JUSTICE 1 COMMITTEE
AGENDA

29th Meeting, 2006 (Session 2)

Tuesday 12 September 2006

The Committee will meet at 2 pm in Committee Room 2.

1. **Item in private**: The Committee will consider whether to take consideration of the possible contents of its report on the Scottish Criminal Record Office inquiry in private at future meetings.

2. **Scottish Criminal Record Office inquiry**: The Committee will take evidence from—
   - RT Hon Lord Colin Boyd QC, Lord Advocate;
   - Jim Brisbane, Deputy Crown Agent, Crown Office and Procurator Fiscal Service; and

   and then from

   - Cathy Jamieson MSP, Minister for Justice;
   - Christie Smith, Head of Division, Police Common Service, Information Technology, Crime Prevention, Scottish Executive; and
   - Richard Henderson, Office of the Solicitor to the Scottish Executive.

3. **Committee debate in Chamber**: The Committee will consider whether to seek time in the Chamber for a Committee debate.

4. **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.

Callum Thomson
Clerk to the Committee
Papers for the meeting—

Agenda item 2

Briefing note from the Clerk (PRIVATE PAPER) J1/S2/06/29/1

Submission from Chief Constable Mike Baxter, Chairman, National Fingerprint Board J1/S2/06/29/2

Submission from Harry Bell, Former Head of the SCRO J1/S2/06/29/3

Submission from Alan Dunbar, Quality Assurance Officer, Glasgow Bureau, SFS J1/S2/06/29/4

Submission from Alister Geddes, Fingerprint Officer, Glasgow Bureau, SFS J1/S2/06/29/5

Submission from Robert Mackenzie, Deputy Head, Glasgow Bureau, SFS J1/S2/06/29/6

William O’Neill, Former Chief Inspector, SCRO Fingerprint Bureau J1/S2/06/29/7

Transcript of Lord Johnston’s Charge to the jury in HMA v Shirley McKie J1/S2/06/29/8

Forthcoming meetings—

Wednesday 13 September, Committee Room 6;
Wednesday 20 September, Committee Room 5;
Tuesday 26 September, Committee Room 3;
Wednesday 27 September, Committee Room 2;
Tuesday 3 October, Committee Room 5;
Wednesday 4 October, Committee Room 1;
Tuesday 24 October, Committee Room 1;
Tuesday 31 October, Committee Room 1; and
Wednesday 1 November, Committee Room 5.
10 August 2006

Euan Donald
Senior Assistant Clerk
Justice 1 Committee
Justice 1 Committee Clerks
Room T3.60
The Scottish Parliament
Edinburgh
EH99 1SP

Dear Mr. Donald

Scottish Criminal Record Office and Scottish Fingerprint Service Inquiry

Thank you for your letter of 18 July 2006 regarding former employees at SCRO who are now employed in English or Welsh Fingerprint Bureaux, and also a request for information about non-numeric standard.

The collection of information to respond to your request has not been easily accomplished and in respect of the first request has necessitated a “trawl” of every Bureaux. Appendix ‘A’ sets out the names of individuals who were formerly employees of SCRO. Any contact with these individuals should be through their respective Chief Officer.

In so far as your second request concerning the non-numeric standard, I have attached Appendix ‘B’ which sets out a high level overview of the review and establishment of that standard. The non-numeric standard Project Board operated from 1995 until 2002. The National Fingerprint Board was established under my direction in March 2003, therefore is not party to the previous work, however, I am now taking steps to establish an archive of that Project Board under NFB control. This will take some time but I would request that any enquiries in relation to this matter be directed to me in the first instance.
I hope that this information meets your needs, please do not hesitate to contact me further if necessary.

Yours sincerely,

Michael Baxter
Chairman, National Fingerprint Board
Chief Constable, Cumbria Constabulary
Appendix ‘A’

Former employees of SCRO now employed in Bureaux in England & Wales.

Bedfordshire Police

Simon Marshall
Currently Head of Bureau. Worked for SCRO during the summer of 2001. Prepared to meet with the Committee.

Richard Luckraft
Currently a Senior Fingerprint Officer who joined Bedfordshire Police from SCRO in 2001. He is not prepared to meet with the committee.

Dorset Police

Peter Budd
Currently Scientific Support manager but was employed within the Lothian & Borders Bureau between 1997 and 2000 as a Senior Fingerprint Officer. He is not prepared to meet with the committee.

Humberside Police

Robert Doak
Robert began his career in SCRO in 1980 and qualified as an expert in 1987. He then went to Fife Constabulary before joining Humberside in 1998. No indication if he is prepared to meet the committee.

Sussex Police

April Grant (nee Balfour)
April worked on the ‘Main Collection’ at SCRO in 1998. She did not work on any ‘Scene of Crime’ work. She joined the Sussex police Bureau in 1990.

There is no indication if she is willing to meet with the committee.
Non – Numeric Evidential Standard

On 26th April 2001, the Chief Constable’s Council for England and Wales endorsed a recommendation from ACPO Crime Committee to change the fingerprint evidential standard from a numerical standard of a minimum of 16 ridge characteristics (points) in agreement to a non-numerical system based on the opinion of the fingerprint expert with effect from Monday 11 June 2001.

The decision to change the fingerprint evidential standard was taken following a review of fingerprint evidence carried out by ACPO Crime Committee in 1995.

This resulted in the creation of a Non Numeric Standard Project Board under the direction of the then Chief Constable of Cambridgeshire, Ben Gunn. The Metropolitan Police Service was represented by the then Director of Identification Services (SO3) Christopher Coombes (since retired), Assistant Director Bruce Grant, Head of the Fingerprint Bureau, Assistant Director David Ince, Head of the Scientific Support College and Senior Identification Officer Christopher McEvoy, Head of the Fingerprint Bureau Evidential Services (now retired). This project board reported to ACPO Crime Committee.

The Project Board undertook a major review of practices and processes in all the Fingerprint Bureaux in England and Wales and put in place generic and uniform procedures which support the change and which are subject of annual external audit. In addition an enhanced training programme is in place and regular re-accreditation of all experts under the aegis of the Council of the Registration of Forensic Practitioners (CRFP) has been introduced.

The Project Board maintained consultation and close liaison with the Home Office, the Lord Chancellor’s Department, the Crown Prosecution Service and other organisations within the Criminal Justice system who were all in agreement with the proposals to implement the change to a non-numeric standard.

The rationale for the change was as follows:

- The 16 point standard had no basis in law. It was because practice to bring uniformity to identification evidence presentation throughout England and Wales following a 1953 Home Office recommendation to adopt a 16 point standard.
- The 16 point standard has been subject of review and amendment during the course of its existence and, in practice, evidence which did not meet the standard had been given in court, including Court of Appeal, and been accepted e.g. R v Buckley 1999.
- The admissibility of fingerprint evidence which did not meet the 1953 standard has been considered on numerous occasions by the Courts, including the Court of Criminal Appeal, who ruled that the question of admissibility is a matter for the court to determine.
- The disclosure provisions in the CPIA 1996 mean that all fingerprint evidence is potentially available to court, irrespective of the number of ridge characteristics present and subject to disclosure.
- The 16 point standard has no basis in either logic or science. This principle has been supported by leading fingerprint experts, statisticians and forensic scientists.
I refer to the above and your letter dated 30th June 2006, inviting me to submit written evidence to the inquiry being conducted by the Justice 1 Committee. While I welcome the opportunity to submit evidence, my response is made as a retired Director of SCRO and without the benefit of having direct access to original documentation recorded during my period as Director. I have, however, been advised by SCRO that all relevant documentation has been made available to the Committee and the detail recorded therein will assist in clarifying specific areas.

In addition, I am aware that ACPOS has made a detailed response which is available on the Scottish Parliament Justice 1 Committee website. I have reviewed that response which, in particular, highlights the reviews which were instigated and the outcomes of HMIC Inspections. I acknowledge the accuracy of that document and, as such, I will, where appropriate, make reference to areas of that response where it provides clarification or further detail. It is, however, my intention to try to recall the actual circumstances surrounding specific areas referred to in your letter.

In that regard, I have been invited to respond to five specific areas, namely:

**Could you confirm the period in which you were head of the SCRO?**

I was appointed Director of SCRO in November 1998, and at that time I was a Detective Chief Superintendent with Strathclyde Police.

In April 2003, I retired as a police officer and at the invitation of the Association of Chief Police Officers in Scotland (ACPOS), and with the endorsement of the Scottish Executive Justice Department, I accepted a contract to remain as the civilian Director of SCRO. This addressed the immediate continuity needs of the organisation and was subsequently extended to April 2005, when I retired from the post of Director of SCRO.

It may be of interest to the Committee to note, that my appointment as Director of SCRO in 1998 followed on a review that I conducted on behalf of ACPOS, regarding the implications for the Scottish Police Service of legislation surrounding Part V of the Police Act 1997. This referred to the disclosure process, as now fully operated by 'Disclosure Scotland' with oversight management from SCRO. At the time of my review the position of ‘Head of SCRO’ had been vacant for some time. I recognised the challenges that this new legislation would bring to the Scottish Police service and the changes and strong leadership that SCRO would require to introduce to ensure that the organisation was in a position to provide this new service.
2. Could you provide an account of your involvement in relation to all investigations and reviews in relation to the identification of mark Y7?

Prior to my appointment as Director of SCRO in November 1998, I had no involvement in the police investigations surrounding the death of Marion Ross which had occurred in January 1997 and I had no personal knowledge of Shirley McKie. I am aware, that SCRO Fingerprint Bureau examined crime mark Y7, during February 1997 and, as indicated, I was not in charge of SCRO at that time.

Following on my appointment as Director of SCRO in November 1998, my first awareness and involvement in the circumstances surrounding Shirley McKie, was some time after the 14th May 1999, following on the conclusion of the ‘Perjury’ case in which she was found ‘Not guilty’. I was aware that there was a great deal of media speculation regarding the fingerprint evidence presented in the case, in that the evidence of American fingerprint experts was that the mark in question was not that of Shirley McKie’.

In view of the media speculation, I immediately directed that the Deputy Head of the SCRO Fingerprint Bureau and the Quality Assurance/Training Officer re-examine the crime mark, referred to as ‘Y7’ and they then confirmed to me that in their opinion the mark had indeed been made by Shirley McKie.

I then arranged for an early meeting with the prosecuting Advocate and Deputy Crown Agent. It was my intention to establish if there were any areas in the fingerprint process which needed to be reviewed and in particular to confirm that the stated case on which fingerprint evidence is presented in court was still acceptable. This meeting took place on 20th May 1999, at Pitt Street Glasgow.

The Prosecuting Advocate commented that nothing in this case affected the legal framework surrounding fingerprint evidence; however, the projection facilities used in the court by the SCRO fingerprint experts was an area which could be reviewed.

It was clear that the Crown, were satisfied with the fingerprint evidence of the SCRO experts and indeed their credibility and the integrity of experts at the SCRO Fingerprint Bureau. In addition, the Crown indicated that they were aware that there were independent fingerprint experts, some of whom had been engaged by the defence, who actually agreed with the SCRO identification, however, it had not been possible to trace and introduce these witnesses at such a late stage in the trial.

There was also evidence that Shirley McKie had been in the area of the locus and comment that there had been a previous incident involving her which had been excluded by the trial judge. In addition, the judge had apparently made comment to the jury in regard to the fingerprint evidence, on the basis that none of the experts were deliberately trying to deceive the jury or themselves. In addition, there was speculation within the media that the jury had dismissed the SCRO Fingerprint evidence and while I recognised that the fingerprint evidence had been subject of challenge and debate, it was not possible or indeed appropriate to speculate on what the jury had considered in their overall determination in this case.
Additional outcomes from the meeting which were to be circulated by the Crown to Procurator Fiscals, included:

- Advocates would be invited to visit SCRO Fingerprint Bureau.
- Generic fingerprint material would be examined to allow for a more professional presentation in high profile cases.
- Guidance would be given to experts on how to respond to this case at future trials in that experts should ask for time to examine fresh material.
- The Crown would highlight the need to monitor late submissions of material by the defence in order to allow for a more adequate examination.
- Pre-trial indicators should be noted to allow adequate preparation in advance of a trial.

In view of the continued media speculation, and following on the meeting with the Crown, I documented a report to all Chief Constables and the HMIC for Scotland outlining the action that I had taken. I did so in order that they could then consider advising their officers associated with fingerprint evidence of the latest action taken and opinions of the Crown.

I believe that copies of the meeting with the Crown and my letter to all Chief Constables will be available to the Committee. I also responded to other Fingerprint Bureaux, who had asked for additional clarification in this case.

It was my view at this time that I had taken all appropriate action. I then arranged for an internal meeting with all of the fingerprint experts at SCRO. I covered the areas already documented and, in response to a request by one expert to openly examine the fingerprint mark in question, I advised that I was of the view that the mark could well be the subject of debate for some time and that it was my intention not to expose any other expert to this particular case and its challenges. It was my opinion that this approach would then go some way to addressing any attempts to compromise the integrity of other experts at future trials based on the circumstances surrounding the McKie case.

As Director of SCRO, it was my view that it would be inappropriate to make comment and indeed to respond to media speculation and statements being made regarding the McKie case, particularly in light of the related case involving David Asbury who had been convicted of the murder of Marion Ross. There clearly existed the potential for an appeal by Asbury and the possibility of civil litigation. This effectively constrained responses that I could have made at various stages.

Media speculation continued to build, particularly on the daily challenges made by the McKie family, who continued to allege that a misidentification had occurred and the case was then documented on Frontline Scotland (18th January 2000). Following on this and at a meeting that I attended with ACPOS Council (7th February 2000) it was decided that an independent assessment should be made of the fingerprint evidence. As Director, I fully endorsed this approach and Mr William Taylor, as HMCIC, agreed to progress this work and, in that regard, I ensured that SCRO would fully co-operate.
Following on the assessment by HMIC (22 June 2000), I learned that it had been announced that the mark in question was not that of Shirley McKie. It transpired that this was based on an examination of the mark by fingerprint experts from the Netherlands and Norway. I was aware that during all of these developments, and to this date, that the SCRO fingerprint experts involved in the identification of mark Y7 remained committed to their identification as being that of Shirley McKie and that they were of the view that the examination process used by experts in the Netherlands and Norway were different and that this was now an additional area of debate.

It was then agreed that the HMIC would bring forward a planned inspection of SCRO and once again, as Director, I welcomed this inspection and I fully assisted in the overall process. In addition, I worked with a number of teams and groups established by ACPOS to review processes and procedures within the fingerprint service. These, considered the wider implications in the examination and verification process of fingerprints and included the effectiveness and level of resources within the Fingerprint Bureau administrative structure.

These groups included the ACPOS Presidential Review Group (APRG) and the ACPOS Change Management Review Team (CMRT). Mr. James MacKay, then Deputy Chief Constable of Tayside Police, was appointed to conduct a review of the circumstances surrounding crime mark Y7 and, while I assisted that inquiry, I have never seen the report submitted by Mr. MacKay.

During that particular inquiry, which focussed on any criminal implications regarding mark Y7, I had discussions with Mr. Rae, then Chief Constable of Dumfries and Galloway Constabulary and at that time the Chair of the SCRO Executive Committee. This resulted in a documented request to me by ACPOS, based on information provided by Mr. MacKay, on which I ‘Precautionary Suspended’, the four SCRO Fingerprint Experts who had examined mark Y7. Following on this, it was later agreed that in order to avoid further speculation, the Deputy Head of the SCRO Fingerprint Bureaux and the Quality Assurance/Training Officer would not, in the meantime, be involved in any examination or verification processes.

During all of these reviews, inspections and the investigation surrounding the actual criminal inquiry I worked to develop recommendations and suggestions which had been made and I actively contributed to the progress of change as approved by ACPOS.

At all times I worked to the direction and at the pace of ACPOS and the SCRO Executive Committee, on which the Scottish Executive were represented. As previously stated, I was of the view that it was vitally important not to make any public comment which could possibly compromise any appeal or civil litigation process which may be considered in the future. I ensured that all personnel were aware of these particular considerations and in that regard, I had their full co-operation.

As stated in the ACPOS submission, and in order to maintain momentum, a Project Management Team was also established to assist in the progression of matters identified and, once again, I worked in the support of that team.
The final review relating to the circumstances surrounding the Shirley McKie case and the actions of the officers involved the appointment of an ‘Independent Assessor’. This followed on the statement by the Lord Advocate that there would be no criminal proceedings involving the four SCRO Fingerprint experts.

Strathclyde Joint Police Board (SJPB), were the recognised employer and they appointed the assessor and created a disciplinary committee. It was subsequently reported that there were no matters of ‘misconduct or inefficiency’ to be considered and that no discipline action would be taken. I did not have access to the assessor’s report and, following on this, I removed the ‘Precautionary Suspensions’ and the officers were reinstated.

In conjunction with the officers and their staff association, UNISON, I agreed a return to work strategy. This did not involve the officers in any work which could result in the submission of evidence for court purposes as the officers actual status as ‘Expert Witnesses’ would now need to be considered by the Crown. I then developed this aspect through meetings with the Deputy Crown Agent, Mr. Gilchrist. It was then agreed that it would not be appropriate to consider their future position and inclusion on the Crown Office approved ‘List of Expert Witnesses’ until any appeal or civil litigation was fully resolved. I advised the officers and UNISON, of this decision. While they were clearly disappointed, they all agreed to accept the decision at that time.

3. Are you aware of the procedures for identification and subsequent verification of marks which were in place within the SCRO Fingerprint Bureau in 1997 and was it your understanding that they had changed by the time of your arrival

In considering my response to the above, it is important that I again emphasise that at this time I do not have access to any documentation that would allow me to consider a fuller statement on my actual awareness and recollection of the procedures for identification and subsequent verification of marks in 1997 and indeed to make comment when changes and the sequence of any changes were actually introduced.

The obvious challenge is that, in the absence of access to any records which could clarify the process of the many changes that were in fact introduced following on the various reviews, I can only now recall some areas which potentially featured at that particular time. I do however recall the energy and commitment of the Chief Inspector in charge of the SCRO Fingerprint Bureau and his management team and their overall willingness to absorb change and to make positive progress, particularly in the development of the findings of the Hamilton Report, as referred to in the ACPOS submission. In that regard and in general terms I recall discussions regarding:

- Need to review the management of ‘Case Envelopes’ to secure the identity and the sequence of ‘First and Second officer’ identification and verification. The system initially showed the names of previous examiners and this was changed to ensure that experts were not aware of previous verifications.
• ‘Charting Computer/Comparator’ and the quality of court presentations. This was an area challenged during the McKie trial and use of the charting computer was then stopped. In addition, the process of marking up the comparator to highlight experts’ points of identification was changed to clear previous markings before verification by an expert in the same case.

