

1 "One of the SOCOs had explained to me that it was
2 possible to leave fingerprints even whilst wearing latex
3 gloves. Accordingly I would wear cotton gloves
4 underneath, or two sets of latex gloves to avoid this
5 outcome."

6 A. Yes.

7 Q. What I would like to ask you is whether that is
8 something you did throughout the inquiry?

9 A. Yes, it is and still today. I don't wear the cotton
10 gloves but I always wear two pairs of latex gloves when
11 I'm at a major crime scene.

12 Q. The Inquiry has heard some evidence from your colleague,
13 Detective Constable Kerr, that he had initially been
14 wearing one set of latex gloves in the first day or two
15 of the inquiry into the murder of Marion Ross and at
16 that point some problem had then emerged about the latex
17 gloves and he had then moved to wearing a cloth glove
18 underneath the latex.

19 How does that accord with your recollection?

20 A. Yes, that would be correct, yes. I think initially
21 going in we would have had just the one pair of gloves
22 on and I think it was over time, talking to Scenes of
23 Crime Officers, they explained you can actually -- a
24 fingerprint could be left through the one latex glove
25 and from then on we wore the cotton gloves and double

1 gloves.

2 Q. So it wouldn't be right then to say then you wore double
3 gloves throughout the whole of the inquiry?

4 A. No.

5 Q. Do you recall whether there was any problem with the
6 particular latex gloves you had in that inquiry or
7 whether you were told that there was a general problem
8 with wearing a single latex glove?

9 A. No. Latex gloves tend to -- they can be quite easily
10 ripped.

11 Q. What you write here was that the problem you were aware
12 of was that it might be possible to leave fingerprints
13 when you were wearing them.

14 A. Yes. That was the Scenes of Crime Officer at that time
15 had explained to us that you could leave through the one
16 single glove at that time. But up until the Scenes of
17 Crime Officer explaining that, I wasn't aware of that.

18 Q. I would like to ask you about paragraph 19 of your
19 statement and 11th January because you tell us, I think,
20 that you were at the **locus** on 11th January.

21 What Mr Kerr has said in his evidence is that as far
22 as the weekend days went you and he had decided to take
23 turn about so that he might be there, say, on a Saturday
24 and you would be there on a Sunday.

25 A. Yes.

1 Q. Is what he says correct?

2 A. Yes. We split it. There would always be one of us

3 doing the Scenes of Crime or -- sorry, gathering

4 productions so there was always one of us doing the job

5 but, yes, we had a split. One of us was off and one of

6 us was on so each of us would have a day off.

7 Q. 11th January was a Saturday and Mr Kerr has told us that

8 he was there that day. Now, does that affect what you

9 say about being at the **locus** on 11th January?

10 A. Yes. I was there the Sunday, I'm sure.

11 Q. Well, we can perhaps check that if we look at SG0537

12 starting at page 7 and I think the date change is not

13 recorded here but the first entry for 11th January is

14 the 02.45 entry and I think if we look certainly down

15 this list we see DC Kerr at 10.16?

16 A. 10.16 yes.

17 Q. And we don't see your name at all. If we move on to the

18 next sheet, again you will correct me if I'm wrong but I

19 think we don't see --

20 A. DC Kerr, yes. You see, yes, myself and a David Thurley,

21 yes.

22 Q. I am sorry, I think we see the last entry for 11th

23 January at 23.00 a PC Hutchison arriving.

24 A. Yes.

25 Q. Then once we cross over into the next day I think you

1 appear at 11.20, two lines up from the bottom?

2 A. Yes, that's correct.

3 Q. So that would -- so to that extent your statement to the

4 inquiry is not correct?

5 A. No.

6 Q. And you were there on the 12th --

7 A. Yes.

8 Q. -- rather than on the 11th?

9 A. Yes.

10 Q. So staying on paragraph 19, you say you do not recall

11 ever using shoe boxes and you are sure these were never

12 used.

13 A. Yes, that's correct.

14 Q. Could it be that they might have been used on a day you

15 weren't there?

16 A. That's correct, yes.

17 Q. So, again, in terms of being 100 per cent sure they were

18 never used --

19 A. I never used them. I'm 100 per cent sure I never used

20 shoe boxes. They could have been used the day when I

21 wasn't on, yes.

22 Q. I think you were on duty on 14th January 1997?

23 A. I could have been. I would have been probably, if it

24 was the 12th, I would have probably been on for the days

25 after that before my next break.

1 Q. Do you remember being there on a day when marks were
2 found with black powder on the bathroom doorframe?

3 A. Yes.

4 Q. Were you there when that happened?

5 A. No, I remember -- I can't say what day it was but I
6 remember that the Scenes of Crime Officers were around
7 the doorframe and they had found something which
8 obviously was a fingerprint but I can't say what day
9 that was. I just remember that there was -- they had
10 went over it and there was a fingerprint found because
11 they had been back over it, but I couldn't tell you what
12 day that was.

13 Q. Just thinking of the occasion when it happened then
14 without perhaps dwelling on the date, do you remember
15 anyone at the time it was found saying anything about
16 who the mark might belong to?

17 A. No.

18 Q. Now, there is one more matter that I'd like to ask you
19 about and that's about an occasion when you were there
20 after the main investigations had been completed and
21 Detective Inspector McAllister also was there?

22 A. Yes.

23 Q. In your statement at paragraph 25, you tell us that you
24 can't remember exactly when the SOCOs work and the work
25 on productions was completed. However, it may have been

1 around two weeks after 9th January 1997."

2 You say:

3 "Around this time the **locus** was visited by DS
4 McAllister"; do you think that should be DI McAllister?

5 A. DI McAllister.

6 Q. You say that you showed DI McAllister mark Y7. Do you
7 remember doing that?

8 A. Yes, I do.

9 Q. You record that you can't now remember if he said
10 anything about mark Y7?

11 A. No, I can't remember what was said.

12 Q. But when you were giving your statement, I think you
13 looked at the statement you had given on an earlier
14 occasion.

15 A. Yes.

16 Q. If we could have CO1592 up, please, if you move to
17 page 2 in the first instance, we see this is a statement
18 by you taken by Chief Inspector Wilson on 10th July 1997
19 at 11.52 hours.

20 A. Yes.

21 Q. If you can move to the next page, the paragraph, "A few
22 days later ..." Highlight that, please.

23 A. Yes, I see that paragraph.

24 Q. It is recorded:

25 "A few days later, towards the end of the inquiry,

1 probably in February 1997, Detective Inspector
2 McAllister came to look at the unidentified prints
3 found. I was working in the house and showed him them,
4 including the one on the downstairs bathroom door
5 facing. He looked at it and said it looked like a child
6 or a female, but was not more explicit than that."

7 A. Yes.

8 Q. Do you have any recollection now of that happening?

9 A. No, I don't. If I said it at the time on that statement
10 it would have happened but now I can't recollect it.

11 Q. The Inquiry's heard evidence that Mr McAllister attended
12 on 23rd January 1997 with a view to reviewing the
13 fingerprints.

14 Is it possible that the visit you're referring to
15 may have occurred on that date?

16 A. It may have.

17 Q. Do you remember Mr Moffat, a scenes of crimes officer,
18 being present on the day you were there with Detective
19 Inspector McAllister?

20 A. No, I can't. I can't remember that.

21 MISS CARMICHAEL: Thank you, Mr McIntyre. I don't have any
22 further questions.

23 THE CHAIRMAN: Are there any applications in respect of this
24 witness?

25 Can I ask you just one question about one thing:

1 finding a finger-mark isn't a matter of great excitement
2 when you are doing this sort of work. There's many of
3 them. Why was there particular interest in Y7 being
4 found in your view?

5 A. I think because when I was there there had been the
6 silver dusting, aluminium dusting, and there had been
7 discussion over should they use another -- I remember
8 there being discussion over should they use another, the
9 carbon dust, because I think there was a discussion over
10 one maybe thought it was better than the aluminium
11 dusting and I think when they've done it in the carbon
12 dusting, I think it was, "See, you can find more
13 fingerprints with the carbon dusting". I think really
14 that was it.

15 THE CHAIRMAN: That was the reason you understood it to be?

16 A. Yes.

17 THE CHAIRMAN: Very good. Thank you very much, Mr McIntyre.

18 **(The witness withdrew)**

19 MISS CARMICHAEL: Sir, the next witness is Allan Stevens.

20 **ALLAN THOMAS STEVENS (sworn)**

21 THE CHAIRMAN: Full name, please?

22 A. Allan Thomas Stevens.

23 THE CHAIRMAN: Take a seat, please.

24 **Examined by MISS CARMICHAEL**

25 Q. Mr Stevens, we've found it can be quite hard to hear

1 people in the hall if they don't have the microphone
2 quite close to them. Thank you.

3 I think you have provided a signed statement to the
4 Inquiry, Mr Stevens?

5 A. I did.

6 Q. Are you content, subject to anything that you might say
7 today that altered it, that that records your position
8 about the matters you were asked about?

9 A. Yes.

10 Q. I would like to ask you just a little bit about what
11 your duties were in the inquiry into the murder of
12 Marion Ross?

13 A. I attended the post-mortem with DC Kirkland and
14 DC Kirkland informed DCI Heath of the result of the
15 post-mortem and from then on, we were made production
16 officers for the case.

17 Q. So what did your job as productions officer consist of?

18 A. It was mainly logging all the productions taken from
19 house and other sources, arranging for them to be
20 forensically examined and transporting them back and
21 forward to the forensic laboratories.

22 Q. We have heard evidence that a Detective Constable Kerr
23 was involved with the productions at the crime scene?

24 A. That's correct.

25 Q. Was your involvement at the crime scene or somewhere

1 else?

2 A. We were not allowed near the crime scene. We remained
3 at the office and accepted productions that were
4 properly sealed and signed.

5 Q. So there was a separation of efforts: some officers
6 collected the items and brought them to you?

7 A. Yes.

8 Q. And you dealt with them back at the Police Office?

9 A. We did, yes.

10 Q. Now, I'd like to ask you about a production that you
11 handed out on a couple of occasions to a DC Cardwell or
12 McKie.

