

1

Wednesday, 17th June 2009

2 (10.15 am)

3 MISS CARMICHAEL: Sir, the next witness is Mr Ian Hogg.

4 **ARCHIBALD IAN HOGG (sworn)**

5 THE CHAIRMAN: Could we have your full name for the record,  
6 please.

7 A. Archibald Ian Hogg.

8 THE CHAIRMAN: Take a seat, please.

9 **Examined by MISS CARMICHAEL**

10 Q. Thank you, sir.

11 Mr Hogg, we found it can be quite difficult to hear  
12 people if they are not close to the microphone so you  
13 might find it helpful to move that. Thank you.

14 Mr Hogg, you have given a statement to the Inquiry  
15 which you signed?

16 A. I have.

17 Q. Are you content that that records your position  
18 accurately in relation to the matters you were asked  
19 about?

20 A. There is one issue on paragraph 65. The date at the end  
21 of the paragraph, 17th August, should be 21st August.

22 THE CHAIRMAN: Sorry, paragraph number?

23 A. 65, page 17.

24 THE CHAIRMAN: The 21st. Thank you.

25 MISS CARMICHAEL: Subject to that amendment you are content

1 that that is an accurate record of your position.

2 A. Yes.

3 Q. I wonder if you could tell us a little bit about what  
4 your job was back in 1997.

5 A. I was Chief Inspector in charge of the Scene Examination  
6 Unit or the IB as it was known in those days --  
7 Identification Bureau, that's what IB stands for.

8 I ran the department with three main elements and  
9 that was Scene Examiners or SOCOs, Scene of Crime  
10 Officers, as they were known in those days; an  
11 examination unit which was a mark enhancement laboratory  
12 which items would come in from scenes and, using  
13 chemicals mainly, fingerprints would be developed on  
14 those articles; and also an imaging unit, photographic  
15 unit, which would process and print photographs mainly  
16 from scenes of crime.

17 Q. You told us in your statement that you worked yourself  
18 within the Strathclyde Police Identification Bureau at  
19 some earlier stage between 1979 and 1984 and that you  
20 worked there from 1991 onwards until 2007?

21 A. Yes.

22 Q. Did you yourself have any expertise as a Scene of Crime  
23 Examiner?

24 A. Between 1997(sic) and 1984 I was a constable, more or  
25 less a SOCO, a Scene of Crime Officer, within the

1 department, going to scenes, going to murders,  
2 et cetera, as a Scene of Crime Officer. When I returned  
3 in 1991, I was promoted back into the department as an  
4 Inspector and worked for four years within the  
5 department as one of the two Inspectors under a Chief  
6 Inspector, again, going to scenes -- mainly serious  
7 crime, not so much the volume-type crime.

8 Then in 1996 I was promoted to Chief Inspector and  
9 ran the unit until 2007, I think it was -- yes, 2007 --  
10 when we had harmonised by that time with the forensic  
11 laboratory in 1997 -- sorry, 2007.

12 In 1997 we were an independent unit through the CID  
13 rather than harmonised with the forensic laboratory as  
14 we then became and then in 2007 with the oncoming of the  
15 Scottish Police Services Authority (SPSA) I was given a  
16 job as co-ordinator, change co-ordinator, to see through  
17 the change to the new and then I retired and went back  
18 with the SPSA as Service Delivery Co-ordinator within  
19 the SPSA, forensic services, in Glasgow.

20 Q. What does that involve?

21 A. Not nearly as much as it di involve before. I liaised  
22 with the different units within Forensic Services  
23 Glasgow and try and support the senior management team  
24 with statistics and trying to pull together the units in  
25 the way that we do business.

1 Q. I would like to take you back to the investigation into  
2 the murder of Marion Ross in January 1997, Mr Hogg, and  
3 to take you, in the first instance, to paragraph 16 of  
4 your statement where you tell us that you attended on  
5 9th January at the scene for the first time but you  
6 record at paragraph 16 that the photography at the scene  
7 had been completed overnight and you write that you  
8 believe that the forensic examination had likewise been  
9 completed.

10 A. Yes.

11 Q. I wonder if you could clarify what your knowledge was of  
12 the extent of forensic work that had been done by the  
13 time you attended on 9th January.

14 A. Well, the normal procedure would be that the  
15 photographer and a forensic scientist, normally a  
16 biologist, a chemist if requiring but normally  
17 biologist, would attend such a scene. They would do all  
18 that is required at the scene, forensic recovery would  
19 be taken from the body, from the deceased, before it was  
20 remove from the **locus**. They would also examine the  
21 immediate surround for any other obvious signs of  
22 disturbance of any evidential material that was there.

23 When I left to attend, I can't honestly recall if I  
24 contacted the laboratory but normally, unless otherwise  
25 informed, the forensic examination the night before

1 would be complete.

2 Q. The Inquiry has seen a record at least of attendance at  
3 the scene by Alister Fairley the night before and I  
4 suppose what I am getting at there is whether you know  
5 yourself what work he had done in the course of --

6 A. I did not have any direct contact with Mr Fairley but I  
7 presumed that all the evidence that would be taken, he  
8 would have gathered that on the night before. That was  
9 the normal practice.

10 Q. If I can take you to paragraph 22, please, of your  
11 statement, you refer to a confirmation coming through on  
12 9th January that Miss Ross had been murdered and the  
13 Inquiry has heard, I think, that this followed on a  
14 post-mortem examination.

15 Does that accord with your recollection?

16 A. Yes.

17 Q. You write that you telephoned the forensic lab to  
18 satisfy yourself that they had obtained everything from  
19 the house that they required.

20 Why did you do that?

21 A. Well, my recollection was that Michael Moffat had put  
22 down tread plates, metal plates, in the entrance  
23 vestibule into the hall and there was talk of the  
24 possibility of footwear impressions being developed in  
25 that area.

1                   As I recall, we were in the process of changing the  
2                   responsibility of Scene of Crime Officers over onto  
3                   doing that kind of recovery in serious crime -- they  
4                   certainly did it at volume crime -- but I think the gist  
5                   of my phone call was that the laboratory wished to come  
6                   to the scene to look at these particular footprints as  
7                   this now had been confirmed as a murder.

8       Q.    There has been some suggestion that perhaps  
9            investigations were held back in some way because it was  
10           thought initially that Miss Ross might have committed  
11           suicide.

12                   Can you comment on whether or not that is correct?

13    A.    No, that's not correct. It was definitely -- in fact,  
14           the fact that -- the fact that I was there, alone, I  
15           would not go to a suicide as such at that stage. So it  
16           was definitely being seen, by my department certainly,  
17           as being a murder.

18                   The fact that I had asked for four Scene Examiners  
19           to attend and subsequently sent two away was purely  
20           because on examination of the **locus** we found that there  
21           was a lot of loose material lying about, both in the  
22           hall and in the rooms on the ground floor. I felt that  
23           it was not the best use of resources to have some of  
24           them -- two of my officers hanging around, basically,  
25           while the production officers, together with the Lead

1 Scene Examiner (who would be Mr Thurley), examined the  
2 **locus**, decided on a full policy of what would be taken,  
3 what would be taken for our purposes, for further  
4 fingerprint enhancement and what other items would just  
5 be seized as productions.

6 So rather than speeding things up it actually slowed  
7 things down so it could be done properly and that was  
8 the reason two were sent away. So it was definitely  
9 being treated as a murder when I was there.

10 Q. When you refer to Scenes of Crime Officers being sent  
11 away, I think, that was perhaps a reference to a  
12 Mr Wilson and a Mr Hunter who attended on 9th January  
13 and the Inquiry has heard they were sent away that day?

14 A. Yes.

15 Q. The Inquiry has heard some suggestions that there were  
16 officers, police officers, stationed within the living  
17 room of the property during the evening of 8th January  
18 into the morning of 9th January.

19 A. Yes.

20 Q. Is that something of which you have any personal  
21 knowledge?

22 A. None whatsoever. My recollection when I attended was  
23 there they were at the door of the porch. I certainly  
24 didn't see any police officers within the **locus**.

25 Q. From the point view of your expertise within the

1 Identification Bureau, do you have any comment to make  
2 on whether it was appropriate or not that officers be  
3 stationed there?

4 A. No, they should not have been in the house.

5 Q. Do you know yourself who would have instructed the  
6 measures to maintain the **locus** in an appropriate  
7 condition for forensic examination?

8 A. Ultimately, I suppose, it would be the senior  
9 investigating officer, who would be Mr Heath, but  
10 generally speaking that would be devolved down to  
11 someone -- nowadays it would be a Crime Scene Manager  
12 and I think the Inquiry have heard about crime scene  
13 managers. Mr McAllister possibly could have taken on  
14 that role but it could have been Mr Heath himself.

15 Normally, that would be devolved to a uniformed  
16 supervisor. Obviously the SIO or the Deputy SIO are not  
17 going to be there all night. It would be maybe a late  
18 shift and then a night shift and then an early shift of  
19 uniformed officers that would be responsible for that.  
20 So a uniformed supervisor would be normally instructed  
21 on the parameters and what exactly to protect,  
22 et cetera, and where that would be done. Whether this  
23 done on this occasion, I don't know.

24 Q. During the time that you attended at the crime scene,  
25 did you see anything that gave you any concern about

1 whether the integrity of the **locus** was being properly  
2 protected?

3 A. No, it seemed reasonable to myself, yes.

4 Q. I would like to ask you a little bit about what you tell  
5 us at paragraphs 26 onwards of your statement about the  
6 use of fingerprinting powders. The Inquiry has heard  
7 that the doorframe which became of importance in this  
8 case was powdered initially with aluminium powder and  
9 later with black powder.

10 Do you have a view as to whether that was the  
11 correct course?

12 A. Yes. I was perfectly happy with either powder. A scene  
13 examiner is given -- is trained extensively and there  
14 would not be a policy, when I certainly was there,  
15 normally not a policy for a supervisor either to  
16 determine which exact powder they had to use. It's very  
17 much a touchy-feelie thing. You get a feel for what  
18 you're getting prints with. If you try aluminium powder  
19 which is normally the first powder to try because black  
20 powder can be applied after aluminium but aluminium  
21 can't be applied after black. So if in doubt start with  
22 aluminium. If you are getting results with aluminium,  
23 that's normally what you would continue with.

24 Some SOCOs have a preference for black, some have a  
25 preference for -- but it's very much a 50/50 what brings

1 up. There are certain surfaces such as glass which it  
2 is particularly good to use aluminium powder but -- and  
3 certain rougher surfaces black powder tends to be better  
4 with but on a reasonably painted surface it's very much  
5 a 50/50 usually.

6 Q. So I take it from that we are talking about painted  
7 wood. If the Inquiry has heard that one would always  
8 use aluminium first that's not necessarily a view that  
9 you would agree with?

10 A. Sorry?

11 Q. If the Inquiry has heard that for painted wood you would  
12 always use aluminium powder first that would not be a  
13 view you would agree with?

14 A. No. If in doubt I would certainly start with aluminium  
15 powder but if you feel the surface is such that black  
16 powder would be a better powder to use, then Scene  
17 Examiners will use black powder prior to aluminium.

18 Q. The Inquiry has heard also that sometimes aluminium  
19 powder doesn't take to a surface. Is that something  
20 that is within your experience?

21 A. It can be, if you find that it's not taking, then the  
22 obvious recourse would be to move over to black.

23 Q. How would you be able to tell it wasn't taking?

24 A. It's the general appearance of the aluminium powder.  
25 Also if you're not bringing up fingerprints most

1 surfaces have some fingerprints or finger-marks or other  
2 scuffs, et cetera, and as you're fingerprinting you  
3 see -- if you are bringing up fingerprints with  
4 aluminium and they are coming up well then I would  
5 probably continue with aluminium.

6 Q. In the situation you have seen marks coming up you might  
7 be able to observe it not taking. What would you see  
8 that would tell you that?

9 A. As I say, if you have a white doorframe and you paint  
10 the whole doorframe and you're not getting anything at  
11 all you would think there was something strange and you  
12 would perhaps try another powder after.

13 Q. Would there ever be a situation where it didn't appear  
14 to be adhering, for example?

15 A. If it didn't ...?

16 Q. If it didn't appear to be adhering to the surface?

17 A. Certainly if it wasn't adhering to the surface you would  
18 try something else, yes.

19 Q. I think we may return to the powders again, but if I can  
20 take you at this stage, please, to paragraph 55 of your  
21 statement, you describe a reconstruction experiment.  
22 You start by saying that you're unable to say whether  
23 fingerprint mark Y7 was left after the aluminium powder  
24 had been applied.

25 Can you tell us why that is your view?

1 A. Well, as I say, we carried out some experiments to see  
2 if there was any way of telling whether -- if the  
3 surface had been covered in aluminium powder, if a print  
4 had then been left, would it basically sit on top of the  
5 aluminium powder and then be brought up by the black  
6 powder.