• ‘Allocation of Cases’ notified for trial was directed to those experts who had made the initial identification and not re-allocated to other experts on receipt

• Development of the ‘Competency/Proficiency Testing’ procedure for experts. This had been an internal SCRO process which was subsequently considered by the FBI to be too stringent. The Fingerprint Bureau subsequently committed to an independent external testing process

• The Bureau had tried a serious of ‘Blind Trials’ which involved the introduction of a test case for examination and subsequent evaluation. It was then concluded, that this was not appropriate process for the service.

• Enhancement of the ‘Quality Assurance Process’ with the intention of introducing ‘ISO Accreditation’.

In order to support early change within the Bureau, I recall that the following were also among many others areas considered:

• Requirement for a case tracking and management system

• Need to examine the clerical support, supplemented with temporary staff

• Abstraction of experts involved in administrative roles

• Commitment of experts to the demands of the Automatic Fingerprint Recognition (AFR) system

• Need to recruit and train Ten-print Identification Officers

• Separation of the roles of Quality Assurance and Training officer

• Introduction of a Non Numeric Fingerprint Standard

• Development of an independent Corporate Identity for SCRO

• Common standards and procedures within the fingerprint environment

• Revised service level agreements with all Scottish Police Forces
4. **HMIC’s 2000 Primary Inspection Report recommended radical reorganisation of the SCRO Fingerprint Bureau. At the time, did you agree that such action was required?** HMIC’s 2000 report makes 55 recommendations and 25 Suggestions. **What was your involvement in acting on these recommendations and suggestions? Was it your belief that all of the recommendations and suggestions had been implemented?**

It is my understanding that the HMIC’s 2000 Primary Inspection 2000 Report, listed ‘25 Recommendations and 20 Suggestions’ and the reference to ‘55 Recommendations and 25 Suggestions’ are as a result of all of the HMIC Inspections carried out between 2000 and 2004.

The outcome of the Primary Inspection of the SCRO Fingerprint Bureau by the HMIC, Mr Taylor, is detailed within his Primary Inspection Report 2000. As stated, that report actually contained 25 recommendations and made 20 suggestions. The HMIC report was directly informed by the previous work of Mr John Hamilton, then Chief Constable of Fife Constabulary, who chaired a ‘Scottish Fingerprint Service Working Group’ and commissioned a ‘Private Consultant’ to review the work of the fingerprint service in Scotland. While these areas of work were ongoing when I became Director, I found their observations of great benefit in assessing the direction of the service. I agreed with their findings and I actively worked with staff to drive forward and implement these. In that regard, I chaired an ‘Eight Force Standard Group’. This involved the Heads of all of the other Force Fingerprint Bureaux coming together to examine common practices and procedures and service level agreements with Forces. There were, however, only two meetings of this group before it was suspended following on the initial findings of the HMIC and the establishment of the ACPOS reviews.

As Director of SCRO, I made a documented ‘SCRO Response’ to a ‘draft copy’ of the HMIC’s Primary Inspection Report 2000. I have now requested that SCRO make available to me a copy of that report, to date this has not been provided. It is, however, my understanding that a copy is in fact available to the Justice 1 Committee. In the absence of that report, I will be unable to document a detailed response, however, I will attempt to explain my position as I recall it at that time and I would, therefore, refer the Committee to the documented ‘SCRO Response’ which will provide the detail required.

I would state that my recollection is that the HMIC’s report of 2000, in the main, did refer to the findings of previous reviews and activity and translated these to recommendations and suggestions. Indeed, that was the focus of my response to the HMIC and I recall that his reply fully recognised my response as both constructive and comprehensive. It was acknowledged by Mr Taylor that ‘many of the issues raised were already identified and steps were being taken’ and that ‘credit has been given and will continue to be given for what SCRO staff were progressing’.

In was my view, that by documenting these issues as recommendations and suggestions, the HMIC was in fact elevating them to a more formal status, thereby ensuring that they would be readily accepted and endorsed by ACPOS and the Scottish Executive.
The HMIC was clear that some of the findings were out with the control of SCRO management. It is important that I emphasise, that ACPOS and the Scottish Executive, were active and indeed very supportive of the progress being made.

While I understood the concerns of the HMIC, I viewed his statement that the SCRO Fingerprint Bureau was ‘in-efficient and in-effective’, as a direct reference to the overall circumstances relating to the Bureau backlog of cases to be progressed.

This was a particularly significant issue as, at the time of my appointment in November 1998, the backlog of cases was in excess of 7,000 and that within a year, with some reorganisation, the assistance of other Bureaux and additional financial support, the backlog was dramatically reduced to a level which the Bureau could sustain on the basis of ‘Work in Progress’.

In addition, in my opinion, the debate regarding the Bureau overall credibility to make fingerprint identifications, while seriously challenged through the McKie case, was built on the perception of others and that the Bureau overall integrity had in fact been fully endorsed through the requirements of the Lord Advocate. That direction required that independent verifications be carried out of all SCRO identifications and this condition was in place for at least one year and subsequently involved thousands of cases and even more actual marks and impressions.

In addition, I personally caused a re-examination of all identifications made by the officers involved in the identification of mark Y7 for a one year period either side of the actual date of that identification. All of these independent examinations subsequently returned a 100% confirmation on all of the identifications made by these officers and of the SCRO Fingerprint Bureau.

I therefore welcomed the HMIC’s report as it directly reflected the work and action that I was progressing in line with the Hamilton Report, as previously referred to and subject of more detailed comment within the ACPOS submission. I then had the direct benefit of the support of the Scottish Executive, ACPOS, the ACPOS Presidential Review Group (APRG) and the Change Management Review Team (CMRT) and latterly an ACPOS Project Team.

My involvement in the progression of the recommendations was to work closely with the APRG and the CMRT to address the changes required by the recommendations and, as such, I reported direct to the President of ACPOS and to the SCRO Executive Committee. As indicated, in my view, the HMIC findings had in the main been born out of the work of previous groups and, as these were the areas being progressed, then the actual momentum to drive change was in fact in place and would be further complemented by the status of the HMIC report.

While progress was openly supported by ACPOS and the Executive, it is important that I also recognise the support that was given to me by Strathclyde Joint Police Board, (SJPB). The Board were technically the employers of the SCRO civilian staff and their agreement to facilitate and to streamline the organisation’s recruitment processes, and indeed my own direct access to the Board, was of immediate and direct benefit.
This allowed me to advance the change process now in place and I recall that some of the early activity then focussed on areas surrounding:

- Re-grading of fingerprint experts salaries in line with other Bureaux
- Recruitment of temporary clerical staff
- Recruitment of ten-print identification officers to progress AFR work
- Introduction of a quality control system for marks received at the Bureau
- Short-term secondment of fingerprint experts from other Force Bureau
- A recruitment strategy to target fingerprint experts out with Scotland
- Evaluation of a case management system
- Identification and relocation of SCRO to new premises
- Provision of custom designed workstations for fingerprint experts
- Development of the organisations independent corporate identity
- Staff involvement with the Council for Registering Forensic Practitioners
- National Training at Durham and focussed training on court presentations
- Development of ISO accreditation by the Quality Assurance Officer

One of the main issues was the creation of a Scottish Fingerprint Service (SFS). This required recruitment of a Head of Service. It was anticipated that this would not be a police post and that the appointment would require an individual with strength of character to manage and influence the necessary change and work towards the development of the concept of a fully integrated Scottish Fingerprint Service.

The selected officer would ensure that the documented recommendations would be fully applied. It was recognised that this would also require a committed and open individual who could build on relationship, develop loyalty and the commitment of staff across the service.

Prior to my retirement as Director, I was involved in early meetings regarding the review of the Common Police Service structure and considerations in regard to a new Forensic Science Service which would embrace a Scottish Fingerprint Service. I am aware that these areas are now being evaluated by Deputy Chief Constable David Mulhern as he contributes to the development of a Scottish Police Service Authority.
It was my understanding that all of the recommendations were implemented over a period, while those potentially out with direct SCRO management control could indeed take some additional time to address. Notwithstanding that, I am satisfied that the recommendations were all actively progressed during the period that I was Director of SCRO.

I now note the reference in the ACPOS submission that all of the recommendations and suggestions emanating from the HMCIC Inspections of SCRO have been discharged and that in the HMIC 2004 Inspection of SCRO there was an acknowledgement and recognition of the strong leadership demonstrated within SCRO and, in that regard, I welcomed the statement and the direct support provided to me by all personnel at SCRO, the Scottish Executive, ACPOS and the various chairs of the SCRO Executive Committee.

5. during the period in which your were head of the SCRO, what pressures were there on the Fingerprint Bureau in particular in terms of resources and the demand on the service? Was it a positive working environment? Did you perceive that the working environment had changed after 1997? In what ways did you seek to foster this change?

The ACPOS submission outlines the historical position in regard to the fingerprint service in Scotland and the existence of Fingerprint Bureaux within five Scottish Forces. The establishment of SCRO in 1960 is documented and the relocation of the organisation to Strathclyde Police Headquarters, Pitt Street, Glasgow in 1975, following on the amalgamation of Scottish Forces, is recorded. There is an accurate description of the direct service provision to Strathclyde Police, Dumfries and Galloway Constabulary, Northern Constabulary and that provided to the Scottish Police Service and wider justice community in Scotland.

As stated, the organisation also maintained the Criminal History System for Scotland and provided interfaces to the Police National Computer, however, as indicated, the role of the SCRO Fingerprint Bureau was expanded in 1991, and again in 1997, with the introduction of the Automatic Fingerprint Recognition (AFR) and Livescan systems. This provided for the capture of fingerprints from persons in custody at police offices and the electronic transmission of these to the SCRO Fingerprint Bureau where they were compared against the National ‘Ten-print Fingerprint Collection’ and searched against the outstanding ‘Crime Mark database’.

The Livescan service was available on a 24/7 basis with a 2 hour service level agreement on confirmation of identity. I was aware that the previous Director had concerns on the Bureau ability to maintain a quality of service due to the volume of work now being generated and an inability to recruit trained fingerprint experts.

I note that the ACPOS submission outlines the number of experts, their role, and the training period and makes reference to the loss of experienced experts. In that regard, I again welcome their submission as it reflects some of the relevant detail which I
would, at this time find difficult in accurately recalling. I do, however, acknowledge that these factors, which were further complicated through the increased workload, collectively contributed to low moral and a rapidly growing backlog of outstanding cases. The work committed fingerprint experts to the verification of ten-print comparisons, while the experts were well aware that crime scene work was not being fully addressed as there were not enough fingerprint experts within the Bureau. In addition, it was apparent that there were different salary scales within the fingerprint environment in Scotland and the SCRO experts recognised that they were not appropriately graded.

Abstractions of experts from core duties were further exacerbated by attendance at court where, invariably, they were not called to provide evidence. This was an area where the Crown made ever effort to resolve, with officers put on a stand-by basis. Experts were also involved in administrative processes, filing and retrieving cases, as the clerical support was not adequate and this again affected their ability to service the backlog.

In addition, the new electronic systems and the terminals were installed within the existing accommodation and impacted on the overall working environment. This all collectively led to a higher than average ‘sickness rate’ among staff.

While there is no doubt that during that period the overall moral was low and indeed dropping, staff were proud of their ability to continue to make identifications and they personally recognised the contribution they were making to the justice system.

That said, the intense media speculation and challenges to their integrity had a dramatic effect on performance and moral. However, despite the media attention and statements made following on the McKie case and the ‘Precautionary Suspensions’ of their colleagues, which was followed by working restrictions on the Deputy Head of the Bureau and the Quality Assurance Training Officer, all officers who were held in high regard, staff were encouraged to sees the benefits of close scrutiny including reviews.

It was my personal view that they also recognised my position as Director and the direct responsibility that I had to continue to ensure service delivery during this challenging period.

I was assisting in the various reviews, contributing to the implementation of the numerous recommendations, ensuring that the service provision was maintained and indeed improved. In that regard, one aspect that I found was in fact of particular significance was the direction of the Lord Advocate. This followed on the publication of the HMIC Primary Inspection 2000 Report when, as previously stated, a condition was put in place that all identifications emanating from the SCRO Fingerprint Bureau would require to be verified by independent experts. I pointed out to staff that this was indeed a high level of ‘quality assurance’ and one that very few organisations had been exposed to and with an eventual outcome which provided 100% confirmation of thousands of cases and indeed many more thousands of marks and impressions, then overall the quality of the work of the Bureau could then be seen as being of the highest calibre and a reassurance for the public and the wider criminal justice community.
It was apparent that morale in general improved through the re-location of SCRO to new premises at Pacific Quay in Glasgow. There was car parking and modern canteen facilities and an exercise room was installed. As was the case with other departments and bureaux within SCRO, the Fingerprint Bureau was provided with brand new office accommodation with purpose designed workstations. There was separation of the Livescan service to another part of the Bureau. There were break-out areas with refreshment facilities and the building was fully air conditioned with a high level of natural lighting. All of this was designed to improve the overall working environment and morale in general across SCRO.

In addition, temporary clerical staff had been recruited to address the filing processes and remove the administrate functions from the experts. As recommended, there was also a separation of the role of the Quality Assurance/Training Officer and management were provided with separate but adjoining offices on the same floor within the Bureau. An office management system was eventually introduced and there were plans to reduce the number of police posts within the Bureau.

In my opinion, one of the most important change processes involved the introduction of ‘Ten-Print Identification Officers (TIO’s). They were trained to a level which allowed them in the short term to confirm identifications on the Livescan system and, while a fingerprint expert was always on hand, to assist in confirmations of Livescan ten-prints. The fingerprint experts were, in the main, then able to concentrate on the backlog of cases. This allowed the experts to then directly apply their skills to the examination of more crime cases, an area of work that they clearly found more satisfying.

This approach, together with the assistance of the other Force Fingerprint Bureaux, eventually reduced the backlog of cases and this, in particular, had a very positive effect on staff morale, as did the regarding of salaries which sat alongside an active programme to recruit experts from out with Scotland. These overall measures eventually had some effect on the Bureaux sickness record.

It is appropriate to point out that peaks in the ongoing media speculation and the regular statements which were being made, coupled with the volume of ‘Parliamentary Questions’, did have an obvious direct affect on staff morale, however, in between media statements, the staff eventually did seem to recover. In regard to the officers directly involved in the McKie case, they personally looked towards the development of the civil litigation process as an opportunity and a platform on which, at some time in the future, they could make their opinions known publicly and to be further supported by the two defence experts not called at the McKie trial.

Overall, my direct contribution was also to ensure that all staff remained informed of developments as appropriate and, initially, I did that through organised meetings. However, on the appointment of the Head of the Fingerprint Service, it was my policy to fully brief that officer and I would then expect him to then update staff and to be seen to manage all personnel across the Scottish Fingerprint Service.
In working to improve staff morale, sustain performance and apply the recommendations and suggestions made while driving change within the concept of the new Scottish Fingerprint Service, I acknowledge the assistance of the officers who held the post of Deputy Director at SCRO. All worked diligently to progress matters and fully supported me during a challenging and demanding period.

It is my view, that prior to concluding my period as Director of SCRO, in April 2005, the whole organisation had developed and was indeed central to the operation of the wider criminal justice system in Scotland, providing interfaces with England and Wales through the Police Information Technology Organisation (PITO) and the Police National Computer (PNC). In addition, the number of stakeholders had increased through the Integration of the Scottish Criminal Justice Information System (ISCJIS), which, through access to the SCRO Criminal History System, provided for the electronic transfer and access to information by partners within the justice community.

In addition, and with the support of my senior management, other Bureaux within SCRO had been reorganised to streamline their service provision. ACPOS and the Scottish Executive had agreed to the introduction of new services, such as the ‘Crimestoppers’ programme, which was re-located and centrally managed from SCRO on a 24/7 basis. This was in addition to the oversight management and development of the service being provided by the Disclosure Scotland Bureau, also located at SCRO.

In my view the relocation of SCRO to new premises and the direct and focussed support and progression of the various recommendations made in respect of future service provision, then placed the SCRO Fingerprint Bureau within the structure of the concept of a Scottish Fingerprint Service - a new service that embraced Bureaux at Aberdeen, Dundee and Edinburgh, all centrally managed from SCRO. In addition, ACPOS and the Scottish Executive were committed to the Home Office ‘IDENT1’ Fingerprint Programme, which would, in particular, allow electronic searches of crime scene marks across the whole of the UK. This development would also assist in further integrating the Fingerprint Service in Scotland.

I have referred to the internal re-organisation of other bureaux in SCRO. In my opinion, while this allowed the organisation to streamline its overall service provision, it also further developed staff morale as this brought staff together and they were willing to work within other bureaux to address peaks in administrative functions. This was further complemented by the quality of service that was eventually sustained by Disclosure Scotland and, in that regard, all personnel, including the staff of the Fingerprint Bureau, recognised the pivotal role of the organisation within the criminal justice service in Scotland, while being fully aware of the consideration being given in regard to integration of the Scottish Fingerprint Service within a new Scottish Forensic Science Service, and that this would further develop the service.

I recognise that during my time as Director of SCRO, and in light of the early circumstances involving the McKie case, I saw the benefits of the HMIC Inspections and the various ACPOS reviews. All of these activities provided me, as the Director, with a clear strategic path and a level of support on which I could then develop SCRO.
I am satisfied, that during my term of office, the organisation addressed its challenges and developed on a platform based on well considered recommendations and suggestions and that all of this was readily supported through the direct financial commitment of the Scottish Executive and the endorsement of ACPOS.

While SCRO as an organisation will be embraced within a new Common Police Services structure in Scotland and there will be a re-alignment of the overall service provision, I have no doubt that all of the personnel will continue to maintain their high standards and professional approach.

Harry Bell QPM
Director SCRO - November 1998 to April 2005
Allan Campbell
Room T3.60
The Scottish Parliament
Edinburgh
EH99 1SP

Dear Mr Campbell

Meeting of the Justice 1 Committee on 26 June 2006

Thank you for your letter of 29 June 2006 regarding the above meeting.

In answer to the request for the copy of the procedures manual I would clarify that it was not a manual from 1997 that was offered but the up to date version of what has evolved since then. I explained to the committee what was in place then and how it has progressed until now and have checked the Official Report in order to verify this.

On 28 June 2006 I sent Mr Donald a copy of the current manual, a relevant procedure for the Convener and a copy of a letter from which I quoted to the committee.

With regard to my precognition to Mr MacKay’s officers, I have never been in possession of a copy of this statement so I am unable to comment if I would be content to provide a copy, if it were to become available.

I hope these responses clarify the situation and if I can be of any more assistance please do not hesitate to contact me again.

Yours sincerely

Alan Dunbar
Quality Assurance Officer
Mr Robertson

I apologise for the delay in forwarding my comments for change but I am sure Mr Bell will have explained my circumstances.