13 A. That's correct.

14 Q. I think you have been asked about that in your
15 statement.

16 I would like to show you, please, a document SG0539.

17 Sir, this item although referred to in the witness's
18 statement is available only in hard copy today.

19 THE CHAIRMAN: Yes, but it will go on the website?

20 MISS CARMICHAEL: There is an electronic version of it
21 available. I think it has simply been a matter of
22 oversight that it has not made it on to the database.

23 THE CHAIRMAN: Good, as long as it goes eventually on to the
24 website. **(Handed)**

25 MISS CARMICHAEL: If I could have just a moment, sir.

1 THE CHAIRMAN: Yes. **(Pause)**

2 MISS CARMICHAEL: Have you got a hard copy yourself,
3 Mr Stevens? I just want to clarify whether this was
4 what you were shown when you gave your statement.

5 A. I don't think it was these pages.

6 MISS CARMICHAEL: It may be there has been a mis-reference,
7 just possibly, in this witness's statement. I will try
8 to proceed without reference to the document, sir, for
9 the moment and we will try to clear up exactly what has
10 gone wrong here.

11 THE CHAIRMAN: Yes.

12 MISS CARMICHAEL: If we go to paragraph 8 of your statement
13 you say that you recall that Detective Constable Shirley
14 Cardwell asked for the keys to the house on two
15 occasions.

16 A. That's correct.

17 Q. You say the first time was at 17.40 on 9th January 1997.

18 A. That's correct.

19 Q. What you say in the first instance here at paragraph 9
20 is that:

21 "Ms McKie or Cardwell came to the productions room
22 by herself saying that she could not get her head round
23 the layout of the **locus** and the boss (DCI Heath) said
24 that she could go and have a look round."

25 A. Yes, that was my recollection at the time.

1 Q. When you say your recollection at the time, is that --

2 A. When I was giving this statement.

3 Q. When you were giving this statement that's what you

4 recalled. Is the explanation about the boss being

5 DCI Heath yours?

6 A. Yes.

7 Q. You go on to say:

8 "I noted details in the log and gave her the keys.

9 About ten minutes later, she came back saying that

10 DCI Heath had changed his mind. She handed the keys

11 back and the time was noted. I had been in the

12 production room the whole time but I assume that she did

13 not go to the **locus** because of what she said and the

14 short time she had the keys."

15 I think after giving that recollection when your

16 statement's been taken, Mr Stevens, you were shown some

17 statements you had given on previous occasions?

18 A. That's correct, yes.

19 Q. You refer to three here. I will take you to each of

20 these in turn.

21 If we can look at paragraph 10 of your statement,

22 please, we see that you record:

23 "I see that in one of these statements ..." that

24 would be one of 14th March 1997?

25 A. Yes.

1 Q. You said that on requesting the keys on that date
2 DC Cardwell told you that she had an inquiry on the
3 instruction of DI McAllister and that you also say that
4 when she returned the keys she told you that
5 DI McAllister had changed her instructions and she did
6 not require to go to the **locus**?

7 A. That's correct.

8 Q. I would like look, please, at CO1387 and page 2, please.
9 We see that this is a statement by you with your address
10 given as Police Office Saint Marrock Street, Kilmarnock.
11 If we can go on to page 3 and if we can perhaps read
12 from the entry that starts:

13 "I have been shown production number ... major
14 incident property register."

15 A. Yes.

16 Q. You say:

17 "This relates to a set of three keys which are the
18 keys to the house at 43 Irvine Road, Kilmarnock. These
19 had been taken from the witness Alan Kinnaird during the
20 early stages of the inquiry on Wednesday
21 9th January 1997 by DC Swan. The entries relative to
22 this production up to the column 'where stored' is in
23 DC Kirkland's handwriting. I was present when that was
24 done. Under the column 'movement of property' I
25 recognise my handwriting. The first entry relates to

1 the issue of the set of three keys on Thursday
2 9th January 1997 to DC Cardwell for inquiry purposes. I
3 remember she was alone and told me that she had an
4 inquiry on the instruction of DI McAllister. I handed
5 over the production for which I did not get her
6 signature. DC Cardwell returned the production, a set
7 of three keys, to me at 17.50 hours that day.
8 DC Cardwell returned the production to me and I
9 completed the column headed 'date returned'. She told
10 me that the DCI (Heath) had changed her instructions and
11 she did not require to go to the **locus**."

12 So leaving that document for the moment, where you
13 record in your statement to this Inquiry a reference in
14 that earlier statement to DI McAllister having changed
15 her introductions that's not, in fact, correct?

16 A. No.

17 Q. The reference in your earlier statement is to DCI Heath
18 having changed her instructions.

19 A. Yes.

20 Q. But there's certainly nothing in that statement along
21 the lines of Ms Cardwell or McKie saying that she
22 couldn't get her head round the layout and the boss had
23 told her she could have a look around?

24 A. Yes.

25 Q. If we look next, please, at CO2601, we see that this is

1 a statement given by you to Chief Inspector Wilson on
2 1st July 1997. If we move through the statement to the
3 next page, please, and in the final paragraph of this
4 page we see -- actually, can we have it back a page:

5 "One of the productions was a set of three keys to
6 48(sic) Irvine Road, Kilmarnock, which had been seized
7 from a witness, a neighbour, Alan Kinnaird. These were
8 entered in the major incident property register number
9 1. At 17.40 hours on 9th January 1997 Detective
10 Constable Shirley Cardwell called at the production
11 office and asked me for the keys. She was alone and
12 said that Detective Inspector McAllister had asked her
13 to go to the house and did not say why."

14 There is a word missing there but I think we can see
15 "... did not say why".

16 "I issued her the set of keys and entered the
17 [again, there's a word missing] in production register
18 under 'movement of property' [then there's another gap
19 in the copying] and not get her signature."

20 A. That's correct.

21 Q. If we move on to the next page, please, you continue:

22 "She returned the keys about ten minutes later at
23 17.50 hours and I again entered the details in the
24 production register under 'date returned'. Again, she
25 was alone. She did not give any reason why she needed

1 to visit the **locus**. As far as I was aware she had not
2 left Kilmarnock Police Office with the keys that day."

3 Again, it's fair to say you don't see any account of
4 Ms McKie having said that she had been told that she
5 could go and have a look around?

6 A. It was all really part of a casual conversation we were
7 having while I was signing the keys out to her.

8 Q. I think you were shown a third statement which, I think,
9 I don't need to take you to the detail of but, again, I
10 think you accepted when your statement was being taken
11 that it didn't contain the detail that you had recalled
12 when you were first asked for your statement in this
13 Inquiry?

14 A. Correct.

15 Q. Now, I think you were starting to tell us just a moment
16 ago what you record at paragraph 11 of your statement,
17 which is that you think that the comment was made during
18 a casual conversation.

19 A. Yes.

20 Q. What is your best recollection of what you think it is
21 that DC Cardwell said?

22 A. I can't really remember but I do remember I was having
23 problems as well with the layout of the house because I
24 wasn't allowed into the premises at all and we were just
25 going by the way the productions were labelled and

1 location of each production and it was probably just
2 couldn't get my head round it and she was agreeing with
3 me, probably. That's my recollection.

4 Q. I think we may have heard some evidence or may hear some
5 evidence that Ms McKie may have wished to go to the area
6 because she found it difficult to understand the layout.
7 I will be corrected if I am wrong, I don't think we have
8 heard any account or have any evidence other than yours
9 that she had said that DCI Heath was going to permit her
10 to go and visit the **locus**?

11 A. That was my recollection.

12 Q. Is it possible you might be mistaken about that?

13 A. I may well be but, as I say, that's what I remember.

14 Q. Did it surprise you or would it have surprised you if an
15 officer such as Detective Constable Cardwell had been
16 permitted to visit?

17 A. I had no reason to suspect anything untoward was
18 happening.

19 Q. I am not suggesting that for a moment but you said that
20 you were kept very well apart from the **locus** yourself.

21 A. Yes.

22 Q. It was with that in mind that I wondered if it was
23 something that might have surprised you if an officer
24 like DC Cardwell had been allowed to go in?

25 A. No. DCI Heath was quite strict about myself and

1 DC Kirkland not going near the house to prevent
2 cross-contamination of the productions, so it wouldn't
3 surprise me if another officer was maybe allowed
4 permission to go to the house.

5 Q. The Inquiry has also heard some evidence that DCI Heath
6 was not keen on officers who didn't need to be in the
7 premises being in the premises?

8 A. They must have special permission, which I wouldn't be
9 aware of.

10 Q. Can you remember when Ms McKie made the comments that
11 you record in your statement?

12 A. It would be when she came for the keys, as far as I
13 remember.

14 Q. Because if she made that comment when she came for the
15 keys that might suggest that her reason for coming for
16 the keys was because she had been allowed to look round.

17 A. As I say, that's all I remember about -- it was a casual
18 conversation. I don't really know what exactly was
19 said. I can't remember.

20 Q. What I'm getting at, Mr Stevens, was that if that had
21 been a reason that Ms McKie had given for coming to get
22 the keys, that that was something that you would have
23 been likely to say to one of the people who'd asked you
24 about the matter at a later stage when you were giving
25 statements?

1 A. I'm certainly not aware of being asked anything like
2 that. I know it was an inquiry. She asked for the keys
3 for the inquiry, for an inquiry. I don't remember
4 word-for-word what was said.

5 Q. But do you think what you record her as having said in
6 casual conversation was a casual conversation when she
7 came to get the keys?

8 A. As far as I remember, yes.

9 Q. At paragraph 11 of your statement also you say that, in
10 relation to the casual conversation, if I understand it
11 correctly, it may have been DI McAllister that had
12 instructed her rather than DCI Heath?

13 A. It may have been; I don't remember.

14 Q. Do you have any recollection of her saying that to you
15 or are you really guessing?

16 A. She maybe said the boss -- I don't know -- who I would
17 take to be DCI Heath. I'm not really sure. I would be
18 guessing if I said I knew exactly what was said.

19 THE CHAIRMAN: But it would certainly require a senior
20 officer to give that authority before you would hand
21 over the keys, would it?