7 Q. Please describe the experiment that you undertook.

8 A. Well, as I recall, it wasn't myself that carried out  
9 that but members of the forensic laboratory. But as far  
10 as I'm aware it was a case of laying down some aluminium  
11 powder, placing a fingerprint on top of the aluminium  
12 powder then trying to bring that up with black powder  
13 and what they found and what we found was that when you  
14 apply the black powder, the aluminium and black powder  
15 mix. They don't sit in layers as such they used a high  
16 density microscope to see if they could detect some  
17 layering but there was no such layering.

18 Q. So on the basis of that you certainly don't feel able to  
19 help us with whether we can tell from the fact that Y7  
20 only appeared with the black powder whether or not it  
21 was present before the aluminium powder was applied?

22 A. No, I can't say, no.

23 Q. Moving on to paragraph 56, the next paragraph of your  
24 statement, you say you found the fact that apparently no  
25 prints had been developed using aluminium powder and

1 subsequently developed by black powder to be unusual.

2 Why do you say that?

3 A. Well, it's not something that I'd personal knowledge of.

4 Normally in a complete area such as that you can get a

5 circumstance where you see something being brought up by

6 aluminium powder and if it's not developing by

7 application of more aluminium powder then you may go

8 over to black powder.

9 I think what I'm more or less saying in that

10 paragraph is that it was unusual for aluminium powder

11 not to bring up anything, any sign of a finger-mark, and

12 then to be brought up with black powder.

13 Q. You say in the final sentence of paragraph 56 the paint

14 on the doorframe was heavily stained and it appeared to

15 be nicotine staining and this may have had an effect.

16 Can you explain why that is?

17 A. Well, both -- again, not on a scientific basis. I'm not

18 aware of any studies that have been done with nicotine

19 staining but certainly the doorframe did appear to be

20 stained, maybe not heavily stained, with a brown

21 substance (possibly nicotine), and also in the vicinity

22 of the bathroom and the kitchen the subsequent analysis

23 of the situation was that that was possibly why the

24 black powder had brought up more prints than the

25 aluminium had originally picked up.

1 Q. You record at paragraph 57 that your first thought had  
2 been that the mark Y7 had been developed with black  
3 powder because it had been left after the application of  
4 the aluminium powder.

5 A. Yes, that was my first impression.

6 Q. But as you explained to us today, that's not your view  
7 any more and I think you record there also that a factor  
8 in your reasoning is some of Miss Ross' fingerprints  
9 were disclosed with the black powder but not the  
10 aluminium?

11 A. Yes, they were.

12 Q. If I can move on to the next part of your statement,  
13 paragraph 58 onwards, you have given a view in the past,  
14 Mr Hogg, as to the relative likelihoods of mark Y7 being  
15 deposited when the door was in place and after it had  
16 been removed.

17 A. Yes.

18 Q. I wonder if you could explain to us first what your view  
19 is?

20 A. The door check on a doorframe is not an area that,  
21 generally speaking, reveals fingerprints. It's, if you  
22 like, tucked in at the back of the door. It's not  
23 something that you touch going through the door,  
24 et cetera.

25 My initial thoughts -- and still to a certain

1 extent -- to place a left thumb mark into that area  
2 would certainly be easier to do if the door was removed  
3 than it would be if the door was actually there. The  
4 door actually gets, if my recollection is correct, the  
5 door actually gets in the road of the rest of your hand  
6 for the thumb to get into the door check.

7 Q. I think your position was recorded at one stage in a  
8 document CO2608.3. If we go to the last paragraph on  
9 that page if I can perhaps just read this out so it gets  
10 into the record easily, first of all, I should say that  
11 this is this bears to be a precognition, that's not a  
12 document you prepared yourself, a document that a  
13 Mrs Greaveseaves from the Fiscal's Office prepared after  
14 speaking to you.

15 What is recorded here is that:

16 "David Thurley also decided to remove the carpet  
17 from the **locus** for examination at the lab. The next  
18 day, the fingerprint examination of the **locus**  
19 recommenced after a debriefing. David Thurley was left  
20 as the Scene Manager. A variety of people went down  
21 although it is preferred to keep the same team. This is  
22 sometimes impossible because of court commitments."

23 Then it is noted that:

24 "On 14th January 1997 the print Y7 was found. Most  
25 of the examination had been completed when they decided

1 to dust round the door with black powder. I was aware  
2 that the print found has been attributed to Shirley  
3 Cardwell, I am aware that it is a right thumb print."

4 Now if you can just pause there, I think the Inquiry  
5 has heard that in fact the SCRO examiners who considered  
6 the matter identified that the print is a left thumb  
7 print.

8 Does what we see here record your understanding as  
9 it was before Ms McKie's trial?

10 A. My recollection has always been a left print. I can't  
11 give an explanation why that's a right thumb print. I  
12 don't ever recall being aware of thinking that it was  
13 anything other than a left thumb.

14 Q. So can we take it from that that informing your view as  
15 to the likelihood of the mark being deposited with the  
16 door on or the door off, that wasn't something that you  
17 reached on the basis of thinking that it was a right  
18 thumb print?

19 A. No.

20 Q. Thank you for clarifying that.

21 We can read on and go on to the next sheet as  
22 well --

23 THE CHAIRMAN: May I just interrupt for a moment. It says:

24 "I took from the position of the marks the doorframe  
25 would have already been removed", and to me the

1 doorframe is the area round the door rather than the  
2 door itself.

3 A. Yes.

4 THE CHAIRMAN: But you were intending to refer to the door  
5 itself?

6 A. No, the door as I recall had been taken off on  
7 9th January, removed by Mr Thurley. The doorframe was  
8 still in situ. The doorframe was subsequently removed  
9 some time later but it was the doorframe, I think I was  
10 referring to.

11 THE CHAIRMAN: So you did mean the doorframe would have been  
12 removed in your view when the print was placed on it?

13 A. After the door had been removed it was easier to place  
14 the thumb print on to the doorframe.

15 THE CHAIRMAN: That is why I am trying to get clear. You  
16 see it says:

17 "I took the view that the doorframe would already  
18 have been removed when the mark Y7 was left", and maybe  
19 I am misunderstanding it.

20 A. Perhaps could we possibly --

21 MISS CARMICHAEL: If I might assist, I think Mr Hogg is  
22 still looking at what is on the screen rather than at  
23 his signed statement for the Inquiry and it might be  
24 helpful to Mr Hogg to look at paragraph 58, again, of  
25 his signed statement to the Inquiry.

1 THE CHAIRMAN: Yes.

2 MISS CARMICHAEL: Mr Hogg, I think what the Chairman is

3 referring to is in the first line of paragraph 58 the

4 word used towards the end of the line is "doorframe".

5 A. Sorry. Again, I should have noticed that. I apologise.

6 That's the door. I took the view that from the position

7 of the marks the door would have already been removed

8 when mark Y7 was left.

9 THE CHAIRMAN: That is all right. As long as I -- I hoped I

10 wasn't misunderstanding your evidence.

11 MISS CARMICHAEL: I am obliged, sir.

12 Return to what is on the screen, please. We were

13 looking at page 3 of the document and I think we had got

14 down to "thumb print" on the third last line. What is

15 recorded here is:

16 "There was also a portion of palm below it but there

17 are no identifying features on this palm according to

18 SCRO. The thumb print was on the hinge side of the

19 doorframe ..."

20 Go on to the next page:

21 "... and is in a position where it would be very

22 awkward to place a hand there if the door had been

23 closed."

24 It goes on:

25 "If the door had been closed there would have been

1 nothing to gain by placing a hand there."

2 In the first place, does that record your view?

3 A. Well, if the door had been closed it would have been  
4 impossible to do it because the door actually sits over  
5 the check when a door is shut, where the hinge side of  
6 the door is it would not be visible so you could not  
7 leave a print if the door is closed.

8 Q. I may have some questions for you about that but if we  
9 just carry on with the note of what is recorded it says:

10 "If the door had been opened, ie when the body was  
11 in place, then it is not a natural position to place the  
12 outside of your thumb against the doorframe and I would  
13 expect that one would have to grip the other side with  
14 fingers."

15 Can you tell us what you mean in the first place by  
16 the "outside of your thumb"?

17 A. The doorframe -- when the door is closed in the  
18 bathroom, you cannot get access to where the hinges are,  
19 if you like, on the door. When the door is open, the  
20 door as I recall opened to the right in front of the  
21 bath on the right. To place your hand on, your left  
22 hand thumb in that area, the door gets in the way and  
23 you've actually got to scrunch your fingers up and push  
24 your thumb into the check area. With the door off  
25 there's no restriction of where you can put your hand.

1 Q. I think we can take that off the screen for now. I  
2 would like you to look, please, at ST0003, number 17,  
3 please. If you take it perhaps from me that what we see  
4 to the left-hand of this shot is the entrance to the  
5 bathroom is that something -- would that accord with  
6 your recollection?

7 A. Yes.

8 Q. I think you may have been shown how to use the mouse or  
9 the pointer here. Under reference to this photograph,  
10 can you show us where it is according to your  
11 understanding that the mark was found?

12 A. I understand the mark to have been found in that kind of  
13 area here (**indicated**).

14 Q. I may be mistaken, Mr Hogg, but it looks to me rather as  
15 if the tip of the arrow is on what I'd understood to be  
16 the door here. We see a dark shape towards the bottom  
17 of the door jam --

18 A. Sorry --

19 Q. Correct me if I am wrong but it appears to me that  
20 immediately above that shape there was perhaps what  
21 appeared to be a hinge.

22 A. Okay, sorry. Then I've gone just slightly further over.  
23 If this edge here, (**indicated**) if that is the edge of  
24 the door, then my understanding -- if that is the edge  
25 of the door then my understanding is that the print

1 would be found in that area there (**indicated**).

2 Q. So to get this into the record you indicated what you  
3 understand to be the edge of the door with arrow at the  
4 top of photograph and you indicated where you understand  
5 the mark to have been found with the arrow second from  
6 the top of the photograph?

7 A. It may have been further -- slightly further up than the  
8 second arrow but it was in that channel that runs down  
9 that part of the doorframe.

10 Q. Did you see mark Y7 in position in the **locus** yourself?

11 A. (**Shook head**) I may have done but it wasn't drawn to my  
12 attention at the time. My last visit, if my  
13 recollection is correct, was the 16th and I just went  
14 back to check that the area had been done. I saw all  
15 the prints -- well, generally speaking all the prints  
16 but not specifically Y7. The only time I've seen Y7 in  
17 any detail was actually the doorframe that had been  
18 removed at a later date.

19 Q. I wonder if we could capture this image for reference to  
20 Mr Hogg's evidence.

21 Mr Hogg, the Inquiry has heard evidence which  
22 indicates that you may not have understood correctly  
23 where mark Y7 was found and, in fact, that it may have  
24 been found on the portion of wood running just to the  
25 right of the channel that you have indicated on this

1 photograph. If that were the case, would that affect  
2 your view as to the likelihood of the mark being  
3 deposited in the way that you describe?

4 A. It would, yes.

5 Q. Your view based on the mark within the channel is that  
6 it would have been impossible to put on with the door  
7 closed, for perhaps obvious reasons.

8 A. Yes.

9 Q. And that it would have been not altogether easy with the  
10 door in place, with the door open. On the basis, if I  
11 am correct, that the mark is deposited on the bit of  
12 wood that I have described, which, I suppose, you might  
13 call the inner facing of the door channel --

14 A. It would certainly have been easier, yes.

15 Q. Would it have been possible to place the mark there with  
16 a left thumb with the door in place?

17 A. Yes.

18 Q. A demonstration we had from another witness was perhaps  
19 he was able to indicate to us by reference to a  
20 particular doorframe in the Inquiry hearing room where  
21 the mark might have been deposited.

22 Is that something you might feel able to do yourself  
23 with reference to the understanding of the location of  
24 the mark as I have described it to you?

25 A. Possibly, yes.

1 THE CHAIRMAN: Would it be more convenient if the witness  
2 goes and looks at it and tells us whether it would  
3 assist him and then we can all move to see where it is.

4 MISS CARMICHAEL: Of course, sir.

5 THE CHAIRMAN: In case it is of no assistance.

6 MISS CARMICHAEL: I shall take him.

7 THE CHAIRMAN: If you would just like to go and then we can  
8 all move if you confirm that it is of help to you.

9 ( The witness left witness box)

10 (Pause)

11 THE CHAIRMAN: I think if the witness can just confirm,  
12 Miss Carmichael, if he can just look at it and say  
13 whether it helps or not. I think we have an indication  
14 that it would be possible. (Pause)

15 It would be possible. Then anyone who wants to move  
16 up ...

17 MISS CARMICHAEL: Is everyone able to see ...

18 Now, Mr Hogg, I wonder if you could please indicate  
19 using the doorframe that we're looking at here -- and we  
20 will record this photographically -- how a left thumb  
21 mark might have been deposited there?