I feel that I must highlight my personal disappointment regarding the notes and that perhaps I had unrealistic expectations regarding the outcome.

When the terms 'recording' and 'stenographer' were used I anticipated something more precise. Although the person taking short hand apologised for not getting all that was said I am surprised that an input of between 15 and 20 minutes was captured in less than a page.

Attached are my comments on the notes.

Alan Dunbar
Quality Assurance Officer
SCOTTISH CRIMINAL RECORD OFFICE
11th September 2000
DELEGATES.

Facilitator.

Dr Robert K. Bramley, Chief Scientist, Forensic Science Service, Birmingham.

30 years experience in forensic science. Set up the specialist fingerprint unit in Birmingham. Is currently carrying out a review of the processes used by Fingerprint Sections when handling fingerprints on behalf of A.C.P.O.

Presenter.

Inspector James Fraser, Tayside Police.

Representatives from Scottish Criminal Records Office.

Mr Robert McKenzie, Deputy Head of Fingerprint Section, Scottish Criminal Records Office.

Joined SCRO as a Fingerprint Clerk in 1967 and subsequently achieved expert status. He was appointed Deputy Head of the Section in 1996.

Mr Alan Dunbar, Quality Assurance Officer, Scottish Criminal Records Office.

Joined SCRO as a Fingerprint Clerk in 1971. He also achieved expert status and was appointed as Quality Assurance Officer in 1996.

Experts Consulted by HMCIC.

Mr Torger Rudrud, Assistant Chief of Police.

Head of National Fingerprint Service, National Criminal Investigation Service, Norway. Has worked with the national Fingerprint Division since 1971 and headed the Division since 1989.

Mr Arie Jacob Zeelenberg, Head of National Fingerprint Service, National Police Agency, Netherlands.

Stenographer.

Mrs Diane Clark, Tayside Police.

Observers.

Deputy Chief Constable James A. Mackay, Tayside Police.

Detective Chief Superintendent Scott Robertson, Tayside Police.

Mr William Gilchrist, Regional Procurator Fiscal, Paisley.

Margaret Gibben and Desmond Leslie, Legal Representatives, Unison.
NOTES OF ACPOS FACILITATED MEETING TO DISCUSS THE IDENTIFICATION OF THE CRIME SCENE FINGERPRINT Y7

Present: Mr Robert Mackenzie, Deputy Head of Fingerprint Section, Scottish Criminal Records Office
Mr Alan Dunbar, Quality Assurance Officer, Scottish Criminal Records Office
Mr Torger Rudrud, Assistant Chief of Police
Mr Arie Jacob Zeelenberg, Head of National Fingerprint Service, National Police Agency, Netherlands

Facilitator: Dr Robert K Bramley, Chief Scientist, Forensic Science Service, Birmingham

Presenter: Inspector James Fraser, Tayside Police

Observers: Deputy Chief Constable James A Mackay, Tayside Police
Detective Chief Superintendent Scott Robertson, Tayside Police
Mr William Gilchrist, Regional Procurator Fiscal, Paisley
Margaret Gribben and Desmond Leslie, Legal Representatives, Unison

Stenographer: Mrs Diana Clark, Tayside Police

1. WELCOME, INTRODUCTION AND BRIEF PRESENTATION OF CIRCUMSTANCES

Inspector Fraser welcomed the group to the Scottish Police College and explained that he would be assisting in the presentation of the meeting. He introduced members and explained that there were a number of Observers who would play no active part during the meeting.

Dr Bramley said that he was not a fingerprint expert but he was currently involved in the ACPO Fingerprint Review in England and Wales and he had found it very interesting preparing for this meeting.

Dr Bramley advised members that the purpose of the meeting as he understood it was to reach a consensus over the identity of the fingerprint in the McKie case. He did not anticipate this being an easy task for a number of reasons. SCRO appear convinced that it is a fingerprint belonging to Shirley McKie and this has been supported by at least one other expert outside SCRO Peter Swann. On the other hand, experts from Durham, Europe and the States are equally adamant that it is not her fingerprint. It would be understandable therefore that SCRO might feel somewhat defensive under the circumstances.
They might also feel a need to be loyal to their colleagues who initially made the identification but if we are to make progress we will have to set these considerations on one side, if we can, and look at all the evidence professionally.

Dr Bramley explained that there would be two presentations and he asked members to keep an open mind and listen to what each other had to say objectively, taking into consideration the strengths and weaknesses of the arguments put forward. It was not just this case at stake, although it was an extremely important case, but as long as there was a difference in the interpretation of fingerprint identification, the robustness and reliability of fingerprint evidence would be brought into question. No one would therefore want this issue to remain unresolved and it would be in everyone’s interest to try to achieve an accommodation today.

Dr Bramley reiterated that the Observers were not participating in the discussions, but he acknowledged that their presence might inhibit free debate. If, therefore, SCRO and HMCIC Appointed Experts wanted to discuss an issue privately at any time, they would be free to do so and room had been set aside for this purpose. He said that he would prefer to conduct the meeting as informally as possible to encourage discussion and he emphasised that confrontation should be avoided at all costs.

2. PRESENTATION BY EXPERTS FROM SCOTTISH CRIMINAL RECORDS OFFICE

Mr Dunbar stated that Mr Mackenzie would be giving the presentation on behalf of SCRO but he would try and give an explanation of the identification process for the observers present and to try and establish a common ground between the experts.

He stated that in the fingerprint service everyone knows that the findings come from anatomy, embryology, genetics and dermatoglyphics. The formation is unique and can only belong to an individual. People who have provided the research for this are people like Inez Whipple who was looking at the relationship of monkeys to man and although coming at it from a different angle what they established was the consistency of ridge formation. Harris Hawthorne Wilder joined with Bert Wentworth former police commissioner of Dover, New Hampshire and were responsible for writing a book entitled “Personal identification” and from this book came the basis for the quantitative qualitative analysis of friction ridges. Wilder discusses the variability of friction ridges and Mr Dunbar quoted “that even in a small area a duplication is impossible” and “so that it is quite safe to say that no two people in the world can have, even over a small area, the same set of details, similarly related to the individual units ”.
Ridges form in the womb and each ridge shape itself is unique, not just the ridge characteristics and this is something people are not aware of. The friction ridges formed on the foetus do not change throughout life.

Poroscopy was introduced by a person named Dr Edmond Locard, Sallie Chatterjee brought in Edgeoscopy and he tried to describe the shapes of ridges. So it is a combination of the ridges, the pores and the characteristics that a fingerprint expert looks at and an individual cannot help but view all this information. Mr Dunbar advised the group that when people stand in the witness box and say they isolate characteristics that is not strictly true and when instructing trainees we used to train them to isolate characteristics.

The friction ridge is unique even if the area is relatively small. It is not wise to enlarge the whole area of the print as it may have to be enlarged 30 or 40 times and normally only one clear area is taken. Ridge units vary in shape, size and alignment some are thicker and some thinner and some fail to develop to maturity and that remains constant throughout life.

In isolating an area we would take an area where there is not a great deal of disturbance and look for some traditional characteristics, intrinsic shapes and pore locations. The idea would then be to outline the ridge shapes and bulges and when you blow this up to 30 times the size you can see ridge units fused together.

Mr Dunbar made acknowledgements to David Ashbaugh of the Royal Canadian Mounted Police and Stephen Meagher of the Latent Prints Unit, Federal Bureau of Investigation as he attended courses given by them which allowed him to prepare the material which was now to be presented.

At this juncture Mr Dunbar with the aid of eight 35mm transparencies demonstrated how to illustrate an identification using further levels of detail.

Mr Dunbar asked Mr Zaeenberg and Mr Rudrud if this was an accurate demonstration of how to present further detail.

Mr Rudrud stated you did not see the pores and normally he did not use pores alone but would use it together with other levels. He explained that dactyloscopic clear prints would be required where you see the pores. The ridges must be so clear you can also use these.

Mr Dunbar concluded that he and the experts present were agreeing that we were not only talking about characteristics and that people do not isolate with their eyes one characteristic.

Mr Mackenzie stated that several presenters from other countries had been talked about and he had to acknowledge that he had used this as part of his presentation.
He explained that Americans used terms such as red flags for assessing a mark when you do not know the donor of the print and there may be certain features experts should be aware of. These are warning signals and he stated that he advised trainees to ignore warning signs at their peril. He stated that within the prints there were a number of red flags but this did not take away from the identification of the mark. Within the mark he noticed that there was ridge disturbance, extra thick ridges, similar shaped ridge deviation in close proximity and variations in the thickness of the ridges.

At this point Mr Mackenzie showed a generic copy with an example of a red flag. He stated he saw a whorl pattern with concentric circles, the upper part smudged and a white line running across the print. He stated that if an expert or a trainee looking at this and failed to take cognisance of all the information they might find themselves with a problem. He then showed a known print of the individual who made the mark. Again the whorl pattern but the shape is almond shaped and the whorl looks at first different from the first one.

When you look at them both together you see what in fact happened - the mark on the left side was when the finger has touched the surface and that section has become puckered. Contact when it hits the surface has missed out an area in the centre of the print.

A non-suspecting trainee looking for whorl patterns may have his mind set on circles whereas the shape is almond shaped. It is important to take cognisance of these red flags.

Mr Mackenzie stated that when he looked into this case he wished to highlight a significant red flag. He explained that he advised trainees if necessary to hold a print at arms length, do not immediately put a magnifying glass on the print and look for ridge characteristics and take cognisance of everything on the print e.g. red flags.

Mr Mackenzie then explained his involvement in the case. On 17 February 1997 this mark having been eliminated a week before by an officer in SCRO and disseminated to the officer in charge of the case a request was made for the print to be looked at again because it had been challenged by Shirley McKie. This was done at the time.

A Police Elimination Form was taken specifically for this crime and along with Shirley McKie there was a list of other Police Officers who had been present at the locus of the crime. Officers working on the case had eliminated the mark. A decision was made the following day that there would be a repeat exercise and Identification Bureau Officers were sent back to the scene to re-photograph the mark which was still present on the door. These photographs along with the elimination prints taken from Shirley McKie were submitted to the department. Mr Mackenzie stated that he and other officers had examined the second mark and the second form and there was sufficient detail to eliminate this mark as Shirley McKie.
This is where my involvement ended until 2½ years later. This has been through a murder trial and a perjury trial and in August last year a request was made for the production to be returned from the Procurator Fiscal. What came back were one elimination form and a copy of one elimination form and a form taken for perjury when Shirley McKie was charged with perjury in 1996. At this time Mr Mackenzie advised the group he was asked by the Director of SCRO to re-visit this case.

Mr Mackenzie stated that having seen and made comparisons back in 1997 he wanted as part of his presentation to have available the same material as he used at that time. This did not include the form taken for perjury in 1998. The second form taken on the exercise day was to him the clearest inked image taken from Shirley McKie available to him.

Mr Mackenzie referred to the book he had compiled. He explained that Page 1 was for non-fingerprint people and Page 2 provided further information within the print. He pointed out incipient ridges which are immature ridges.

Pages 3 and 4 showed a generic version, which was being considered as an illustration to juries which, would explain basic terminology. Page 5 was an enlargement of the mark Y7. Mr Mackenzie stated that all the information must be taken in before you go close in and his first impression is on Page 6.

There is a part on top of the print which goes all to the right with a twist and is separate from the piece below. On Page 7 he stated that he had highlighted what he termed a red flag running across the print and into circular shape on right-side. There is a white line running across the print.

He stated that in 1997 when he looked at this he satisfied himself on the lower part below the magenta line on Page 7. He noted at that time there was disturbance in the area above the magenta line.

On Page 8 is a set of inked prints taken from Shirley McKie on 18 February 1997 and this is the left thumbprint impression highlighted in yellow. On Page 9 is a photograph enlargement from the original form. When it came back from the Procurator Fiscal it still had a label stating original form but there were actually two elimination forms taken from Shirley McKie. This was the second form. Page 10 shows the core and that area in particular was important to me. In that core area there were features when linked to the lower section which satisfied me as to the donor of this print. On Pages 11 and 12 an enlargement of the mark and enlargement of the appropriate digit on Page 12. Pages 13 and 14 list the details Mr Mackenzie found within these prints and he explained he would cover these throughout his presentation. He asked the group at this stage to ignore the labels with magenta numbers on them as at this time he would be looking at the features on the Police Elimination Form.
Mr Mackenzie stated that the fault line or the area jumping out at him is running across the mark and round the right hand side and that he had satisfied himself as to the identification in the area below the line when comparing it to the Police Form. The build up of the picture can be seen in Page 11 with features 1 through to 22 but at this time he would focus on the fault lines. He explained that the features in red are the traditional characteristics and the incipient ridges are shown in blue. On Page 15 he highlighted feature 18 in yellow, describing it as a prominent pore pushing the ridge out and forming a spur shape. It is prominent on the Police Elimination Form and a key point in his judgement. Point 22 concluded Mr Mackenzie’s comparison of this lower segment against the Police Elimination Form and he pointed out that he had not been looking for the traditional ridge characteristics but had been looking to satisfy himself as to who had made this print. The red markers highlight 16 traditional ridge characteristics. Mr Mackenzie was not himself present at the murder trial or perjury trial but from people coming back from court he understood that they had been challenged as to the upper half of the mark. He looked at this area in detail but concluded that it was not unusual for experts to note such and use a non disturbed area for court purposes.

He was satisfied that the lower half showed there was a twist and this explained the ridge formation when viewed against the inked set taken by the Police. Mr Mackenzie looked to see what he could see in the upper half and went on to illustrate another eight features which were present on the Police Form ending with the incipient ridge marked 30.

About the end of September / October 1999 the Director of SCRO was alerted to details of Shirley Mckie appearing on the Internet. One of the first items which appeared was a copy of the Crown productions in the case and Mr Mackenzie stated he did not know the legalities of that. There was a copy of the Crown productions on the Internet including two inked images taken by the Defence of her left thumb and there were images of the mark.

Mr Mackenzie referred to Page 16 where there is a picture of the first Internet image and Page 17 the second image on the Internet. Mr Mackenzie stated that he was then asked by the Director to examine the information on the Internet. His first impression looking at the second image as shown on Page 18 he detected what appeared to be a disturbance in the ridges from the core of the print running up to the right hand corner of the print.

From his expertise the only logical reasons was that this had been caused by an injury. Mr Mackenzie advised the group that he had been asked by an officer looking into the case if he could examine the perjury form taken in 1998 to see if there was damage appearing on that form and the answer was no. He presumed these images had been taken by the defence between Shirley Mckie’s prints being taken for perjury and these used for defence purposes.
Mr Mackenzie stated he thought it was relevant to state that in August 1999 when he asked for productions from the Fiscal’s Office he asked if it would be possible to have sight of the defence hard copy evidence in this case. At the time of the perjury trial the defence evidence was late in being brought forward but in the interest of the accused it was allowed at the last minute and not formally lodged and taken away again. Mr Mackenzie advised the group that he had not seen hard copy evidence from the defence.

Pages 19, 20 and 21 show three copies of Internet print-out showing the defence version of this mark. Again officers who came back from court said they had been presented in the witness box with something they could not recognise. Through the centre of the print there appears to be a brush mark. Somewhere along the line this mark has been damaged. Recently the Police Scientific Development Branch Scientist Terry Kent, who at some point had examined the mark on the wood from the doorframe stated that he is in possession of photographs of the mark and gave his assurance there was no damage to the print either when they received it or when they had it. In the trial the defence expert was quoted as saying he preferred to work from his own pictures. There were initially references to brush marks on the Internet site but the latest reference seen on the Internet has been changed to a ‘scratch’.

Page 23 of the book shows an illustration to explain the deposition of the left thumb and the areas highlighted green from the Police Form appear as bifurcations and the same features on the Internet appear as ridge endings. It is possible for a bifurcation to open up and appear as a ridge ending.

Mr Mackenzie referred to Page 26 and stated that having had access to the Internet prints the link from the Police Form to the Internet Form show incipient ridges 31 and 32 shown on Page 11. The version on the Internet shows a further two incipient ridges. The arrival of the images on the Internet then gave Mr Mackenzie other options. Pages 27 and 28 shows the right area and in that area Mr Mackenzie found another five traditional characteristics Nos. 33 – 37 and these are illustrated on Page 27 and the Internet image on Page 28.

On Page 30 highlighted in green are the traditional characteristics used on the Police Form and in magenta the other five characteristics on the Internet Form. Mr Mackenzie stated that he was still not satisfied with this area and wanted to see a ridge ending and the Internet Form provided him with that information and another eight characteristics are now shown on Pages 31 and 32. Mr Mackenzie stated that he had now established that this area had similar characteristics which appeared in another area because the Internet photo showed the ridge ending and allowed him the opportunity to conclude that this was another touch, not a second digit.
Page 33 gives a clear illustration of this. He stated he had already found a group of characteristics, which are supportive, and now a further group of characteristics on the Internet Form, further supported it being from the same person. He advised the group that when you look at the lower segment in detail in sequence and agreement between the Police Form and the Internet image together there were identified 21 traditional characteristics shown on Page 30. Shown on Pages 34, 35 and 36 are various levels of identified characteristics on Internet images. Pages 37 and 38 cover points to consider.

Mr Mackenzie stated that he had talked about a deviation in the ridge flow and he stated there is evidence that the ridge flow is consistent with the piece in the top although lifted very slightly and on a swivel. In the top half of the print there is severe disruption of this area but identification was made in the lower area.

Mr Mackenzie advised the group that the area he had highlighted with the circle in magenta on the mark was also present on the Internet Form there was now a circle contained within the mark. He stated that this shape stood out as a prominent feature a bit like the shape of Italy without the heel. Within this circle there are four traditional characteristics over and above the ridge edges. Mr Mackenzie stated that in the training for tracing these edges the guidance is that you do two to three ridges maximum and when you try transparency over each of these this is borne out. This is another supportive piece of information along with traditional information that Mr Mackenzie had in the print along with incipient ridges in the print which are present in Police but not in Internet Form.

Mr Rudrud stated that it was a really good presentation. Mr Mackenzie stated that he had given this presentation before. He advised the group that he had told them of his involvement and his findings and looked forward to Mr Rudrud and Mr Zeelenberg's presentation.

Dr Bramley asked if there was any new information in the presentation that Mr Rudrud and Mr Zeelenberg had not seen before.

Mr Zeelenberg replied that there were some new elements. He also explained that he and Mr Rudrud had made all their observations with reference to the comparison chart that had been produced. Mr Mackenzie stated that he did not want to be accused of drawing in shapes and there was unmarked material available for the other experts to give their opinion.

Mr Dunbar stated that Charting PC was another issue. He explained that although Dr Bramley made reference regarding loyalty to the organisation and colleagues it is individual who signs, so you have to be professional.