22 A. I had no reason to believe that anything untoward was
23 happening so if somebody had said they had permission I
24 would automatically assume that.

25 THE CHAIRMAN: What I am getting is if they had just come

1 along and said, "Would you give me the keys for this
2 house", would that be enough or do they need to say,
3 "I've got permission from Mr McAllister or Mr Heath", as
4 the case may be?

5 A. I would assume that they had permission because nobody
6 would come and ask for something --

7 THE CHAIRMAN: That's if they just asked, you'd assume --

8 A. I'd assume.

9 MISS CARMICHAEL: Thank you, sir.

10 You record that the second time that you gave keys
11 to DC Cardwell was on 12th January 1997 and you say that
12 on that occasion she didn't give a specific reason for
13 the removal of the keys.

14 A. That's correct.

15 Q. And then she came back 15 minutes later?

16 A. That's correct.

17 Q. And you record that she said, "I wish to hell he'd make
18 up his mind".

19 A. It was that or words to that effect, yes. She wasn't
20 happy.

21 Q. You say she was obviously talking about DCI Heath.

22 A. Yes, I would think so.

23 Q. Sorry, I didn't catch what you said, you said, "I would
24 think so"?

25 A. I would think so, yes.

1 MISS CARMICHAEL: Sir, believe that the correct document has
2 been located for this witness so it may be possible to
3 bring it -- hard copies are being made. There has been
4 a reference I would like to correct with the witness
5 here if at all possible.

6 THE CHAIRMAN: Yes.

7 MISS CARMICHAEL: But I can move on to just another question
8 for him at the moment.

9 THE CHAIRMAN: Well, shall we see if anyone else wants to
10 ask any questions and come back?

11 MISS CARMICHAEL: It was a different topic actually that I
12 did want to ask the witness about.

13 THE CHAIRMAN: I see. You have another topic. Sorry, I
14 thought you had ...

15 MISS CARMICHAEL: Yes.

16 You had some involvement in this Inquiry a little
17 later, I think, at some point in February 1997.

18 A. In what context was that?

19 Q. Well, you recorded at paragraph 14 of your statement --

20 A. Yes.

21 Q. -- going to the house with Detective Inspector
22 McAllister?

23 A. That's correct.

24 Q. And he showed you a fingerprint mark on the doorframe.

25 A. That's correct.

1 Q. Why was he doing that?

2 A. He's told me that Scenes of Crime Officer was coming
3 down to photograph it the following day and he wouldn't
4 be available and when the Scenes of Crime Officer
5 arrived I was to take him up and show him the
6 fingerprint.

7 Q. I think you recorded it was a Mr Wilson who, in fact,
8 came and took the photographs?

9 A. Yes.

10 Q. So we can be quite clear from what you say that
11 Detective Inspector McAllister was involved in arranging
12 for that to happen?

13 A. Yes.

14 MISS CARMICHAEL: Sir, we do now have the correct document
15 which I believe has a reference of CO3405.

16 I think the statement you have mentions you being
17 shown a productions looking SG0539 and I think as a
18 matter of record, in fact, what you were shown when you
19 gave your statement was the document that you are now
20 looking at which is properly referenced CO3405.

21 There is an entry number 11 in the middle of the
22 page, "Set of three keys"?

23 A. That's correct.

24 Q. Can you confirm in the first place that this is, in
25 fact, the document you were referring to in your

1 statement?

2 A. It is, yes.

3 Q. Thank you.

4 If we read across, we see "set of three keys", in
5 the column "Where found", "Taken from Alan Kinnaird 41
6 Irvine Road, Kilmarnock", found by DC Swan, there is a
7 date and time found and then there's a column for
8 "Deposited". Then if we can look at the other sheet
9 here which I think has been photocopied as two sheets
10 but in fact the sheet should be read across as if one,
11 we see a column for "Movement of property" and there's a
12 column "time, date out, purpose, officer, date
13 returned", and we've got an entry 17.40, 9/1/97, "DC
14 Cardwell for inquiry".

15 Do you see that there?

16 A. I see that, yes.

17 Q. Then directly across from that in the date and time
18 17.50 hours, 9/1/97 and there are letters, is it, "TPS"?

19 A. TPS, yes.

20 Q. What does that mean?

21 A. Temporary production store. That's where they were
22 kept.

23 Q. Was that temporary?

24 A. Temporary.

25 Q. Temporary production store. If we go back to the "Time

1 date out" column we see another entry for 10.45 on
2 12th January 1997, again "DC Cardwell for inquiry"?

3 A. That's correct.

4 Q. Again, reading across from that to date returned we have
5 11.00 hours at 12/1/97 and, again, to the temporary
6 production store?

7 A. That's correct.

8 Q. These are entries that you made?

9 A. Yes.

10 Q. I think there is one final matter you might be able to
11 help us with. We have heard some evidence about your
12 colleague, Mr Kirkland, and possibly yourself being
13 involved with Mr Kerr in trying to get shoe boxes for
14 productions?

15 A. I was not working that day.

16 Q. You were not working?

17 A. No.

18 MISS CARMICHAEL: That, I think, is a short ending to that
19 possible line of questions, Mr Stevens. Thank you very
20 much.

21 THE CHAIRMAN: Are there any applications to question this
22 witness?

23 MR HOLMES: Just a couple of matters, sir, regarding the
24 security of the **locus**.

25 THE CHAIRMAN: Yes.

1 **Cross-examined by MR HOLMES**

2 Q. Were you aware that a video was made early on in the
3 investigation showing all the rooms in the **locus**?

4 A. No.

5 Q. Did you become aware at any stage that such a video
6 existed and that a number of officers had seen it?

7 A. I was aware that there was one being made but I haven't
8 seen it.

9 Q. If such a video did exist, do you understand the need
10 for anybody to go and visit the **locus**?

11 A. I wouldn't know. It probably going to the **locus** would
12 explain things a bit better but certainly not having
13 seen the video, I wouldn't know.

14 Q. Did you yourself at some point visited the **locus**, when
15 was that?

16 A. That was with DI McAllister later on in the inquiry.

17 Q. Do you know around what time it was? What date?

18 A. I can't remember. I don't know what time it was.

19 Q. Was there a log keeper present when you went to the
20 house?

21 A. Not that I'm aware of, no.

22 Q. Does that perhaps explain the entry in the log that you
23 have been shown with DI McAllister signing out the keys?

24 A. Possibly explain that, yes.

25 Q. Because you would have needed keys to access the house?

1 A. Yes.

2 Q. The attendance log that we have seen filled in by the
3 various log keepers who were guarding the door stretches
4 from 8th January all the way to 22nd January.

5 If there was a log keeper on the door during that
6 time, why would the keys have been required to access
7 the property?

8 A. I don't know.

9 MR HOLMES: Thanks.

10 THE CHAIRMAN: Thank you very much.

11 MISS CARMICHAEL: Sir, in light of the questions just asked,
12 we want to just double check our ...

13 THE CHAIRMAN: Yes. **(Pause)**

14 **Re-examined by MISS CARMICHAEL**

15 Q. In fact, I don't need to do so.

16 You were being asked about an entry on 18th February
17 issuing keys to DI McAllister.

18 A. Yes.

19 Q. Do you know whether inquiries had, in practical terms,
20 been completed at the house by that stage?

21 A. I think they had. I think the log keeper was off the
22 door by that time.

23 MISS CARMICHAEL: Thank you.

24 THE CHAIRMAN: Thank you very much, Mr Stevens.

25 **(The witness withdrew)**

1 MISS CARMICHAEL: Sir, the next witness is Mark Lees.

2 **MARK IAN LEES (sworn)**

3 THE CHAIRMAN: Could we have your full name, please.

4 A. I am Mark Ian Lees.

5 THE CHAIRMAN: Take a seat, please.

6 **Examined by MISS CARMICHAEL**

7 Q. Mr Lees, now you probably need to speak quite closely
8 into the microphone to be heard in this room because
9 it's quite a large room.

10 I think you've given a statement to the Inquiry that
11 you've signed?

12 A. Yes, that's correct.

13 Q. Are you content that that records your position
14 accurately, Mr Lees?

15 A. Yes, I am.

16 Q. Now I'd like to ask you a little bit about your duties
17 in the inquiry into the murder of Marion Ross back in
18 January 1997.

19 I think one of the jobs you were given was keeping a
20 log at the property?

21 A. Keeping a log, sorry, what?

22 Q. Keeping a log at 43 Irvine Road, Kilmarnock?

23 A. Yes, that's correct.

24 Q. How did you go about doing that? What did it involve?

25 A. Basically involved sitting in the porch area of the

1 house and noting any person that came in or left the
2 house and maybe the reason for being there.

3 Q. I would like you to look, please, at ST0003, page 3.

4 I think the Inquiry has heard evidence that that
5 shows us the view from the outside into the porch of the
6 property.

7 A. Yes, that's correct.

8 Q. Now, can you tell us by reference to this picture where
9 you would be when you were carrying out your log keeping
10 duties?

11 A. You can see a table and chairs within -- sorry, a table
12 and chair within and that's where we would -- that's
13 where I would have been.

14 Q. The chair that we see in the picture we're looking at
15 has its back to the photographer.

16 Would you have been sitting with your back to the
17 outside world?

18 A. No.

19 Q. Where would you have been sitting?

20 A. From memory, I think the chair would have been facing
21 out on to Irvine Road, so that's to the right-hand side
22 of the table.

23 Q. So would that be directly opposite the way it's facing
24 in the photograph we have here?

25 A. No. The right-hand edge of the table, the chair would

1 have been facing out onto Irvine Road, not out the door,
2 out the main window.

3 THE CHAIRMAN: Might it help the witness to see the next
4 photograph as well --

5 MISS CARMICHAEL: It may do and I will come to it.

6 THE CHAIRMAN: -- to orientate himself.

7 MISS CARMICHAEL: Should we take it then that to the left of
8 this photograph there is a window out?

9 A. **(Pause)**

10 I think so. I can't 100 per cent recall.

11 Q. I will do as the Chairman suggested and take you to the
12 next photograph at this stage. Here I think we are
13 looking to the left of the photograph back towards the
14 door that we have seen open in the previous shot and we
15 see also a window with vertical slatted blinds on it.

