



### **E27 Damned If You Do: The Story of a Miscarriage of Justice and the Conflicting Roles of Lawyers and Forensic Scientists**

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After attending this presentation, attendees will have a keen(er) understanding of the different roles and objectives of forensic practitioners and lawyers, and better appreciate the dangers and potential for injustice when forensic practitioners are subjected to pressure for a result in a high profile emotional case, or lawyers fail to understand or present forensic findings.

This presentation will impact the forensic science community by raising the awareness of practitioners about the traps created when law and science meet in and out of the courtroom, and two different sets of objectives and methods of proof collide.

There is an inherent conflict between the approaches to investigation and proof by lawyers and forensic scientists that most of the time this goes unnoticed. When the conflict surfaces, there is confusion and disagreement about the proper approach which should be taken: where are the boundaries? What is a proper request of a forensic scientist? What should a forensic scientist refuse to do? What should they do before or in court if they believe vital information is not being disclosed? What is the duty of a prosecutor in the face of potentially exculpatory forensic evidence?

A Western Australian case which has rocked the justice system and those within it, from judges to police to prosecutors to forensic scientists will be examined to illustrate these questions.

In May 1994, Perth jeweler, Pamela Lawrence, was murdered. Andrew Mallard, a drifter with psychiatric issues was charged and sentenced to a life term. A journalist mounted a campaign for his exoneration but he had served 12 years of a life sentence before the High Court of Australia quashed his conviction.

The results of potentially exculpatory forensic pathology experiments were not disclosed to the defense, exculpatory information in a chemistry report was removed at the request of police, and questions were not asked of experts at trial which may well have disclosed exculpatory material. Later, a palm print found at the scene identified another man, Simon Rochford, then serving a sentence for the murder of his girlfriend. There were striking similarities in the injuries suffered by Mrs. Lawrence and Mr. Rochford's victim.

The subsequent Corruption and Crime Commission Inquiry recommended disciplinary action be considered against police involved in the case including two who had become assistant commissioners, and a senior prosecutor who had become Deputy Director of Prosecutions. Potentially exculpatory forensic evidence had been altered, not disclosed to the defense or was said to have been avoided at trial.

Many of the questions posed in this presentation seem incapable of resolution. Different perspectives produce different answers. Whilst the miscarriage of justice is clear, the solution is not, and the fear is that many other convictions are based on such a dangerous approach and remain undetected.

**Miscarriage of Justice, Forensic Ethics, Legal Ethics**