22 A. Certainly. I would think the easiest way is if it was  
23 deposited with the person outside placing a hand off,  
24 perhaps like that in that situation with the door on  
25 does make it a wee bit more awkward. (Photograph taken)

1 Do you want it like that as well? **(Photograph**  
2 **taken)**

3 Q. While the witness is here is there any other matter that  
4 others might wish covered with him that this could  
5 usefully be used for rather than coming up later?

6 MR SMITH: I wonder if I could ask Mr Hogg if we could have  
7 the door completely open, please.

8 MISS CARMICHAEL: I am not sure it will stay.

9 MR SMITH: I wonder if you could.

10 MISS CARMICHAEL: I think we may need somebody to hold the  
11 door open. I don't think the bolt works.

12 MR SMITH: Sir, can I just go ahead and ask a couple of  
13 questions if that's acceptable?

14 THE CHAIRMAN: Yes.

15 MR SMITH: Mr Hogg, I don't I don't know if you can identify  
16 in the photograph at the side there the height that the  
17 mark Y7 is. Can you see where it is?

18 A. This is it. **(Indicated)**

19 Q. If you take it that height is broadly correct as far as  
20 the height from the floor here is concerned --

21 A. Yes.

22 Q. -- so if you bear that in mind, can I ask you with the  
23 door in that position if you could try to position your  
24 left thumb in approximately the same tight but also the  
25 distance away from -- perhaps if I point this out. This

1 is a picture of the part of the door next to the ruler?

2 A. Yes.

3 Q. And you will see the distance away from the edge, as it  
4 were?

5 A. On this edge?

6 Q. No, I was meaning from the edge of the wood?

7 A. So we're talking about there?

8 Q. Yes, and can I ask you to touch the door to try and  
9 place it and if we can have a photograph of that,  
10 please. **(Photograph taken)**

11 Thank you, I have no further questions.

12 THE CHAIRMAN: Any other questions? Very good, thank you  
13 very much.

14 **(The witness returned to the witness box)**

15 THE CHAIRMAN: The photographs will of course go into the  
16 record, Miss Carmichael.

17 MISS CARMICHAEL: They will, yes.

18 Before we leave this topic, just to be quite clear,  
19 you have told us today that it was always your  
20 understanding that the mark was a left thumb.

21 A. Yes.

22 Q. What is recorded in paragraph 59 of your statement is  
23 that there may have been a supposition on your part that  
24 the mark was a right thumb print and that you had no way  
25 of knowing which hand the print came from.

1 I just would like to be quite clear about what the  
2 position is, whether you have all along been aware that  
3 the SCRO examiners identified the mark as a left thumb  
4 print or perhaps whether there has been some unsureness  
5 on your part about this at some stage?

6 A. No, my recollection is that I've always been of the  
7 understanding that it's a left thumb.

8 Q. If we can move on to another topic, please, and that is  
9 the one that you deal with at paragraphs 65 onwards of  
10 your statement regarding Mr Michael Moffat.

11 In paragraph 65 you say you remember Michael Moffat  
12 raising the question of the possibility of the  
13 fingerprint mark Y7 having been left by another  
14 individual?

15 A. Yes.

16 Q. When did he first discuss that with you?

17 A. The time-line regarding this issue is not -- it's a long  
18 time ago, I don't fully recall -- but my recollection  
19 was that it would be certainly between Mr Asbury's trial  
20 and Ms McKie's trial.

21 Q. Mr Moffat's evidence to the Inquiry has been that he  
22 raised it with you shortly before Ms McKie's trial when  
23 he became aware that she was disputing the correctness  
24 of the identification by SCRO. Would that --

25 A. That would -- yes, I would not dispute that.

1 Q. What did he say to you?

2 A. Again, my recollection is it was brought up in  
3 conversation rather than a specific request to see me or  
4 whatever and it was not a large issue. It was something  
5 that he mentioned in passing rather than making an issue  
6 of. My recollection is that we had some discussion  
7 about I think he was also suggesting that the glove that  
8 a certain person had been wearing had split.

9 I recall the discussion going along the lines of:  
10 we've got basically three options. We've got the first  
11 option is that it was touched with a glove in place  
12 whereas it smudged the mark, which there's nothing we  
13 can do about because it's done and dusted. Secondly,  
14 it's through the glove. I'd seen Y7 by that time and,  
15 as far as I was concerned, it wasn't a through-the-glove  
16 mark. These tend to be -- maybe they would look  
17 slightly out of focus, they are not sharp, kind of,  
18 marks, and the third would be that it was he had left a  
19 mark.

20 Q. When you say "he", who did you understand "he" to be?

21 A. When I gave my statement I couldn't remember his name.  
22 I've subsequently understood it was Gary Gray, I think.

23 Q. Michael Moffat's account to the Inquiry is he telephoned  
24 you?

25 A. My recollection was there was more than one talk about

1 this. I personally don't remember a phone call but he  
2 may have phoned me. I don't recall.

3 Q. Michael Moffat's account to the Inquiry is that you were  
4 angry and said something to him along the lines of,  
5 "Look here, sunshine, don't you dare start going down  
6 that road at this stage".

7 What is your recollection?

8 A. I don't recall using the word "sunshine". It's not  
9 something that I would normally do. It's not -- it  
10 doesn't ring true to myself, no.

11 Q. Is it possible that Mr Moffat is correct about that and  
12 you simply don't remember?

13 A. As I say, I don't ever remember being particularly angry  
14 about it. It wasn't an issue. It didn't become an  
15 issue until the Mackay Inquiry, as I recall. I don't  
16 recall having any reason to be angry with Mr Moffat.

17 Q. Mr Moffat told the Inquiry that you agreed to have the  
18 mark looked at and that you phoned him back to say that,  
19 in fact, it had been checked by Charlie.

20 Is that something you recall?

21 A. No, I don't recall that, no.

22 Q. Do you know whether -- can you recall whether you did  
23 ask anyone at SCRO to look at the question of Gary  
24 Gray's mark around that time?

25 A. No, not specifically, no. It was not -- it wouldn't be

1 in the normal order of things. Elimination prints would  
2 normally be done through the investigating team rather  
3 than ourselves.

4 Q. In a situation where a possibility is being raised with  
5 you that a disputed fingerprint might belong to someone  
6 other than the person to whom it's been attributed,  
7 would it not be natural to take some steps to check that  
8 at that time?

9 A. I recall speaking to Detective Chief Inspector Stephen  
10 Heath about that. Having said that, as I recall, it was  
11 a chance meeting. It wasn't something that I organised.  
12 It was a chance meeting and while there I took the  
13 opportunity to say that there was the possibility that  
14 this mark may have been left and I was reassured that  
15 all the elimination prints -- I knew myself that Gary  
16 Gray's or anybody that was on the inquiry's prints would  
17 have been checked against outstanding marks.

18 Q. Mr Heath was asked when he gave evidence when he first  
19 became aware of the question of the possibility of the  
20 print being Gary Gray's and his first reaction was that  
21 he hadn't heard it before it was put to him in the  
22 Inquiry and then I think when he was asked about it  
23 later by Mr Smith he said that it was not in his  
24 recollection that he had been told about it at an  
25 earlier stage.

1                   Is it possible that you are incorrect that you  
2                   mentioned it to Mr Heath at this time?

3       A.    I recall in my own mind that I'd spoken to someone about  
4            the issue, early doors. Whether Gary Gray's name was  
5            mentioned or not I honestly can't recall but I  
6            definitely spoke to Mr Heath about the possibility of  
7            Michael Moffat's allegation or his comment that someone  
8            at the **locus** had touched the frame and there was a  
9            possibility he'd left a mark. As I say, my recollection  
10           is that Mr Heath assured me that all the people that had  
11           been in the **locus**, that elimination prints had been  
12           checked against outstanding marks.

13     Q.    If we just put ourselves back into 1999 in the situation  
14            as Ms McKie's trial was coming up, an officer was about  
15            to go on trial for perjury, which was obviously a very  
16            serious matter, yes, and you had received a possible  
17            explanation as to why the mark attributed as hers might  
18            be attributed properly to somebody else.

19                   Why did you not seek to investigate that further  
20                   yourself?

21     A.    As I say, my recollection is that I raised the issue  
22            with Mr Heath and assumed that anything that required to  
23            be done would be done.

24     Q.    If Mr Moffat recalls a conversation with you where you  
25            said that Charlie had checked it, are you saying that he

1 is incorrect in his recollection of that call with you?

2 A. I don't recall specifically -- no, I don't recall going  
3 to SCRO to ask if that had been checked. I possibly  
4 did. I just -- looking back, I possibly did but I just  
5 don't recall actually going through and speaking to -- I  
6 take it we're talking about Charlie Stewart, who's the  
7 only Charlie that I would know. I have no recollection  
8 of doing that but possibly, possibly I did.

9 Q. You became aware yourself, I think, that Ms McKie was  
10 disputing the correctness of the identification of mark  
11 Y7 as part of her defence to her trial.

12 A. Yes.

13 Q. In fact, I think you were aware of the identity of one  
14 of the experts involved, Mr Wertheim?

15 A. I was aware Mr Wertheim was involved, yes.

16 Q. It would be fair to say that was fairly unusual  
17 situation, that expert evidence from the SCRO  
18 Fingerprint Bureau was being challenged by another  
19 expert?

20 A. Relatively unusual, yes.

21 Q. So that was a serious matter from the point of view of  
22 the SCRO Fingerprint Bureau also, was it not? Again I  
23 find myself asking why in that situation you did not  
24 take the immediate steps yourself to find out whether  
25 Mr Moffat's explanation might be the correct one.

1 A. In hindsight perhaps I should have, yes.

2 Q. Did you take Mr Moffat seriously?

3 A. Relatively.

4 Q. What do you mean by that?

5 A. Well, as I say, it was my initial recollection until  
6 after Ms McKie's trial was that it was something he had  
7 mentioned, it was, as far as I was concerned, had been  
8 passed on to Mr Heath and SCRO were identifying it, were  
9 identifying the print as being Ms McKie's and that was  
10 the situation.

11 Q. You will be aware that prosecutions in Scotland are  
12 carried out in the public interest.

13 A. Yes.

14 Q. And that there is an obligation on the Crown and was  
15 even back in 1997 before we moved to where we are now,  
16 an obligation on the Crown to disclose to the defence  
17 matters that might be helpful to the defence.

18 A. Yes.

19 Q. It is a matter that might have been helpful to Shirley  
20 McKie's defence to know that an officer had raised the  
21 possibility of the mark belonging to Gary Gray?

22 A. **(Nodded)**

23 Q. That is correct, isn't it?

24 A. Yes.

25 Q. Why did you not take any steps to make the Fiscal aware

1 of this?

2 A. As I say, the elimination of people at the scene,  
3 although I can accept that it would appear that we  
4 gather fingerprints, that is something that the inquiry  
5 team do with SCRO between them. It's not something we  
6 normally become involved in.

7 As I say, Mr Moffat had mentioned the possibility  
8 that -- and as I recall at the time it was more,  
9 Mr Moffat's suggestion was more that Mr Gray's  
10 fingerprint had been left at the scene and not  
11 specifically that it was Y7 and my recollection of  
12 speaking to Mr Heath was that it was the elimination of  
13 marks that were found at the scene and not specifically,  
14 as I recall, Y7.

15 Q. I hope I don't misrepresent Mr Moffat's evidence to you  
16 and I will be put right if I do, no doubt, but his  
17 evidence to the Inquiry has been that he contacted you  
18 specifically because he was worried about the  
19 possibility that mark Y7 might be Gary Gray's.

20 Are you saying that that was not what happened?

21 A. I don't recall that pre-Ms McKie's trial.

22 Q. Mr Hogg, at the time you were a Chief Inspector?

23 A. Indeed.

24 Q. Which is a very senior police officer?

25 A. Yes.

1 Q. In fact, senior to Mr Heath at the time, albeit in a  
2 different branch?

3 A. No, he was a Detective Chief Inspector.

4 Q. I am sorry.

5 But you, as a Chief Inspector yourself, would have  
6 certain responsibilities if information came into your  
7 hands which tended or might tend to support the defence  
8 of an accused person.

9 A. Yes.

10 Q. But your evidence is that in this case you chose not  
11 yourself to contact the Crown about the matter?

12 A. I informed Mr Heath. That seemed to me at the time to  
13 be the correct course of action.

14 Q. Did you give evidence yourself at Shirley McKie's trial?

15 A. I didn't.

16 Q. But you had been precognosced by Mrs Greavess, the  
17 Fiscal in the case?

18 A. Yes.

19 Q. I think you said yourself that you think you spoke with  
20 Mr Moffat about this matter on more than one occasion.  
21 We have been talking about a time before Ms McKie's  
22 trial.

23 When were the other occasions that you spoke to  
24 Mr Moffat about this matter?

25 A. Again, I don't have a great recollection of exactly what

1 we spoke about but I certainly noted in my notebook that  
2 we spoke on 21st August 2000.

