

## **Courtroom Technology: Technology on Trial**

*Jan France*

*Principal Consultant, Courtroom Services*

When applied correctly, technology used within courtrooms can significantly increase the ease and speed at which evidence is presented. In addition, these technologies also increase the clarity of the evidence in complex cases. Inevitably, the use of technology results in significant cost-efficiencies in document intensive cases when compared to the more traditional paper based methods.

While the adoption of this approach has steadily increased for over a decade, it has been used predominately in public inquiries and in the criminal courts by prosecuting authorities. If Government funded prosecutions and inquiries have identified and implemented technology as a critical component in the process of their hearings, why has the Civil system limited its adoption of this approach? Consideration of past, present and future use of technology within courts may provide the answer.

### **Past – learning from experience**

Courtroom technologies and their associated services have been applied in the U.K. since the early 1990s. Since that time the most consistent developments have been in the advancement of the array of applications for technology, and the cost-effective results it obtains.

This is in part due to the reduction in price of hardware and software. While the cost to purchase or hire courtroom technologies has decreased, their power and functionality have increased significantly. Innovations such as virtual reality are also now becoming more common, assisting in the re-creation of events in order to assist in corroborating witness statements. Coupled with the significant advancements in technology, these factors have resulted in more effective case presentation as well as significant cost savings, as Lord Saville, chair of the Bloody Sunday Inquiry highlighted:

"I suppose that it would have been possible to have conducted this inquiry without the benefit of Information Technology, but I am sure that it would have taken far longer and would, from the point of view of openness at least, have been much less satisfactory. As it is, we have used IT to the greatest extent possible to, in my view, remarkable effect. In short, use of this technology has made the proceedings substantially quicker and more open."

The application of technology in the courtroom has ensured that predominately paper-based evidence with digital graphics could be produced in a uniform format using an electronic medium that increased the overall efficiency of the inquiry or trial. With the constant media and public attention, the sensitivity and efficiency with which these cases were handled, including their use of technology and services was, and will continue to be heavily scrutinised.

The public nature of these matters has meant the technologies used have been primarily viewed simply as support tools. The benefits provided have almost gone un-noticed in the media and the general public though. Recently, inquiries such as Richard and Shipman have, however, highlighted the advantages with the media taking note of the increasing efficiencies.

Public scrutiny means that public enquiries and prosecuting authorities must ensure the very best presentation of evidence in order to obtain the most truthful outcome in the most cost-effective manner.

### **Present - the challenge of electronic data**

The presence of electronic data as evidence within cases in the U.K. is increasing rapidly and already forms a significant percentage document collections. Given that over 90% of information created today is done so electronically and of that 70% never gets printed, this transition may well happen quicker than the legal profession may currently consider.

Electronically formatted evidence brings with it new challenges and issues for legal professionals but not just in the presentation in courtrooms, inquiries and arbitrations, but perhaps more critically in case preparation. There are substantial technical and legal risks in the process of capturing or copying this electronic information though. Simple actions such as opening a file can cause serious implications, including the alteration of the underlying metadata and

therefore changing the admissibility of potentially case critical information. Incorrectly captured or copied electronic information will change its original form, sometimes irrevocably.

The variety of electronic media itself has also developed significantly as virtual reality and other evidence presentation tools have begun to appear in courts. The inclusion of these tools within courtroom technologies has provided even more options in the presentation of evidence. To note, the Bloody Sunday Inquiry at its height, led the innovation and implementation of additional electronic based solutions to re-creation of events over 30 years ago.

The issues surrounding electronic data means that it's processing for review and presentation needs to be handled by those with both technical and legal expertise otherwise, the benefits to be reaped by courtroom technologies may prove to be completely void.

The visibility of electronic data in evidence collections will continue to rise, virtual reality to re-create events will become increasingly more common, and forensic testimony will continue to be required in order to authenticate the who, what, where and when of computer and technology-related conduct.

## **In Conclusion**

It is fair to say that public inquiries and prosecuting authorities have led the way with regards to the adoption and implementation of courtroom technologies. Through their use of this approach and the media and public scrutiny of their processes, the benefits of technology within court or trials has been highlighted. This increase in awareness may well be one reason behind the limited adoption of technologies within the Civil system. It is obvious though, whatever the reason, legal teams in the Civil system are now implementing technical solutions on a more regular basis, and obtaining the benefits public inquiries and prosecuting authorities have reaped for over a decade.

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