16 Does that help you?

17 A. Yes, that's right. I think from what I recall now the
18 porch had windows on two sides with vertical slatted
19 blinds.

20 Q. If you can tell us by reference to this photograph,
21 which is ST0003.4, where would you have been sitting to
22 do your duties?

23 A. It's not the best of photographs, to be honest.

24 Q. Let's try another one. Let's try the next one.

25 A. I'm assuming that the door ...

1 Q. Would it have helped you more to stay on the previous
2 shot?

3 A. In fact, that's actually not bad. I don't know if
4 somebody can clarify if this, kind of, white glazed door
5 is the front door to the actual house?

6 Q. I think what we've heard -- and I will be corrected if
7 I'm wrong -- is that in order to come into this house
8 the outside door that we have seen on the previous shots
9 would be to the left of this shot --

10 A. Right okay, well --

11 Q. -- and then what we see to the left of the shot is the
12 second of three doors into the property.

13 A. Well, in that case, the chair with its back facing the
14 picture, so that's where I would have been sitting.

15 Q. So when we are looking at ST0003.5 you were sitting in
16 the seat that has its back to the photographer?

17 A. That's correct.

18 Q. Should we take it from what you have already told us
19 then that the window we see facing on to the
20 photographer in this shot was a window onto Irvine Road?

21 A. Yes, it would look out onto the front garden of the
22 property and thereafter onto Irvine Road.

23 Q. So what were you able to see of the gateway or entrance
24 into the house from where you were sitting?

25 A. It's limited. I mean, as you can see, the blinds

1 sometimes are just slightly open. So it's really
2 sometimes just what you can see through the slatted
3 vertical blinds.

4 Q. Were the blinds still there when you were doing your
5 duties?

6 A. Yes.

7 Q. Were they opened or pulled back in any way when you were
8 doing your duties?

9 A. Not as far as I remember they weren't, no.

10 Q. When you were keeping the log and you made an entry
11 showing that somebody had, for example, entered the
12 **locus**, what would you be meaning by that?

13 A. You would need to go back a couple of photographs to
14 show the picture of the front step. That would assist.

15 Q. Let's go back to photograph 3, please, if that helps
16 you.

17 A. There's a gold and kind of wooden threshold, if you
18 like, that goes -- that forms part of the doorframe. I
19 would consider as soon as somebody stepped over that
20 threshold, then they'd entered the **locus**.

21 Q. But we can take it that you weren't meaning it was as
22 soon as they'd come into the garden? You wouldn't
23 record that?

24 A. Not in my opinion it wasn't, no.

25 Q. Had anybody told you how to keep a log, Mr Lees? Had

1 anybody given you any training or teaching in it?

2 A. I believe at Tulliallan we were told how to keep logs
3 and possibly maybe a supervisor before we went out to do
4 log keeping duties would maybe have said to us. But,
5 again, it's a long time ago.

6 Q. Do you remember if anybody said anything to you about
7 how you should keep the log in this particular case?

8 A. I don't recall, no.

9 Q. I would like to ask you about your duties particularly
10 on Saturday 11th January 1997. That's something you
11 were asked about when you were giving your statement. I
12 would like to show you, please, page 8 of SG0537.

13 Now, I think we see the first mention of you at
14 55 -- I think we are missing the first part of that
15 timing that we have there -- but we see it is above one
16 for 14.15 and below one for 13 something else. So can
17 we perhaps take it that is 13.55?

18 A. Yes. It certainly looks like that to me, yes.

19 Q. Do you remember -- I think you say in paragraph 14 of
20 your statement -- that you were listening to the
21 football on the radio during the afternoon?

22 A. Yes.

23 Q. And that you would shout up the scores to the SOCOs?

24 A. Yes, that's right.

25 Q. And the names you mentioned were Michael Moffat and

1 Stuart Wilson?

2 A. That's correct.

3 Q. Do you remember a Mr Kerr being there as well who might
4 have been interested in the football as well?

5 A. No, I don't.

6 Q. I think if we look down the remainder of the entries
7 there, we see you leaving the **locus** at 19.50 hours.

8 A. That's correct, yes.

9 Q. Between those two entries of 13.55 and 19.50 hours, I
10 don't think we see any references to DC Kerr.

11 A. No, there's no reference there, no.

12 Q. Do you know DC Kerr?

13 A. Yes.

14 Q. Do you remember him being there that afternoon?

15 A. No.

16 Q. We have some evidence from DC Kerr that he accessed the
17 house via a patio door at the rear of the property
18 during the course of that afternoon. Does that help
19 your recollection at all?

20 A. I can't see the rear of the property from the porch.

21 Q. Do you know whether any of the officers involved with
22 productions were perhaps coming and going from a patio
23 door at the rear of the property?

24 A. I have no idea, no.

25 Q. Would you have seen them if they had been?

1 A. It would depend whether I was looking out the window and
2 if the blinds allowed me to look out the window at that
3 time. But I couldn't even tell you where -- I mean,
4 obviously the back door's at the back of the property,
5 but I couldn't even tell you where that is in relation
6 to where the porch area is.

7 Q. I am not intending any criticism, Mr Lees; you
8 understand that. I just want to be clear that it may be
9 possible that somebody was coming and going from a door
10 at the rear of the property and you may not have seen
11 them that day?

12 A. Oh it's possible, yes.

13 Q. Do you have any recollection of any officers perhaps
14 coming and going with shoe boxes in the course of the
15 time you were on duty doing log keeping?

16 A. No, sorry.

17 Q. You were asked, I think, particularly about seeing
18 Shirley McKie or Cardwell at the property that day.
19 Again, DC Cardwell's not a name that we see recorded
20 anywhere between 13.55 and 19.50 on the log.

21 A. Correct: she doesn't appear any time when I'm on duty.

22 Q. You have told us in your statement that Ms McKie came to
23 the property that day.

24 Can you tell us, first of all, when she came to the
25 property?

1 A. I'm sorry, I can't recall the exact time at all.

2 Q. We will perhaps look at some other accounts you have
3 given of that in a moment.

4 When she first came to the property, what did she
5 do?

6 A. Opened the porch door was the first thing that she did.
7 Do you want me -- are you going to ask questions or do
8 you want me to expand and tell you what I remember?

9 Q. You tell us as much as you can remember and I'll ask
10 further questions if I need to, Mr Lees.

11 A. Okay. She opened the porch door and stood on the step
12 below the threshold that I spoke about earlier on and
13 she said something to the effect that she was needing to
14 get the log photocopied. I believe it was HOLMES, which
15 is an inquiry tool that the CID use, had caused an
16 action to be raised for the log to be photocopied. She
17 didn't come into the **locus** at all so that's why she
18 doesn't appear on the log.

19 Q. Is it possible you might be mistaken about that and she
20 had just stepped into the porch?

21 A. No, absolutely not because that particular day and also
22 the way the porch door faces, the wind was blowing up
23 the street so when you opened the porch door -- you saw
24 the vertical blinds in one of the previous pictures --
25 the blinds blew everywhere and the log papers would

1 start blowing about and I actually said to her, "Can you
2 come in", because obviously it was causing chaos with
3 the blinds and with the paper and she said, "No", again
4 I can't remember the exact phrase but it was words to
5 the effect of, "because of cross-contamination", so she
6 always stood below the threshold, which is what I
7 considered to be the **locus**.

8 Q. Is it possible that she may not have said anything about
9 contamination, Mr Lees, and that you may be mistaken
10 about that?

11 A. Oh no, she definitely said that. It seemed a
12 reasonable -- well, reasonable's not the right word, a
13 professional reason for not actually coming into the
14 house.

15 Q. Do you remember yourself whether there were still any
16 metal foot plates in the porch at the time that Ms McKie
17 came along?

18 A. I don't recall, sorry.

19 Q. Was there any other conversation between you and
20 Ms McKie?

21 A. No.

22 Q. How long was she there?

23 A. I don't know. A couple of minutes maximum -- for the
24 length of time it took for that kind of conversation to
25 take place.

1 Q. Did you give her the log?

2 A. Yes.

3 Q. I think you have told us that at some point later she
4 came back with the log?

5 A. Yes. It wasn't too much later. Again I can't remember
6 the exact time but a great length of time hadn't passed.

7 Q. What happened when she came back?

8 A. Pretty much the same again apart from there was
9 virtually no conversation. She just opened the door
10 again, didn't come in, everything was blowing
11 everywhere, she gave me the log and left, from what I
12 remember.

13 Q. You don't make any record of her coming to pick up the
14 log.

15 A. No.

16 Q. Or, indeed, when she returned it to you.

17 In terms of keeping a record of everyone who had
18 been there, some people might find it difficult to
19 understand why that's not recorded.

20 Could you just explain that for us?

21 A. Because she never came into the **locus**, I think. As far
22 as I was aware -- my understanding at that time with
23 less than three years' police service was that it was
24 people entering or leaving the **locus** that you recorded
25 and since she did neither I didn't feel I should record

- 1 A. Yes, some way to the left, yes.
- 2 Q. How did you get the log out to her, Mr Lees?
- 3 A. I don't remember. I would imagine I stood up and
- 4 probably handed it to her, I would think, that's the
- 5 only way I could get it to her.
- 6 Q. But you can't remember yourself doing that?
- 7 A. I can't see by that picture how far the distance is
- 8 between the chair and the front door so if it was too
- 9 far for me to reach then it's obvious that I've stood up
- 10 and given it to her.
- 11 Q. Shall we see if we can help you with that by going back
- 12 through the shots to number 4, which I think the --
- 13 A. I think the previous picture was better, the one that
- 14 was the shot in through --
- 15 Q. If we can perhaps work through them and go back to
- 16 number 4, the one we were just looking at, just at the
- 17 far bottom right of the shot, above where we see the
- 18 letter B, do we see the back of the chair that you would
- 19 have been sitting in?
- 20 A. Yes, I can see that now, yes.
- 21 Q. I think we can also see towards the bottom of the shot
- 22 through the glass on the bottom of the door that we see
- 23 in the picture the metal threshold line that you have
- 24 mentioned as --
- 25 A. Yes, I can see that as well, yes.

