

Dr Jan Collie, head of Discovery Forensics in London, which mainly works for defendants, said: "The odds are stacked against the defence. We rarely get access to the actual piece of equipment. In the past I could go to the police station and see a phone or a computer and physically check it's the right piece. Now everything comes prepackaged and is handed over on a hard drive or USB stick."

Dedicated police digital forensic units have disappeared, she said. "I am trying to arrange access to exhibits with a police officer who is not a technical specialist. A lot of officers are given minimal training on how to download a phone or tablet."

Collie recalled a case in which a 15-year-old schoolboy was sent an illegal pornographic video on his phone. "It came up and he deleted it," Collie said. Yet the boy was kept out of school during the investigation. "After the case I was shocked by the attitude of the officer, who was unhappy because he hadn't made the charge stick."

The attorney general, Jeremy Wright QC, has denied that the problem is due to lack of resources.

The Ministry of Justice declined to comment about disclosure or whether it had responded to the forensic science regulator, Dr Gillian Tully, who last year called for increased legal aid funding so that defence lawyers can scrutinise prosecutions.

Courts Disclosure failings 'put faith in system under threat'

Owen Bowcott

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Public faith in the fairness of trials is being eroded and the justice system is approaching breaking point because of failures to disclose key digital evidence, the head of the criminal bar, Angela Rafferty QC, has warned.

Her comments come as a leading forensic scientist, Dr Jan Collie, exposes the difficulties that defence experts have in obtaining downloaded material from police and prosecutors.

The collapse of a series of rape cases has shaken public confidence. The Commons justice select committee is to hold an inquiry into disclosure problems, which, according to its chair, the Conservative MP Bob Neill, have led to "inappropriate charges, unnecessary delays in court proceedings and potential miscarriages of justice".

A joint report by the police and Crown Prosecution Service inspectorate last year warned that until officers and prosecutors take disclosure responsibilities "more seriously, no improvement will result and the likelihood of a fair trial can be jeopardised".

Rafferty said: "The justice system is approaching breaking point. Cost-cutting and outsourcing has put the administration of justice at risk. I don't think it's bad faith by the police. They are swamped. In some of my cases it's the police who have revealed material that's helpful to the defence."