

# Keith Borer Consultants

Forensic expertise – *when you need it*

September 2018

## Is it a torch, lighter... or stun gun?

One of the latest gimmicks in novelty devices has seen the emergence of the plasma cigarette lighter. This small, hand-held item looks like a normal flip lighter, but uses a plasma discharge across two terminals to create the 'flame'. They are freely available on the internet.

Plasma, the fourth fundamental state of matter (along with gases, solids and liquids), is produced as a powerful beam of energy that can light your cigar.

The problem is that the lighter uses two 'prongs' much like a stun gun and the suspect was charged with having a disguised weapon under the Firearms Act. **But is the plasma lighter capable of being a stun gun?** In this case, our Firearms expert, Alan Henderson, said not.



His main arguments were two-fold around the construction of the device and how the plasma discharge was designed to occur. Additionally, the lighter top, it was argued, acted as a safety barrier to the plasma discharge. The Court accepted this was not a stun gun and the case was dropped.

**The torch/stun gun combination** has sparked a similar debate, but for a different reason. These items are classified as stun guns, but the key issue is whether or not they are also a disguised weapon. Section 5 (1A) (a) of the Firearms Act 1968, (Article 45(2)(a) in Northern Ireland), was introduced to control firearms disguised as another item. But are torch/stun gun combinations necessarily correctly classified as such? Depending on



design features, we have successfully argued that many of these devices can be categorised as 'dual-purpose' and thus fall under general prohibition contrary to 5(1)(b), (or Article 45(1)(f) in Northern Ireland).

Although this seems academic, the difference in potential outcome is considerable, as a charge under 5(1A)(a) or 45(2)(a) carries minimum mandatory sentencing.



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### House of Lords – Forensic Review

In July this year, the Lords Committee launched a new inquiry into forensic science and its contribution to the delivery of justice in the UK. A call for evidence has been sent out asking submissions be made on the perceived state of forensic science in England and Wales, the role of accreditation and the Forensic Science Regulator, and also to comment on the 2016 Forensic Science Strategy.

From our view, this is welcome. The 2016 Strategy did little to deal with the contribution, concerns or continuation of forensic provision for the Defence, focussing largely on its view from the Police perspective and, in that vein, discusses real-time forensics as very much the future, when such technologies are still unproven and in their infancy.

With expenditure on traditional forensic science laboratory analysis falling from £140m to £80m in 5 years, the question of whether forensic work being requested by the Police has been pared back too far, at the risk of cases being less robust or analytically resolved, remains. We would argue that it has.

KBC reviews a couple of thousand cases a year across all disciplines, and we continually see instances where poor work, or lack of probative tests to explore the accounts given by either the complainant or defendant, compromise the quality and value of evidence.

If you have any doubt on what the forensic work means or what forensic work should have been done, get in touch and we would be happy to provide honest, expert advice.



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