1 Q. -- as the threshold of the **locus** for you. So we can
2 take it that somewhere beyond that is where DC Cardwell
3 is standing?

4 A. Yes.

5 Q. If she hasn't come into the porch.

6 A. Yes.

7 Q. Now I think we can go back to previous shot, number 3,
8 and we see the same brass threshold running across the
9 bottom of the doorway.

10 A. Yes.

11 Q. So it would certainly be difficult, if not possible, for
12 somebody standing on the step below the brass threshold
13 to get the log unless somebody physically brought it to
14 them?

15 A. Yes, I agree, I agree.

16 Q. Do you remember getting up and taking it --

17 A. I'm sorry, I don't, no.

18 Q. Do you remember whether you were still sitting down when
19 you were talking to Ms McKie, as you say, about
20 contamination?

21 A. Honestly, no, no.

22 Q. Very well.

23 Now you have told us that you don't currently have
24 any recollection of the timing of matters and I would
25 like to ask you a little bit about some previous

1 statements you have given about timing.

2 I would like to show you first, please, CO1428. If
3 we can go to the second page of that, please, we see
4 this is a statement dated 14th February 1997, given by
5 you.

6 A. Yes.

7 Q. I will read this to get it into the record:

8 "I have two years Police Service. On Saturday 11th
9 January, 1997, I was on uniform duty and I was detailed
10 to do guard duty at 43 Irvine Road, Kilmarnock, the
11 **locus** of the murder of Marion Ross. I was late shift.
12 I spent my whole shift at the house, that is from about
13 13.45 hours until I was relieved about 23.20 hours that
14 day. I remained in the front porch where I maintained a
15 log of any callers to the house. About 1600 hours
16 Detective Constable Shirley Cardwell came to the front
17 door. I opened it, she stood on the step. She said
18 that she couldn't come in because of
19 cross-contamination. She asked me for the log so that
20 it could be photocopied. I handed it out to her and she
21 left."

22 Now before we come to the particular issue of
23 timing, if we can just go back a page there, I think
24 what you record there is that, in fact, you opened the
25 door whereas, I think, what you've said to the Inquiry

1 today is that it was Ms McKie who opened the door.

2 A. It was a long time ago.

3 Q. Do you know which version is correct?

4 A. To be honest, no.

5 Q. In any event we see that you noted a time, in this
6 statement at least, of 16.00 hours. I would like to
7 take you on, please, to another statement given by you,
8 which is CO1343.

9 If we go to the second page of that, we see that
10 this is a statement again given by yourself and what you
11 record there is:

12 "On 13.45 hours on Saturday 11th January I took up
13 duty at Kilmarnock Police Office. I was detailed to
14 stand by the **locus** at 43 Irvine Road, Kilmarnock. I
15 arrived there at 13.55 hours and I relieved PC McGeoch.
16 I was alone and I took up my position within the front
17 porch. About 14.15 hours Stuart Wilson and Michael
18 Moffat, Scenes of Crime Officers, arrived at the **locus**
19 and entered the house."

20 Then you narrate a series of individuals who have
21 come and gone from the house. Then you record about
22 19.50 hours PC Nisbett arrived and relieve me for
23 refreshment. I travelled to Kilmarnock Police Office
24 and returned to the **locus** about 21.00 hours."

25 If we can move on to the next page, please, you

1 record here on page 4 of the PDF:

2 "There is something which I have not put in the log.

3 About 1600 hours on Saturday 11th January 1997

4 DC Shirley Cardwell came to the **locus**. She wanted to

5 collect the log of events to take it away. She did not

6 enter the porch and told me it was to avoid

7 cross-contamination. I gave her the log of events and

8 she took it away. She returned about 20 minutes later,

9 16.20. The reason I am sure about the times is because

10 the radio was on and the second half of the football had

11 not kicked off. If anyone had come to the **locus** while

12 the log of events was away I would have recorded it in

13 my notebook. Nobody came to the **locus** during that time.

14 I have been shown page 8 of the log of events and asked

15 to examine time entries which appear to have been

16 overwritten. I am not conscious of having done this but

17 equally I may not have done it. I have been

18 specifically asked if DC Cardwell has visited the **locus**

19 at any other time while I was there. She did not. I

20 have been shown document 13 (HOLMES) which is a

21 photocopy of the log of events which I handed over to

22 DC Cardwell. I can see that the last entry photocopied

23 is '17.20 Sergeant Ramage leaves **locus** [and if we move

24 on to the next page] which is in my handwriting. This

25 indicates to me that I am mistaken in my recollection of

1 the time DC Cardwell arrived."

2 Do you recall giving that statement?

3 A. Yes, I do, yes.

4 Q. If you look at the end of the statement it records that

5 it was taken by Detective Superintendent Malcolm on 11th

6 March 1997?

7 A. I've got to assume that's when it was. I don't remember

8 the date.

9 Q. Do you remember being shown the photocopy ending with

10 the entry relating to Mr Ramage?

11 A. Not now I don't.

12 Q. But can we take it from the statement that what you were

13 being shown was the log as it was at the point when you

14 handed it over to DC Cardwell and that the last entry of

15 what was shown to you then was for 17.20?

16 A. Yes, if that's what it says in the statement, that's

17 what it must have been.

18 Q. And that was indicated to you that DC Cardwell has

19 arrived and taken it away at some point after 17.20?

20 A. Some time after, yes.

21 Q. But you don't recollect the detail of giving the

22 statement now?

23 A. Vaguely. I do remember giving a statement.

24 Q. And you would accept that what's recorded there is

25 correct as to what you were shown and what you said at

1 the time?

2 A. Yes, I would say so.

3 Q. Could you look, please, at a third statement, one dated
4 31st July 2003, CO1269.

5 We see if you go to the end of this document,
6 please, that there's a statement taken from you on 31st
7 July by Detective Constable Robb and Detective Constable
8 Ogilvie.

9 I wonder if we could go back a page, a further page,
10 if we go to the very bottom of that page, which is page
11 1 of the document, it is recorded you said:

12 "About 16.35 hours, Sergeant Ramage attended the
13 **locus** and entered the porch. He remained there with me
14 in the porch until 17.20 hours when he left. His
15 attendance and departure was also recorded through the
16 log."

17 Move on to the next page, please, you say:

18 "Sometime thereafter Detective Constable Shirley
19 Cardwell, now known as McKie, who is known to me arrived
20 as a front seat passenger in an unmarked police car.
21 She came to the porch, stood on the top outside step and
22 opened the porch door."

23 You record there she said she was there to take the
24 log away to be photocopied.

25 "I had asked her to come into the porch as it was

1 very windy outside and everything in the porch was
2 blowing around with the door being open. She said she
3 couldn't come into the porch because she had to avoid
4 any cross-contamination. I then handed her the log
5 which consisted of a clipboard folder holding the sheets
6 of A4 paper ..."

7 So your recollection as to the timing as recorded in
8 2000 is that Ms Cardwell attended after DS Ramage had
9 left?

10 A. Appears to be, yes.

11 Q. And in this instance your recollection is noted that it
12 was she rather than yourself who opened the porch door?

13 A. Yes, again, it appears to be, yes.

14 Q. PC Lees, I think you've said candidly in your statement
15 that you are well aware that there are rumours that you
16 let Shirley McKie or Cardwell into the house?

17 A. Yes.

18 Q. What's your response to that?

19 A. I didn't. I'll keep it as brief as that.

20 Q. Have you ever told anyone that you did?

21 A. No.

22 Q. I would like to ask you about something slightly
23 different, Constable Lees. I think you gave evidence at
24 the trial of Shirley McKie?

25 A. Yes.

1 Q. Is that something you remember?

2 Did you at any point during that trial have an
3 argument or a heated discussion or anything of that sort
4 with Ms McKie in a car park?

5 A. No.

6 Q. Did you talk to her at all during the trial?

7 A. No.

8 Q. There's one further matter I would like to ask you
9 about, Constable Lees.

10 Do you recall a Mr Les Brown trying to get in touch
11 with you and trying to speak with you?

12 A. Yes.

13 Q. Would that have been in around May 2007?

14 A. **(Pause)** I would have thought it was further back than
15 that.

16 Q. Do you recall speaking to Mr Brown on the telephone at
17 all?

18 A. Yes.

19 Q. Who had made the contact? Had he called you?

20 A. I think he phoned -- yes, yes.

21 Q. Can you remember what he said to you?

22 A. Not really, nothing much more from the fact that he
23 wanted to speak to me. I think that's -- nothing more
24 to the conversation than that.

25 Q. The Inquiry have been given a statement by Mr Brown and

1 I'd like to tell you what it is that Mr Brown says and
2 give you your opportunity to comment on whether it's
3 correct or not.

4 I think we probably can have this on the screen,
5 sir, if it is convenient, FI0017 at page 8. This is, if
6 you will take it from me a signed statement by Leslie or
7 Les Brown. At paragraph 36 he says:

8 "I decided to try to speak to PC Lees. Around
9 May 2007, I made an application to interview him. Once
10 that application had been processed, I approached him.
11 I telephoned the Section Sergeant at Stewarton Police
12 Office and told the Section Sergeant that I wanted to
13 speak to PC Lees. This was on 5th May 2007.

14 "I then explained to PC Lees that I wanted to
15 arrange a time to meet. In view of the seriousness of
16 the situation I said to PC Lees that I would have no
17 objection to him bringing a lawyer or someone from the
18 Police Federation."

19 If I can pause there, do you remember that
20 happening?

21 A. To that effect -- maybe not like that but, yes, kind
22 of -- not a million miles away from that, certainly.
23 There was -- I'm sure he said he did want to speak to me
24 and he'd made an application.

25 Q. Do you remember him mentioning lawyers or the

1 Police Federation?

2 A. Not particularly, no.

3 Q. Mr Brown's statement goes on:

4 "We agreed to discuss final arrangements to meet on
5 the following Monday with a view to meeting on the
6 Tuesday."