3 Q. Can you remember why you were talking to him at that  
4 time?

5 A. No, I don't, no.

6 Q. Mr Moffat's evidence to the Inquiry was that in  
7 August 2000 you came to him and told him that a  
8 statement was going to be taken from him by officers of  
9 Tayside Police. I think the officers were acting under  
10 Mr Mackay's direction?

11 A. That's possible, yes.

12 Q. Mr Moffat told the Inquiry that you told him that he  
13 should stick to his statement.

14 Do you remember saying that to him?

15 A. No, I don't.

16 Q. Is it possible you may have said it?

17 A. It's possible but I certainly don't recall it.

18 Q. Why would you tell an officer to stick to his statement?

19 A. It's not specifically for inquiry but certainly for  
20 attending court, Scene Examiners are trained to try and  
21 stick to their statement to try and refer to the  
22 evidence that they are originally speaking to.  
23 Occasionally in court defence counsel can take them  
24 slightly off course or off at a tangent and encourage  
25 them to give evidence outwith their sphere of expertise.

1           So I've certainly used that phrase possibly in advising  
2           people that are attending court to stick to their  
3           statement, basically, but I don't specifically recall  
4           telling Mr Moffat to do that specifically for the  
5           inquiry, no.

6        Q.    One can readily understand that nobody should come to  
7           court and speak about matters, if they are experts,  
8           outwith the area of their expertise. But everyone,  
9           whether a police officer or a civilian, who comes to any  
10          court in this country to give evidence is put on oath or  
11          promises to tell the truth.

12       A.   Yes.

13       Q.    And that is about anything they are asked, not just  
14          about things that are covered in their statement.

15                Would that be fair?

16       A.   Yes, but -- yes.

17       Q.    So it may, I think you accept, perhaps, it would be  
18          necessary for officers in the course of giving their  
19          evidence properly to courts to speak about matters that  
20          weren't covered in their statements?

21       A.   Sorry?

22       Q.    It may be necessary in order to answer all the questions  
23          put to them truthfully and accurately to cover matters  
24          that aren't covered in the statements that they may have  
25          prepared?

1 A. Yes, that's true.

2 Q. There might be, perhaps with that in mind, some risk  
3 that saying "stick to your statement" might be  
4 misconstrued?

5 A. As I say, the advice to Scene Examiners is not to be  
6 tempted down the road of giving evidence or giving their  
7 opinion on areas that are outwith their expertise and  
8 that would be what -- if I was using perhaps not the  
9 right phrase but if I was using the phrase, "stick to  
10 your statement" that would be what I would mean, not  
11 "don't answer questions that are put to you in court",  
12 but some officers can proffer an opinion on areas where  
13 they have no expertise.

14 Q. If it be that you said this to Mr Moffat in August 2007,  
15 what would the application of the phrase "stick to his  
16 statement" be in the context of an investigation by  
17 another police force?

18 A. As I say, I don't recall having said that to Mr Moffat  
19 on that occasion.

20 Q. Are you aware that Mr McAllister, another senior police  
21 officer, made a report to Detective Superintendent  
22 Malcolm about the allegations about certain of the  
23 matters that Mr Moffat is now on record as having  
24 raised?

25 A. I am aware of that report.

1 Q. When did you become aware of it?

2 A. I don't -- I don't recall. It was round about the time  
3 of the McKie(sic) Inquiry I understood that the issue of  
4 Gary Gray had, shall we say, escalated around that time  
5 and I understood -- I have difficulty, my Lord, in  
6 separating what I've found out from the inquiry against  
7 what I actually recall, but I do have some recollection  
8 of being aware that Mr McAllister was refuting what  
9 Mr Moffat had said at some point.

10 Q. I think you said at the time of the McKie inquiry --

11 A. Sorry, Mackay, my apologies.

12 Q. Which I think this Inquiry knows was around  
13 August/September 2000.

14 A. Yes.

15 Q. Were you aware of information otherwise circulating in  
16 the Strathclyde Police about what Mr Moffat had said?

17 A. No. The only thing that I was aware of was the  
18 information about Gary Gray. I had no other -- I wasn't  
19 aware of anything other than that, no.

20 Q. I'm sorry, I probably put the question badly to you.  
21 You were aware of Mr McAllister's report. Were you  
22 aware of others in Strathclyde Police mentioning or  
23 discussing the fact that Michael Moffat had said that  
24 the print may have been left by Gary Gray and other  
25 things he had said about what Mr McAllister may have

1           said to him? Were you aware of discussion going on in  
2           Strathclyde Police at that time?

3    A.    No.

4    Q.    Have you been aware of that sort of discussion since  
5           then?

6    A.    Not particularly, no.

7    Q.    Have you spoken since August 2000 to Mr Moffat about it  
8           yourself?

9    A.    As I say, I have noted in my notebook that on 21st  
10       August I've spoken to Mr Moffat regarding the Mackay  
11       Inquiry but I have no recollection of what we discussed.

12   Q.    I would like to take you on to a different topic and see  
13       if you can assist us, Mr Hogg. I wonder if you could  
14       look for me, please, at a document DB0251 at page 33.

15                The Inquiry has already heard some evidence about  
16       this form, Mr Hogg, but from your own knowledge of the  
17       processes of the Identification Bureau can you tell us  
18       briefly what it's for?

19   A.    It's 13B. It's an SCRO form that we used in the  
20       Identification Bureau to note finger-marks, et cetera,  
21       that we had found, where we'd found them, when they were  
22       found, the case they were in, the crime reference number  
23       (which is the ten digit number at the top right-hand  
24       corner), and that 13B would accompany any lifts or  
25       photographs, fingerprint photographs, that had been

1 taken and would follow the process through the  
2 department and then on into the Fingerprint Bureau of  
3 the Scottish Criminal Records Office.

4 Q. The Inquiry has heard from a Mr MacNeil who completed  
5 the form that he wrote on the impressions with which we  
6 are concerned here, and the series was QB2 to QL2 and  
7 that he had written "Ident required for deceased" on the  
8 form.

9 Is that a form of words on a form of this sort which  
10 you would be familiar with?

11 A. No.

12 Q. Why do you say that?

13 A. Well, normally we are not requested to find specific  
14 prints for a specific person. We are asked to develop  
15 marks on items and then pass those through to the  
16 Scottish Criminal Record Office.

17 Q. The instruction here, to be clear, is one that would go  
18 to the Fingerprint Bureau?

19 A. Yes.

20 Q. If I understand you correctly, you are saying that is  
21 not an instruction that you would normally give.

22 A. No. We are assuming, and it may well be the case, but I  
23 would think that what we have here is the front copy of  
24 the 13B which would be retained within the  
25 Identification Bureau.

1 Q. If I can stop you there I think we heard it was the  
2 second of three --

3 A. Right, okay.

4 Q. -- from Mr MacNeil. Again, I will no doubt be corrected  
5 if I am wrong but it is a triplicate form and this --

6 A. It is. It is indeed, yes.

7 Q. I think Mr Heath expressed a degree of disapproval, I  
8 think it's fair to say, of this form of words.

9 What's your own view?

10 A. Yes. It's not professional, no.

11 Q. Why do you say it's not professional?

12 A. Well, we would normally not -- we certainly -- the norm  
13 would be to pass information to the Scottish Criminal  
14 Record Office. We would not normally give them any type  
15 of direction and that appears to be what that is.

16 Q. We heard from Mr MacNeil that in his practice in the  
17 laboratory the term "ident" was, in practical terms,  
18 interchangeable with perhaps what we might more readily  
19 understand as a comparison.

20 A. Yes.

21 Q. How does that accord with your knowledge of practice in  
22 the lab?

23 A. What we're saying is it could be read as "comparison  
24 required for deceased".

25 Q. Well, I think, if I'm interpreting his evidence

1 correctly of course, that what he was trying to convey  
2 was that by writing "Ident" he meant comparison and that  
3 was a way that ident would tend to be used in the  
4 laboratory where he worked.

5 Can you comment on whether that would be right or  
6 not?

7 A. That would be one of the -- yes, you could take that  
8 from that.

9 Q. Do you know whether the expression "ident" was used to  
10 mean comparison in the lab at that time in 1997? If you  
11 don't know please feel free to say so?

12 A. No, I don't. I don't know.

13 Q. Mr MacNeil also told the Inquiry about -- and I may be  
14 using another colloquial expression for it -- about what  
15 might be termed a "league table" for the Scenes of Crime  
16 Officers who worked in the laboratory and if I can  
17 perhaps try to summarise his evidence, as I understand  
18 it, for you and then ask for your comment, his evidence  
19 was that a system operated whereby only marks which went  
20 from the lab to SCRO Fingerprint Bureau and which  
21 resulted in an elimination or an identification resulted  
22 in a positive statistic for the officer who had found  
23 the mark and that marks which did not result in any  
24 finding by SCRO Fingerprint Bureau simply didn't reach  
25 the record as far as statistics for that officer are

1           concerned.

2                   Do you recall a system of that sort?

3    A.   No. All marks were recorded. All marks -- statistical,  
4           the statistical information that was taken from the  
5           department was taken from these 13Bs, as I recall at the  
6           time, and all 13s were counted in the statistics, if you  
7           like.

8                   Identification, the number of identifications, would  
9           also be counted but certainly all the prints that would  
10          go to the Fingerprint Bureau were statistical data.

11   Q.   Picking up on what you just said am I right in  
12          understanding that records were kept of how many of the  
13          marks that SCRO received they were able to eliminate or  
14          identify?

15   A.   Yes.

16   Q.   What was the point of keeping that statistic?

17   A.   Well, we wanted to know, and still do, how effective and  
18          efficient the department is and how -- I'm trying to  
19          recall. Certainly now or latterly insufficient  
20          fingerprint marks that were brought in that were  
21          insufficient were used more as a dataset to look at  
22          training issues rather than identifications because  
23          identifications can be -- the Scene of Crime Officer can  
24          be recording exactly the right stuff from both scenes  
25          and from the laboratory and the fact they don't get an

1 identification could possibly be that the person  
2 responsible is not on file. There's a variety of  
3 reasons why they wouldn't.

4 But certainly -- and I'm trying to recall if it was  
5 in place in 1997, but we certainly moved over to placing  
6 more importance on insufficient marks, in other words  
7 Scene of Crime Officers bringing in stuff that could not  
8 be identified and that was seen as more of an indication  
9 where training, et cetera, was required. But certainly  
10 I wouldn't have called it a league table, I would have  
11 called it statistical data myself but certainly we've  
12 always kept a record of what we do.

13 MISS CARMICHAEL: Sir, I notice it is just after half past  
14 and this is the point the Inquiry normally breaks.

15 THE CHAIRMAN: Yes. We will stop now until 11.50.

16 **(11.30 am)**

17 **(A short break)**

18 **(11.52 am)**

19 MISS CARMICHAEL: Thank you, sir.

20 Mr Hogg, just picking up on a couple of points you  
21 mentioned in your evidence before we finished, you told  
22 us that the statistics about eliminations and  
23 identifications by SCRO Fingerprint Bureau were kept to  
24 tell you how effective your department was.

25 A. Yes.

1 Q. How did they tell you that? How did a statistic about  
2 the marks identified indicate the efficiency of your  
3 department?

4 A. Well, obviously if we received or we had attended 100  
5 scenes in a week and we were getting no fingerprint  
6 identifications then we would have to look at the  
7 effectiveness of the department. If we were attending  
8 100 a week and getting 100 identifications then we were  
9 doing really well. It was just a case of where we sat  
10 in that.

11 Likewise, with the laboratory examination room the  
12 number of cases they dealt with, the number of marks  
13 they had recovered, were they recovering a large number  
14 of marks, the people would change in there and we would  
15 also have to gauge the effectiveness of the people that  
16 were working in there, did they need training,  
17 et cetera. So if we changed the personnel and there  
18 were marks that they were recovering or the number of  
19 identifications we're receiving drops then we would have  
20 to look at why that was and address that as training or  
21 whatever.

22 Q. Presumably and I think we did touch on this in your  
23 evidence, there would be occasions where marks were  
24 brought up beautifully and clearly by your officers --

25 A. Yes.

1 Q. -- and, in fact, they weren't identified. It may simply  
2 have been a function of the fact that the people at SCRO  
3 did not have any elimination prints that matched the  
4 mark you found?

5 A. Yes.

6 Q. That would not to be fair reflect badly in any way on  
7 anyone in your department?

8 A. No. As I say, I can't recall whether it went back as  
9 far as 1997 but certainly there or shortly thereafter we  
10 started focussing, if you like, on insufficient marks  
11 where they were recovering stuff that was not good  
12 enough for identification by or not good enough quality  
13 for SCRO to work on.

