of resources within a Police Service/Force/Constabulary.

Self-assessed questions

- 1.1** (a) Describe what makes burglary a crime in the United Kingdom.
(b) Which article(s) of the European Convention on Human Rights does burglary infringe?
- 1.2** Describe the major difference between volume and major crimes?

1.3 The nature of the UK legal system

The legal system in the United Kingdom is based upon common law and statute. Within the United Kingdom there are three separate, similar jurisdictions, England and Wales, Scotland and Northern Ireland. Whilst the laws are similar in each jurisdiction, they are not identical. The system is a balance between three interacting organs of the state, the executive (the government), the legislature (parliament) and the judiciary (the courts). In ideal circumstances these three organs of the state should be independent, but in the United Kingdom the functions overlap (particularly the executive). In Western-style democracies the role of the organs of the state is to maintain the rule of law. In many states these rules are underpinned by a series of articles, often called a constitution, which are seen to be the basis for the operation of a civilized society. The United States of America is an example of a Nation State with just such a constitution. The United Kingdom has no such underpinning articles of state and the rule of law is defined by the enacting of the wishes of the elected representatives of the people. Whilst there is no official constitution in the United Kingdom it can be argued that the

precedent of Acts of Parliament, legislative assemblies such as exist in Northern Ireland, and judicial rulings have bestowed a pseudo – constitution in the United Kingdom.

Laws are put into practice that will affect the way society regards itself. Broadly these laws can be broken down into two types, civil or criminal. Individuals can choose to flout the given laws (by not paying bills, for example) and may face civil proceedings (in order to recover monies due etc.) or criminal prosecution (in the case of grievous bodily harm for example) as a consequence. The crime scene forms part of the criminal side of this process.

The Role of the European Union. The European Union (EU) plays an increasing part in forming UK legislation. This is because the UK legal system sits within EU rules, established by Maastricht and other relevant treaties, as well as legislation made by various European institutions, such as the Commission, under these treaties.

The fundamental principle at the centre of European legal order is that European law has priority over conflicting law in Member States. The national courts of each Member State must apply European law, but must not make any national law inconsistent with European Union rules. EU law is therefore an integral part of the law in the United Kingdom.

1.4 The legal system in England and Wales

1.4.1 Her Majesty's Courts Service

The operation of all the courts within England and Wales has been brought under one overarching organization, Her Majesty's Courts Service (HMCS), on 1 April 2005. This organization includes Magistrates' Courts Service Crown and County Court Service. The HMCS is the executive agency of the Department for Constitutional Affairs (DCA) and has the stated, 'Our purpose is to deliver justice effectively and efficiently to the public. We are responsible for the administration of the civil, family and criminal courts in England and Wales'.

1.4.2 The Crown Prosecution Service

The Crown Prosecution Service (CPS) is a government agency that decides whether criminal investigations, which have been started by the police, should progress to court. If a case is progressed, the CPS prepares and conducts prosecution court proceedings, provides prosecution solicitors and barristers and arranges for prosecution witnesses to attend court.

1.4.3 The Judiciary

The judiciary sits within a system that is the result of several centuries of development. There are a series of courts tiered to deal with offences against the rule of law. These range from low-level cases that are dealt with by a Magistrates' Court, through to rulings that may affect the laws of the nation that may be dealt with by parliament. A brief description of each tier will now be given:

The Magistrates' Court

The Magistrates' Courts are core to the UK criminal justice system – most criminal cases start in a Magistrates' Court with a large percentage completing there (95%). The Magistrates' Courts also undertake civil cases, such as family matters and liquor licensing and betting. Cases in the Magistrates' Courts are usually heard by panels of three magistrates (Justices of the Peace) supported by a clerk. The three magistrates are called a Bench and are assigned to a Local Area but have a national jurisdiction pursuant to the Courts Act, 2003. Magistrates are unpaid appointees of the Crown who are not usually legally qualified. Qualified clerks advise them on matters of law.

There are also about 130 District Judges, who sit alone in Magistrates' Courts. District Judges must have had seven years' experience as a barrister or solicitor and two years' experience as a Deputy District Judge. District Judges deal with more difficult cases such as extradition or serious fraud.

The range of cases that are tried in a Magistrates' Court fall into two categories:

- Summary offences – These are the least serious offences such as driving offences and common assault.
- Triable either way offences – These are the middle range of crimes including theft, assault causing actual bodily harm. These can be tried in either the Magistrates' Court or Crown Court.

Magistrates do not normally order prison sentences of more than six months or fines exceeding £5000. Such cases are normally committed by the magistrates to the Crown Court for sentencing.

The Crown Court

The Crown Court deals with cases transferred from the Magistrates' Courts. It also hears appeals against Magistrates' Courts' decisions, and deals with sentencing of

some cases from Magistrates' Courts. In addition, the triable either way offences described above can be tried in the Crown Court. Generally speaking, Crown Courts deal with more serious criminal cases such as murder, rape or robbery. Trials are heard by a Judge and a 12-person jury. Members of the public are selected for jury service. Jurors must decide, based on the facts, whether a defendant is guilty or not guilty of the offences for which he or she is charged. In some cases, where specialist knowledge is required, such as complex fraud cases, it would be considered impossible for a jury to be knowledgeable enough to make a decision, and such cases may be tried in the absence of a jury.

Indictable Offences – These are the more serious crimes and include murder, manslaughter and rape. All indictable offences must be tried at the Crown Court, but the first hearing is dealt with at the Magistrates' Court. The magistrate will decide if the defendant should be given bail. The case is then transferred to the Crown Court.