Dr Bramley summed up by saying that a lot of information had been presented by the SCRO and he asked Mr Rudrud and Mr Zeelenberg if they required time to think about it and give it proper consideration before they made their presentation.
Mr Zeelenberg said that the problem was one of shooting at moving targets. He had concentrated when listening to the presentation of what comparing things with what he had actually seen. Mr Dunbar interjected to say that if Mr Zeelenberg wished to see the original information it was still on the Internet page. However, Mr Zeelenberg replied that it was impossible to respond immediately to everything which had been brought out but he did not think he and Mr Rudrud should change their presentation at this stage.

3. PRESENTATION BY MR RUDRUD AND MR ZEELENBERG

Mr Zeelenberg stated that he thought everyone agreed it was a difficult matter and for Mr Rudrud and himself not a normal thing to do, it was not an everyday job. He explained that they did not volunteer for the job they were just asked to do it. He recognised it would be hard to make friends today as they would be locked upon as interfering with Scottish matters but they had been asked to do this and they have nothing to gain and nothing to lose but he did not feel comfortable. Mr Zeelenberg stated that for the SCRO people involved it must be a difficult situation to be in and he sympathised with them. He stated that he could not help them with it but he hoped by what he was saying today they did not feel attacked personally. He explained that English was not their mother tongue therefore some phrases may not be as accurate as they could be in their own language. Mr Zeelenberg advised the group that he felt more comfortable in English than Mr Rudrud did and it was decided he would give the presentation with support from Mr Rudrud.

Mr Zeelenberg advised the group that when it was reported to HMCIC Mr Rudrud and himself did not speak about it until they had made their own decisions and they found their conclusions were similar.

Mr Zeelenberg explained that within the investigation he would separate the information phase and look at the latent and comparison version – what is in agreement and what is not. He stated that he had taken one of the chartings of SCRO as a base but had found out there are different numbers used. He stated he would try and use the same numbers UCO10501957. He explained that in general with fingerprints they look at three levels to investigate.

Ridgeology and classification level is considered. He explained that when they were asked to investigate the findings they were given the chartings of SCRO and two originals and one copy. Prior to that they had taken the prints from the Internet and were able to put them on a laptop computer because Mr Zeelenberg felt that comparing on a computer is more accurate. In Glenrothes they found they could not get good pictures but satisfied themselves with the latent presented to them and looked to see if it was same as the Internet image. They were satisfied that the ridge information in the latent was the same.
Mr Zeelenberg advised the group that he thought the brush mark was a genuine thing which damaged the print but did not change the information. There was no fabrication in his mind. Since the fingerprints on the internet was slightly better he did not get the original prints he got the original photograph only and compared it with what he had from the internet and in the computer. The basic information was the same so you could use both as comparison prints. Tolerance was found in normal segments of the production but there were no signs of manipulation.

Mr Zeelenberg explained he regarded a fingerprint as a regular system of parallel lines. In this regular system of lines there are irregularities such as random ending (or starting) lines. Even in difficult circumstances you will always be able to detect an ending ridge. If you have detected an ending ridge you cannot ignore it because you have to take out the whole line. Even if this is difficult to detect then follow the technology of tracing, three neighbouring lines and by following them you know if there is one missing. You know the direction, you know something about the location but you know the principal event is there. By tracing you can see if it is correct.

Mr Zeelenberg stated with dactyloscopic points it is about location, direction, relation and formation to other points. There is a principal event and you can have a ridge end or merge together and that is the pore level but the principal event remains the same. Something may be happening where you have two principal events, it may be a bifurcation or ridge ending but they are all variations in the principal event.

Mr Zeelenberg stated if you look at the dactyloscopic point level when fingerprints are compared, everything in one print should be present in the other. If there is one difference it must lead to the conclusion there is no identification.

He advised the group that secondly they look at ridge detail, how lines are shaped and whether they are a ridge end or bifurcation.

Mr Zeelenberg explained that classification level was the starting point and for this you looked at contours and ridge flow. If a certain someone has blue eyes then if you find someone else with blue eyes you could not say you identified them. On classification level you can exclude but cannot identify. In the classification level you are talking about generalities. He stated that if you look at the prints you see a free-standing mark with no adjacent marks to it and it is the higher part of the first joint of a finger. The upper part looks different. The structure of the lines is broader and some of the lines in the middle become white. If you have a cross section of a ridge you know that underneath there is something creating this ridge and if you look at elderly people this becomes thinner and you may get the impression this line is doubling.
By looking at the thickness of the lines, the noise between the lines and the
colour, this is darker, you can tell this indicates higher pressure than here. In
this area there is an unnatural flow of lines - a curve in this area. In general the
contour is consistent with the print of a thumb.

Mr Zeelenberg stated that the high pressure and lines suggested that this
indicated that it was the placing of a thumb of which the higher part is put first
with high pressure and also in sequence the lower part is placed. It is not the
only explanation but the most likely. The other explanation is that the print has
been placed separately. There is some indication that there is an unusual flow
and a slight change of colour which could indicate a double setting. He
explained that this was all speculation as he was not present when the print was
placed but the most likely is the placing of one finger.

Mr Rudrud advised that it was not unusual to see these kind of prints when you
have high pressure. The double lines are coming from moisture on the ridges.
He explained that he found it hard to see the top as not being part of the lower
section because you can follow the ridges all the way through. Normally when
there are two prints you can judge which of them was first but you cannot see
that and he believed it was one print.

Mr Zeelenberg stated that if you looked at the tip you see three clear ridge
endings. He felt that the lines indicated that it was a right thumb and not a left
thumb because the ridge endings to the right are consistent with a right thumb.
If you look at the lower part then what we see is that in this area those lines
point inwards. This line is almost curving in and so is this one but with the
Shirley McKie print there is a very high loop of lines coming straight down.

There is an indication in the latest that those lines are to diverge and a high
delta to appear at least higher than in the Shirley McKie print. This is most likely
to be a whorl or small loop.

Mr Rudrud agreed the ridges on the top indicate a right thumb.

Mr Zeelenberg pointed to very clear red flags and explained that if the
classification level is doubtful or challenged you have to be careful before you
continue. He stated it was a reasonable print. He could not say it was an
excellent print but would like to have found a downward ending ridge which is
more characteristic in value. He advised the group that this print would have
been assigned as a questionable one and three experts independently would
look and see what they found and discuss the findings in a separate room.

Mr Zeelenberg stated that you always need a stepping stone and you would
look for a small formation of what you were certain of. He referred to Point 14
and explained it went up and if you looked deeper it could be judged to be a
clear ending ridge.
The concerning lines are parallel and the line in between is parallel and a white space on left side. Preference is it is a clear ending ridge and if not an ending ridge the white space would say it is a bifurcation with the right line and not a left line. In the comparison print it is a bifurcation to the left.

Mr Zeelenberg explained if you moved downward to Point 4 you see an ending ridge or bifurcation. He stated that his preference was that it was a bifurcation but the ridge detail in comparison is not consistent. He also referred to the distance between the ridges which was very important.

He advised the group that on moving from Point 4 you saw a bifurcation and on one Shirley McKie print it looked like a bifurcation but again it was not completely the same and he would have liked to find it to be exactly the same but it was not. He explained that if these points were related and a rectangular line taken along the direction of the ridges it is obvious one point is much lower than another. He referred again to the location and stated it might be the same direction and might look similar but the ridge detail is not the same and these are clear red flags.

Mr Zeelenberg then moved to Point 5 which is an upcoming ending ridge. If this point is related to Point 4 then the ridge count in the latent is 2 and in the comparison print 3. Mr Zeelenberg referred to Point 8 and stated that if you took this as a point of reference and moved down in the comparison print there is a bifurcation marked as 6. If you then go to the latent and move down it is different. Normally this point is much lower if you relate it to the core and normally in our situation it would not be marked as genuine information. He could not see a regular system of lines. If this point is picked to be genuine the differences of the same quality level must be recognised as well.

Mr Zeelenberg advised the group that he had asked people from his office to look at the prints. All felt it could not belong to the donor and normally the case would not be taken further from this early stage. He explained that for the sake of this investigation he had to go further.

He referred to Point 8 and stated that there was something alien in this area. If this is a point there is another point here and if this point is not there that line has to continue and this one drops away so there is either no point or these are two. The problem with the comparison print is whatever you do this line continues leaving one distinct point. He then moved to Points 9, 10, 11, 12 and 13 which are highlighted yellow and stated he was unable to mark these points in the information phase in the latent. He could not see them and could not assume they were there. He stated if you looked at Points 9 and 10 they are on the downward opening ridges and it is not the case in the comparison. Points 9 and 10 are principal events you can detect. You should be able to see the ring system of lines and be able to establish formally there is an ending ridge. You cannot do this as the quality is not good enough. He advised the group that he would never use these points as points of similarity as you could not see them.
Mr Zeelenberg then moved to Point 18 and stated that in the comparison print this is of course a bifurcation a clear event not to be disputed. He stated if we looked at this point and followed the lines there is nothing which indicates there is a line coming from the right and ending here. It simply is different.

He then moved to Points 19 and 20 and pointed to a line from the left moving in and stopping but it is not on the comparison. He referred to an ending ridge which clearly stopped but it was not in the comparison. Mr Zeelenberg stated that you could not find a whole ridge and there were two very big differences. Assuming the tip was from a different origin Mr Zeelenberg moved to Point 35 which had an upcoming thick ending ridge. In comparison there is not a result of an upcoming ending ridge. Again an outstanding difference.

He stated that if you looked at the formation of Points 20 and 26, an upcoming ending ridge you can see there is a short ridge or ridge that is interrupted but there are three things here. If you look at the latent you cannot find an upcoming ending ridge. He moved to Points 15 and 16 in the comparison print and advised the group that this appeared to be an interrupted line so it is either two points one coming down and one coming up or no principal event. In the latent an upcoming ridge ending can be seen but the downward ridge cannot be seen. There is one outstanding difference. If you follow a line from Point 16 you will see this ridge ending or bifurcation line to the top seems similar but if you follow it down it moves underneath the area rather than over it. Point Number 2 is an outstanding upcoming ending ridge and Mr Zeelenberg failed to see it in the comparison.

Points 22, 23 and 24 Mr Zeelenberg could find no ending ridges coming from left to the right. In the tip we can see another three different points. Mr Zeelenberg stated that you could ignore the whole tip but if you moved down than we have found a maximum of six points of which the location and direction may be similar but most of the time the ridge detail is not formed.

He advised the group he found at least 12 differences in this area and what he concluded was that it could not be the print from Shirley McKie. It could not be a left thumb as there were too many differences to ridgeflow and pattern and in positive conclusion it is not her print.

Mr Rudrud stated that the distance between the ridges must be considered when you carry out the comparison. He advised members that if you had pressure from the top you could not change the distance between the ridges at the lower part.
Dr Bramley summed up at the end of the morning's presentations by saying that it appeared to him that the areas that needed to be addressed further were:

- Was it a right or left thumb?
- Was it a single impression or multiple impressions?
- Can the similarities and differences in the points discussed be reconciled?
- Is it reasonable to look at matches found in isolated areas as opposed to looking at the whole print?

Mr Zeelenberg stated that looking at the lower part only he could see ten differences to that of the McKie print.

4. FACILITATED DISCUSSION

Dr Bramley reported that from conversations he had had at lunchtime it would appear that there was some measure of agreement on two of the issues. The first of these was that Mr Mackenzie and Mr Dunbar had agreed that if the scene mark is considered to be a single finger impression, then it is more likely to be that of a right thumb and not that of Shirley McKie. The second was that Mr Zeelenberg had said that he could not exclude the latent mark as being a double print.

Dr Bramley stated that if we cannot exclude it being a double print, then we next have to agree what it is reasonable to compare against what in order to get an identification. Would it be acceptable to consider only the lower part of the print that appeared to be coherent or could we use several isolated parts from the whole print in reaching the conclusion. Only then would it be sensible to go into the similarities and differences that have been discussed in more detail.

So how do we decide what is a coherent part of the fingerprint to compare? Mr Mackenzie stated that the lower area had more potential. Mr Rudrud thought that in the lower area if you look at the structure, colour, coherence you have to agree that it is coherent or you cannot start at all. At this point a discussion ensued as to where the actual border line should be.

Mr Mackenzie stated that the lower area had more potential. He referred to Pages 31, 32 and 33 of his book and advised the group that it looked to him that there was a strong feature between Points 44 and 45. He stated that to expand further on that Mr Zeelenberg spoke about ridge endings coming in. Mr Mackenzie explained that a feature similar to a joiner or carpenter’s planing system like a wooden block with a blade or something along these lines is very distinct in that area. He had illustrated that in Pages 31 and 33 along with clarification on a flip chart of this feature.
Mr Zeelenberg stated that is turning around the way you present evidence. You have a piece here and a piece there and on the whole it does not fit. Mr Dunbar advised him that they did not take this mark to court and try to establish proof, the challenge has been reversed on them and we had to satisfy ourselves as to identity. Dr Bramley advised the group that if they found an agreed area on a coherent part on the fingerprint and discussed it for similarities and differences.

To make progress, Mr Mackenzie agreed to the use of the Internet copy Mr Zeelenberg was displaying from his Laptop Computer. Mr Zeelenberg stated that he had an original photograph he got last week which is a very good representation of what is on the Internet. There are no principal differences to what is on the Internet. Mr Mackenzie stated that he created his presentation over a period of time. He had tried to understand why people were not seeing what he was seeing and what is in the presentation is what he saw.

Dr Bramley put up an Internet print and asked if it was suitable. Mr Zeelenberg stated that it was. There was a brush line but that did not alter any detail and no ridge had been removed. He suggested that what he saw was an area where the lines were thicker and you should look at the colour and the spaces of the noise in there. He suggested a coherent area but Mr Mackenzie disagreed regarding the variation in thickness of ridges and did not believe you could trace the ridges round. This area shows the ridges are out of alignment.

Mr Mackenzie was satisfied that in the lower area it was one coherent print but above the line was at least three pieces. He explained that these three pieces were supportive of his decision on the bottom bit.

Mr Rudrud stated that it was hard for him not to see the disturbance on the ridges. On the right side of the good area if you follow the ridges and if you go very low you see the ridges continuing very clear and it goes further into the darker area. He explained that it would be very hard for him to see it as a different finger or a different part of a finger.

Mr Rudrud explained that the dark area was caused by different pressure. Mr Zeelenberg stated that he would accept any argument supported by information that would tell him that this was not part of the coherent print. If he was told that it was three divided parts above the line then he would accept it if he was given the right arguments and he could see structure wise and colour wise it was a different part.

He could not see the reason why it should be excluded. Mr Zeelenberg stated that if we debate the SCRO opinion that this is a coherent part it means it was three settings accidentally impressed as one finger. If it is excluded because of the quality of information that is different.
Mr Mackenzie stated that he had dismissed the right hand corner part and apart from that part he was satisfied that everything on the Police Form matches what is on the mark on the Internet copy. Mr Rudrud stated that if the lower area is the best part how is the distance on the lines bigger than in the comparison. Mr Mackenzie stated that it could be twisted as it is in a door jamb which is an unusual place to get a print. At this point a discussion ensued as to whether it was a right or left thumb print.

At this juncture there was a short interlude to allow examination of the wood from the door jamb.

Mr Zeelenberg stated that he thought it was a small print for a thumb but it did not change the conclusion. By looking at that the position is more consistent, with a left thumb than a right thumb but it could be a forefinger. Mr Dunbar stated that if you are looking at an assessment of it then you are only able to deselect on classification. Mr Mackenzie stated that he had actually given evidence in another case where a number of experts were of the opinion the mark was in one piece and another group of experts provided evidence of various parts of the print. Mr Dunbar asked whether Mr Rudrud and Mr Zeelenberg had ever encountered that before and asked that if someone said it was two placings had they ever disagreed. Mr Zeelenberg stated that they had the principal of fair reasoning and based their decision on the facts looking at the colour and structure and advised Mr Dunbar that he could accept the option of double placing. He explained that if it was a double placing with time in between he had a hard time believing it would look like that but he always left room for the unexpected it was never 100%. He found it harder to believe the area above the line was in three parts.

Mr Dunbar advised Mr Zeelenberg and Mr Rudrud that when he looked at the photograph handed to him he had no trouble seeing breaks in the ridges. One area of quantitative analysis is to follow the ridges round but what we were looking at is identity and non-identity. Mr Mackenzie stated that he believed that the experts were confronted with this when providing evidence and what is being described to him is not clear as he can easily see the jumping of the ridges.

Mr Zeelenberg stated that it had been established that it was unlikely that it might be the sequential setting both of the left thumb of Shirley McKie. He drew attention to the left thumb of Shirley McKie and pointed to the incoming ridges from right to left and stated that this print could not be from McKie.

Mr Mackenzie stated that if the lower part of the mark had been absent and all there was were several small pieces in the top, then he would be unhappy about the whole top area.
Mr Rudrud stated that he presumed Mr Mackenzie and Mr Dunbar had seen many prints when you have high pressure and normally you would see something happening between the high and low but that does not exclude the other area. In the other area you see the ridges going smoothly over and if this had been on a glass or bottle you would see a few latents.

Dr Bramley asked if we had come to an agreement that the print was not made by two different people and that if one part of the impression was made by Shirley McKie then so the whole of the impression must have been, and all the different parts would have to be accounted for by sequential placements of the same finger.

Mr Zeelenberg stated that if there were multiple prints, they were not placed by two persons at different times, but placed right after each other most likely by one person. He advised the group that the top of the latent thus has to come from the left hand from McKie if the lower part does.

Dr Bramley asked Mr Mackenzie and Mr Dunbar if they were satisfied that the area at the top of the latent was the top of the thumb. Mr Dunbar stated he could not refute it.

Dr Bramley asked Mr Zeelenberg if he was stating that there were features in the latent print that he could identify that did not appear on the tip of the thumb of Shirley McKie. Mr Zeelenberg stated that there were. Mr Mackenzie stated that he could not guarantee that these were genuine characteristics and once the rest has been assessed and comparisons done you have to doubt how genuine the information is. Mr Mackenzie stated that he had put forward an argument relating to certain points in the area and even in another area there are several features. Mr Zeelenberg asked if it could be agreed that the best information is under the line. At this time he pointed out ending ridges. Mr Mackenzie stated that using the best forms available he was satisfied in the bottom area. From the core area out to the right, something had previously satisfied him and having had this opportunity to revisit the form, this was still the best part of the impression and he stood by characteristics he saw in that area.

Dr Bramley asked if Mr Zeelenberg would accept that there was a degree of similarity that would be hard to explain if the print was not made by Shirley McKie. Mr Zeelenberg stated that he did not accept the fact that there were so many points of similarity.

