

1

Friday, 19th June 2009

2 (10.15 am)

3

**LESLIE BROWN (continued)**

4

THE CHAIRMAN: Good morning Mr Brown. If you would like to

5

continue your evidence now.

6

**Examined by MISS CARMICHAEL**

7

Q. Thank you, Mr Brown, please do sit down.

8

Mr Brown, you started to tell us yesterday that you

9

had amended paragraph 46 of your statement and I would

10

just like to ask you how you would like that to read

11

now, please.

12

A. You would be aware that having heard Mr Kerr giving his

13

evidence there was something I wasn't happy about.

14

Q. Indeed so and I simply want to find out what that is and

15

to give you the chance to change anything you need to in

16

your statement?

17

A. What I did last night when I went home, every police

18

officer I have interviewed I've sought permission from

19

the Legal Department of Strathclyde Police. In some

20

cases I was required to pay a fee of £121 to conduct a

21

precognition which I objected to very strongly and I was

22

told by Strathclyde Police what I was investigating was

23

not a criminal matter. Well, you could have fooled me.

24

What I did then was I would contact them and

25

particularly a lady called Miss Arbuckle(?). I told her

1 who I was and I wished to interview, for example, Mr  
2 McAllister. She would have said, "Yes, send us a cheque  
3 for £121", which I did, made out to the Chief Constable.  
4 She would then okay it at their end and eventually she  
5 would phone me back and say, "You can now approach  
6 Mr McAllister". We know what happened there.

7 I've checked. I never made any such contact in  
8 respect of Kerr. So I thought why would I not do that?  
9 I would even doing that if I was going to telephone. I  
10 do not telephone witnesses; I only telephone them to  
11 make an arrangement to meet them.

12 Then having had a look at the statement I don't want  
13 to stretch beyond what I'm supposed to be talking about,  
14 but the last statement I sent to Edinburgh two weeks  
15 later there was no sign of it and I telephoned and asked  
16 if there was a problem and I was told there was. If you  
17 want me to tell you what the problem was I'll tell you  
18 but I was told there was a problem.

19 But anyway when it came back to me and I discovered  
20 last night. I submitted a statement with chapters 45,  
21 46 and 47. When I looked at it last night, comparing it  
22 with the other chapters, I've got an additional chapter.  
23 I've now got 46A. Whereas before 46 was to do with Sean  
24 Murphy, Advocate Depute, he now becomes 46A and  
25 evidence -- I've never referred to anyone as SOCO Kerr

1 if he's a detective -- I know the difference between  
2 them -- which gives me the distinct impression that that  
3 chapter's been inserted not by me and that's confirmed  
4 by the fact I made no effort to contact Strathclyde  
5 Police and certainly when I saw Officer Kerr in here  
6 yesterday that's the first time I've ever seen the chap.  
7 So I never interviewed him, what he said was correct and  
8 I would never phone him. I don't do that. I only phone  
9 the Legal Services Department first to get the okay.

10 I'm quite happy to proceed the way it is and just  
11 accept -- I would accept the fact that I made a mistake  
12 when that was returned to me, albeit I had to wait two  
13 weeks for it and remember the first two statements I  
14 submitted I had quite severe problems with them. They  
15 bore no resemblance to what I submitted. In fact, I  
16 sent an e-mail to your office complaining about the  
17 standard of the statements and I said if this is the  
18 standard that's going to be reached in the fingerprint  
19 inquiry I don't hold out much hope for it.

20 Q. Mr Brown, if I could just stop you there, I think you  
21 were sent a draft statement and you were given the  
22 opportunity to make changes to that and you made some  
23 changes to it. Is that correct?

24 A. Yes.

25 Q. And you have signed the statement with paragraph 46 in

1 it about Officer Kerr.

2 A. Yes.

3 Q. I'm just wondering how you can just sign that if that  
4 was something you weren't happy with when you read over  
5 it?

6 A. When it came back to me with the evidence of SOCO Kerr  
7 it was already signed from a previous statement. I  
8 accept that I made a mistake. I should never have  
9 signed that knowing that this additional chapter was in  
10 there. That was my mistake. But if I send a statement  
11 back to Edinburgh and it's to be corrected, for example,  
12 in connection with the watch, when I get it back I look  
13 at the watch and see it's okay. It never entered my  
14 head to read the whole statement again. It's quite  
15 clever that it's not been a statement added on by  
16 numbers, 46 now becomes 46 and 46A.