14 But, having said that, even on identifications I can  
15 accept that on a one-by-one basis then it couldn't be  
16 but over the piece, over a year, over two years, over  
17 five years, you tended to find that the people that were  
18 good, if you like, got a larger number of  
19 identifications and people maybe not as good didn't get  
20 so many. But we took an informed judgment on where  
21 these people stand, some people work in areas where  
22 there are more crimes that are -- you get more  
23 identifications in some areas than others, believe it or  
24 not but you do.

25 Q. When you say areas ... ?

1 A. I mean the geographical area. You can get in certain  
2 areas more identifications than in others, it depends  
3 who's breaking into houses, you know.

4 Q. So it may be down to the criminals how sweaty their  
5 palms are?

6 A. I wouldn't necessarily go out in public, if you live in  
7 a high quality area there's normally less chance of  
8 getting fingerprints because if people are breaking in  
9 houses in that area know what they are doing and take  
10 precautions, whereas if it's opportunist crimes in other  
11 areas sometimes they don't think about leaving  
12 fingerprints, et cetera mso ...

13 Q. So there can be a variety of factors that affect your  
14 statistics, it would be fair to say?

15 A. Yes.

16 Q. Passing on to a different topic again, Mr Hogg, the  
17 Inquiry heard evidence from Mr Moffat that before the  
18 trial of David Asbury you called the Scenes of Crime  
19 Officers in for a meeting.

20 Is that something that you recall doing?

21 A. No, I don't. Again, I don't specifically recall it. It  
22 has happened. I don't recall -- I don't recall even a  
23 reason for the Asbury trial particularly. It was a  
24 murder trial which they are used to attending. I don't  
25 recall that. Maybe more -- as I say, I don't have

1 specific recollection but I would have thought maybe  
2 before the McKie trial would have been more likely than  
3 the Asbury trial. But it's possible. I don't recall.

4 Q. What would be your purpose in convening a meeting of  
5 that sort?

6 A. Again, exactly as I've said already, that I've done it,  
7 if you like, as a team-building exercise to support the  
8 people that are going to give evidence in difficult  
9 trials. It's just a case of getting them together,  
10 supporting them and sticking to their statement, if you  
11 like, again but trying to remind them not to be drawn in  
12 to give opinions on things that are beyond their  
13 expertise.

14 Q. What Mr Moffat says that you said is that you said to  
15 the officers, "This trial's coming up. We need to play  
16 this, you know, keep to your statements and, you know,  
17 don't elaborate, don't get carried away."

18 Is that something you may have said?

19 A. Possibly. As I say, not to get drawn into something  
20 that's not within their expertise.

21 Q. Mr Moffat also told the Inquiry that you addressed him  
22 directly at the meeting and said, "Especially you, mate,  
23 because we all know what you're like in the witness  
24 box".

25 Is that something you recall?

1 A. No, I don't even recall ever having seen Mr Moffat in  
2 the witness box, to be honest. It's not something that  
3 I recall having said to him.

4 Q. Are you saying he is wrong in his evidence to the  
5 Inquiry at that point?

6 A. It's possible -- I don't recall saying that. I can see  
7 that possibly I might have said along the lines of,  
8 "Stick to your statement", but I've already explained  
9 why I would go down that kind of line, but I don't  
10 recall at all having spoken to Mr Moffat specifically.  
11 I would have addressed all the people who were there, if  
12 I did do that -- and, as I've already said, just stick  
13 to their own expertise and not get drawn into other  
14 things that they really can't speak about.

15 Q. Just so I am quite clear what your position is, is it  
16 your position that you don't recall addressing Mr Moffat  
17 directly in the way that I've described but that you  
18 might have done so?

19 A. My recollection is I don't recall drawing the group  
20 together and talking to them at all in that specific  
21 case. I'm sure you can accept that over the, kind of,  
22 18 years I was involved we are talking about maybe 1,300  
23 murder cases that I have been involved in and trials,  
24 et cetera, et cetera. I certainly have in the past but  
25 I don't specifically remember doing it for either the

1 Asbury or the McKie trials.

2 Q. If it is you don't remember then does that mean that it  
3 is possible that Mr Moffat is right and that you did say  
4 to him, "Especially you, mate, because we all know what  
5 you're like in the witness box"?

6 A. No, I don't think I said that to Michael, no.

7 Q. Why do you say that?

8 A. Because, as I say, it's not -- I don't ever recall  
9 having seen Mr Moffat in the witness box.

10 Q. Now, the Inquiry also has some evidence that in the  
11 run-up to the trial of Shirley McKie when you learned  
12 that there was to be a challenge from Pat Wertheim to  
13 the SCRO evidence you took steps to speak to some of the  
14 SCRO experts.

15 Is that something you recall?

16 A. I may have done. Again, I'm sorry, I feel as if I'm  
17 repeating myself but, again, I may well have done.

18 Q. If you did such a thing, what would be your purpose in  
19 bringing together or speaking to SCRO experts who are  
20 not, I think it's fair to say, on your staff?

21 A. It would just be a case of sharing information. I  
22 became aware that Mr Wertheim was going to be giving  
23 evidence in Ms McKie's trial. I had no knowledge of  
24 Mr Wertheim.

25 I remember wondering if fingerprint experts in SCRO

1 had any knowledge of Mr Wertheim. I think it may have  
2 been as part of that. I was asked by Mrs Greaves, as  
3 far as I recall, to make some enquiries into who  
4 Mr Wertheim was and it could possibly have been part of  
5 that that I spoke to SCRO experts to find out if they  
6 had any knowledge of Mr Wertheim.

7 Q. To be fair, when you speak about Mrs Greaves, that was  
8 the Procurator Fiscal involved in preparing the case  
9 against Shirley McKie?

10 A. Yes.

11 Q. So your information about Mr Wertheim came to you from  
12 Mrs Greaves?

13 A. She asked me -- yes, she informed me that Mr Wertheim  
14 was going to be involved in the case and asked me to do  
15 some research into who he was and where he was from,  
16 et cetera, et cetera.

17 Q. Finally, Mr Hogg, I think you became involved perhaps  
18 tangentially again in this case in 2006 when some  
19 further fingerprint images were found.

20 I wonder if you could look for me, please, at  
21 document ST0066. Sir, Core Participants have this item  
22 on their database and it is on Trial Director also.

23 I wonder if you could tell us what the document we  
24 are looking at here is, Mr Hogg.

25 A. Yes, the office had an electronic computer system for

1 the recording of fingerprints and the name of that  
2 system was Prism. You can see at the top left-hand,  
3 "CME Systems" which is the company that make it, Prism  
4 version 1.5.

5 All the fingerprints that came into the  
6 department -- sorry, all photographs that came into the  
7 department were lodged on to the computer system so that  
8 we could recall -- the department usually at any one  
9 time has something in the region of about 5 million  
10 photographs so it's not easy to keep track of them all.

11 This is a printout. It says at the top "File  
12 reference number". That's a unique reference number  
13 that's generated by the system. File type is  
14 operational; the crime number; the accused and the  
15 officer in charge of the case; the subdivision; the  
16 offence, murder; and notes, M Ross -- that would  
17 normally be the complainer or deceased in this case.

18 Q. So the top series of entries that you have been telling  
19 us about identify the case that you're involved with and  
20 there's also a unique reference number for your own  
21 filing system?

22 A. Yes.

23 Q. We there see a line "Photography assignment 14"  
24 underneath there and we have a date requested and taken  
25 on and the identity of the photographer.

1                    Those two dates, requested and taken on, are  
2                    12th February 1997.

3        A.    Yes.

4        Q.    We see the photographer is identified as Stuart Wilson.

5        A.    Yes.

6        Q.    I would like to ask you about the series of dates that  
7                    we see in the last series of entries on the page  
8                    underneath "processing and reprint request"?

9        A.    Yes.

10      Q.    We see here "date in" and "reprint request" one as being  
11                    13th February 1997. On the basis of the way the system  
12                    normally works, what would be the significance of that?

13      A.    Of the date in?

14      Q.    Yes, indeed.

15      A.    The processing request, it was an immediate job. It  
16                    came in and was asked for on the same day.

17      Q.    Because the Inquiry does have evidence that what  
18                    happened in relation to these photographs was that they  
19                    were taken on 12th February, the photographer attended  
20                    and had the prints in his hand on 12th February 1997.

21      A.    Yes.

22      Q.    Is there any possibility, given the way the system  
23                    works, that the data here may not and the reprint  
24                    request may not be correct?

25      A.    That's possibly an admin that they were done on the 12th

1 but the time that the accompanying documentation was  
2 given to the admin staff that it was put on the  
3 following day. That's possibly the reason.

4 Q. So it would follow that we wouldn't necessarily have  
5 costed out an account that it hold(?) to police on the  
6 12th simply by reason of the entries on this form?

7 A. No, that's quite possible.

8 MISS CARMICHAEL: Thank you for that, Mr Hogg. I don't have  
9 any further questions for you at the moment.

10 THE CHAIRMAN: Is there an application?

11 MR SMITH: Yes, sir, I do have some questions I would like  
12 to ask and the areas I would like to ask are about,  
13 first of all, the training for Scenes of Crime Officers  
14 and what they are trained to look for.

15 THE CHAIRMAN: Yes.

16 MR SMITH: Secondly, the relationship between the Scenes of  
17 Crimes Officers and SCRO and how that operated.

18 The third relates to this witness's experience  
19 regarding the number of prints found at this particular  
20 **locus** and the number of those that were deemed  
21 unsuitable for examination, how that compares generally  
22 speaking.

23 THE CHAIRMAN: Yes.

24 MR SMITH: I have some questions regarding the integrity of  
25 the **locus**, just a few questions regarding that and

1 forensic examination, how long it took. One question  
2 relating to the issue of powders. That's to do with  
3 this witness's knowledge, if any, of the Home Office  
4 Guidance. I don't intend to go to any documents, just  
5 to ask what he knows about that.

6 THE CHAIRMAN: Certainly on the Home Office Guidance aspect  
7 but I will give you leave to ask about the matters you  
8 mentioned.

9 MR SMITH: It is limited to that.

10 The final area that I would like to ask about is  
11 just a few more questions regarding the conversation  
12 with Mr Moffat and what was done about it. It's been  
13 covered quite extensively and I won't cover anything  
14 that has already been gone through. I am happy to give  
15 that undertaking.

16 THE CHAIRMAN: Very good.

17 **Cross-examined by MR SMITH**

18 Q. Thank you, sir.

19 Mr Hogg, I am sure you heard the areas I would like  
20 to ask you about. The first of these is the question of  
21 the training that Scenes of Crime Officers obtain.

22 A. Yes.

23 Q. Can you explain to us dealing with the staff who were  
24 present in 1997, can you deal with that time, what kind  
25 of training would they have had in particularly

1 fingerprints. That's what we're interested in.

2 A. Certainly, again in 1997 the department have used  
3 extensively the National Training Centre at Durham and  
4 initial Scene Examiners would attend that on a nine-week  
5 course. The people that were at the scene,  
6 Mr Thurley -- I think Mr Ferguson may well have been on  
7 that course.

8 We then used a two-week course. Normally after five  
9 years they would return and do a refresher course, which  
10 was a two-week course. When we started introducing that  
11 using the National Training Centre the people that were  
12 in situ and were experienced, slotted into a retraining  
13 programme but obviously didn't go on the initial 9-week  
14 course. Whether all or any had been on the refresher  
15 course I honestly can't recall.

16 Q. What I am interested in is again dealing with  
17 fingerprints. The Scenes of Crime Officer is plainly  
18 looking for fingerprints that are capable of examination  
19 by SCRO?

20 A. Yes.

21 Q. And would there ever be a point a Scenes of Crime  
22 Officer would find something that looked like a  
23 fingerprint but conclude there's no way they are going  
24 to get anything out of this and just effectively discard  
25 it at that stage?

1 A. Their instruction at all scenes, not just at serious  
2 crime but at all scenes, that if they can see one or two  
3 points of comparison then they would recover it. If it  
4 was a total black mark or a score or anything that they  
5 didn't think was suitable, they would not recover it.

6 Q. I take it from that answer that a Scenes of Crime  
7 Officer must have some basic knowledge at least of what  
8 a point of comparison is?

9 A. Yes. That would be covered at Durham or we  
10 had -- again, it's difficult to recall. We certainly  
11 had a programme where Scene Examiners would attend at  
12 the Fingerprint Bureau and we had a reciprocal agreement  
13 that they would attend and be shown fingerprints and  
14 some information fingerprints and likewise fingerprint  
15 experts would come to us and be given some information  
16 about the recovery of fingerprints.

17 Q. Can you just describe for us in general terms what we  
18 can imagine a point of comparison could be? How can we  
19 imagine what it would be like --

20 A. On a fingerprint?

21 Q. Yes.

22 A. We're looking for ridge endings, bifurcations, islands,  
23 et cetera.

24 Q. So the terminology is something that you no doubt  
25 understand and is familiar to a fingerprint examiner as

1           such rather than just a Scenes of Crimes Officer?