Mr Mackenzie stated that he had tried to explain his findings in his presentation and stated that a bifurcation could open up into a ridge ending. He was satisfied that everything was in sequence and agreement and that a twist had opened the ridge. The only other thing he had seen from the defence experts' impressions appeared in newspapers and there was a lobbying of parliament where American experts appeared on TV and he saw them in the Herald newspapers.
The closest he had seen the defence experts regarding particular characteristics was when Mr Wertheim had said there was something like five within his tolerances. What did they say about that characteristic?

Dr Bramley summarised by saying that if we have a multiple setting, this would require three stretched adjustments at the top and a skew at the bottom in order to say it is Shirley McKie’s print. We also have to ignore all the detail in the upper part as unreliable.

Mr Rudrud asked if Mr Dunbar was saying that the width of the ridges was altered by pressing or turning. Mr Dunbar advised him that he had only seen today the print in situ and how the bottom part was placed will always remain to be a mystery as he was not present when it was placed. Mr Rudrud stated that they had to have an explanation not only on the points but also the ridge flow.

Dr Bramley asked if the mark was that of Shirley McKie or not? What could cause opening out of ridges? What activity would open them out? Mr Rudrud had said that if you maintain contact and you twist the ridges would get closer together.

Dr Bramley asked if it was reasonable to say that you must remain contact. Mr Rudrud said that you could not use this area for identification purposes if you cannot explain why there are closer ridges. Mr Mackenzie explained that with a rolled impression you did get ridges wider on one side than the other, but the mark was a contact print not a rolled print. That is one reason why he had favoured the use of the plain impression on the Police Elimination Form, which was more representative of how a chance impression would be left at a scene. Mr Zeelenberg stated that it was an important issue classification-wise. He was also unconvinced about discarding the very clear information available in the tip of the latent print which was not in the McKie print. If this information is declared not genuine, then you should accept nothing as genuine. If the best and clearest part of the print is not accepted as genuine then the worst should not be accepted as genuine.

Mr Mackenzie stated no. Mr Zeelenberg advised him that if the top is not acceptable then no part of the top is acceptable. Mr Mackenzie stated that he had tried to account for segments of it. He advised the group that he would be happy to leave the top out and that is his understanding from the officers who went to court. Mr Zeelenberg asked him how he could ignore those points. Mr Dunbar enquired if Mr Zeelenberg was aware that it was not only SCRO and Peter Swann who had arrived at this conclusion and that at least two other independent experts agreed with SCRO on this identification.

Dr Bramley asked if we could agree to accept nothing from the top part of the print. Mr Mackenzie stated that in isolation he would not take one area of the upper part forward on its own but it did provide supporting evidence with what was in the lower part. Mr Dunbar advised that this was how it was at the court and the other side of the argument kept bringing it back to the top part.
Dr Bramley asked if the group could now concentrate on the bottom part.

Mr Zeelenberg referred to Point 26 which is an upcoming ridge end. He advised Mr Dunbar and Mr Mackenzie that if they looked at their own print you could follow the line but there was no line coming from there and nothing there. It is just not there. Point 16 there is no ridge coming down.

Dr Bramley asked Mr Rudrud and Mr Zeelenberg if they would like to comment on the duplicated segment showing the same ridge shape that Mr Dunbar and Mr Mackenzie had shown at the end of their presentation. They did not feel able to do so at this time.

Dr Bramley then referred to a PSDB print of the latent mark he had just been shown that had been produced by Terry Kent. There appeared to be a lot more detail in this than has been seen in other prints. It was a much more complete photograph. He suggested that there might be an advantage in getting copies of these and for everyone to go back and look at them to see whether or not they would assist in reconciling the outstanding differences. Mr Zeelenberg agreed that the print looked better.

If they could consider when they do this both the points of comparison which match and those that do not and how they could explain the rest of the mark.

Mr Dunbar asked for information on the piece of material at the edge and it was agreed this would be provided. Mr Zeelenberg stated he did not know whether he would be able to supply others with a copy of the report as he did not know whether the HMCIC would allow this. Mr Mackay stated that the HMCIC report is not in the public domain yet and he would wish it to be kept confidential at the moment.

Mr Zeelenberg stated that much of the material handed out today is included in the HMCIC report. It was agreed there were no problems with all the Crown productions. Mr Dunbar stated that he believed that the SCRO books were not Crown Productions and that the authority of the Director of SCRO would have to be sought. Mr Zeelenberg stated the prints he supplied are included in the HMCIC report so he would have to take them back.

Dr Bramley thanked SCRO and HMCIC for their professional approach. Mr Zeelenberg stated that it had been a unique occasion and he had tried to speculate about what might happen and could happen. He advised the group that he had been very happy with the attitude of Mr Mackenzie and Mr Dunbar and he was impressed by their courage.

Mr Mackay thanked SCRO and HMCIC for their excellent and professional presentations and hoped the matter could be resolved.
Dear Mr Dunbar

Scottish Criminal Record Office and Scottish Fingerprint Service Inquiry

Thank you for your letter of 9 July to my colleague Allan Campbell in response to his letter of 29 June.

I can confirm that we are also in receipt of the documents sent by you to my colleague Euan Donald on 28 June. However, in your evidence to the Committee on 26 June you made several references to procedures within the Glasgow Bureau, both in 1997 and today. The Committee had previously received written evidence from John McLean, then Director of SCRO, that there “were no formal written procedures in 1997 for processes within the bureaux which now make up the Scottish Fingerprint Service” (letter dated 3 May 2006, published as paper J1/S2/06/17/2 for meeting on 23 May 2006).

At column 3602 of the Official Report of the Justice 1 Committee meeting of 26 June, in response to a question from Bruce McFee MSP as to whether there were written-down procedures in 1997 you stated, “Yes—there was a memorandum”. You went on to refer to “briefing books for each team”. At column 3597 you referred to “audits, practices, procedures and local work instructions. They were all there; they just needed to be formalised as they are now.”

I enclose extracts from the Official Report highlighting the relevant statements.

There would appear to be a contradiction between what you said in oral evidence and what you wrote in your letter of 9 July.
The Committee would be grateful if you would now supply copies of the relevant memorandums and local work instructions to which you referred in oral evidence. If there is, in fact, no such material I should be grateful if you would confirm that this is indeed the case.

I should be grateful for a response from you by Friday 28 July at the latest.

Yours sincerely

Douglas Wands
Senior Assistant Clerk to the Committee
Dear Mr Wands,

Thank you for your letter of 17 July 2006 in response to ongoing dialogue with your department regarding the enquiry.

In the spirit of cooperation I would like to explain the perceived contradiction that you mention.

In 1997, as I stated at the Justice Committee Session the format of procedures, work instructions and our initial attempts at audit were, without question in place and functioning, but not as they appear today.

What is in place today is what has evolved from then and has been superseded by subsequent and interim procedures and practises, not what was present in 1997.

The main reasons for the procedures not being available in the format that they were in 1997 are that if these memorandum style documents had not been withdrawn on the production of a new procedure, then how could we be sure as an organisation which practise was being adhered to.

When the bureau progressed into ISO accreditation in 2000 I personally ensured that all paper instructions and procedural memorandum were withdrawn, in order that I could be sure as Quality Assurance Officer, everyone was working to the same script.

The only thing that survives electronically is the procedures from 2000 and perhaps the odd memorandum stashed away in an unused file that someone has not shredded.

I wish to assure the committee that it is not the case that paperwork did not exist in 1997, contrary to what you have been told, but that it does not exist any longer. In essence what you have now is what has evolved from that documentation.

With regard to retention and to put in perspective, the Scottish Fingerprint Service does not even keep fingerprint cases, that are not serious for longer than five years and has never had a requirement to do so.
I hope that aforementioned explains the situation more clearly and if there is anything else I can help with please contact Mr Ewan Innes who will expedite your enquiry.

Yours sincerely

Alan Dunbar
Quality Assurance Officer
Pauline McNeill MSP
Convener, Justice 1 Committee

SCRO and SFS Inquiry

Thank you for your letter dated 17 August 2006.

I acknowledge the Committees decision to publish all evidence that it accepts.

I had concerns regarding my witness statement taken by officers of James Mackays Tayside Inquiry Team. As you know this was a criminal investigation into an allegation of criminal corruption against SCRO. An allegation made by Iain McKie. I have taken legal advice and I have been informed, that as the Crown when releasing my statement placed no restrictions on it, there should be no ramifications for me if published in your report. Therefore I have re-submitted all the material that I quoted from during my oral evidence on the 26th June 2006.

I would like to repeat a concern I made in my original letter.

“As with all police investigations Mackay was answerable to the Procurator Fiscal. In this case the PF of North Strathclyde William Gilchrist. The opinion of James Mackay was not absolute. The Mackay Report was handed to Mr Gilchrist who in turn conducted his own interviews and subsequently made his own report.

Why is the committee not pursuing the report of Mr Gilchrist with the same fervour? Why is the committee not seeking ALL evidence available to the Lord Advocate when the decision was taken not to prosecute the four officers?

By all means continue in your efforts to secure the release of the Mackay Report in its entirety. I would however repeat that it was not a stand alone report and should be released within its proper context.”

I will continue to assist the Committee in any way I can. If there are any issues that require further discussion or clarification please do not hesitate to contact me.

Thank you.
Yours sincerely,

Alister Geddes.
ALISTER GEDDES, age 31, born 09/09/1969 at Glasgow, Fingerprint Expert, c/o SCRO, 1 Pacific Quay, Govan, Glasgow (note new address)

States:

Further to my statement noted on 24 August, 2000 (24/08/2000), I have been asked to clarify a possible ambiguity in that statement concerning the identification of crime scene mark Y7.

I was asked by Hugh MacPherson, Principal Fingerprint Officer to compare the crime scene mark against a set of elimination fingerprints supplied by Shirley Cardwell (McKie). I was already aware that Shirley Cardwell was a police officer who had been at the locus of the Marion Ross murder and identified from a list supplied by Strathclyde Police.

I had previously been to the locus of the murder and knew the importance of the mark, it having been found on the bathroom door frame in close proximity to the body. That information would be contained within the Identification Bureau log submitted with any crime scene marks. I also knew that the finding of the mark (crime scene mark Y7) was significant as it had only been found on the second occasion the area had been examined.

Given the significance of the position of that mark and Hugh MacPherson's identification as that of a police officer, it was felt that, at the very least, that officer would be in serious trouble for leaving her fingerprint in such an important area. I was asked to verify the mark and without any pressure from Mr MacPherson I subsequently made my own independent examination and found 10 characteristics, in sequence and agreement, I was happy to eliminate the mark on what I had found and accepted by Mr MacPherson.

From my discussion with Mr MacPherson, he appeared to be of the opinion that the officer leaving the mark would be in some form of trouble and was therefore looking to achieve a 16 (sixteen) point identification.
I was thanked for my efforts and allowed to continue with my other duties.

The case was unusual in 2 (two) ways, firstly that the disputed crime scene mark (Y7) was only discovered during a second examination of the locus, and secondly, that it was that of a police officer found so close to the body.

Annual Leave - 14/10/2000 – 22/10/2000

Statement noted by Detective Sergeant 7634 H Dunn at 1120 hours on 13 October, 2000 (13/10/2000) at 1 Pacific Quay, Glasgow and is corroborated by Detective Constable 9031 G Ogilvie
Dear Mr Bell

THE SCOTTISH MINISTERS
SHIRLEY McKIE v STRATHCLYDE JOINT POLICE BOARD AND OTHERS

I refer to the above Court of Session action in which my Office is instructed on behalf of the Scottish Ministers. Mrs Fiona Robertson, the principal solicitor dealing with the case, has asked me to contact you on her behalf.

As you may be aware, we are currently involved in a very tight timetable with regard to the court action. The Pursuer has introduced significant additional averments to her written case. We need to take the comments of a number of SCRO employees (or former employees) on the new matters raised by the Pursuer, before the end of this week.

I enclose a copy of the relevant section of the Pursuer's pleadings (14 copies will follow with the hard copy of this letter). I would be obliged if you would forward one copy to each one of the employees listed below, as a matter of urgency. Please ask them to prepare any comments they have on the pleadings, and then to telephone either myself or my colleague Leigh Anne Brown on Thursday 11 September to provide an oral statement. We will return their calls to minimise their expense.

The individuals listed at 1-7 should contact me on 0131 244 0600, and those listed at 8-14 should contact Leigh Anne Brown on 0131 244 0595.

1. -?- Bruce (no first name given. According to Pursuer, this SCRO employee was asked to undertake a ‘blind comparison’ on 17/2/97)
2. -?- Foley (as 1. above)
3. -?- Fadden (as 1. above)
4. -?- McClure (as 1. above)
5. Mr Robert Mackenzie (Deputy Head of Bureau)
6. Mr -?- Taylor (carried out Primary Inspection and organised meeting at Police Training College on 15/8/00, attended by Rudrud and Zeelenberg)
7. Mr Alan Dunbar (Quality Assurance Officer)

8. Mr Charles Stewart (Fingerprint Officer)
9. Ms Fiona McBride (Fingerprint Officer)
10. Mr Anthony Joseph McKenna (Senior Fingerprint Officer)
11. Mr Hugh MacPherson (Fingerprint Officer)
12. Mr -?- Geddes (Fingerprint Officer)
13. Mr David Halliday
14. Mr Terry Folie

(please note that we are not sure whether Mr Terry Folie is the same individual as the person named at no. 4 above. Please let me know whether there are (or have been in the past) two Mr Folie(s) employed with SCRO.)

You may be aware that Mr Stewart, Ms McBride, Mr McKenna and Mr MacPherson (at 8-11 above) are also Defenders to the court action and therefore have their own solicitors, Messrs Thompsons, to act on their behalf. We have advised Thompsons that we are contacting their clients for a statement.

If you have any queries, or wish to discuss anything on receipt of this fax, please contact me. Many thanks for your assistance.

Yours sincerely

GILLIAN NELSON
5. On page 11, line 2, by deleting after the word "made" to the end of that article and substitute therefor:

"The course of the investigation into the murder of Mrs. Ross required a comparison to be undertaken of the prints found on the doorframe and on the tin. In each case the source of which was unknown (i.e. a "latent" print) and thereafter required to be compared with a possible source (in the present case, with the pursuer and Marion Ross respectively). On 16th January 1997, the latent print found at the locus was sent to SCRO for the purposes of excluding it from the enquiry ("elimination purposes"). It was received on that date by Hugh Macpherson, formerly the third defender in this action and an employee of the SCRO. Following enquiries with SCRO on the HOLMES computer system, on 6th February, a request was made of SCRO that elimination prints be taken from the pursuer. On that date, an elimination print was taken from and submitted to SCRO. On 7th February, Macpherson confirmed that the elimination print had been received. On 10th February 1997, Macpherson carried out a comparison and he stated that the latent and elimination prints matched, thus stating on work sheets that he used that the print was that of the pursuer. On 11th February 1997, Macpherson telephoned Detective Chief Inspector Heath, who was leading the murder squad, and stated that the latent print was that of the pursuer. Heath then directed that a statement be obtained from the pursuer to explain how her print could have been left at the locus. Thereafter, on 11th February 1997, Macpherson instructed another employee within SCRO, Geddes, to compare the latent with the elimination print. Geddes declined to confirm that there was a match and refused to sign the appropriate form. He was able to find only ten points of similarity and not the sixteen that were then required. The pursuer had by then denied being at the locus. Notwithstanding Geddes' doubts, Macpherson contacted a police officer, McAllister, and told him that there was no possibility of an error in the mark and that there was a match. Macpherson had not at that time had any confirmation by any other expert of the identification. The only other opinion he had obtained was a contradiction (viz from Geddes). He did not disclose that to McAllister. On 12th February 1997, Macpherson asked Fiona McBride (formerly the fifth defender) to check the comparison. She identified
the mark as that of the pursuer. On 12th and 14th February, the pursuer became vociferous in her denial that the print could be hers. On 17th February 1997, the pursuer requested that the matter be rechecked, and asked that she be permitted to be present when the comparison was made. The request that she be present was refused. The head of SCRO (Mr. Ferry) decided that "blind comparisons" should be carried out by other employees of SCRO. On 17th February, after 6.00pm, the comparison was carried out. SCRO employees Bruce, Foley, Padden, McClure and Mackenzie were asked to carry out the comparison. The results were as follows: Bruce refused to make the comparison having found only 8 points of similarity; Foley found only ten points and refused to accede to the view that there was a match; Padden refused, stating that it was difficult to conclude that there was a match; and McClure stated that the quality of light was insufficient to draw the match. All of those employees were of considerable experience. Notwithstanding the doubts expressed by them, and that had been expressed by Geddes previously, Mackenzie advised Ferry on 18th February that there was a match. He did not advise Ferry that five officers had doubted the match and that they had refused to confirm the comparison. Ferry expressed concern about the gravity of the allegation to McKenzie. On 18th February, Macpherson again asked McBride to confirm the identification (despite the fact that she had done so previously). On 18th February 1997, a further officer, Dunbar, confirmed that there was a match. On 18th February 1997, Ferry contacted police officers involved in the murder enquiry, and confirmed that three of his "top experts" had confirmed the match. He did not advise that five had refused. The examination and comparison exercise was carried out initially by one employee within SCRO, and thereafter the views of that officer would have been checked by other employees. Following the initial report to the pursuer that it was being suggested in the report from SCRO that the latent print was left by her, she challenged that view. The pursuer was advised, and has no reason to doubt the veracity of the statement, that the print was subsequently checked by other employees within SCRO who confirmed the original view that the latent print was hers. That position of the SCRO employees was maintained throughout the trial of Asbury, during the criminal investigation into the conduct of the pursuer, and up to the trial of the pursuer. At all material times, the reputation of SCRO was such that their evidence to the effect that latent prints matched putative sources was rarely if ever
challenged in court. As condescended upon, the fingerprint evidence in the case against Asbury was of high importance. At any stage, had it been stated by SCRO that the original identification of the print alleged to be that of the pursuer had been incorrect, this would have had the immediate effect of prejudicing the prospects of a conviction of Asbury, as the same SCRO employees were responsible for preparation of the reports relating to the latent print said to be that of Asbury—Marion Ross as that said to be that of the pursuer. Thus, should any error be admitted in one, this would inevitably have called in to question the position relating to the other. Further, should there be an admission at any stage of an error being made, the hitherto unimpeachable reputation of SCRO would have been called in to question. In fact, as condescended upon, the latent print identified to be that of the pursuer was not her print. That it was not her print was obvious. It had been doubted by Geddes, and subsequently by four other employees as condescended upon. Estô any error had been made in that identification at the outset, it would have been obvious to any employee of SCRO who had any reasonable experience of the identification or comparison of such marks, who was alerted to the suggestion that the fingerprint was not validly identified that the original identification was erroneous. The pursuer is unaware of the extent to which the print was checked and rechecked within SCRO, nor by whom. The print comparison was such that there were numerous points of difference between the latent and the pursuer’s print. Any single point of difference would have alerted any fingerprint examiner of the fact that the prints were not a match, no matter how many points of similarity there were. Notwithstanding the obvious difference between the prints, the employees of SCRO continued to maintain that there was a match. Further, the latent print alleged to be that of Marion Ross, was clearly and obviously not that of the late Mrs. Ross. That comparison was also carried out by the same employees of SCRO who carried out the comparison of the print alleged to be that of the pursuer. Having regard to the obvious nature of the differences between the latent prints on the door frame and the tin; the fact that two misidentifications occurred within the same case; the repeated checking and rechecking of the comparison; and the hitherto unimpeachable reputation of the SCRO, it is believed and averred that the employees within SCRO who analysed the print were aware during the preparations for the Ashbury trial onwards, that the latent print on the door frame was not that of the pursuer, but nonetheless, to maintain the reputation of SCRO, continued to state that there was a correct identification of the
latent as that of the pursuer. Those employees knew that to admit that an error had been made (if that is what had happened) would prejudice not only the possibility of a conviction in the Asbury case, but also the entire reputation of the SCRO. The original statement that the latent was correctly identified as that of the pursuer was at least negligent. No fingerprint expert would have misidentified the fingerprint, had any degree of reasonable care been exercised. Following the acquittal of the pursuer, hereinafter condescended upon, formal enquiries were held. No fingerprint expert, other than those within SCRO, has maintained that the claimed match is a valid one. Numerous experts throughout the world have been invited to comment to inquiries, and none has stated that the latent matches that of the pursuer. As condescended upon, once it was known that the pursuer challenged the initial views expressed, any fingerprint expert subsequently checking the initial comparison would have been aware that there were in fact substantial differences between the marks and the elimination prints. Accordingly, any representation at that stage and following that the latent was that of the pursuer was false, and known to be false. The conduct of the said SCRO officers who confirmed the match, was such that they knew as from 17th February 1997 that there was no match. They continued to maintain what they knew to be false, and knew that the pursuer would at least be disciplined and may be prosecuted. Following the pursuer's acquittal, officers of SCRO who had maintained the position that there was a match, were investigated with a view to their being prosecuted for perjury. The allegation against them was to the effect that in the trial of the pursuer and of Asbury, to the extent that they maintained that there was a match, that evidence was false and they knew it to be false. The enquiry was conducted at the request of the Crown Office by former Deputy Chief Constable of Tayside Police, James Mackay and Detective Chief Superintendent Scott Robertson. They fully investigated the matter, and concluded that there was criminal conduct by the said SCRO employees sufficient to justify criminal charges being brought against the said employees. Notwithstanding their opinion on the evidence, and so far as they are aware there was no contradiector to that position, no prosecution took place. The SCRO continued to maintain that their identification was correct, and continue to do so. Such an attitude is consistent only with a desire to continue to protect their reputation rather than admit that the identification was wrong. At a meeting on 15th August 2000, two fingerprint experts (Rudrud and Zeelenberg) were invited by SCRO to a presentation
by SCRO. At that meeting employees of SCRO (in particular McKenzie and Dunbar) provided a demonstration seeking to convince those experts and others present there that their opinion was correct. They provided comparison photographs to justify their opinion. They had given no advance copies of the documents to Rudrud and Zeelenberg who were unable to respond without the opportunity to closely examine the photographs. Following the meeting, an analysis by those experts indicated that the presentation had been fundamentally flawed in that the alleged areas of similarity were only superficially similar, and it was an impossibility that the areas of similarity identified by SCRO between the latent and the comparator could have been produced by a single print. That position would have been obvious to any fingerprint expert, and would certainly have been obvious to any expert preparing the comparison prints and seeking to identify points of similarity prior to such a presentation. It is believed and averred that the SCRO staff were deliberately seeking at that meeting to misrepresent the position, thus continuing the dishonest approach that had been adopted by them as condescended upon. Prior to the pursuer being prosecuted, SCRO staff were again asked to provide an opinion on whether the latent print was that of the pursuer. They confirmed to the Crown that it was. By so confirming, the SCRO staff knew that their opinion would be critical in the decision on whether to prosecute the pursuer. They knew that had they stated that there was no match, no prosecution would or could proceed. At least by that stage, SCRO staff were aware that there was no match, but nonetheless continued to maintain that it was.