7 Is that something that you remember?

8 A. No.

9 Q. At paragraph 38 of the statement Mr Brown continues:

10 "I phoned the following Monday to make final
11 arrangements and spoke to the Section Sergeant again.
12 He asked me what I had said as PC Lees had walked out,
13 reported sick and had not been seen since."

14 What is your response to seeing that, PC Lees?

15 A. One, I would think you would have to speak to the
16 Section Sergeant to see if -- sorry, was it Mr Brown --
17 Mr Brown had actually spoken to him. I certainly did
18 not walk out, report sick and never be seen again.
19 Sorry, that's incorrect.

20 Q. Do you remember if it's right if you had gone off sick
21 round about that time at all?

22 A. No.

23 Q. You hadn't gone off sick --

24 A. No, sorry, I don't remember.

25 Q. Moving to paragraph 39 of the statement that we are

1 looking at here, Mr Brown's statement, he goes on:

2 "Thereafter I spoke with PC Lees. He told me that
3 he had taken the advice of Superintendent Weir and that
4 he did not wish to be interviewed."

5 Did Mr Brown speak with you afterwards?

6 A. Possibly.

7 Q. Do you remember whether that happened or not?

8 A. No. Probably in relation to the part that
9 Superintendent Weir, I believe I did speak to him
10 about -- a very, very brief conversation about having
11 taken advice from Superintendent Weir.

12 Q. Had you taken advice from Superintendent Weir?

13 A. Yes.

14 Q. Why had you done that?

15 A. From what I remember, the application for precognition
16 of myself was neither a criminal nor a civil matter, I
17 think, or from what I remember and ... you will have to
18 bear with me here because I'm trying to get this the
19 right way round -- I think if it was a criminal matter I
20 had to get permission, I believe. Something like that.
21 So that's why I took advice. It wasn't something I was
22 sure of. I'm sure there was a form came through the
23 post saying that Mr Brown had applied to speak to me and
24 I had to do something with this, I think, in order that
25 he -- I think he pays a fee to precognosce me so ... so

1 I think that's why I'd taken advice on it. I wasn't
2 sure what to do. It's something I'd never deal with at
3 all before. Usually when it's a precognition it's for a
4 criminal case.

5 Q. Was there any reason why you didn't come to speak to
6 Mr Brown?

7 A. Purely -- well, I think purely on the advice of ... I
8 perhaps even phoned Legal Services and Superintendent
9 Weir, as I say, because it wasn't something I hadn't
10 dealt with before at all and I was told that I didn't
11 have to.

12 Q. Well, I appreciate you may have been told you didn't
13 have to but you weren't told that you shouldn't speak to
14 him?

15 A. No.

16 Q. So why did you decide not to speak to him?

17 A. I think probably based on that advice from the
18 superintendent. He said I didn't have to so I took that
19 as, well, I don't have to speak to him; so I didn't. No
20 particular reason, it was just that was obviously an
21 officer that's several ranks above myself and that was
22 how I took the interpretation of her advice.

23 Q. Did you not want to speak to him?

24 A. To be honest, I was a bit -- I think because I was a bit
25 confused as to whether it was a criminal or civil case,

1 I wasn't sure what exactly I should, you know, what we
2 were going to be talking about, so I think that's why
3 I'd taken the advice initially. It wasn't that I didn't
4 want to speak to him, I think it was just because, as I
5 say, this was a new thing for me in the police I'd never
6 come across and I thought I would take advice on what to
7 do.

8 Q. Mr Lees, I think, at one point you had a supervisor
9 called Mr Carle; is that right?

10 A. Yes, fairly early on in my service, I would think, yes.

11 Q. Do you recall going to Mr Carle for advice at all in
12 connection with your involvement in the trial of Shirley
13 McKie?

14 A. No.

15 Q. Do you recall perhaps explaining to him that you were
16 concerned about gossip that you had let Shirley McKie
17 into the house?

18 A. No.

19 Q. Or that you were nervous in some way about giving your
20 evidence on that matter?

21 A. Sorry, could you repeat that?

22 Q. And that you were nervous about giving evidence in the
23 case against Ms McKie?

24 A. I don't recall having any sort of conversation with
25 Mr -- I think he was -- I think he was an inspector,

1 Inspector Carle.

2 Q. Yes. You don't recall any conversation with him of that
3 sort at all?

4 A. No, not at all.

5 Q. Because the Inquiry does have a statement from William
6 Carle. If you look at FI0014, please.

7 You see this is headed up "Witness statement of
8 Chief Inspector William Stewart Carle", and if we go to
9 the last page, please, page 6, I think we see that is
10 signed by Mr Carle.

11 Can we run back, please, to page 2. What Mr Carle
12 has told us is that, looking at paragraph 11, at some
13 point before the **HMA v McKie** trial you approached him
14 for some advice and the conversation took place several
15 weeks before the trial.

16 Does that help your memory at all?

17 A. To be honest, no, no.

18 Q. Looking at paragraph 12, the officer records:

19 "PC Lees was an officer in my division in
20 Kilmarnock. He was on duty in uniform. I was on duty
21 in uniform. PC Lees approached me. So far as I recall
22 this was in the patrol sergeant's room at Kilmarnock
23 Police Office. We were alone when the conversation
24 occurred. He stated that he wanted my advice as to
25 concerns he had as a witness in **HMA v McKie**. The door

1 was closed so that we could speak in private."

2 Again, does that help you?

3 A. I'm sorry, no, no.

4 Q. If you go to paragraph 18, please, at the bottom of
5 page 3, what is recorded is:

6 "PC Lees explaining that the trial was coming up and
7 there was gossip about him letting Shirley McKie into
8 the **locus**. I asked him why he was concerned about that.
9 I reminded him that he had given evidence in
10 **HMA v Asbury** that he had not allowed Shirley McKie into
11 Marion Ross' home. He reiterated that he had not let
12 Shirley McKie into the **locus**. He said he was quite
13 certain that he had not. There was no hint of
14 uncertainty on his part.

15 "I reminded him that he was to give evidence on
16 oath. It was important that he understood the gravity
17 of the charges facing Shirley McKie and also the
18 position of the other police colleagues and himself.
19 Accordingly, I explained that he had to be completely
20 truthful and forthright in giving his evidence. This
21 seemed to reassure him to some extent."

22 Does any of that jog your memory at all?

23 A. I spoke to quite a lot of people. I have friends as
24 well I would have spoken to about concerns at the time.
25 I don't particularly remember speaking to one person in

1 particular, a supervisor. I'm not going to say -- I
2 think he was Inspector Carle at the time -- has made
3 that up. If it happened I don't recall it. There was
4 other people, friends and things, I would have spoken
5 to.

6 Q. But you are not saying he's got this wrong?

7 A. No, not at all. It's just I don't particularly recall
8 speaking to a supervisor about it but I may well have
9 done.

10 Q. You say you might have spoken to quite a number of
11 people?

12 A. Well, not quite a number -- I've got close friends
13 obviously but ...

14 Q. And this was why?

15 A. Because it's not nice to hear untrue gossip about you
16 and sometimes you want to share your concerns with
17 people.

18 MISS CARMICHAEL: Thank you, Mr Lees.

19 THE CHAIRMAN: Any applications as far as this witness is
20 concerned?

21 MR HOLMES: A couple of matters concerning the log, sir.

22 THE CHAIRMAN: Yes.

23 **Cross-examined by MR HOLMES**

24 Q. PC Lees, would you accept that there are some
25 irregularities in the log keeping from this locus?

1 A. In respect of my log keeping?

2 Q. In respect of the log keeping in general.

3 A. I think you would have to explain what you mean by
4 "irregularities".

5 Q. Well, evidence has been heard that there were, for
6 example, people present in the house who do not appear
7 on the log.

8 Do you know anything about that?

9 A. Not at all, no.

10 Q. You have spoken about Mr Kerr and the fact that are
11 aware of who he is but you haven't logged his presence
12 in the house and you weren't aware of his presence in
13 the house during your shift on the log; is that correct?

14 A. I'm sorry, I'm having real trouble hearing you here,
15 sir, and I can't see you either, sir.

16 Q. You've spoken about Mr Kerr and you are aware who he is;
17 is that correct?

18 A. Yes, that's correct, yes.

19 Q. Your evidence is that you were not aware that he was in
20 the house during your shift on the log; is that correct?

21 A. That's correct.

22 Q. If Mr Kerr has given evidence here that he was present
23 in the house when you were responsible for the log do
24 you have any reason to doubt that?

25 A. I would have to ask how he got in if he didn't come

1 through the front door because if he come through the
2 front -- well, the front porch I would have logged him
3 as being in.

4 Q. If you take it from me that his evidence is to the
5 effect that he did not come through the front entrance
6 to the house, do you have any reason to doubt that he
7 was there?

8 A. I wouldn't know whether he was in there or not.

9 Q. We have heard evidence from Mr Kerr that he was there
10 and that at some stage on Saturday 11th that he saw
11 Shirley McKie enter the porch of the house.

12 Do have any reason to that?

13 A. Do I have any doubt that Shirley McKie entered the
14 porch? Is that what you're asking me?

15 Q. Do you agree that she entered the porch of the house?
16 Was she ever in the porch?

17 A. Shew didn't, no. She most certainly didn't. She stood
18 on the step outside the whole time.

19 Q. Most certainly didn't. So Mr Kerr, if he was in the
20 house, has that wrong? She was on the step and not in
21 the porch?

22 A. I'm happy with what I've said on that and as far as I'm
23 concerned she stood on below what I have described as
24 the threshold of the door.

25 Q. If we had heard evidence from Mr Kerr that he observed

1 her within the porch during that time, you would have to
2 say that he's wrong; is that correct?

3 A. I would disagree with what has been said, yes.

4 Q. You would disagree.

5 Can we have a look at the photographs on ST0003,
6 please. Go to photograph A which would be page 3.

7 I think you've said that the chair that we can see
8 in that photograph is not the chair that you were
9 sitting at, rather it would be to the right of where the
10 door is --

11 A. That's correct.

12 Q. -- in that photograph and the that step we see towards
13 the bottom of that photograph is as far as Ms McKie
14 would have come towards the porch; is that correct?