2       A.    Yes.

3       Q.    I think in your statement on 9th September 1997 --

4           CO2608, a Crown Office document -- an indication was

5           given and I will just read out actually ... if you give

6           me a moment, I will find the particular part of it.

7       **(Pause)**

8           I will try to find the particular part but I will

9           just read out the section I was going to ask you about.

10       You indicate in that that there was also a portion of

11       palm print below it, below Y7, but there were no

12       identifying features in this palm according to SCRO.

13       I take it -- we will try to find the passage in

14       fairness to you but, as far as that is concerned, is

15       that likely to be information from SCRO that was

16       provided to you rather than a view taken by yourself?

17      A.    Yes.

18      Q.    Again, I take it you wouldn't feel particularly

19       confident, especially I suppose with a palm-print in

20       that position, to give an opinion as to whether there

21       were any identifying features?

22      A.    No, I'm not trained as a fingerprint expert but on a

23       difficult palm-print I certainly wouldn't give an

24       impression -- generally speaking a palm print is bigger

25       than a fingerprint, so you can generally, if there's --

1 Q. In fairness it is page 3 if we can flip to page 3 and go  
2 to the bottom, I think we can see the current text, just  
3 the last three lines on the page. Do you see that:

4 "There was also a portion of palm below it but there  
5 are no identifying features on this palm according to  
6 SCRO. The thumb print was on the hinge side of  
7 the ..." and I assume the next word is "door".

8 That is the context but your position is, as I  
9 suggested to you, that there should be an SCRO thing.

10 A. Yes.

11 Q. As far as any training is concerned would you or any of  
12 your officers who worked with you on any occasion or on  
13 some occasions or whatever, actually work with SCRO just  
14 to see how they operated?

15 A. As I think I said that that -- certainly whether that  
16 was in operation in 1997 I can't honestly recall. We've  
17 certainly done that over the years, yes. Whether that  
18 would happen or had happened or was happening round  
19 about '97 I have ...

20 Q. I think you also indicated when you were asked questions  
21 earlier on in dealing with this question of the  
22 relationship between your department and SCRO that prior  
23 to the McKie trial a conversation took place between you  
24 and some people within SCRO -- this is at page 50 at  
25 line 8 of the evidence so far if anyone wishes to look

1 to it -- I think you indicated that you contacted them  
2 for "sharing information" is the phrase that you used  
3 prior to the McKie trial.

4 Do you recall who you spoke to in SCRO?

5 A. No.

6 Q. Was it one person, was it a group of people?

7 A. I don't recall.

8 Q. Is this something that you had done on previous  
9 occasions prior to trials, contact SCRO to, as you  
10 describe it, share information?

11 A. No -- SCRO at the time 1997 were across the corridor  
12 from us. We all deal in fingerprints and although the  
13 general working arrangement was that we gathered,  
14 printed and gave through to SCRO the prints and  
15 thereafter, normally, had no great involvement with it,  
16 occasionally if there was difficult prints, if they  
17 needed to know the context of prints, et cetera,  
18 et cetera, there would be some contact. But, generally  
19 speaking, it was a different science. They worked  
20 independently to us. We were in a different management  
21 structure, et cetera.

22 Q. They may have been formally independent in terms of  
23 structure but I think you described a course of conduct  
24 and I think the import of what you are saying is there  
25 would be regular discussions. Is that not right?

1 A. There would be, yes, yes.

2 Q. They can't really, Mr Hogg, be said to be independent in  
3 the sense they could have been on the other side of the  
4 country or anything, can they?

5 A. No. They were certainly through the wall from us, yes.

6 Q. You see, at the stage you spoke to them were you aware  
7 that it was Shirley McKie's position coming up to her  
8 trial that the fingerprint had been misidentified? Was  
9 that the state of your knowledge when you had this  
10 conversation with SCRO?

11 A. I'm finding it difficult to recall when I had  
12 this ... was this ...

13 Q. I think you accepted that it was prior to the Shirley  
14 McKie trial that you were in touch. If it helps you, I  
15 think you also indicated that --

16 A. Was this -- my recollection was that the contact I had  
17 with SCRO was in relation to Mr Wertheim.

18 Q. Yes, and did you understand what Mr Wertheim's position  
19 actually was?

20 A. At some stage I did but I can't fully recall if it  
21 was -- if I was fully aware of what Mr Wertheim was  
22 going to say in court.

23 Q. You see, if you were unaware of Shirley McKie's position  
24 being "It's not my fingerprint" then what possible  
25 reason would you have had to contact SCRO, because their

1 position was it's her fingerprint, she's going to trial  
2 and let's see what happens?

3 Do you agree with me that it must have been that if  
4 you were aware of any contact with SCRO prior to her  
5 trial, you must have been aware that she was challenging  
6 the identity of her fingerprint. Is that not fair?

7 A. Probably fair, yes.

8 Q. And SCRO people examine fingerprints and give an opinion  
9 as to whether or not it is a correct identification,  
10 right?

11 A. Yes.

12 Q. That's not your patch, is it?

13 A. Sorry?

14 Q. That's your patch? It's not your expertise --

15 A. No, not at all.

16 Q. So what possible reason could there be, Mr Hogg, for you  
17 contacting SCRO to exchange information?

18 A. I don't recall having said exchange information  
19 regarding the case. My recollection was that it was to  
20 do with Mr Wertheim and who he was and where he came  
21 from, et cetera.

22 Q. "Sharing information" was the phrase you used. I stand  
23 corrected. I don't think it's much different to  
24 "exchange of information" but sharing information.

25 What possible information was it you wanted to share

1 with SCRO and share with them that related to  
2 Mr Wertheim? What were you trying to achieve?

3 A. As I said, I think I mentioned that I was asked by  
4 Mrs Grieves to research Mr Wertheim to find out who he  
5 was and where he came from, et cetera. I had no  
6 knowledge of him at all.

7 My recollection was that I started off perhaps with  
8 SCRO experts and asked them if they knew who he was,  
9 et cetera. I don't recall any deep discussion. In  
10 fact, I don't even recall if they were aware of who he  
11 was. But my recollection of my answer was that it was  
12 in relation to Mr Wertheim, not in relation to the  
13 fingerprints, et cetera, involved in the case.

14 Q. So we can understand that when you're asked what it was  
15 you were discussing with SCRO prior to Shirley McKie's  
16 trial the answer to that question is, "I went to ask  
17 them if they knew anything about Mr Wertheim"; that's  
18 it, isn't it?

19 A. I think that's what the answer to my question was, yes.

20 Q. Not sharing information but sharing information about  
21 Mr Wertheim; that's what we should understand, is it?

22 A. Well, I don't think at the time that I approached SCRO I  
23 had a lot of information to share. My question to SCRO  
24 was did they know who he was. I certainly didn't, so at  
25 that stage, other than the fact that I possibly informed

1           them that Mr Wertheim was going to be involved in the  
2           case, other than that I didn't have a lot of information  
3           to share.

4       Q.    What did they tell you about Mr Wertheim?

5       A.    I don't honestly recall if they knew who he was at all.

6       Q.    Do you recall if they gave you any positive information  
7           or the response was, "We don't know anything about this  
8           fellow"?

9       A.    I can't be specific about that. I certainly did  
10       other -- gleaned information from elsewhere. I don't  
11       recall if anyone I spoke to in SCRO knew Mr Wertheim or  
12       had any knowledge of him.

13      Q.    We might have an impression or some people might have  
14       the impression there was a bit of concern within the  
15       offices, your colleagues across the corridor from you, a  
16       bit of concern that Mr Wertheim was coming across with  
17       something to say.

18                Is that fair, a fair assessment?

19      A.    At the time, as I say, I didn't meet with members of the  
20       Fingerprint Bureau to discuss anything along those  
21       lines. I met with them on the -- well, not I didn't  
22       meet with them but I was acting on behalf of Mrs Greaves  
23       who had asked me to find out who Mr Wertheim was and  
24       whether members of the Fingerprint Bureau had some  
25       concerns about Mr Wertheim's involvement in the case was

1 not something they shared with me.

2 Q. But we can imagine that you had never -- you and no-one  
3 to your knowledge -- had ever been asked by a senior  
4 Procurator Fiscal before to investigate a defence expert  
5 in a fingerprint case? That's never happened, has it?

6 A. I certainly haven't been asked before, no.

7 Q. You would have heard about it if anyone else had been  
8 involved in that, wouldn't you?

9 A. There are a limited number of defence fingerprint  
10 experts in the country and, generally speaking, if one  
11 is involved in a case there is some knowledge about that  
12 fingerprint expert. Mr Wertheim came from left field.

13 Q. I would like to ask you, if I can, about the number of  
14 fingerprints that were found within the particular  
15 **locus**. I think we know and the exact numbers may be  
16 unknown to you but I think we understand there were  
17 probably 428 fingerprints recovered, of which SCRO  
18 considered 235 to be fragmentary and insufficient for  
19 comparison purposes.

20 Do these figures sound broadly in the right ballpark  
21 for you?

22 A. Yes.

23 Q. Of the 193 remaining prints, 136 were eliminated as  
24 belonging to the late Marion Ross. We understand from  
25 written evidence, and no doubt this will feature later,

1 that in evidence to the Justice 1 Inquiry it was  
2 suggested by certain SCRO experts that they had  
3 eliminated every one of the 136 prints said to relate to  
4 Marion Ross to a 16-point standard.

5 Can I ask you, first of all, do you understand  
6 broadly speaking what a 16-point standard is?

7 A. Yes.

8 Q. You may not be able to help us with this but, insofar as  
9 you can, of the remaining 136, 136 fingerprints  
10 eliminated to a 16-point standard, is that something  
11 that you understand or these ratios is par for the  
12 course, is about right?

13 A. Yes. At a major crime scene such as the **locus** I would  
14 expect my Scene of Crime Officers to lift everything  
15 they saw basically and give SCRO an opportunity. So I  
16 would perhaps expect more of an insufficient rate at  
17 such a **locus** maybe rather than a less serious crime.

18 Q. I am really interested in the matter that, according to  
19 that evidence, if it is correct, 136 fingerprints from a  
20 murder **locus** were eliminated to the 16-point standard.

21 Now, just dealing with the 16-point standard for  
22 elimination purposes, is it your understanding for  
23 elimination purposes a 16-point standard would have been  
24 looked for?

25 A. I would understand that they would eliminate

1 fingerprints that had reached the 16-point standard,  
2 yes.

3 Q. The second point from that is to manage to get 136  
4 fingerprints eliminated to a 16-point standard is it  
5 your understanding that having regard to the overall 438  
6 prints in the house that I put to you, that proportion  
7 is about what you would expect?

8 A. Yes.

9 Q. It is.

10 I would like to ask you now a bit about the  
11 integrity of the forensic examination of the particular  
12 house. If we could have, please, production CO2608 up  
13 on the screen. Again, I will try to track the  
14 particular passage I have noted down. But give me just  
15 one moment. **(Pause)**

16 There is within this, we will call it up in a few  
17 minutes for you, it is appears to be stated in this  
18 statement which is dated 9th September 1997 -- so again  
19 this would be prepared for the purpose of the Asbury  
20 trial -- the indication within the statement is in this  
21 case no fingerprints were taken during the night (this  
22 is 8th/19th January) and a full forensic examination was  
23 carried out that night.

24 While we are trying to find the passage, can I ask  
25 you this: is it usual to carry a brief forensic

1 examination, excluding fingerprints, before the  
2 fingerprint examination takes place --

3 A. Yes.

4 Q. It's usual in the events?

5 A. Yes.

6 Q. As far as that is concerned -- I think in fact the  
7 passage is on page 1. It is maybe eight or nine lines  
8 up from the bottom. You see it says:

9 "In that case no fingerprints were taken during the  
10 night and a full forensic examination was carried out  
11 that night by a forensic scientist", who will probably  
12 be identified for you.

13 A. Yes.

14 Q. So I take it from that statement it certainly implies  
15 that it was in that night that the forensic examination  
16 was carried out?

17 A. Yes, that would be the normal course of events.

18 Q. If it is recorded in the log perhaps we can have  
19 that -- I keep forgetting the number ... SG0537.  
20 Looking for an entry at 20.31 do you see "Martin  
21 Fairley, forensic lab"?

22 A. Yes.

23 Q. "And others, DCI Heath and Dr Cassidy who is the  
24 pathologist, they arrive at **locus** into the house." Then  
25 at 23.00 hours you see "Detective Superintendent Malcolm

1 and DCI Heath, Dr Cassidy and Martin Fairley depart the  
2 **locus**"?

3 A. That's correct.

4 Q. Can we take it that the forensic examination, the full  
5 forensic examination, was carried during that period or  
6 are you suggesting your understanding is it was carried  
7 out at a different time?

8 A. My understanding would be that forensic examination  
9 would be carried out by Martin Fairley during the time  
10 he was there.

11 Q. So we can just imagine then, can we, that a full  
12 forensic examination was carried out during that period  
13 between the hours of 20.31 and 23.00 hours which is some  
14 two and a half hours?

