The Scottish Parliament

JUSTICE 1 COMMITTEE

AGENDA

26th Meeting, 2006 (Session 2)

Monday 26 June 2006

The Committee will meet at 10.30 am in Committee Room 1.

1. **Item in private:** The Committee will consider whether to take item 4 in private.

2. **Scottish Criminal Record Office inquiry:** The Committee will take evidence from—
   
   John MacLeod, Independent Fingerprint Expert, BSB Forensic (Ltd)
   
   and then from
   
   Mike Thompson, Head of National Fingerprint Training, Centrex NTC

   Not before 2 pm.

3. **Scottish Criminal Record Office inquiry:** The Committee will then take evidence in round table format from—
   
   Peter Swann, Fingerprint Consultant;
   
   Malcolm Graham, Independent Fingerprint Expert;
   
   John Berry, Retired Fingerprint Technician; and
   
   Robert Mackenzie, Deputy Head of Bureau, Alan Dunbar, Quality Assurance Officer, Terry Foley, Senior Fingerprint Officer, and Alister Geddes, Fingerprint Officer, Scottish Criminal Record Office.

4. **Scottish Criminal Record Office inquiry:** The Committee will consider whether to accept written evidence received after the deadline for submission of written evidence.

5. **Scottish Criminal Record Office inquiry (in private):** The Committee will consider the main themes arising from the evidence sessions to date on the inquiry, in order to inform the drafting of its report.
Papers for the meeting—

Agenda item 2

Briefing note from the Clerk and SPICe (PRIVATE PAPER) (to follow)  J1/S2/06/26/1
Submission from Lesley-Anne Brown  J1/S2/06/26/2
Correspondence from the Law Society for Scotland  J1/S2/06/26/3

Agenda item 3
Submission from Arie Zeelenberg  J1/S2/06/26/5

Agenda item 4
Late written submission (PRIVATE PAPER)  J1/S2/06/26/4

Forthcoming meetings—
Wednesday 28 June, Committee Room 4
To whom it may concern,

My name is Lesley-Anne Brown. I am a Fingerprint Expert within the Scottish Criminal Record Office. I was involved in the Mark Sinclair case, which has been rearing its head during the McKie hearing.

I have 9 years Fingerprint experience. I am on the register of Fingerprint Experts held at the Crown Office. I am on the list of Fingerprint Experts held at National Training College, Durham which is Home Office Approved. I am independently tested yearly by Collaborative Testing Services and I am on the register for the Council for Registration of Forensic Practitioners.

I have grave concerns about this case. The information that you have regarding this case is totally false (with regard to it being a misidentification!). As I was the initial person to make the identification. I feel compelled to write to you and relay my findings and knowledge that I have with regards to this case.

Please note, I am not writing to you on behalf of SCRO, but as an individual and of course as a Fingerprint Expert.

I believe that all submissions were to be in a couple of weeks ago, however, as the Sinclair case keeps rearing its head, I am more than willing to write a report on my findings of my identification and knowledge that I have about this case, and which I believe you are not aware of, and furthermore, I would be willing to give evidence at the hearing.

Without going into too much detail at this time, I would like to make you aware of the events that I believe to be true.

After I made the identification, (which was further verified by 2 Fingerprint Expert within SCRO), we were asked to prepare evidence which myself and my colleague duly did. I was told by the Fiscals office that we would definitely be giving fingerprint evidence, as it was crucial to the case! We were told this right up until the eleventh hour, however, this was not to be the case. An independent Fingerprint Officer was brought in, in the name of Allan Bayle. He did not and I repeat did not at any time say it was a misidentification as has been quoted by Alex Neil.
As this case, in my opinion, was so controversial, a third party was asked to look at the mark. PSNI (Northern Ireland) agreed to look at the evidence, but were only given photocopies of the enlargement, the fingerprint form and the actual lift (in reverse) - not the photographed impression which is what Fingerprint Bureaux work from. They were asked to look at the evidence, kneeling down over a coffee table with poor lighting, therefore, it is not surprising they could not come to a conclusion on identity.

As I have said we were never called to give evidence. Apparently, there was enough evidence in the case to run with, without including the fingerprint evidence. I believe there was CCTV footage of the accused Mark Sinclair, leaving him thumb print on the glass counter where the lift was taken from and subsequently identified.

Mark Sinclair was found guilty and sentenced to 18 years imprisonment (without the Fingerprint evidence!). Note: This sentence included a role up of cases.

After the case was finished, the Crown Office appointed a Junior Fiscal, namely Scott Toal to investigate the Sinclair case and interview/precognose the Fingerprint Experts involved in the case.

During the investigation, PSNI (Northern Ireland), produced a photographed impression from the actual lift and carried out a proper comparison under correct conditions and they concluded that it was an identification. This information was relayed to me by Scott Toal himself.

Again, I would like to point out, at no time did Allan Bayle say in his report that it was a misidentification (the word being branded around at the moment!).

We have tried to obtain a copy of the report carried out by Scott Toal, Junior Fiscal, but to no avail. We have been told it is confidential. PSNI have also tried to obtain the report but they were told that it is now in the hands of Mr Brisbane (Deputy Crown Office). They have since spoken with Mr Brisbane who also informed them that the report was confidential. This is something that you may want to pursue yourselves.

As I’m sure you can appreciate, this is all extremely frustrating.

I believe if we had this report, it would set the record straight once all for all and stop all these malicious rumours.

As I mentioned earlier I am more than willing to put together an official report of my findings and knowledge of the Mark Sinclair case.

Please do not hesitate to contact me and I look forward to hearing from you.

Lesley-Anne Brown
Fingerprint Expert
Dear Ms McNeill

Scottish Criminal Record Office and Scottish Fingerprint Service Inquiry

I am responding as Convener of the Society’s Criminal Law Committee to your letter of 1 June 2006 addressed to the President, Caroline Flanagan, inviting the Law Society to submit written evidence to the above inquiry.

At its last meeting which took place on 7 June 2006, the Criminal Law Committee discussed at length the invitation to submit written evidence and it was concluded that any comments by the Criminal Law Committee on the remit of the inquiry at this stage would be premature.

The Committee further considered that they would be in a better position to consider the matters raised by the inquiry once the Justice 1 Committee had completed and published their report.

I look forward to receiving a copy of the report in due course.

Yours sincerely

W McVicar
Convener, The Criminal Law Committee

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