17 Q. Is it your position that the section headed "Evidence of  
18 SOCO Kerr" was not in the draft statement sent back to  
19 you initially for revision?

20 A. The very first statement it would not be in it. I don't  
21 have it unfortunately but it wouldn't be in it but I  
22 have --

23 Q. Mr Brown, I expect that those behind me will be able to  
24 obtain the drafts from our system and I think we can  
25 probably check that. I will leave this for a moment

1 while that is being checked but certainly from what I am  
2 looking at here it looks very much as if that was  
3 something that was in your initial draft, Mr Brown.

4 What I would like to be clear about from your  
5 evidence today is whether there is any part of  
6 paragraph 46 that you would like to leave in your  
7 statement at all.

8 A. You're talking 46 as opposed to 46A.

9 Q. That's right.

10 A. Yes, just give me a second. **(Pause)**

11 If I was altering that now, if I was given the  
12 opportunity to alter that --

13 Q. This is that opportunity Mr Brown, yes.

14 A. I would start off saying, "I am aware that an officer", I  
15 wouldn't use the term SOCO, "I am aware that a police  
16 officer stated that he heard PC Lees and Shirley McKie  
17 having a heated discussion in the porch of the **locus**",  
18 and, again, the word "SOCO" comes in. I don't use that.  
19 He said that Shirley McKie used the word  
20 "contamination".

21 We heard him giving his evidence and he said he  
22 never heard that word but lo and behold when Mark Lees  
23 gives evidence Mark Lees says he heard Shirley saying  
24 cross-contamination. So the truth's in there somewhere.

25 THE CHAIRMAN: Yes, but when you say, "I'm aware that a

1 police officer stated", you don't identify the police  
2 officer; is that right?

3 A. Well, I understood that that was in the transcript of  
4 the trial, the Shirley McKie trial.

5 THE CHAIRMAN: No, m asking really of your statement at the  
6 moment. The way you want paragraph 46 to read is:

7 "I'm aware that a police officer stated ..." without  
8 saying who the police officer is?

9 A. No, I'm saying I am aware that Detective Constable Kerr  
10 heard -- stated that he heard Lees -- that came from the  
11 transcript -- and Shirley McKie.

12 I do apologise for the fact that I've possibly  
13 signing this when I should have checked but the thing  
14 that threw me was there was not a chapter added on at  
15 the end to make it -- which I might have spotted. 62,  
16 it would have finished up as 63. What's been inserted  
17 is 46 becomes 46 and 46A.

18 THE CHAIRMAN: At the moment what I want really is your  
19 evidence, never mind about the statement, but your  
20 evidence is, "I'm aware that a police officer, Detective  
21 Constable Kerr, stated that he heard PC Lees and Shirley  
22 McKie", and the rest of that is all right; is that  
23 right?

24 A. Yes, my Lord, yes. I should have arranged for that to  
25 be done before this hearing started here. That's my

1 fault.

2 THE CHAIRMAN: Don't worry about that. I just want to make  
3 sure that I have your evidence.

4 MISS CARMICHAEL: There is something I would like to clarify  
5 with you, Mr Brown, just on that point. I think you  
6 forwarded two e-mails to the Inquiry back in  
7 September 2008.

8 A. Yes.

9 Q. I don't think this is a document that is necessarily  
10 otherwise available and I have one copy in front of me.

11 I think what I would like to do in the  
12 circumstances, sir, is in the first instance pass this  
13 to Mr Brown so he can satisfy himself that it is an  
14 e-mail he sent to the Inquiry and then put it on the  
15 screen perhaps so that others could see.

16 THE CHAIRMAN: He should have the opportunity to see the  
17 document.

18 MISS CARMICHAEL: Yes. **(Handed)**

19 A. Thank you. Yes, this is a copy of an e-mail from me to  
20 Fi McB (that's Fiona McBride) the lady who first asked  
21 for my assistance in this case to Alex Salmond, MSP in  
22 the Scottish Parliament, to Kenny MacAskill(?) , to  
23 Crown Office and to Liz Weir, the boss at Kilmarnock  
24 Police Office.

25 Q. I don't need you to read at all out, Mr Brown, I just

1           need you to be satisfied, as you look through it, that  
2           it's the email you forwarded to the Inquiry.

