

7. Points to Note for Prosecutors

The checklist below provides points to consider for prosecutors in deciding whether to call image comparison evidence and in challenging defence experts. It should be considered in conjunction with the overarching Legal Guidance on Experts, available at the attached link:

http://www.cps.gov.uk/legal/assets/uploads/files/expert_evidence_first_edition_2014.pdf

- Is expert evidence actually required? If the disputed imagery when compared with the reference imagery is sufficiently clear so as to enable a bench of Magistrates or a jury to reach its own conclusions as to the similarities between the images, then there is no need to obtain expert evidence to assist.
- Is the proposed expert actually an expert in type of material being compared in an image? An expert in CCTV or video enhancement will not generally be qualified to give an opinion on facial comparison, human anatomy or vehicle comparison. Particular caution is required with those who purport to identify (as opposed to compare) objects from CCTV. What qualifications do they have, for example in vehicles that allow them to identify a certain make and model of vehicle with certainty?
- Does the method employed have a scientific basis or form part of a recognised body of knowledge?
- What protections were in place to avoid contextual bias? – Was the expert provided with information that might have lead him to reach a particular conclusion? For example, he might be provided with a reference photograph that he is told was taken on arrest or he might even be asked to confirm that the male in the reference photograph is the male that the police suspect is the offender in the CCTV.
- What quality standards are employed by the person/organisation?
- Has the report been peer reviewed prior to submission?
- Has Rule 19 of the Criminal Procedure Rules been complied with?
- Have the indicators of reliability in CPD Part 19A (above) been addressed?
- Crucially, what evidential value can actually be placed on the results? For example, the mere fact that the subject in a reference image is wearing similar clothing as the subject in the disputed image is irrelevant if there has been some delay between the capturing of the two images and the subject in the reference does not accept that he has not changed his clothing.