At no time did any member of SCRO disclose to the pursuer or her legal advisers, or to the Crown, or to the jury in her trial, that doubt had been expressed within their own offices as to the accuracy of the representation. Their function is not that of a prosecution agency. Their failure to disclose such a crucial matter in evidence or before, is indicative of malice in the preparation for and giving of their evidence. Had they disclosed it to the Crown, it is likely that the pursuer would not have been prosecuted. They accordingly deliberately misrepresented the position, which resulted in the pursuer being prosecuted. But for that misrepresentation, she would not have been prosecuted for perjury. With reference to the averments in answer, and in particular the call placed, notwithstanding the fact that such information is confidential, no expert who was asked to provide an opinion on the matter of comparison of the prints prior to the pursuer’s trial, stated that there was a match between the prints. Pat
Wertheim and David Grieve were asked to provide opinions and confirmed that no match existed and that was obvious.

IN RESPECT WHEREOF
Dear Euan,

Enquiry into the Scottish Criminal Record Office and Scottish Fingerprint Service – Request for Copy of Precognition recorded by Tayside Police Officers

With reference to the letter dated 29 June 2006 received from Allan Campbell, Committee Assistant, re Justice 1 Committee Meeting of 26 June 2006 and my telephone conversations with yourself, please find enclosed the following:

1. A copy of my precognition recorded on 13 July 2000 by Tayside Police Officers working under the direction of Mr James McKay, then Deputy Chief Constable, Tayside Police.

As I explained on the telephone, I am more than happy to provide the above to the Committee and I am sure they will find it of interest.

The reason for the short delay of a few days in the provision of such, was that I was waiting the return of the Head of the Scottish Fingerprint Service Mr Innes, who was on holiday last week.

I apprised Mr Innes this morning, of my intention to forward a copy of my Precognition and Additional Statement to the Committee adding that the only reservations that I had, was that my previous submission to the Committee had as you know, along with that of others, been leaked to the press by a member of the Committee ahead of ‘official’ publication.

As a result, it would concern me if having now shared this additional information ‘in confidence’ with the Committee that it would be misused or taken out of context at some future date, as has already happened with other ‘confidential’ information.

I would be obliged if you could advise Pauline McNeill of my concerns in this area and also that if I can assist the Committee further in its deliberations, I would be very pleased to do so.

Yours sincerely,
ROBERT HARVEY MACKENZIE, age 51, born 16/11/1948 (16/11/1948) in Glasgow, Local Government Officer. c/o Strathclyde Police HQ, 173 Pitt Street, Glasgow SCRO Fingerprint Bureau G24JS

Also present during interview, Miss Ryall, Regional Trade Union Officer, UNISON, West Campbell Street, Glasgow, G2 6RX.

I was first employed by City of Glasgow Police, Fingerprint Branch on 4 September 1967 (04/06/1967) in the capacity as Fingerprint Clerk. I progressed through the Branch, attended the requisite courses, including a 3 month secondment to the Identification Bureau, qualifying as a Fingerprint Officer - Expert in 1974, July. In 1975, following regionalisation, I became an employee of Strathclyde Police but attached to the Scottish Criminal Records Office. I presently hold the Secretary of State's authorisation to give expert opinion on fingerprint evidence and my present position within the Scottish Criminal Records Bureau is as 'Deputy Head of Fingerprint Bureau' and have responsibility for the basic day to day running of the Bureau.

In 1997 my designation was 'Assistant Chief Fingerprint Officer' with basically the same responsibilities and duties as at present.

In 1997, a Chief Inspector William O'Neill was in charge of the Bureau, although he was not a Fingerprint Expert, I was his Deputy at that time, with a Quality Assurance Officer, Alan Dunbar, directly under me. There was also an Acting Inspector within the Bureau at that time who was responsible for AFR (Automatic Fingerprint Recognition System) and Livescan and was a Fingerprint Expert who had limited input to actual fingerprint examinations/comparison. In 1997, there were 2 Sergeants, David Halliday and Alexander (Sandy) MacLeod within the Bureau who were Fingerprint Experts. Alexander MacLeod retired in February 2000 and Inspector Milligan - formerly AFR/Livescan officer, retired in June 2000, leaving one Chief Inspector and one Sergeant presently within the Department. In 1997 there was approximately
29 (twenty nine) Fingerprint Experts of various grades ranging from Fingerprint Officer through to Assistant Chief Fingerprint Officer. There may have been approximately 6 trainee Fingerprint Officers also at that time within the Bureau, plus additional administrative staff.

In 1997, as at present, SCRO receives photographs of crime scene marks, marks from articles or photographs of crime scene lifts, but not the original articles and any subsequent examination is based upon these photographs. The Bureau services all Scottish Police Forces, but specifically service Strathclyde, Northern and Dumfries & Galloway Police Forces as regards comparison of crime scene marks.

All photographs submitted for examination should bear a unique reference identification usually incorporating the crime reference number and a series of letters. A case envelope is prepared in each case into which the photograph or photographs and any relevant documents are placed. Any subsequent identifications, eliminations, etc. are updated on the envelopes.

If a photograph is submitted from a crime scene lift then prior to court, the actual lift, in Strathclyde Police cases only, is requested by the Fingerprint Expert for direct comparison and insertion in the court presentation format.

As a rule, the Bureau does not receive the original film negative of any crime scene photograph.

In general terms, when a crime scene mark is submitted for examination, a number of elimination prints may be quoted or submitted along with a list of Police Officers who may have attended the scene for the purpose of elimination or identification of the crime scene marks. SCRO Fingerprint Bureau currently hold copies of most Strathclyde Police Officers fingerprint impressions along with Scenes of Crime Officers and some support staff, for example, laboratory staff.

A log is maintained of all elimination or suspect comparisons which are initialled by the Fingerprint Expert carrying out the comparisons. In 1997, as regard serious crimes, including murder, each elimination comparison was independently carried out by 2 Fingerprint Experts as is still the case, and the results were logged. If a suspect identification was made, that identification was ultimately examined independently by the initial Fingerprint Expert and 3 other Fingerprint Experts. Any identifications made during fingerprint examinations is made
known to the Investigating Officer, normally by telephone and should be recorded on the case envelope or diary page inside.

The policy for SCRO Fingerprint Bureau in 1997 was when a suspect identification was made by a Fingerprint Expert, 3 other Experts examined the crime scene mark independently to give their opinion and confirmation of that identification. At present the criteria has altered whereby only 2 further Fingerprint Experts examine a crime scene mark following an initial identification by the first Fingerprint Expert.

Where there is any dispute between the Fingerprint Experts as to the identification of a crime scene mark, the process is stopped and the Quality Assurance Officer consulted. I have supplied a flow chart of the current position regarding disputed identification, although not formalised in 1997, was basically the same system adopted. If all the Fingerprint Experts were not in agreement, then the comparison was not considered an identification.

From about 1994 until June 2000, the Fingerprint Bureau used a personal computerised system to prepare productions for petition cases on behalf of the Fiscal’s Service. In general, one mark (crime scene mark) was prepared as an illustration and shown against the relevant finger/palm impression. That production was an aid to the Expert to demonstrate the identification to the court and show the points of comparison. In 1997, the Scottish Criminal Records Office (SCRO) used the 16 point numerical identification system and still do, although some effort has been made to embrace the non-numerical identification system.

I had no direct involvement in the cases of David Asbury or Shirley Cardwell or McKie in 1997.

I recall that on 17 February 1997, (17/02/1997) at about 1600 to 1630 hours, a telephone call was received at the SCRO office requesting a re-examination of crime scene mark Y7 which had been previously eliminated as Detective Constable Cardwell (McKie). I think that telephone call was received by Chief Inspector O’Neill and originated from ‘U’ Division, Strathclyde Police.

Alan Dunbar, Quality Assurance Officer, and I, using magnifying glasses and fingerprint comparator, independently examined the crime scene mark for the first time against the
available elimination prints of D/Constable Cardwell (McKie) and each came to the conclusion that the mark was eliminated as the left thumb print of D/Constable Cardwell (McKie).

At that time Hugh MacPherson was not on duty. Chief Inspector O'Neill was informed on the results of my findings at approximately 1800 hours. Due to the request being so unusual, that being to re-examine the elimination of a Police Officer’s fingerprint found at a locus, a decision was made to use the mark as a random exercise for other staff. A fingerprint comparator was taken from the fingerprint hall into Chief Superintendent Ferry’s office and the late shift Fingerprint Experts that day, after 1800 hours, were asked to look at the crime scene mark and corresponding digit on the elimination form in their enlarged state on the comparator. The Experts were instructed not to remove either the crime scene mark or fingerprint impression from the comparator. They were not given any knowledge of the nature of the enquiry and would not be likely to have prior knowledge of the circumstances surrounding the examination. The only information imparted was that it was an elimination comparison. The question ‘Is there sufficient detail present to eliminate? ’ or ‘Would you eliminate this mark?’ was put to them. That process of examination was facilitated by Alan Dunbar.

Edward Bruce and Terrance Foley have subsequently approached me and recall the examination.

On Tuesday, 18 February 1997, 18/02/1997, which happened to be day one of an SCRO Senior Management Seminar at Peebles. Prior to attending that seminar, I was summoned, about 0800 hours, to Chief Superintendent Ferry’s office and lectured by an agitated Mr Ferry and in a threatening tone asked how this identification (of Shirley Cardwell (McKie)) had better be correct and how an officer’s career was at stake. As I was satisfied with the comparison I had carried out the previous evening, I re-iterated my opinion, which was the same as given to Chief Inspector O’Neill, that the elimination was correct. At that juncture, Hugh MacPherson, Fingerprint Officer, was not available and was asked to confirm who had second checked that comparison. I spoke to Alistair Geddes and requested to see the elimination comparison record. I noted that there was no signature for the second check of D/Constable Cardwell (McKie) against the crime scene marks including Y7(x68).

I thereafter informed Chief Superintendent Ferry of my findings. Possibly the same morning, 18 February 1997 (18/02/1997), D/Chief Superintendent James Johnstone, then joint Head of
Strathclyde CID and now Commander of Scottish Crime Squad, was within Chief Superintendent Ferry’s office when I was again asked to confirm my findings. I repeated my findings.

A decision was apparently made by senior management to carry out an exercise which involved re-taking elimination fingerprints from D/Constable Cardwell (McKie) and re-photographing the questioned crime scene mark at the locus at Kilmarnock on that date. I was informed that the comparison would have to be repeated using the latest photograph of the crime scene mark and the latest elimination fingerprint form provided by D/Constable Cardwell (McKie). Chief Inspector O’Neill volunteered to delay his departure to Peebles and I suggested that there was no need for him to stay at the Bureau and that I would remain for as long as required, carry out the comparison and join the rest of the Management Team in Peebles later in the day. I agreed to inform Mr Ferry by telephone as soon as the necessary comparison work had been completed. If my recollection is correct, Hugh MacPherson was again absent from the Bureau on a rest day or was on late shift when the photograph of the crime scene mark and elimination form from D/Constable Cardwell (McKie) arrived at the Bureau. At approximately 1100 hours / 1145 hours that day they were again compared by myself, Quality Assurance Officer Alan Dunbar, Sergeant David Halliday and possibly Alastair Geddes and Hugh MacPherson, but definitely 3 others. I informed Chief Superintendent Ferry by telephone of the result, that the fingerprint impression had again been confirmed as that of D/Constable Cardwell (McKie). The comparison was not to confirm a 16 point standard and was on the basis that there was sufficient to eliminate the crime scene mark only. I was under pressure for a speedy result and there was not time available to produce enlargement photographs but nothing has altered since to change my opinion of my initial findings. By that time, I was sure that the total number of persons who had examined the crime scene mark and eliminated it as that of D/Constable Cardwell (McKie), had now risen to 10 or 11 Fingerprint Experts. That was due in part to shift changes and other staff being available on the Tuesday morning. I recall Superintendent Brian Gorman, Deputy Director, SCRO, commenting on the number of Experts carrying out the comparison during my later visit that day to Peebles, I took it at the time as a jovial comment.

Hugh MacPherson recently advised me that at the time of the elimination of D/Constable Cardwell’s (McKie) fingerprints, he had another 3 Experts check his findings before passing on the findings to the murder team. He had apparently done that because a Police Officer’s fingerprints had been found. I have been asked if that was unusual and I think it was but the
Police Team will have to ask Hugh MacPherson his opinion. This may be a further explanation as to why there is no second signature on the elimination check records. It may be that the second checker may have not then completed all examination of all outstanding crime scene marks against D/Constable Cardwell (McKie). Someone that day did second check the records, although I have difficulty in making out the signature, although it may be Graham Smillie.

I think sometime later that week D/Chief Superintendent Orr, in Mr Ferry's office, asked if I had been first to eliminate the crime scene mark. I informed him that it had in fact been Hugh MacPherson who made the initial elimination, after which Mr MacPherson was summoned to speak to Mr Orr. I considered the matter concluded as what we had was a Police Officer's fingerprints eliminated at a locus, albeit a murder locus. There was nothing unusual, in fact we had numerous crimes in the past where officers, particularly senior officers' prints, were inadvertently left at the scene of a crime. The same still applies today, for example, we recently had a D/Chief Inspector, Senior Investigating Officer, leaving his fingerprint impression which were initially deemed to be of particular significance due to their position at a murder scene.

My next involvement in the case with regards to comparison work did not take place for a further 2½ years, August 1999, when I viewed for the first time enlargements which had been returned to the Bureau from the office of the Procurator Fiscal, Glasgow after completion of the perjury trial of Shirley Cardwell (McKie). I had no involvement in the case against Shirley Cardwell (McKie), although I was aware that the fingerprint evidence had been challenged and Shirley Cardwell (McKie) had been found not guilty. Again this gave me a further opportunity to examine the crime scene mark against the elimination forms of Shirley Cardwell (McKie) submitted in 1997. The quality of the illustrations prepared on the SAGEM (Charting Personal Computer) were, in my opinion, poor due to the reproduction limitations of this now ageing piece of equipment. In hindsight, the Experts who in good faith had prepared the enlargements in that format, which was the same format I understand that was used for another 14 (fourteen) similar illustrations requested by the Procurator Fiscal in the Asbury murder trial, would have been better if traditional photographic enlargements had been used. Photographic enlargements were, in the main, discontinued about 1994 when SCRO management decided that the Charting PC which cost something like £40,000, was deemed to be the way forward and a speedier way of producing enlargements which are prepared for all petition, jury and High Court cases,
submitted to Procurators Fiscal. The quality of illustrations used in the murder and perjury trials has undoubtedly, I think, been a major factor in the defence challenges.