3    A.    You want me to read through it and check it's okay?

4    Q.    Yes, yes, not necessarily to read it out, simply to read  
5           it yourself to satisfy yourself that it is what you sent  
6           us. **(Pause)**

7    A.    It's quite lengthy if you want to tell me which  
8           particular bit you wish --

9    THE CHAIRMAN:   I think we want to be sure is that that is  
10           the e-mail that you sent. **(Pause)**

11   A.    Yes, this has been copied from the e-mail I sent.

12   THE CHAIRMAN:   Yes.

13   MISS CARMICHAEL:   I wonder if we could have it back to put  
14           on the screens so that other people can see part of it,  
15           Mr Brown; thank you.

16   A.    Yes. **(Handed)**

17   Q.    If I could perhaps read part of this so simply to get it  
18           into the record, reading from the end of the second line  
19           at the top of the page you have written:

20                 " ... I am also in no doubt that Lees was on door  
21           duty when she gained entry but she didn't allow her  
22           entry. She simply walked past him while he was seated  
23           desk and wasn't able to prevent her entry. This is  
24           borne out by a SOCO officer who overheard Lees and McKie  
25           in discussion, within the porch area. He heard the word

1 'contamination', so why was that word used if she was  
2 simply handing in logging sheets (according to her)."

3 That is part of what you said us, Mr Brown?

4 A. Yes.

5 Q. So the suggestion that a SOCO was involved at that stage  
6 is a suggest that comes from you to the Inquiry; you  
7 would accept that?

8 A. Yes, this is a copy of what I sent, yes.

9 Q. I think I will be corrected if I am wrong but a few  
10 minutes ago you did tell us that you were somewhat  
11 confused by the use of the expression "SOCO" in your  
12 statement as a reference to Mr Kerr.

13 I would just like to be quite clear about what your  
14 position is on this matter, Mr Brown?

15 A. My recollection of this is that perhaps at that stage I  
16 didn't know that it was Kerr. All I knew it was an  
17 officer who overheard Lees and McKie and that  
18 information would come to me from someone, maybe even  
19 one of the fingerprint officers, but someone who's  
20 attempted to assist me and give me that information and  
21 it's their reference to SOCO officer.

22 Q. I see.

23 A. Within my recollection, I know the difference between a  
24 SOCO officer and a detective and a detective would not  
25 be enamoured by the fact that I would refer to him as a

1           SOCO and the same in the other direction. They like to  
2           retain their title for good reason.

3       Q.    I am sure are right about that, Mr Brown. Perhaps we  
4           could take that off the screen.

5           So just to be quite clear about this, where did your  
6           information about this matter come from?

7       A.    My recollection is that it came from the transcript of  
8           the trial which I got access to.

9       Q.    I see. That's where you think you got this piece of  
10          information from?

11      A.    Almost certainly, yes.

12      Q.    And your position is that, while you didn't speak to  
13          Mr Kerr yourself, your information which you think came  
14          from a transcript was that Mr Kerr overheard a  
15          conversation in the terms you set out in your statement.

16      A.    Yes. You have to understand my difficulty here. I'm  
17          doing this on my own. I'm only investigating this on  
18          behalf of the SCRO officers and the remit was to  
19          investigate the murder of Marion Ross, nothing to do  
20          with fingerprints and I don't have access to documents  
21          apart from the ones that I get for whatever reason, like  
22          the transcript of both the trials and work from that.  
23          But everything I knew -- if I speak to an officer like,  
24          a classic example is Kerr Reid, you heard him giving his  
25          evidence about what was said to him at the High Court in

1 Paisley, it's between him and I. If he gives a  
2 different version from me I don't have any  
3 corroboration. I just record it as he tells me.

4 Q. Well, we will come to Kerr Reid, Mr Brown. I would like  
5 to give you an opportunity to speak and let the Chairman  
6 hear your position on a number of matters in your  
7 statement and this is your opportunity to tell what you  
8 have to say in your own words so that the Chairman can  
9 hear that and reach a view about it.

10 I took paragraph 46 out of order because you had  
11 mentioned at the outset that you weren't happy with what  
12 was in it. I'd like to go back now really to the  
13 beginning of your statement and certainly to paragraph 3  
14 where you tell us how you first became involved in  
15 looking into this matter.