15 A. Yes. The normal process would be that the forensic  
16 scientist would attend and deal initially with the  
17 deceased. There would be an examination or taping of  
18 the body to remove any hairs and fibres, DNA, et cetera.  
19 The immediate surrounds where the deceased was found,  
20 together with any obvious location within the premises,  
21 perhaps the attack had happened, not necessarily just  
22 where the body or the deceased had ended up.

23 That would be carried out and then any other areas  
24 that either the CID that were there or the photographer  
25 and Mr Fairley, I presume, normally the case would be

1 would have a general look around.

2 The understanding thereafter would be that the Scene  
3 of Crime Officers, when they come to do a detailed  
4 examination, if anything further was found or any  
5 further location, if something had been missed, they are  
6 doing a detailed search for fingerprints, if they found  
7 blood or any other indication that something had  
8 happened elsewhere, then the forensic laboratory would  
9 be recalled and they would undertake a further  
10 examination or a further examination.

11 Q. We see, I think, only Mr Fairley, one gentleman -- if  
12 this log is accurate -- who comes in for 2 hours and 29  
13 minutes, who carries out a full examination, which is  
14 he the first man in looking for fibres, for blood?

15 A. Yes.

16 Q. For any items that may have been dropped?

17 A. Yes.

18 Q. Hairs, all these kind of things effectively throughout  
19 the house; is that right?

20 A. As I said, he would initially focus on areas that had  
21 been identified on the evening and the Scene Examiners  
22 would thereafter, when we attended -- and I think we  
23 were there for a week -- during that examination, if  
24 they came across any, as I say, blood or anything  
25 obvious of a forensic nature, any forensic material,

1 then they would have recalled the forensic scientist in  
2 1997. We are now at a stage where they'd probably have  
3 lifted that themselves now but not, I believe, in 1997.

4 Q. Can I ask you if you have any comment on what one may  
5 think the speed by which this examination took place by  
6 one man, 2 hours and 29 minutes. Do you think is that  
7 average?

8 A. It depends very much on the location. As I say,  
9 focussing mainly at the time I would have imagined --  
10 and this is perhaps something you can ask Mr Fairley --  
11 but in my experience two or three hours on the night is  
12 about average, yes.

13 Q. I think we've heard some information that up to six  
14 police officers, at the time the examinations were  
15 taking place or between the various examinations, had  
16 been in the living room. They had made themselves  
17 comfortable there, as I understand?

18 A. This is overnight we're talking about?

19 Q. Yes.

20 A. Yes.

21 Q. You were aware of that, were you?

22 A. No, I wasn't. I have already been asked that.

23 Q. Do you have any comment just briefly about it?

24 A. They shouldn't have been there.

25 Q. They shouldn't have been there.

1                    Now in your Inquiry statement at paragraph 22 you  
2                    explain that you were first advised of confirmation that  
3                    Marion Ross had been murdered in the afternoon of  
4                    9th January 1997. You go on to say:

5                    "I telephoned the forensic lab to satisfy myself  
6                    that we had obtained everything from the house they  
7                    required. At that time the forensic scientists might  
8                    have had the idea that the death had been a suicide."

9                    Then you go on to say:

10                  "I recall there was a possibility of obtaining  
11                  footwear impressions from the house."

12                  The feeling by the forensic scientists that the  
13                  death may have been a suicide, who in particular were  
14                  you referring to when you say "forensic scientist"? Who  
15                  is that?

16    A.    Well, I certainly recall -- whether I had that  
17                  impression before I left headquarters or whether that  
18                  was something that was imparted to me at the scene --  
19                  the fact that there was a possibility that it had been a  
20                  suicide but the person -- the only person that had been  
21                  at the scene was Martin Fairley. Now, whether he was  
22                  aware of that, I'm not in a position to comment.

23    Q.    I would like to ask you a question about the various  
24                  powders that are used and we have heard quite a lot of  
25                  evidence about that and my impression was that it was

1 very much a question of preference and depending upon  
2 the item that was being examined.

3 Is that a fair way of looking at it?

4 A. Each individual Scene of Crime Officer, you can't go  
5 into, generally speaking, you can't go into a premises  
6 and say, "We'll use aluminium powder on all of this  
7 location". The whole of the house has been done. In  
8 the circumstances, the different parts of the house may  
9 react differently to different powders. So it's not  
10 something you can be definitive about. It's left to the  
11 individual scene examiner in consultation usually with  
12 the senior scene examiner as to which powder they're  
13 going to use.

14 Q. You heard me explain to the Chairman that the only thing  
15 I wanted to ask was whether you are aware of Home Office  
16 Guidance on the question of which powders to use under  
17 which circumstances. Are you aware of that?

18 A. Yes and, as I recall, it's not my bedtime reading, but  
19 as I recall aluminium powder is certainly the powder  
20 that would be first used. If in doubt, start with  
21 aluminium.

22 Q. That is your understanding --

23 A. That's my understanding.

24 Q. -- you had of the Home Office position.

25 You say it's not your bedtime reading. When did you

1 last look at it?

2 A. A number of years ago.

3 Q. Can I ask why you haven't kept up-to-date with what the  
4 current Home Office Guidance is?

5 A. Well, I haven't had responsibility for scene examination  
6 for, what, three years now.

7 Q. How often did you consult it when you did have  
8 responsibility for scene examination?

9 A. I kept up-to-date with, as far as I recall, with new  
10 parts of the book as it came out. There's amendments  
11 come out occasionally.

12 Q. I would like to ask you some more questions about  
13 Mr Moffat just to be clear about what the position is.

14 You told us in your evidence under questioning from  
15 Miss Carmichael about your recollection of the  
16 conversation with Mr Moffat and I am sorry, I didn't  
17 quite understand what you meant. You said something  
18 about there were three options discussed.

19 Can I ask you were these suggested by Mr Moffat or  
20 suggested by you?

21 A. I can't recall whether these were Mr Moffat or myself.

22 Q. But can you tell us again what the three options were?

23 A. Well, my recollection was that if Mr Gray had placed his  
24 hand on any part of the **locus** he may have disturbed a  
25 print. He had gloves on. He may have disturbed the

1 print and if that was the case there was not a lot we  
2 could do about it.

3 The second option was, as I recall, a print being  
4 left through a glove. I had seen Y7 and reasonably  
5 closely examined it and it didn't strike me that -- I've  
6 also seen prints that had been left through gloves,  
7 although that's rare at a scene, and it didn't appear to  
8 me that was the case.

9 The other option was that Mr Gray had left his print  
10 at the **locus** and my understanding was that all  
11 elimination prints had been carried out and Mr Gray's  
12 was not amongst them.

13 Q. Before coming to that, it is clear at least that you  
14 have a recollection of Mr Moffat drawing to your  
15 attention the possibility that Gary Gray had left a  
16 fingerprint approximate to or exactly where Y7 was found  
17 and you were aware of that, as I understand it, in the  
18 run-up, was it the run-up to Shirley McKie's trial was  
19 your position?

20 A. Some time around there, yes.

21 Q. As I understand your evidence, you understood that Gary  
22 Gray's fingerprints would have been eliminated in the  
23 inquiry?

24 A. Yes.

25 Q. Did you check to see that Gary Gray's fingerprint had

1           been eliminated in the SCRO inquiry?

2       A.    No, I raised the issue with Mr Heath.

3       Q.    With Mr Heath?

4       A.    Yes.

5       Q.    Immediately after you spoke with Mr Moffat or very soon  
6           afterwards you raised it with Mr Heath?

7       A.    Yes, within maybe a few weeks, yes.

8       Q.    Because Shirley McKie's trial was coming up and  
9           certainly Mr Moffat was aware that there was going to be  
10          a challenge to the identity of the fingerprint. That's  
11          why he called you, wasn't it?

12      A.    Yes, yes.

13      Q.    He had no other reason to call you if he didn't think  
14          there was an issue over identity of the print; that's  
15          fair, isn't it? So you were then aware when Mr Moffat  
16          spoke to you that there was an issue over the identity  
17          of the fingerprint, right?

18      A.    Yes.

19      Q.    You presumed Gary Gray had been excluded from the  
20          investigation but you did not check?

21      A.    As I say, I raised it with Mr Heath.

22      Q.    You see, I may be getting this wrong -- and I will be  
23          corrected if I am wrong about it -- but I think that  
24          what Mr Heath's position was he had no idea about the  
25          Gary Gray question until just a few weeks back in time.

1                   Are you able to explain whether you might be wrong  
2                   about raising it with Mr Heath or Mr Heath must be wrong  
3                   when he says he has no recollection of it?

4     A.     Well, I can definitely recall speaking to Mr Heath about  
5           the possibility of Gary Gray's fingerprint having been  
6           left at the **locus** and was assured that all steps had  
7           been taken to eliminate everybody and all eliminations  
8           had been looked at.

9     Q.     First of all, did you record this in writing?

10    A.     No, I didn't.

11    Q.     Why not?

12    A.     In hindsight I wish I had but I didn't, so ...

13    Q.     We will move on from that point. Your understanding was  
14           that Gary Gray's fingerprint had been eliminated and you  
15           were then, like most of the people involved in this and  
16           the general public were aware that Shirley McKie was  
17           acquitted in the criminal trial and I guess that was a  
18           bit of a talking point in the offices of SCRO and in  
19           your office.

20    A.     It was.

21    Q.     At that stage you were still in possession of some  
22           information that you say you had been (inaudible) to  
23           Mr Heath that it was possible that Gary Gray might have  
24           left a fingerprint there; that's right, isn't it?

25    A.     By the time that there was a definite possibility of

1           that being -- that the Mackay Inquiry had kicked in.

2       Q.    Did you at any stage go back to Mr Heath and say, "I'm  
3           worried about this. Are you sure Gary Gray was checked  
4           against this"? █

5       A.    No, I didn't, no.

6       Q.    Can I ask why not?

7       A.    It was not -- it was not seen as -- as I say, Mr Heath  
8           and the inquiry team dealt with all eliminations and  
9           that side. I had raised it with him and I assumed,  
10          maybe wrongly, that all the eliminations, et cetera, had  
11          been done. But, no, I didn't raise it again with  
12          Mr Heath, no.

13      Q.    You see, Mr Hogg, after the trial, knowing that Shirley  
14          McKie was acquitted, you must have been aware that there  
15          was a possibility that that fingerprint was not hers.  
16          You must have at least accepted that much; is that  
17          right?

18      A.    Possibly, yes.

19      Q.    That fingerprint, on any view, belongs to someone;  
20          correct?

21      A.    Correct.

22      Q.    If we have a position where elimination -- you are  
23          understanding is eliminations have been carried out and  
24          excluded everyone who should have been included in the  
25          elimination process but has left over unidentified and

1           one might think there is a possibility it's not Shirley  
2           McKie's at least then there's a bit of a conundrum  
3           there, isn't there?

4    A.    My understanding was that, from Mr Heath, that Gary  
5           Gray's fingerprint had been checked. SCRO had, in my  
6           understanding, said that it was not. Therefore, by  
7           eliminating Gary Gray I assumed that it was not  
8           Mr Gray's.

9    Q.    Yes, but you must have realised there was a possibility  
10           either that Gary Gray's fingerprint was not checked or  
11           the identification or the elimination exercise was  
12           erroneous. You must have realised that.

13   A.    It was not something that struck me at the time, no --  
14           or if it had struck me I would have progressed it.

15   Q.    So we get round to the point where the Mackay Robertson  
16           Inquiry is getting interested in this. You are in  
17           possession, at that stage, of some potentially  
18           significant information; that's right, isn't it?

19   A.    **(Nodded)**

20   Q.    Which is that Mr Moffat's position is fairly clear about  
21           what he is suggesting, isn't he?

22   A.    He seems to be, yes.

23   Q.    The fact that Mr Moffat was concerned about it of itself  
24           is a matter of importance, isn't it?

25   A.    The reason I raised it with Mr Heath, yes.

1 Q. Well, with respect, Mr Hogg, there is a degree of  
2 individual responsibility here, isn't there? You just  
3 can't say, "I told Mr Heath and I was not really  
4 interested in it after that".

5 Do you not see that you were in possession of  
6 information is quite an important matter that perhaps  
7 you yourself could have taken steps to have communicated  
8 to the relevant authorities?

9 A. I could have, yes.

10 Q. And you should have, shouldn't you?

11 A. Possibly.

12 Q. Well, you should have -- not possibly -- you should  
13 have. Do you not accept that?

14 A. Possibly in hindsight I should have done, yes.

15 Q. Well, if for a start you should have disclosed it in  
16 some way to the Procurator Fiscal's department, what  
17 Mr Moffat said; is that not right?

18 A. As I say, I'd spoken to Mr Heath and my understanding  
19 was that all the processes had been gone through and it  
20 was not Mr Gray's print.