During May 1999 and the perjury trial of Shirley Cardwell (McKie), information was received via Charles Stewart, Principal Fingerprint Officer and Fiona McBride, Fingerprint Officer who had a conversation with Terry Kent, Scientist at PSDB at Sandridge who had attended as a witness at that trial, who related that Peter Swann, independent Fingerprint Officer/Expert, ex Chief Inspector West Yorkshire Police had discussed that case with Terry Kent and told him that having been previously asked to examine the crime scene mark in question (on behalf of the Defence), he (Swann) had sat down with DIConstable Cardwell (McKie) and her parents and Solicitor and that they had been informed by him (Swann) that the crime scene mark in question was that of Shirley Cardwell (McKie). During the trial, Terry Kent is a witness to hearing Ms McKie, whilst giving evidence, deny any knowledge of any other Expert having examined the crime scene mark and therefore, in my opinion, a witness to perjury by Ms McKie during that trial - if these circumstances were in fact correct. Information from Terry Kent via Chief Inspector Hogg, Strathclyde Police Identification Bureau, was made known to the effect that he (Kent) was asked to examine a piece of wood removed from the door surround with the crime scene mark thereon, with a view to it having been transplanted there. When he (Kent) received the piece of wood from the Police it was securely packaged and he thereafter photographs the crime scene mark and can confirm that there was not damage to the crime scene mark at that time. To date, these photographs remain the possession of Mr Kent.

Malcolm Graham, independent Fingerprint Expert, formerly Chief Inspector, Lothian & Borders Police Fingerprint Bureau, had made an entry on the Internet regarding the case and stated that he confirmed SCRO’s identification of the crime scene mark as that of Ms McKie and also went a bit further than giving his expert opinion. He was thereafter threatened by Mr McKie via the Internet, after which he withdrew his statement unreservedly. Further information from Malcolm Graham was evidence from an article in the Scotsman newspaper when he had agreed on the findings of SCRO, not only on the initial crime scene mark, but on a second crime scene mark which is now being apparently challenged (fingerprint impression of deceased not part of this enquiry).

As regards John Berry, ex-RUC staff and ex-Hertfordshire Fingerprint Expert and ex-Editor of the fingerprint Society Journal, ‘Fingerprint World’, information received via Dale Clegg, an Australian, currently Fingerprint Training Officer with Nottingham Constabulary, when
attending SCRO to give a presentation on fingerprint standards in Australia and the move towards a non-numeric fingerprint standard in the United Kingdom. Mr Clegg informed Quality Assurance Officer, Alan Dunbar, that he (Clegg) had been speaking with an ex-colleague - unknown - and he (Clegg) had been informed that a Fingerprint Officer from England had recently been in Australia and had been giving a presentation in support of the SCRO identification of the ‘McKie mark’. Alan Dunbar asked Clegg to make contact his informer to identify that English Officer with the result that it was John Berry.

On Monday, 10 July 2000, (10/07/2000) Senior Fingerprint Officer Catherine Deeney came to me and informed that on two recent occasions, one whilst at First Line Managers Course at the Scottish Police College and secondly at a Dinner/Dance to which she had been invited as a past lecturer at the College, Officers volunteered information re: the log keeping at the murder scene or perhaps the lack of, and the absence of the log keeper (Miss Ryall left interview at 1620 hours).

Following the acquittal of Shirley Cardwell (McKie) at the High Court Glasgow in May 1999, the Director of SCRO, Detective Chief Superintendent Harry Bell, invited the prosecuting Advocate in the case, Mr Shaun Murphy and Deputy Crown Agent, Mr Frank Crowe, to a meeting with Superintendent Gorman, Deputy Director of SCRO, Chief Inspector Christopher Griffiths, myself and the Fingerprint Officers involved in the Cardwell (McKie) identification.

The meeting took place during which one of the Officers asked Mr Murphy ‘Did fingerprints lose this case?’ to which he replied an emphatic ‘No’. There was apparently other evidence in the case which was problematic. Despite his efforts to introduce evidence which was clearly supportive of the SCRO Officers’ evidence, he was unable to do so.

I was later requested by D/Chief Superintendent Bell to re-visit the case against Shirley Cardwell (McKie). During August 1999, productions relating to the Crown’s fingerprint evidence was returned to SCRO. At that juncture, SCRO asked for sight of the Defence fingerprint evidence but was informed that was not possible as it had not been formally lodged at the time of the trial and had been taken away by the Defence Experts at the end of the trial. I examined the Strathclyde Police fingerprint material (photograph of crime scene mark marked Y7), 2 x elimination fingerprint forms from Shirley Cardwell (McKie) that were available in 1997, during the murder enquiry. I came to the same conclusion as that which was reported then, i.e. that the crime scene mark was left there by D/Constable Shirley Cardwell or McKie.
I thereafter prepared an extensive portfolio of evidence relating to both the crime scene mark and fingerprint impressions from Ms McKie, which were available at that time and which became available thereafter (images taken from the Internet postings).

During early October 1999, Mr Bell was alerted to items, appearing on the Internet. Amongst these items were copies of the Crown fingerprint productions used in this case and copies of which were apparently photographs of the crime scene mark taken by the Defence Expert. It was obvious to me that the latter showed damage through the centre of the image. This confirmed reports from the Experts, who were shown Defence photographs in Court, that they were taken aback with what was presented as it was clearly a different photograph from the photograph which they had originally compared. Their suspicions were immediately aroused. A Defence Expert was recorded in his evidence (by Strathclyde Police Complaints and Discipline Officer) as saying 'I prefer to work from my own pictures'. Being aware of the amount of hours and in-depth analysis that I had conducted into this crime scene mark and having seen the volume of material which I had by now amassed, the Director (Mr Bell) arranged for a formal presentation to be made to Scottish Chief Constables on 7 February 2000 (07/02/2000) at Central Scotland Police HQ, Stirling. ACPOS that day informed Mr Bell that they considered it prudent to delay giving the presentation to other SCRO staff, so as to avoid any suggestion that they (the staff) had been influenced.

A further decision was made that day by ACPOS to request Mr Taylor, HMCIC (Scotland) to bring forward his scheduled Inspection of SCRO, and in particular the events surrounding the Shirley McKie case which was welcomed by myself and everyone at SCRO, as an independent review had, in preceding months, been suggested by Expert staff and senior management.

Feedback from Chief Constables on my presentation appeared very positive and supportive of SCRO's findings.

Further evidence was subsequently found by myself and added to the presentation which included hard copy illustrations, photographic enlargements, and a PowerPoint demonstration of the identification. The presentation was then given to Mr Taylor's Staff Officers, Superintendent Clacher and Chief Inspector Brian Weir. A presentation to Mr Taylor in person followed some time later.
Prior to a television programme relating to the case against Shirley McKie, the BBC presenter, Miss Jofre, appeared unannounced on the doorstep of one of the Officers who was involved in the case (Anthony McKenna). The Officer in question was at the time of the trial recovering from surgery to his shoulder and was in possession of a Soul and Conscience Certificate for that Court case. He was, nevertheless, on standby and fully expected to be called to give evidence. It appears that the BBC were acting on spurious comments presumably spread by the American Defence Expert, who has since suggested on the Internet that the Officer was off work due to 'a nervous breakdown and not long before the trial'. I personally find this aspect of the affair particularly offensive knowing that this Officer has other genuine concerns to contend with outside the workplace and special needs relating to such.

Following HMCIC's releasing of his interim findings on 22 June 2000 (22/06/2000), which I understood to have been influenced by independent analysis of the crime scene mark by 2 Experts from Norway and Holland who are know to me professionally. I have 2 observations to make in regards to the variance of opinions given by the fingerprint evidence. The first would be to refer the Inquiry Team to the 'EVETT/WILLIAMS Report' published in 1989 and the opinions of 3 Experts from Holland contained therein. The second observation would be to draw the Team's attention to the Appeal case of Gilbert McNamee and the divergence of opinion between the large number of Experts therein, one of which I was one.

To date, I have not had the opportunity to view or discuss any contrary opinion or evidence.

To fully appreciate the comparison in this case as I see it, you would require to view my prepared PowerPoint presentation which clearly illustrate that this is a complex mark, effected by movement of the left thumb when in contact with the surface. I have identified, using the traditional numerical system in the lower segment of the mark, 21 (twenty one) ridge characteristics which are supported by other ridge features. In my opinion, the upper segment is made up of several touches of the left thumb. I have no doubt whatsoever that the crime scene mark in this case was made by the left thumb of Shirley Cardwell (McKie).

In relation to the Internet material in this case, I have viewed the apparent crime scene mark photographed by the Defence Expert and there appears to be severe damage to the centre of the mark which is not present on the original item and not present when received by Terry Kent. This area of apparent damage corresponds to an area which I have highlighted in my presentation as separating the lower and upper segments of the mark.
In addition, images of the left thumb print of Shirley Cardwell (McKie) taken by the Defence Expert show what, in my opinion, appear to be some damage to the ridges, possibly caused by an injury and again not present on the elimination forms taken by Strathclyde Police in 1997.

It is quite conceivable that someone viewing the crime scene mark as one complete mark and not having considered several touches and movement, may well take the view that there are discrepancies. If this mark was viewed as being in one piece then it cannot be that of Shirley Cardwell (McKie), however, as I have already stated that it is my opinion that it is a complex mark which involves considerable movement of the digit and this forms the basis of my findings.

Occasionally there may be disagreements of opinion between Experts within the Bureau, for example, as to whether there is sufficient detail for an identification, which are dealt with as detailed previously. There has never been any disagreement over this identification within the Bureau as far as I am aware.

It has been suggested that there has been a criminal conspiracy committed by the staff by SCRO Fingerprint Bureau and in particular that 4 identified staff committed perjury. I find the allegations that are being made are quite incredible and at no time have I been party to any conspiracy or criminal act, nor do I have any knowledge of any member of SCRO staff having committed such acts.

Members of SCRO Fingerprint Bureau are presently considering taking appropriate legal action against staff of Lothian & Borders Police for making similar public statements.

The question has to be asked 'What would I, or any other member of SCRO staff, gain from such an act?'

Throughout the last year, SCRO staff have maintained their dignity and have not entered into the hysterical melee being promoted by a few individuals, but have instead remained focused on
what they see as the true evidence in this case. I hope that true justice will soon be served and that this issue is soon brought to a close, for the sake of all the families affected.

Statement noted by DS 7634 Henry Dunn at 1050 hours – 1910 hours on 13th July, 2000 (13/07/2000) at Strathclyde Police HQ 173 Pitt Street Glasgow and corroborated by DI 7903 Iain Laird
ROBERT HARVEY MACKENZIE, age 51, born 16/11/1948 at Glasgow, Local Government Officer, 173 Pitt Street, Glasgow G2 4JS

States:

Additional Statement.

I have previously supplied a statement to Tayside Police on 13th July, 2000 (13/07/2000) with regards to a disputed fingerprint. In the case of David Asbury, this was the mark identified as Shirley Cardwell aka McKie. On Tuesday, 15th August, 2000 (15/08/2000), I took part in a facilitated meeting at the Scottish Police College which was chaired by Doctor Bob Bramley.

I gave a presentation in support of my findings which I already stated. I listened to Mr Arie Zeelenberg from The Netherlands Police and from Mr Torger Rudrud from the Norwegian Police in respect of their conclusions that the disputed mark was not that of Shirley McKie.

Part of my presentation included the identification process known as ridgeology. As the material examined by the aforementioned persons had not included this facet of the fingerprint identification process I have now furnished both gentlemen with relevant copies of the fingerprint material. Mr Robertson, Tayside Police had advised me that he will forward to me suitable photographic enlargements of the disputed mark which the Police Scientific Development Branch scientist, Mr Terry Kent has now made available, in order that I may have the opportunity to view this new material. Today’s presentation by the officers from Europe has not changed my opinion as to the donor of the crime scene mark which has been challenged.

Statement noted by Detective Constable 8430 Greig Steele at 1725 hours on 15/08/2000 at the Scottish Police College, Tulliallan and is corroborated by Detective Inspector 7903 Ian Laird.
Could you confirm the period in which you were head of the SCRO Fingerprint Bureau?

I was the Chief Inspector in the SCRO Fingerprint Bureau from early November 1995 till 26 October 1997.

Could you provide an account of your involvement in relation to the identification of mark Y7?

I am not a fingerprint expert and have no training in technical fingerprint identification issues. Consequently I had no involvement in the technical aspects of fingerprint identification.

The main thing I remember about Shirley McKie (then known as Shirley Cardwell) was that some time in the winter, I think early in 1997 we had a senior management meeting away from the office. The day before the meeting I received a telephone call from the Deputy Divisional Commander at Kilmarnock. He told me that Shirley Cardwell’s father was with him. He asked me to arrange two things. Firstly, he wanted Shirley Cardwell to come to the office the next day with a copy of her fingerprints and a copy of the mark from the scene of crime (that I now know to be Y7 from the Marion Ross murder) and stand beside a fingerprint expert as an identification was carried out. Shirley Cardwell’s print had previously been identified for elimination purposes.

I refused stating the request was highly irregular. I was told by him that the request had come from the highest authority. As the Deputy Divisional Commander in Kilmarnock was a higher rank than me, and insisted, I reluctantly agreed.

I was also asked to have Shirley Cardwell’s print and scene of crime mark (Y7) checked again. I agreed to that saying I would phone back with result the next day. The Deputy Divisional Commander demanded the results back the same day.

I had the comparison made. I received information that the print was Shirley Cardwell’s. I passed the information to the Deputy Divisional Commander at Kilmarnock and stressed that the identification was for elimination purposes only.

Early the next morning, I told Chief Superintendent Ferry of the Deputy Divisional Commander’s request. He was not at all happy. He telephoned the Deputy Divisional Commander at Kilmarnock and told him that Shirley Cardwell was not to come to the office. As far as I’m aware he agreed to have the print checked again. Robert Mackenzie stayed in the office. He joined the senior management meeting later in the day. After, as far as I’m aware, independently checking and verifying, along with others, the relevant print and mark and passing the information to Chief Superintendent Ferry.
The next thing I remember was in late summer 1997 I was asked to arrange a meeting between a Chief Inspector in the Discipline Branch, Hugh McPherson and Charles Stewart. I made the necessary arrangements and that is about all I can remember about my involvement with Shirley Cardwell.

Could you confirm whether there were written down procedures in 1997 in terms of the identification and subsequent verification of crime scene marks? Were these procedures followed in relation to mark Y7? Were procedures amended after 1997, but before your departure?

I cannot remember whether or not there were written down procedures in terms of identification and subsequent verification of scenes of crime marks. In any event, as far as I am aware the procedures in vogue in the office at that time were established over many years in accordance with best practice and the demands of the Crown Office. I believe the normal procedures were followed in relation to mark Y7. I retired in late October 1997 and I have no knowledge of any changes in procedures made after this time.

What pressures were there on the organisation in 1997 in particular in terms of resources and the demand on the service? Was it a positive working environment? Did the working environment change after 1997 and if so, how?

In 1997 SCRO Fingerprints, on a pro rata basis was one of the busiest Fingerprint Bureaus in the UK. Fingerprint Forms were received from all Scottish Forces and other Forces within the UK. All Fingerprint Forms were processed by SCRO and the appropriate entries made in the Scottish and UK Fingerprint/Criminal History databases. In addition scenes of crime marks were received from all Scottish Forces (with the exception of Lothian and Borders) and other bureaux within the UK. These marks were searched against the SCRO database and results notified to the appropriate Force. In addition SCRO expert staff appeared at Courts in Strathclyde, Dumfries and Galloway and Northern Constabulary areas to give evidence in fingerprint cases.

Forces were actively encouraged to fingerprint all persons in custody. As a result there was a significant increase in the number of fingerprint forms received, resulting in an increased workload for staff. The increase in the number of persons fingerprinted contributed to an increase in identifications.

In addition SCRO was losing expert staff to other Fingerprint Agencies, who paid better salaries. The agencies did not demand shift working and did not have the same high levels of workload.
In 1997 the office was situated within Strathclyde Police Headquarters, Pitt Street, Glasgow. Whilst the facilities within Pitt Street were on the whole excellent, the space allocated for SCRO Fingerprints was less than ideal. The office had become cramped. It was not purpose built and was not the best of working environments.

In April 1997 a Livescan System was introduced in Scotland. The system was based on the SCRO facility in Pitt Street. Livescan allows for the remote fingerprinting of prisoners by electronic means. Simplistically the fingerprints are transmitted to the central facility (SCRO) where they are processed and the identity of the person fingerprinted confirmed or otherwise from the database. The system ran 24x7. This system proved an excellent tool, for the Scottish Police Force in terms of effectiveness and efficiency, providing real time identification of prisoners. In addition, as a direct consequence of the system’s introduction, significant hours of operational police time were saved allowing officers to be directed to more high profile duties. To resource the system out of normal hours 8 Fingerprint Experts and 2 clerical worked on a nightshift rota.

I am unable to comment on any changes to the working environment after 1997.

Finally in my opinion, during my tenure in SCRO Fingerprints, the commitment, professionalism, integrity and positive attitude shown by all SCRO Fingerprint staff was exemplary.

Additional Information.

Fingerprint expert staffing levels and a more suitable office environment were always priorities within SCRO and every opportunity was taken to improve both.

Between 1996 and 1997 there was a stream of visitors to the SCRO Fingerprint Bureau, from other Bureaux in the UK and overseas to view the facilities and study working practices.

In the summer of 1997 detailed proposals and recommendations were made to Mr Hamilton, the then Chief Constable of Fife who was examining possible changes to the structure of the Fingerprint Service within Scotland.

The recommendations submitted by SCRO were practicable, and efficient and effective for the whole country. They included the following recommendations:

A new central site for the SCRO facility.
Satellite fingerprint offices in strategic regions to provide local court service.
All fingerprint experts to be employed only on fingerprint identification work.

William O’Neill - Response to questions posed by:
The Scottish Parliament Justice 1 Committee:
Scottish Criminal Records Office and Scottish Fingerprint Service Inquiry
Page 3
Introduction of FP staff (a lesser qualified fingerprint officer who would only deal with 10 print identifications (Livescan).

In 1995 Competency Testing was introduced for all SCRO Fingerprint experts. This was a means of independently verified fingerprint material tests for SCRO Fingerprint Experts. The test material was supplied to and validated by the National Fingerprint Training School at Durham prior to use at SCRO. The full range of relevant test sets were offered to all Scottish Forces on a no cost basis. As at the end of October 1997 none of the Forces had made use of the facility.
HIGH COURT OF JUSTICIARY

LORD JOHNSTON and a Jury

CHARGE TO THE JURY

H. M. ADVOCATE

v

SHIRLEY JANE MCKIE

also known as

SHIRLEY JANE CARDWELL

... FRIDAY 14TH MAY 1999 ...

