

LEGAL ASPECTS OF FORENSIC INVESTIGATION



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Annual Forensic Seminar
Mombasa



Menu



- ☐ Introduction
- ☐ Types Of Forensic Investigation
- ☐ Types of Forensic Evidence
- ☐ Issues around gathering of evidence. Laws/Procedure
Governing unfolding in Courts
- ☐ Case Laws
- ☐ Q & A



Definition-Advocates Mind



Definition-Advocates Role



- ❑ Gathering and analysis of all crime related physical evidence in order to come to a conclusion about a suspect.
- ❑ Blood, fluid, fingerprints, residue, hard drives, computers or other technology to establish how a crime took place.
- ❑ Ultimate goal is to Affix blame

Definition-Advocates Mind



- Fraud is a criminal offence.
- Criminal litigation aspects – the legal process entails three (3) parties. The complainant, the investigation and the prosecution.
- The complainant not necessarily a victim lodges a complain
- Civil litigation aspects – the legal process is not necessarily because of crime but because of disputes or lawsuits in which questions of property or money must be settled

Types Of Forensic Investigation



- ☐ Anthropology
- ☐ Criminalistics
- ☐ Digital and multi media
- ☐ General
- ☐ Toxicology ; etc

Forms of Evidence



- Common types ; fragile (hair, fibres, glass
- Solid or tangible evidence (firearms, fired bullets, drugs, documents, computer and devices.
- Circumstantial or direct
- Digital or Manual forms



Forms Of Evidence As Recognized By Courts



- ☐ Digital evidence.
- ☐ Forensic evidence – D.N.A
- ☐ Physical evidence
- ☐ Circumstantial evidence
- ☐ Demonstrative evidence
- ☐ E.t.c



Gathering of evidence



- ❑ Case scenario; Criminal Litigation
- ❑ To prove fraud using a computer device
- ❑ Investigation officer; competent police officer
- ❑ – case of murder – officer from Director of criminal

Investigation MUST handle it.

Analysis and presentation of findings in Courts.



☐ Evidence Act

☐ Criminal procedure code

Analysis and presentation of findings



Evidence act

- ☐ Part IX - Opinions
- ☐ Section 48 (1) Expert Witness
- ☐ Part III - Documentary Evidence
- ☐ Section 64. Secondary Or Primary Evidence
- ☐ CROSS – EXAMINATION.....
- ☐ Privileged information.....



Analysis and presentation of findings



A litigation deliverable must

- Communicate;
- Achieve understanding;
- Convincing argument;
- Present relevant facts; and
- Change perception -possibly



Failure To Appear Before Court



Criminal Procedure Code

- ☐ Section 91 - Summons
- ☐ Processes To Compel The Appearance Of Accused Persons.
- ☐ NOT NECESSARILY an accused person. An expert witness who fails to appear before court

Consequences Of Not Appearing Before Court



Criminal procedure code

☐ Warrant of Arrest

Section 101 If the accused does not appear at the time and place appointed in and by the summons, and his personal attendance has not been dispensed with under section 99, the court may issue a warrant to apprehend him and cause him to be brought before it; but no warrant shall be issued unless a complaint has been made upon oath.

Q and A