21 Q. We get to the Mackay Robertson Inquiry and did you tell  
22 them about Mr Moffat's position?

23 A. At some stage I did, yes.

24 Q. Let us look at your statement if we can.

25 MISS CARMICHAEL: If it is of assistance, I think it is

1 CO1231.

2 MR SMITH: I am obliged.

3 You remember I take it that you gave a statement to  
4 the Mackay Robertson Inquiry. Look at the last page,  
5 please. The pages are not actually numbered but if we  
6 go to the last page, you say at the bottom it is a  
7 statement taken by DS7634 Dunn and corroborated by Iain  
8 Laird at 11.30 hours on 14th July 2000 at Strathclyde  
9 house, 8 Elmbank Street, Glasgow.

10 It does say statement signed by Ian Hogg and dated  
11 14th July 2000. I don't know if we have a transcript  
12 version of it but I'm sure if there is a signed version,  
13 we can dig it up from somewhere.

14 Do you remember giving a statement to the Mackay  
15 Robertson Inquiry?

16 A. I do.

17 Q. I would like, if you can, if you wish to look through  
18 this -- well, perhaps can you just tell me this: do you  
19 know if anywhere in this statement there is any  
20 indication of, if I put it this way, either Mr Moffat or  
21 of Gary Gray or burst gloves or anything of the kind?

22 A. I don't recall, no.

23 Q. If you wish to flick through the pages I am sure you can  
24 do so. Would you like us to do so? Perhaps if we can  
25 just go to the first page and you can have a look at it.

1 If you just indicate when you have finished scanning the  
2 various pages. **(Pause)**

3 A. Okay.

4 Q. I think we can see there is no mention of Mr Moffat or  
5 anything of the kind.

6 A. No.

7 Q. Are you prepared to accept that, assuming these police  
8 officers have taken that statement were doing their job  
9 properly, which I don't think is a terribly great leap  
10 of faith here, but are you prepared to accept that you  
11 did not tell them about these matters?

12 A. My recollection was that I gave two statements.

13 Q. Well, Mr Hogg, you realise of course that we can recover  
14 documentation. That's not a problem.

15 A. Yes.

16 Q. Are you saying you think you might have told them about  
17 Mr Moffat, et cetera, and there is another statement  
18 that contains that. Is that your recollection, is it?

19 A. As I say, it's a long time ago but as far as I recall,  
20 that is my recollection.

21 Q. No doubt we can have a check. But are you saying this  
22 is the same officers, Dunn and Laird that you gave --

23 A. I honestly don't recall.

24 Q. Do you remember if it was before or after this  
25 statement?

1 A. I think it was after.

2 Q. I take it that there would be -- well, maybe I can ask  
3 you that. When you gave the first statement why would  
4 you not disclose the matters I have been discussing with  
5 you?

6 A. As I recall, I was asked about specific issues and I  
7 responded in relation to those issues in this statement.

8 Q. Mr Hogg, this is an inquiry by senior police officers  
9 effectively on behalf of the profession --

10 A. Yes.

11 Q. -- into the circumstances surrounding Shirley McKie's  
12 prosecution no less and the evidence that was given?

13 A. Yes.

14 Q. You were in possession of very important information and  
15 you didn't disclose it when you were first interviewed.  
16 That's the fact of the matter, isn't it?

17 A. Yes.

18 Q. And I am asking you why did you not disclose it to the  
19 Mackay Robertson Inquiry?

20 A. In hindsight I perhaps should have. I know that this  
21 has now become an issue. My recollection of it at the  
22 time is it had been done and dusted and it wasn't  
23 Mr Gray's print and on reflection perhaps, yes, I should  
24 have mentioned it at the time.

25 Q. You see, Mr Hogg, all you had to say was, "There was a

1 point raised about it being somebody else's but I told  
2 Mr Heath about it and I was advised it was all done and  
3 dusted". That all you had to say, wasn't it?

4 A. Yes, but I have to say it was not, as I recall, it was  
5 not at the front of my mind at the time. There were  
6 other things that -- obviously, it's a busy department,  
7 et cetera, but I accept now, looking back, that I should  
8 have raised it.

9 Q. On the same theme you had some questions being put to  
10 you by Miss Carmichael about a number of briefings, I  
11 suppose, one before, I think, David Asbury's trial and  
12 one before Shirley McKie's trial, if I've got this  
13 right --

14 THE CHAIRMAN: I hope we are not going to go over matters --  
15 the whole purpose of this is not repetition of areas  
16 that have been covered.

17 MR SMITH: I accept that, sir.

18 THE CHAIRMAN: Some specific aspects, I give you leave.

19 MR SMITH: Thank you, sir. I have no further questions.

20 THE CHAIRMAN: Mr Holmes, have you any application?

21 MR HOLMES: There is just one matter I would like to  
22 clarify, sir. It relates to Mr Hogg's contact with the  
23 Mackay Inquiry.

24 THE CHAIRMAN: Yes.

25 **Cross-examined by MR HOLMES**

1 Q. Mr Hogg, from the questions that you were being asked a  
2 moment ago by my learned friend Mr Smith it may appear  
3 as if you made no mention of the incident involving Gary  
4 Gray to the Mackay team.

5 Is that the impression that you were left with?

6 A. Yes.

7 Q. I wonder if you could have before you document number  
8 CO0005, please. The page number is 78. It is the  
9 report rather than the PDF document.

10 Mr Hogg, there's two paragraphs in the middle of  
11 that page I am interested in, paragraphs 7.9.137 and  
12 138. You will see from 7.9.137 it says that:

13 "It should again be noted that the enquiry team have  
14 confirmed that the mark was not made by witness  
15 Detective Constable Gray."

16 So does it appear from that that the Mackay team,  
17 whether it was from you or from one of the other  
18 witnesses that they have spoken to, do in fact know  
19 about the allegation that the print could possibly have  
20 been that of Gary Gray?

21 A. Yes, that would appear to be the case.

22 Q. In the following paragraph it mentions you by name. It  
23 says that:

24 "Although Chief Inspector Hogg does not recall the  
25 conversation taking place, he agrees that the events may

1 well have taken place as described by witness Moffat."

2 Is that correct?

3 A. Yes.

4 Q. So it appears from the terms of these paragraphs anyway

5 that you have at least discussed this incident with the

6 Mackay team?

7 A. As I say, it's a long time ago. Thank you.

8 THE CHAIRMAN: Thank you. Mr Russell, I know you said you

9 had no role to play as a Core Participant but you are

10 here if you wish to ask any questions.

11 MR RUSSELL: Sir, thank you for the offer but I have no

12 access to the documentation and it would be a futile

13 exercise for me to question the witness which would be

14 repetition.

15 THE CHAIRMAN: I understand your position. That is your

16 choice.

17 Miss Jones, Mr Macpherson?

18 MR MACPHERSON: No thank you, sir.

19 THE CHAIRMAN: Miss Grahame?

20 MISS GRAHAME: No thank you, sir.

21 THE CHAIRMAN: I think just if you have any question to ask

22 now in re-examination.

23 MISS CARMICHAEL: Sir, there are two matters. The first

24 would be to clarify the position in relation to contact

25 with the Mackay team because I have information that's,

1 I think, not available to others. The other is to ask a  
2 question which I would have to say was brought to my  
3 mind by a line of questioning from Mr Smith that does  
4 not strictly speaking arise from it. It should properly  
5 have been put by me earlier.

6 THE CHAIRMAN: If there is something you feel should be  
7 cleared up.

8 MISS CARMICHAEL: I am obliged, sir.

9 I am in the position, sir, of being able to identify  
10 a document which will now be put on the Core Participant  
11 database, number CO1232. Now, rather than have the  
12 witness waiting over lunch while a hard copy is printed  
13 out, it is relatively brief and it may be that it could  
14 be dealt with simply by my reading it out if nobody else  
15 has objection to that.

16 THE CHAIRMAN: Yes, but it will be made available?

17 MISS CARMICHAEL: It will be made available, sir.

18 **Re-examined by MISS CARMICHAEL**

19 Q. What I am looking at here and about to read out to you,  
20 Mr Hogg, is a statement which bears to have been taken  
21 from you on 18th August 2000 by Inspector Iain Laird and  
22 Chief Inspector Mark Watson at 8 Strathclyde House,  
23 Elmbank Street, Glasgow.

24 I think the statement that you have been referred to  
25 previously, CO1231, was a statement which would have

1           been taken on 14th July 2000.

2       A.    Yes.

3       Q.    Do you remember officers coming back to see you about a  
4           month after that statement?

5       A.    I think I indicated that I recalled having given another  
6           statement.

7       Q.    Then for completeness, and in fairness to you, if I may  
8           read this out:

9                 "I have already provided a statement to officers  
10                from Tayside Police ..."

11       THE CHAIRMAN:   Do not go too quickly when you are reading  
12           out because the stenographer has to get it.

13       MISS CARMICHAEL:   "... who asked me if I had any  
14           recollection of one of my staff, Michael Moffat,  
15           informing me he was concerned the print may have been  
16           that of a DC Gary Gray. I have no recollection  
17           whatsoever of that conversation. More specifically, I  
18           was informed that this allegedly took place a few days  
19           before the Shirley McKie trial and that I had asked  
20           Charles Stuart to check Gary Gray's prints, which were  
21           negative. Again, I do not recall these circumstances  
22           and have checked my pocket book and have no written  
23           record of this. It is more than possible that these  
24           events did take place as I have no reason to doubt  
25           Mr Moffat and it sounds like what I would have done if

1 he had contacted me. However, I simply cannot remember  
2 this taking place.

3 "I have also been asked about a comment I made to  
4 Mr Moffat recently when I told him to stick to his  
5 statement and he would be fine. I did indeed say that  
6 to him, as he appeared concerned that he was to be  
7 interviewed. He did not make any reference to any  
8 concerns he may have had about this DC Gray issue;  
9 therefore, I was unaware of them. The comment was  
10 simply one of reassurance and in no way was designed to  
11 suggest he should withhold information not in his  
12 statement."

13 There the statement ends.

14 Do you have any recollection as to whether that  
15 records your position accurately as at that time?

16 A. I certainly have some recollection of officers  
17 re-interviewing me. The content of that I have -- it's  
18 a long time ago and I'm sure that was the position or  
19 round about the position at the time.

20 Q. But it would at least appear from what I've read out  
21 that you didn't mention Mr Heath or contacting Mr Heath  
22 when you spoke to the officers back in August 2000.

23 A. That would appear to be the case but I definitely do  
24 have a recollection of speaking to Mr Heath.

25 MISS CARMICHAEL: Sir, the other matter that arises from --

1 well, perhaps doesn't strictly arise from but is  
2 stimulated by what Mr Smith asked about contact and  
3 relations with the SCRO officers.

4 Mr Hogg, did you contact the SCRO or anybody in SCRO  
5 Fingerprint Bureau after Shirley McKie's trial?

6 A. Regarding ...

7 Q. Well --

8 A. I certainly would have contact with the SCRO personnel  
9 after the Shirley McKie trial but we're talking about in  
10 specifically, I have no recollection.

11 Q. Do you remember if you passed any information to anyone  
12 there about the involvement of a Mr Swann in Shirley  
13 McKie's case?

14 A. That's possible, yes. Yes, I did, yes.

15 Q. When do you recall doing that?

16 A. I don't have a date. It would possibly be in my  
17 notebooks.

18 Q. Perhaps importantly on the theme that Mr Smith was on,  
19 why did you do so?

20 A. My recollection was that Mr Terry Kent, who was the  
21 forensic scientist that I had suggested that -- I don't  
22 think we've covered the earlier on in the investigation.  
23 I recall that Ms McKie had indicated that the print was  
24 planted, must have been. She accepted, I understand,  
25 that the print was indeed hers and there was a

1 possibility of the print having been planted. I was  
2 asked to comment on that by Mrs Greaves and I think gave  
3 a statement to Mrs Greaves regarding the planting of the  
4 print, basically saying that I was no expert on planted  
5 prints.

6 Q. I think it's probably not controversial that Mrs Greaves  
7 did in fact refer eventually to Mr Kent for a view and a  
8 production of a piece of wood was sent to Mr Kent; so  
9 you perhaps don't need to take us through the detail of  
10 that.

11 A. Right.

12 Q. What I am interested in is really the question of how  
13 and why you came to be passing information to SCRO about  
14 Mr Swann after the trial.

15 A. Well, as far as I recall, it was in relation to a phone  
16 call that I'd received from Mr Kent who had been present  
17 during Ms McKie giving evidence and Mr Wertheim giving  
18 evidence in Ms McKie's trial.

19 As I recall, some time after the trial was  
20 completed, Mr Kent had occasion to speak to Mr Swann.  
21 Mr Swann mentioned the fact that he had been engaged as  
22 a defence expert by Ms McKie. Mr Kent realised that he  
23 had been in court when Ms McKie had stated that there  
24 was no -- she was not aware of any other expert having  
25 looked at the case and he realised that he had some