APPEARING:– Mr. S. F. Murphy, QC, Advocate

Depute, et Mr. M. Dennis,

Advocate, for the Crown;

Mr. D. R. Findlay, QC, et Ms V.

Young, for the accused.

Transcription Services by Alison Jenkins,

William Hodge and Pollock Ltd., Court

Reporters, Fifth Floor, Central Chambers, 93

Hope Street, Glasgow G2 6LD.
FRIDAY 14TH MAY 1999

LORD JOHNSTON: Ladies and gentlemen, in this matter you and I have wholly separate functions to perform. As far as any question of fact is concerned, and which is the issue in the case, that's entirely a matter for you and you alone. It's your recollection and your judgment that matters and if I at any stage, and I shall make a few references to the evidence, not a lot, convey to you some impression that I might have some views about it you should ignore that. It is your decision and yours alone at the end of the day.

On the other hand, so far as there are any questions of law in this case, and there's not very much, that is a matter for me and what I'm about to say to you in that respect you must accept without equivocation. If I get something wrong, it will be put right elsewhere.

Now, ladies and gentlemen, what I have to say to you falls really into two parts. The first part is the general part which I tell all juries engaged in this exercise as to the
general proposition of law which covers your deliberations and I'll put that to you and then we will look at it, and it is this: the Crown must prove beyond reasonable doubt the commission of the crime charged by the accused by sufficient evidence acceptable to you the jury.

Now we will look at that. The Crown must prove reflects what everyone's been telling you from the start of this case that the onus or burden of proof of guilt rests on the Crown at all times and it's not dispelled or displaced where as here evidence has been given by and on behalf of the accused. At all times, the responsibility of establishing guilt lies with the Crown.

Beyond reasonable doubt, ladies and gentlemen, as you have heard, is the standard that the Crown must achieve if it is going to satisfy you of guilt and that phrase, as has been told to you, means precisely what it says. The Crown does not have to establish guilt to a mathematical certainty but on the other hand it must go further than merely probabilities and certainly
possibilities and what beyond reasonable doubt simply means is that if when you are faced with the decision in this case as you are, you would be faced in your everyday affairs with an equally serious decision which you have to take in which there are factors present which cause you to hesitate before you make that decision one way or the other which are reasonably based, then that would be a reasonable doubt and if a reasonable doubt exists in your mind at the end of the day as to the guilt of Ms McKie, you must acquit her.

The commission of the crime charged means of course that the Crown must establish upon the evidence to your satisfaction that a crime has been committed and that is what this case is all about because in some cases, as here, the involvement of the accused on the matters indicted is not disputed but the issue is whether a crime has been committed. In other cases there may be no doubt that a crime has been committed, such as a robbery or the like, but the issue is by whom so at the end of the day what you have to be considering in this case is whether
a crime was committed and I'll obviously come back to that.

By sufficient evidence, ladies and gentlemen, is a question of law inasmuch that nobody can be convicted of a crime by the law of Scotland unless there is evidence from more than one source pointing to guilt, what we call corroboration. In this case this features very little because there is on any view of the matter sufficient evidence before you. The question for you is whether or not at the end of the day you're going to accept it and when I mention the word corroboration, ladies and gentlemen, that applies only to the Crown. The Defence need prove and a fortiori need corroborate nothing. At all times, the presumption of innocence remains there to be rebutted only by corroborated evidence led to your satisfaction from the Crown or at least from the case.

Acceptable to you the jury, ladies and gentlemen, is the task that you have to set yourself and I'm about to set to you when you retire. This is the question of what evidence you accept and what evidence
you reject. You may set about the task by any means of approach you like but there are two aspects of this question which we lawyers call credibility and reliability. Credibility simply means do you or do you not think that a particular witness is telling the truth and that of course is part of the issue if not the main issue in this case. On the other hand, reliability arises when a witness may be perfectly honest in his or her testimony inasmuch as they are doing their level best to tell the truth but the evidence is simply not acceptable to you because for various reasons it doesn't fit in with other evidence in the case and here, particularly when it comes to fingerprint evidence, that is a very important issue before you because nobody is suggesting if I understand it quite correctly that any of the experts you've heard are deliberately trying to deceive you or to deceive themselves even but, on the other hand, the question for you is what evidence do you find reliable in the context of fingerprint evidence?

You can select evidence that you accept from all or part of a witness's
testimony and reject some part or another part of a witness's testimony. As to how you go about the exercise depends entirely as I say on your own observations and your own reflections, how you think the evidence fits in with other evidence in the case. Is it consistent? Has it always been consistent? Does it accord with commonsense? Do you almost instinctively find it acceptable or unacceptable? Can you test it? How should you test it? So on and so forth. This is your task and this is what you will set about doing in a few minutes' time.

May I just give you two words of warning or two aspects of warning? In the first place, if you are going to reject a witness's evidence for one reason or another that does not mean that the opposite is true. You simply reject the evidence by, as it were, putting it in the dustbin and forgetting about it. If somebody comes along and says it was raining, you don't accept that because there is other evidence or for some reason you don't accept it, that does not mean automatically you can conclude the sun was shining.
Somebody else has to come along and tell you that before you can be satisfied as to that particular fact and this has some bearing in this case because the Advocate Depute asks you in relation to the evidence of the witness Lees to draw certain conclusions on the basis he wasn't telling the truth and you will have to be very careful how you approach that with regard to the fact that every loggist that we've heard of or heard from denies, with the two limited exceptions, that Ms McKie was ever there and totally deny that she ever entered the house. You cannot find the opposite proved simply by rejecting the witness's evidence.

Secondly, ladies and gentlemen, you must decide this case upon the evidence, and the evidence alone, and not be influenced by any other aspects or consequences of what your verdict might involve. This is particularly true in relation to the position of the SCRO. They are not on trial here. Any consequences of your verdict to them are nothing to the point. What you must determine is clearly only the guilt or innocence
of Ms McKie upon the evidence you have heard. You put aside any extraneous feelings of prejudice or anything else that might be external to the actual issue before you.

Now, ladies and gentlemen, against that background I turn to the indictment which has been put before you by the Advocate Depute and as he rightly points out or states, this alleges the crime of perjury. Now, perjury has been on our criminal books for a very long time and traditionally has been defined for over a hundred years as follows: the judicial affirmation of a falsehood upon oath. But to put aside that slightly Victorian language, in simple terms what it means is telling lies under oath. There are three ingredients. There must first of all be a situation where a witness is giving evidence on oath. That is not disputed in this case. That is what took place as far as Ms McKie is concerned at the Asbury trial. Secondly, the evidence in question or the statement in question must be material, that is to say pertinent, and that is a matter of law and all I have to say to you in this respect is that I
direct you that the evidence that Ms McKie
gave which is relevant and averred in this case
to the charge of perjury, namely whether or
not she went in or out of the house in
question at the previous trial was material at
that time and therefore you may proceed on
that basis. Indeed you must proceed on that
basis and I take the matter no further. Just for
your information, that was what was discussed
one of the times that you were asked to leave
the room and I so ruled upon that on that
basis. But the third and obviously fundamental
question in relation to the charge of perjury is,
as is in this case, has an untruth been told?
And the question therefore for you at the end
of the day, ladies and gentlemen, boils down
to simply this, this is what you have to
consider: was Ms McKie telling the truth or
lying, it can't be both and there is no room for
a compromise, was she telling the truth or was
she lying when she told the jury in the
previous trial, the Asbury trial, as recorded in
the transcript on a number of occasions that
she did not enter the house at any time over
the relevant period, that is to say after the
murder and up to the time that the fingerprint was discovered? That, ladies and gentlemen, is the question for you and that is what you have to address. The evidence has been very properly summarised for you by both counsel yesterday and I do not intend to rehearse it.

All I propose to do now, very briefly, is to give you one or two what might be described aids as to how you might go about this task but I repeat my warning: I'm not intending and I hope I will not give you any impression that I have a view on the matter. This is simply designed to help you go about your business and you may ignore it if you like and proceed on any other basis that you like pertinent to the question. This is not inverting the onus but commonsense might dictate to you, and it's entirely a matter for you, that the first thing you might like to consider when you retire is whether or not you believe Ms McKie on the basis that she gave evidence to you entirely consistent with the position that she has followed from the start. She does not have to prove anything as I have said. She remains innocent until that
presumption is rebutted but the fact remains that she has told you that she is innocent and if you believe that, that’s the end of the matter and you need take the matter no further. If you are satisfied to that effect you simply conclude that she is an honest and straightforward witness and you can come back to me in five minutes’ time and tell me that. You need take the matter no further and you needn’t even start considering the question of fingerprints. If the evidence of Ms McKie leaves you in a reasonable doubt, as Mr Findlay has put to you on a number of bases, as to her guilt again without taking the matter any further, you must conclude that she is innocent and acquit her. If you reach neither of those conclusions that is not the end of the matter, it is merely the beginning, because the Crown must still thereafter prove to your satisfaction that she is guilty and that is the way Mr Findlay emphasised it to you yesterday afternoon. He is quite correct. To take his metaphor, it is not an equal contest, the Crown must try to surmount every hurdle that it places in its own way quite rightly before
you can establish guilt and if any of those hurdles, and I'll just tell you in a few minutes what they are, are not surmounted then at each stage the Crown case will fail completely and you must acquit, bearing in mind that each hurdle has to be surmounted beyond reasonable doubt.

Now, ladies and gentlemen, if you are embarking upon that exercise looking at the Crown case, the first question you have to consider which Mr Findlay put very clearly before you yesterday is if this is, if, let's assume for a moment, if this is Ms McKie's fingerprint, how did it get there and when did it get there? The Crown, as I understand it, it's your recollection that matters, but according to what I noted yesterday, the Crown go for if that's the right expression sometime on the Saturday and say well, that's when she must have slipped in contrary to any loggist evidence and implanted the fingerprint. But, ladies and gentlemen, as Mr Findlay pointed out to you, what you must consider with the greatest of care in this context is the evidence of the man Wilson who in fact lifted the print
on the Tuesday following. We know that Fairley
dusted the aluminium powder on the Thursday,
the first morning of the investigation, but
what Wilson says, as I noted it and it's your
recollection that matters, is that when he
finally found the print with the black powder
on the Tuesday, he saw prior to it coming up
no sign of disturbance in the aluminium
powder, no sign that there was a print that
had been implanted upon it and although it is
entirely a matter for you, what you've got to
consider very carefully is what conclusion do
you draw from that evidence? One obvious
conclusion which is open to you is that the
print was there when the aluminium powder
was put on it. That is consistent with Wilson's
evidence and there is no evidence to a
contrary effect. If that is the case the Crown
case fails.

You have therefore, ladies and
gentlemen, first of all then in this exercise to
surmount the hurdle beyond reasonable doubt
that you are satisfied, assuming Ms McKie's
print, that it got there some time before the
aluminium powder was dusted, a position the
Crown does not take up. If you accept, as I said it's a matter for you, if you accept the evidence of Wilson as to what he said he saw or didn't see perhaps more important. He gave no evidence, in fact he denied, that he observed any print implanted on top of the aluminium powder which must be the case if it was implanted on the Saturday by the accused or by anybody else. So that's the first hurdle, ladies and gentlemen.

The second hurdle is why would Ms McKie do this and stick to her position from day one, moment one, apart from the very initial reaction when she didn't think very much about it because obviously as we know rogue, to put it loosely, fingerprints can turn up but it is a very pertinent aspect of this case in your consideration of it. Why should have Ms McKie for two years against obvious, because there is no doubt about this, pressure, in an isolated and lonely position, adhere as firmly as she has done to the denial of any involvement with the fingerprint? It is so easy to detract, so easy to turn around and say well, all right, why has she done that? And
secondly, why in any event would she want to go in there at all? The suggestion is she was curious or it would help her in her own analysis of the case. Well, so be it. But that's the second hurdle, ladies and gentlemen, which you have to take into account in considering where you are on this particular aspect of the case, bearing in mind of course that against that background all the loggists are consistent with the view that she did not enter the house. What you make of that is entirely a matter for you but you have to be satisfied beyond reasonable doubt that she did enter the house. The Crown say you can infer that from the fingerprint and that's where we come finally to that aspect of the case if we get this far.

Now, ladies and gentlemen, in assessing the fingerprint evidence, you do not as it were count heads. You must look at the evidence on its qualitative basis, albeit there are three led by the Crown and only two by the Defence, but what you have to do, ladies and gentlemen, as Mr Findlay quite properly pointed out to you, is to assess the whole
matter against what you were told but also with the use of your own eyes. You have the photographs, you have the print. Make your own comparisons. You are quite entitled to do so. You can accept expert evidence when they say a blob as a matter of fact means something else because certainly to my mind a blob’s a blob but if somebody says a blob contains something you can accept that if you believe them but on the other hand, where the two comparisons with your own eyes reveal mismatches then you have to start I suggest being seriously concerned about whether this really is Ms McKie’s print and certainly seriously concerned to the point of beyond reasonable doubt.

Perhaps the most critical aspect of this, though not the only one because the American witnesses have pointed to what they perceive to be discrepancies in the Crown’s witnesses’ comparisons but perhaps I suggest to you, again it is entirely a matter for you, that the most important part of this question is this issue of distortion at the top third of the print. If the Americans’
evidence is acceptable to you, the top third of
the print is genuine and available as a credible
piece of evidence, then, again it is a matter for
you, it seems to me the Crown case completely
collapses because of the obvious disparities
between the two tops of the print and you can
see with your own eyes. How then should you
approach this matter? You are bound I
suggest, though it's entirely a matter for you,
to recollect and take into account the Crown
witnesses, particularly Mr Stewart and Ms
McBride, pressed by Mr Findlay in cross-
examination offered no reasons for why they
were dismissing the top part of the print other
than it's my opinion, it's my judgment. On the
other hand, what do the Americans do or
particularly Mr Wertheim? He says you look at
the print, and it's your recollection, I am just
trying to help you, and you find immediately
without more than a casual almost or casual
expert, if that's the right expression, glance
that there are mismatches between the top
half of both prints. What does he do? He says
well, that places me immediately in a doubt
and what should I do next he says? He says
well, distortion or slippage is the word he used is something that can happen for a variety of reasons, pressure, application, movement and so on and so forth, but he doesn't say it is my judgment. He goes on to say I look for, his words, warning signs, signs of blurring, signs of movement and remember he drew a number of aspects on the bits of paper as to what he would expect to find if he was looking for distortion. He finds none. So what does he do? He goes back to his first base and says therefore this is a mismatch and he bases that on reasons, not just judgement. It is entirely a matter for you, ladies and gentlemen, but against that background you must give very serious consideration to whether or not you can safely say the Crown have established that the print is that of Ms McKie on their evidence beyond reasonable doubt and as Mr Findlay put it, it is sufficient for him at the end of the day that you are left in a doubt, maybe was the word he used and I endorse it. If that is your view, maybe it's not, that is enough and at that stage of this process the Crown have failed at the last
hurdle, bearing in mind it has to pass all the hurdles that I've tried to identify for you.

Now, ladies and gentlemen, that is all I propose to say to you. The matter is clearly placed before you by two very competent speeches and it is focused for your attention but do bear in mind that this is not an equal struggle. It is a contest which the Crown must win and the Defence need prove nothing. At the end of the day this is not a public inquiry where you are obliged to reach a positive decision. If the whole evidence, the whole evidence, leaves you in some reasonable doubt which is reasonably based as to the guilt of Ms McKie, you must acquit her.

Ladies and gentlemen, there are three verdicts open to you: guilty, not guilty and not proven. Not guilty and not proven are both verdicts of acquittal. It is sometimes thought that not proven means the Crown can start again. That is not the case. There simply are two versions of acquittal and the words mean what they say.

Your verdict may be unanimous or by a majority but if it is going to
be guilty by a majority at least eight of you, eight of you, must vote for guilt for obvious reasons. There are fifteen of you and there are three verdicts available to you. Eight of you must vote for guilt. If there are at least eight of you divided between not guilty or not proven just pick one or other of them and stop your deliberations there. You don't have to be unanimous as between those two. As long as there are eight of you not satisfied the Crown has proved its case you will simply return one or other of the acquittal verdicts. So I repeat, if you are going to convict at least eight of you must vote for guilty.

The first thing you do, ladies and gentlemen, I suggest when you retire as I am now going to ask you to do is to appoint one of your number, it doesn't matter who it is, to speak for you when you return to court and give your verdict which my Clerk will ask for.

Will you now please retire and consider your verdict which I can take at any time?

The jury retired at 10: 26.
Upon their return at 11:51:

THE CLERK OF COURT: Ladies and gentlemen, will the person who speaks for you please stand? Have you agreed upon a verdict?

THE FOREMAN OF THE JURY: Yes, we have.

THE CLERK: What is your verdict in respect of the accused Shirley McKie on the indictment?

THE FOREMAN: Not guilty.

THE CLERK: Is that verdict unanimous or by a majority?

THE FOREMAN: Yes, it is unanimous.

THE CLERK: I have to record that verdict. Please sit down while I do so.

Ladies and gentlemen, is your verdict correctly recorded as follows: the jury unanimously find the accused Shirley Jane McKie, also known as Shirley Jane Cardwell, not guilty, is that correct?

THE JURY: Yes.

LORD JOHNSTON: Shirley McKie, it is not appropriate for me to comment
on the jury's verdict, nor to comment on how you find yourself in this situation you find yourself in but personally I would like to extend to you my respect for the obvious courage and dignity which you have shown throughout this nightmare as you described it. I very much hope you can put it behind you. I wish you all the best. I discharge you and you're free to go.

MS MCKIE: Thank you. Thank you.

LORD JOHNSTON: Ladies and gentlemen, all that remains for me to do is to thank you for the obvious care and attention you have given to this very anxious and indeed in my experience, which is not inconsiderable, almost unique case raising all sorts of very unusual questions. On behalf of the court I thank you. I discharge you. You're free to go but lunch is available for you if you wish.
I, Alison Jenkins, certify in terms of Section 94 (7) of the Criminal Procedure (Scotland) Act 1995 that this transcript is a correct and complete transcript of part of the record purporting to have been made and certified by the Clerk of Court of part of the proceedings at the trial of

SHIRLEY JANE MCKIE

also known as

SHIRLEY JANE CARDWELL

indicted at the instance of Her Majesty's Advocate which took place in the High Court of Justiciary at Glasgow on Friday, 14th May, 1999 before Lord Johnston.

Signed:

Name: Alison Jenkins

Date: 13th July, 2006