15 A. Yes, that's correct.

16 Q. I think the reason you have given for not logging her
17 attendance at the house is that you regard the threshold
18 of the porch as being the limit for entry into the log,
19 if you like?

20 A. Yes.

21 Q. Anyone that didn't step beyond that didn't go into the
22 log?

23 A. Yes -- well, yes, that's right.

24 Q. You see, we've heard evidence from Mr Kerr that he was
25 in the house when Ms McKie came to collect the log from

1 you.

2 If you look at the photograph on page 4, you said
3 that you would be sitting where you can see perhaps just
4 the edge of the back of a chair there. Is that correct?

5 A. Yes, from what I remember, yes, I'd have been sitting in
6 that chair.

7 Q. I wonder if the photograph beyond that shows it any more
8 clearly. Yes.

9 Is that the chair, the back of which is facing the
10 photographer, that you would have been sitting on?

11 A. From what I recall, yes.

12 Q. From what you recall, where the photographer is standing
13 in this photograph, would that be leading to the
14 remainder of the house?

15 A. That would be sort of the front door. Yes, once you
16 cross that you actually get in the house.

17 Q. So if I am correct if you go towards the direction the
18 photographer is facing and to your left you find the
19 front door and if you go towards where the photographer
20 is standing you will find the rest of the house?

21 A. From what I remember. Yes, that's fair enough.

22 Q. From this photograph do you agree you can't see the
23 front door?

24 A. So you're going to have to say what you mean by the
25 "front door", because to me, yes, I can see the front

1 door and the front door's the white door. Do you mean
2 the porch door?

3 Q. The first door --

4 A. The first door, sorry. I can't see the first door.

5 Q. So what I'm getting at is if Ms McKie was standing on
6 the step you couldn't see her from where the
7 photographer is standing there?

8 A. I would agree with that, yes.

9 Q. If Mr Kerr has given evidence that he was within the
10 house during the time that Ms McKie visited and you have
11 given evidence that she was standing on the front step,
12 where we can't see that area in this picture, how do you
13 reconcile those two?

14 A. You obviously can't. They contradict each other.

15 Q. So Mr Kerr is mistaken then?

16 A. I would have to say that, yes.

17 Q. You are quite certain that Ms McKie never entered the
18 porch?

19 A. A hundred per cent certain.

20 Q. And that's the evidence that you gave on trial, in
21 fairness to you; is that correct?

22 A. Yes, that's correct.

23 Q. What hadn't happened by the time that trial came about
24 though was the Mackay investigation and I have here, if
25 we can see document CO2219, please, page 4, is

1 Ms McKie's statement. It's the paragraph that begins:

2 "The only other occasion."

3 She says:

4 "The only other occasion that I attended at 43
5 Irvine Road, Kilmarnock, was about 17.45 hours on
6 Saturday 11th January 1997. This visit was on the
7 instructions of the office manager, Inspector Thompson,
8 who asked that the visitors log from the **locus** be
9 photocopied for the incident room."

10 So does that sound like the same visit we have been
11 speaking about?

12 A. Yes.

13 Q. "I was again accompanied by Detective Sergeant Shields,
14 however, he remained in our police vehicle at the front
15 of the **locus** while I went into the house alone. Within
16 the porch of the house was Constable Mark Lees. I asked
17 him for the log, which supplied. I was only in the
18 house a matter of seconds and, again, only as far as the
19 porch."

20 She appears to be saying that she was inside the
21 porch on that occasion.

22 Do you agree with that, PC Lees?

23 A. Even going back to, "... however, he remained in the
24 police vehicle while I went into the house alone ..." I
25 find that even quite confusing because that, to me, even

1 that small section would suggest that she was actually
2 in the house, you know, which is definitely not the case
3 and then when you read further on "... again, only as
4 far as the porch", she's -- within two lines. I don't
5 know if it's the way this has been taken down, but
6 within two lines you have her in the porch and in the
7 house and she was in neither. So, I mean, I find that
8 quite confusing.

9 Q. So you are saying Ms McKie's own account of that visit
10 is incorrect?

11 A. What I would say is it's been taken down very
12 confusingly. As I say, a point -- in two lines, it says
13 she was in the house and then two lines down it says she
14 was in the porch. No you can't possibly -- she couldn't
15 possibly be in two places at the same time so even
16 within the wording of that particular section it's not
17 clear.

18 Q. Are you saying that that account squares with the
19 account that you have given whereby she was only on the
20 front step and no further?

21 A. No, it doesn't look like that, no. It looks as if she
22 was even in the house.

23 Q. So how do you explain the difference between the two?

24 A. I can't at all.

25 Q. She goes on to explain that she came back with the log

1 once it had been photocopied and she says:

2 "I thereafter took the log to Kilmarnock Police
3 Office where I photocopied and gave the copy to the
4 incident room. Myself and DS Shields immediately
5 returned to the **locus** where I again went into the porch
6 unaccompanied ..."

7 That seems a little bit clearer, does it not?

8 A. Yes, that to me looks clearer that she's saying she was
9 in the porch alone.

10 Q. Again, does that square with your recollection?

11 A. No, it doesn't. No, not at all.

12 Q. How do you account for the difference between the two?

13 A. Is it a verbatim statement from -- is this somebody's --
14 is this somebody's slant on what's been said? I don't
15 know. My recollection of it is she stood at the step
16 before the threshold and never came into the porch.

17 Q. Well, that's the statement that was given to the Mackay
18 team, PC Lees.

19 Perhaps I can direct you to the statement that was
20 given to this Inquiry which Ms McKie will have had the
21 opportunity to look over and sign. It is document
22 number FI0071 and the relevant section begins at
23 paragraph 32, which is on page 6. Paragraph 32 deals
24 with the statement that you have just been looking at
25 and it says that:

1 "Paragraph 12 of the 2000 statement CO22119 [that's
2 the statement that we have just been looking at] deals
3 with my attendance at the **locus** to collect the visitors'
4 log.

5 "I attended the **locus** late in the afternoon around
6 5.45. DS Shields and I had been given instruction to
7 collect the log ..."

8 So, again, that's sounds like the same visit; is
9 that correct?

10 A. Yes.

11 Q. "I collected the log from the **locus**. I then took the
12 log back to the Police Office, copied it, passed the
13 photocopy to the incident room and returned to the **locus**
14 to hand the log back."

15 She goes on in the next paragraph to explain that
16 DS Shields and herself went to and from the **locus** by car
17 and that the log keeper at the **locus** was you.

18 Paragraph 36 explains how far she went into the
19 house, and she says:

20 "When I collected and returned the log I was at the
21 **locus** for a very short period of time, literally
22 seconds. On both occasions, DS Shields remained in the
23 car. On both occasions, I opened the porch door and
24 stepped just inside the porch. I did not go further
25 than the porch. I did not enter any other part of the

1 **locus."**

2 That seems to suggest as well that Ms McKie was
3 inside the porch, does it not?

4 A. Yes, it certainly, yes.

5 Q. Again, how do you reconcile that with the account that
6 you have given?

7 A. As far as I maintain, she didn't come into the porch,
8 she stood on -- she stood on the step.

9 Q. Well, is Mr Kerr and is Ms McKie or are the two of them
10 wrong in stating that she was inside the porch on this
11 occasion or perhaps are you wrong?

12 A. I would say I was correct because I can remember the
13 conversation and I can remember the bit about the
14 cross-contamination and why I thought that was a very
15 professional excu -- reason not to go any further than
16 that threshold.

17 Q. If she was over the threshold, ought you properly to
18 have entered her into the log?

19 A. Sorry, your voice isn't carrying at all.

20 Q. Should you have entered her into the log?

21 A. If she came over the threshold not "should have", I
22 would have entered her into the log.

23 Q. Are you aware of any other irregularities in the log
24 keeping at that house?

25 A. I'm not aware of any irregularities, to be honest with

1 you.

2 Q. Do you know of magazines that were in the porch area?

3 A. I think there was some magazines in the porch area, yes.

4 Q. We've heard evidence that those came from inside the

5 house. Do you have any knowledge of that?

6 A. I don't know where they came from.

7 Q. Do you have any knowledge of anyone entering the house

8 in order to make use of the heating?

9 A. The heating?

10 Q. Yes.

11 A. No.

12 Q. Do you have any knowledge of anyone being in the living

13 room of the house?

14 A. No.

15 Q. Do you have any knowledge of anyone who was responsible

16 for the log leaving the **locus** in order to go to the

17 garage?

18 A. No.

19 Q. Was there a garage nearby?

20 A. There is a garage in Irvine Road, yes.

21 Q. How near is it to the house?

22 A. Very short walking distance.

23 Q. Do you perhaps know if officers were using that if they

24 needed refreshment or if they needed to go and use the

25 toilet?

1 A. I wouldn't know that.

2 Q. You yourself never did that?

3 A. No.

4 Q. And if we have heard evidence that there were perhaps
5 log keepers who used the garage for that purpose, you
6 wouldn't know anything about that?

7 A. I couldn't comment on that, no.

8 Q. How long did you work on the log for at Irvine Road?

9 A. Well, having had the log to refresh my memory, it was
10 one full day and I think two separate days where I
11 worked for about an hour at a time and that would be
12 covering refreshment breaks for the officer that was on
13 duty the whole day.

14 Q. You would be aware that during that early period there
15 would always have been a log keeper there or there
16 should have been, anyway?

17 A. Any time I went to the house there was a log keeper
18 there.

19 Q. So during the early days of the investigation if anyone
20 had wanted to gain access to the house, there would have
21 been no need to them to bring keys with them?

22 A. I wouldn't have thought so but I wasn't there from
23 day -- I wasn't there from day 1 so ...

24 Q. Had anybody wanted to come into the house while you were
25 on duty, all they would have needed to do is come to

1 you, be entered into the log and then enter the house?

2 A. Or unless like DC Kerr, who he was at the time, was

3 going round the back. That's the only two ways that

4 somebody can get into the house.