1.5 Other courts

There are a large number of courts that primarily deal with civil issues. These include the County Court. The majority of County Courts' cases involve debts between individuals and/or business, claims as well as personal injury, property or disputes over contracts. They also deal with family issues, such as divorce and adoption. The High Court deals with the more complex civil cases as well as claims for libel. It also hears appeals against decisions made in the County Courts.

The right to appeal is one of the key principles of the justice system in England and Wales. The Court of Appeal hears appeals against decisions in the High Court and the Crown Court. Disputes not resolved there can be taken to the House of Lords.

There are a whole variety of civil courts with specialist applications, as well as military courts and tribunals that do not fall usually within the remit of the evidence gathering process for criminal processes.

Self-assessed questions

- 1.3 Does Her Majesty's Court Service solely look after criminal cases?
- 1.4 Describe the limitations on a Magistrates' Court in sentencing.
- 1.5 Can murder be tried at a Magistrates' Court?
- 1.6 Are all cases in Crown Courts tried before a jury?
- 1.7 What is the function of the jury in a Crown Court trial?

1.6 The judicial system in Northern Ireland

Northern Ireland's legal system is similar to that of England and Wales. Jury trials have the same place in the system. The major difference relates to offences involving acts of terrorism. In addition, cases go through stages in the courts. In offences specified under emergency legislation the case is tried in a Crown Court without a jury. Guilt must be proved beyond reasonable doubt with the defendant represented by a lawyer of their choice. The judge has to set out in a written statement the reasons for conviction with an automatic right of appeal, against conviction and/or sentence on points of fact as well as of law, at the Court of Appeal.

1.6.1 Courts in Northern Ireland

The Northern Irish courts consist of:

- superior courts comprising the Court of Appeal, the High Court and the Crown Court;
- inferior courts comprising County Courts and Magistrates' Courts.

Superior courts

All matters relating to the Court of Appeal, the High Court and the Crown Court are under the jurisdiction of the UK Parliament. Judges are appointed by the Crown. The Crown Court deals with all serious criminal cases.

The Court of Appeal has the power to review the civil law decisions of the High Court and the criminal law decisions of the Crown Court and may in certain cases review the decisions of County Courts and Magistrates' Courts. Subject to certain restrictions, an appeal from a judgment of the Court of Appeal can go to the House of Lords. The independent Criminal Cases Review Commission reviews alleged miscarriages of justice.

Inferior courts

The inferior courts are the County Courts and the Magistrates' Courts, both of which differ in a number of ways from their counterparts in England and Wales.

Magistrates' Courts carry out the day-to-day work of dealing with minor local criminal cases. These are presided over by a full-time, legally qualified, resident magistrate (RM). County Courts are primarily civil law courts presided over by

County Court judges; they also handle appeals from the Magistrates' Courts. Appeals from the County Courts are heard in the High Court.

Self-assessed questions

- 1.8** (a) What is the English equivalent of the Northern Ireland inferior courts?
(b) Who presides over the inferior court in Northern Ireland?
- 1.9** Name one type of case in Northern Ireland where a jury is not used.

1.7 The Scottish legal system

Scots' Law and the Scottish legal system's integrity and independence were acknowledged in the 1707 Act of Union along with the establishment of a UK Parliament at Westminster. Scots' law shares many statutory provisions with the law of England and Wales, but Scots' civil law remains substantially based on Scots' common law, rather than statute, sharing elements with Roman Dutch law rather than English common law traditions. In the criminal justice system, the role of the public prosecutor is critical.

The Crown Office and Procurator Fiscal Service, a Department of the Scottish Executive, provides Scotland's independent public prosecution and deaths investigation service. The position of the Lord Advocate is as head of criminal prosecution in Scotland, assisted by the Solicitor General for Scotland. They are the Scottish Law Officers and members of the Scottish Executive.

1.7.1 Criminal Courts in Scotland

Criminal justice procedure is divided into:

- Solemn – the most serious cases involving trial on indictment before a judge or sheriff sitting with a jury;
- Summary – less serious offences involving a trial before a sheriff, stipendiary magistrate or Justice of the Peace sitting alone.

The judiciary

The High Court of Justiciary is the country's supreme criminal court; handling the most serious crimes such as murder and rape. It is also the final court of appeal for criminal cases. It comprises the Lord Justice General, the Lord Justice Clerk and another 30 judges known formally as Lords Commissioners of Justiciary.

Judges take the title of Lord or Lady followed by their surname or territorial title and can preside over both criminal and civil courts. All criminal prosecutions are brought in the name of the Lord Advocate and prosecuted by his appointed Advocate Deputes.

The jury

The court presents evidence before a jury, which is required to reach a verdict on the case in question. A Scottish jury – for a criminal case – is made up of 15 people and a simple majority is sufficient to establish guilt or innocence. The jury is required to reach one of three verdicts: guilty, not guilty or not proven. A not proven verdict is the equivalent of not guilty in that it is an acquittal.

Sheriffs Courts

The Sheriff Courts, 49 of which are arranged into six Sheriffdoms organized geographically are overseen by a Sheriff Principal. Sheriffs have sentencing powers, which are limited to:

- up to three years' imprisonment and/or an unlimited fine in solemn cases;
- up to six months' imprisonment and/or £5000 fine for summary cases.

The court can remit a case to the High Court if a greater sentence is deemed necessary.

District Courts

District Courts are similar to Magistrates' Courts and sit in each local authority area. Each comprises one or more Justices of the Peace (lay magistrates) who sit alone or in threes with a qualified legal assessor as convener or clerk of court. They handle many cases of breach of the peace, drunkenness, minor assaults, petty theft and offences under the Civic Government (Scotland) Act 1982.

Self-assessed questions

- 1.10** What is the nearest English equivalent of the Sheriff Court in Scotland?
- 1.11** Describe the two important differences between the English and Scottish court systems.