5 MR HOLMES: Thank you.

6 THE CHAIRMAN: Are there any other applications?

7 MISS CARMICHAEL: No thank you, sir.

8 THE CHAIRMAN: I notice that Mr Brown, when he was

9 contacting you, contacted, I understand, the sergeant at

10 Stewarton. Did you serve there?

11 A. I did, yes.

12 THE CHAIRMAN: Quite a lot or just occasionally?

13 A. No, no, I was -- I'm actually trying to count back. I

14 think I probably left Stewarton in November of 2007 and

15 I'd served there for about three and a half years

16 previous to that as well. That was my whole time.

17 Three and a half years ago right up to November 2007,

18 I'd been Community Constable in Stewarton. So I worked

19 out of Stewarton office.

20 THE CHAIRMAN: When you are Community Officer, does that

21 when you serve on your own or do you have a colleague

22 serving with you?

23 A. Sometimes we would have a colleague and sometimes on

24 their own.

25 THE CHAIRMAN: But not always the same. We heard the

1 expression "neighbour".

2 A. You tend to have a more permanent neighbour when you're
3 in the community police but then, due to manpower, we
4 actually got split up. So for a while we worked
5 together and then we both worked separately and the
6 Section Sergeant would come out and work with us as
7 well.

8 THE CHAIRMAN: Is there someone you would regard as your
9 neighbour when you were in Stewarton?

10 A. Yes, I probably had two that I would have considered.

11 THE CHAIRMAN: Who were they have been?

12 A. Early on -- for the first part, it would have been
13 probably Phil Moir, PC Phil Moir, and then I believe he
14 left to go down to work in Kilmarnock and then I think
15 Stewart Warboys came and worked in Stewarton.

16 THE CHAIRMAN: Warboys was his name?

17 A. Yes.

18 THE CHAIRMAN: Have you ever discussed with Shirley McKie
19 what happened when she came to the house?

20 A. Do you know, apart from that day, I don't even think
21 I've seen -- well, obviously at the trial -- but I don't
22 think I've ever see Shirley McKie since that day and
23 probably her trial.

24 THE CHAIRMAN: So really the answer is no, you had no
25 discussion.

1 A. No.

2 THE CHAIRMAN: Thank you very much, Mr Lees. Thank you.

3 **(The witness withdrew)**

4 THE CHAIRMAN: The next witness would be Mr Brown.

5 MISS CARMICHAEL: That's right, sir.

6 THE CHAIRMAN: I am not sure if Mr Brown might wish to start

7 his evidence anyhow for first ten minutes and make a

8 beginning.

9 **LESLIE BROWN (sworn)**

10 THE CHAIRMAN: Could we have your full name for the record.

11 A. Leslie Brown.

12 THE CHAIRMAN: Leslie Brown. And you spell it?

13 A. L-E-S-L-I-E -- the male version.

14 **Examined by MISS CARMICHAEL**

15 Q. Mr Brown, I think you've provided a signed statement for

16 the Inquiry.

17 A. Sorry?

18 Q. You've provided a signed statement for the Inquiry.

19 A. Yes.

20 Q. Are you happy that that records your position in

21 relation to the matters that are recorded in it?

22 A. No, I'm not happy with the final presentation. As you

23 know, this statement of mine passed backwards and

24 forwards to Edinburgh on three occasions and each time

25 it came back, it had been amended.

1 Q. Well, there are matters on which the Chairman has made a
2 ruling, Mr Brown, as I think you're aware, and I
3 certainly don't intend to ask you about any of those
4 matters.

5 Are you content that what is currently before the
6 Inquiry in relation to the matters that are covered
7 there is an accurate record of your position in relation
8 to those matters?

9 A. Yes, with one notable exception having heard the Officer
10 Kerr giving his evidence. He was telling the truth. I
11 have never interviewed Kerr.

12 Q. Now, that would take us -- we may as well deal that just
13 at this point then, Mr Brown, thank you -- to
14 paragraph 46 of your statement. That is where you refer
15 to -- well, you refer to him as "SOCO Kerr", although I
16 think in fact we heard he's not a SOCO, but a detective.

17 A. Yes. The line I have in front of me, which was returned
18 from your office to me, says I did speak to a SOCO
19 officer, Officer Kerr, who confirmed that he'd heard PC
20 Lees and Shirley McKie.

21 I've amended that to --

22 Q. In what way would you like to amend that, Mr Brown.

23 A. Well, I have done. I've changed it and altered it
24 because it's to fit in with the evidence I'm giving
25 today, which is an oath.

1 Can I just say for the benefit of his Lordship that
2 some discrepancies in my statements are really quite
3 unbelievable and if I can quote the very first mistake,
4 and I think it's only fair that this should come out --

5 THE CHAIRMAN: Just before we go further, have we got a
6 signed statement from you?

7 A. I've got what was returned to me with a photocopy of my
8 signature, yes.

9 THE CHAIRMAN: Presumably there is one which is a signed --
10 well, I would imagine that is the photocopy of the
11 original of the one that you'd signed anyhow if it's got
12 a signed --

13 A. Can I just give an example of the problem I was facing?

14 THE CHAIRMAN: Yes.

15 A. Rather than looking it up. The very first statement I
16 sent to Edinburgh, and I went through to Edinburgh and
17 was interviewed by a lady and gentleman -- the gentleman
18 sitting opposite me -- and, describing my uneasy
19 feelings about this whole matter, I said that the first
20 thing I noticed when I was taken on board to investigate
21 the murder of Marion Ross was that the police took
22 20 hours to decide it was a murder and, being an
23 ex-expert murder squad detective (and that was my niche
24 in the police), I find this it unbelievable and I still
25 find it unbelievable and having listened to police

1 officers giving their evidence, I still find it
2 unbelievable that it took 20 hours to decide that this
3 lady had been murdered and the word "suicide" was
4 mentioned occasionally.

5 Now, I sent that statement to Edinburgh and it came
6 back: it was 15 hours. I really could not understand
7 it; it's not a typist's error. And I phoned them and
8 asked them and they said, "Just sign it and return it".
9 I did that.

10 Further on in the same statement, I referred to a
11 blood-stained watch found in the possession of Asbury
12 and I said "referring to a blood-stained watch found in
13 possession of David Asbury" --

14 MISS CARMICHAEL: Sir --

15 A. When it came back it was "two blood-stained watches". I
16 think this is quite important if you don't mind me
17 saying to.

18 THE CHAIRMAN: Just take a moment.

19 MISS CARMICHAEL: Sir, we may be trespassing on matters
20 where you have made rulings about what is relevant and
21 what is not relevant here and I certainly don't, as
22 Inquiry Counsel, wish to be thought to be asking
23 questions that precipitates evidence of that sort.

24 THE CHAIRMAN: Yes, I see.

25 A. We're trying to get to the truth here, my Lord.

1 THE CHAIRMAN: The problem -- you see, I've ruled that
2 certain matters are not part of my remit in this
3 Inquiry.

4 A. Yes. Well, the matters that have been --

5 THE CHAIRMAN: Those have been removed because they aren't
6 relevant.

7 A. Well, the blood-stained watch, if it's not relevant we
8 shouldn't be here.

9 THE CHAIRMAN: Well, it may be relevant to something else,
10 but it's not relevant to the Terms of Reference of my
11 Inquiry. I mean, I have already explained that. It may
12 be of great interest in your work that you have been
13 doing on this, but I am not, as I understand it, and
14 indeed as I have interpreted my Terms of Reference, I am
15 only looking at the fingerprints associated with Y7
16 which are those fingerprints which were in the Asbury
17 case.

18 Now, blood on a watch is not a fingerprint.

19 A. I totally understand that. I'm just trying to point out
20 there's inaccuracies in the statement I submitted and
21 the statement I have before me has been -- is not the
22 original statement that I put forward referring in
23 particular -- I do understand that you yourself deleted
24 some of the passages from the statement and I go along
25 with that and I do understand that we're talking about a

1 fingerprint inquiry, but I think to get at the truth

2 these other matters should be brought forward also.

3 THE CHAIRMAN: Well, I can fully understand that but it is a
4 matter of whether I can go -- I can't go beyond my Terms
5 of Reference, whether you think they should be
6 investigated or not. My powers are limited.

7 A. I'm quite happy to make the point that --

8 THE CHAIRMAN: Well, I'm not happy to have the point made
9 because, as I say, it's not one that I can deal with.
10 I'm not authorised by my Terms of Reference to examine
11 that issue.

12 A. I do understand that, my Lord, but certain things that
13 not only worry me but worry others in this Inquiry is
14 that the man who's wearing the blood-stained watch is a
15 Core Participant in this Inquiry.

16 THE CHAIRMAN: Yes, that is true and that is for certain
17 reasons I felt it appropriate in the circumstances,
18 because it was his fingerprints that were being
19 investigated in the Inquiry, that he should be
20 represented but not beyond that.

21 A. I am quite happy to continue from now and be guided by
22 the learned lady opposite.

23 THE CHAIRMAN: I think if you would be good enough because,
24 as I say, it's not that I don't accept that these are of
25 great importance and would be to those who would like to

1 know who was responsible for this crime, but I just --
2 it's not in my power to do that.

3 A. I understand, my Lord. My sole concern is the murder of
4 Marion Ross.

5 THE CHAIRMAN: Well, I appreciate that but the difficulty is
6 you and I have two different concerns. The one I am
7 concerned with is the issue of the fingerprints.

8 I think it is now 4.00 but I wonder would it be --
9 are you content that insofar as the matters that I'm
10 dealing with that your statement represents your
11 evidence on that?

12 A. Yes, I'm satisfied and I'm happy that I've cleared the
13 point about that Detective Constable Kerr was telling
14 the truth.

15 THE CHAIRMAN: Yes, subject to that.

16 A. Yes.

17 THE CHAIRMAN: I think we will recommence at 10.15 in the
18 morning then. Is there anything?

19 MISS CARMICHAEL: No thank you, sir.

20 THE CHAIRMAN: Thank you very much. 10.15 tomorrow. It may
21 be that, if it wouldn't be very inconvenient, it may be
22 that tomorrow we could at least go on until 3.15 if that
23 would not inconvenience anyone who has made arrangements
24 on the basis of stopping at 3.00. I think 15 minutes
25 might make a difference. If necessary, we will go on

1 until 3.15.

2 **(4.00 pm)**

3 **(Adjourned until 10.15 am the following morning)**

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