16 Given that you have indicated that there was a  
17 problem with one part of your statement I would like to  
18 go through this quite carefully and just be clear that  
19 you are happy with the rest of it so forgive me if I  
20 take a little time with it.

21 A. Yes.

22 Q. You write in paragraph 3 that on 5th March 2006 you were  
23 contacted by a Marion Scott who was at that time a crime  
24 reporter for the Sunday Mail.

25 Was that a lady you had known before or was that the

1 first time you had heard from her?

2 A. No, she -- I have to go back a wee bit it's part of the  
3 explanation. In the year 2002 I was approached by a  
4 chap called Brian Davis who was unhappy about the way  
5 the police were treating the murder of his mother and  
6 the police at Paisley and elsewhere classified Annie  
7 Davis' death as accidental and the DCI at Paisley at  
8 that time was a Mr McAllister.

9 I then spoke to Marion Scott and she had arranged --  
10 I do all this free. I don't charge anyone any money for  
11 what I'm doing. I just give my services -- I travelled  
12 down to Erskine and interviewed the Davies family and in  
13 the first day on the first visit I came to the  
14 conclusion she'd been murdered. This is despite the  
15 fact that very many senior police officers said it was  
16 an accidental death and at the very end I finished up  
17 being interviewed by the Assistant Chief Constable  
18 (Crime). This lady was found dead at the back of the  
19 front door of her house. The door -- the main door of  
20 the house was held open two inches by her spectacles  
21 jamming it preventing the door shutting and I insisted  
22 that this lady had been murdered, so much so that I  
23 finished, as I say, in front of the Assistant Chief  
24 Constable (Crime) Graham Pearson and I said to him, in  
25 the presence of Brian Davis, "If you answer one question

1 I'm out of here", and he said, "What's your question?"  
2 I said, "Where are the house keys?" The house keys were  
3 never found nor were her hand bag. So that was the  
4 outcome of it all was the family applied for criminal  
5 injuries compensation. They had been refused on the  
6 grounds the Procurator Fiscal at Paisley had declared it  
7 to be an accidental death.

8 I wrote to the criminal injuries compensation people  
9 and they were awarded quite a large sum of money and the  
10 Chairman of that committee said it was quite obvious she  
11 had suffered a violent death and to finish that little  
12 anecdote about that, the Procurator Fiscal at Paisley  
13 who wrote to them saying it was accidental death. I  
14 complained to Crown Office to say that I'm very angry at  
15 the Procurator Fiscal for doing that and I'm very  
16 disappointed he thought he would get away with it.

17 I met that Procurator Fiscal a month later and he  
18 was walking his dog in and I say, "Why are you not at  
19 your work", and he said, "If you don't know, I can't  
20 tell you".

21 So Marion Ross -- sorry, Marion Scott --

22 Q. I am keen just to find out if you had known Marion Scott  
23 before she contacted you about the SCRO officers. I am  
24 not sure that we need to --

25 A. That's why she contacted me again because she knew what

1           happened in the Annie Davies case and she approached me  
2           and asked me if I would help the SCRO.

3    Q.    I see.

4    A.    Yes.

5    Q.    So the contact came from her because she knew of  
6           something that you had done before?

7    A.    Sorry.

8    Q.    The contact came from her because of something she knew  
9           you had done before?

10   A.    On several cases, yes, and she knew how successful they  
11          had been and she, I think, had spoken to SCRO and said  
12          to them "Why don't you contact Les Brown". I've a  
13          feeling while I'm saying this that Fiona McBride phoned  
14          me about 27th February to see if it would be all right,  
15          would I be prepared to assist them and I said yes. What  
16          impressed me is the very fact from the very beginning  
17          they never, ever asked me to assist them other than to  
18          investigate the murder of Marion Ross and that's what I  
19          did.

20   Q.    What you write and, again, I want to be quite clear that  
21          you're happy with all of this, is that you record that  
22          Marion asked if you were prepared to help some people  
23          from the Scottish Criminal Record Office and you met  
24          with her, Fiona McBride, a fingerprint expert from SCRO  
25          and another SCRO fingerprint expert Alister Geddes?

1 A. That's correct, yes.

2 Q. That's all correct, and you have written that you agreed  
3 to help on the basis that you would investigate the  
4 murder of Marion Ross. You could not help with the  
5 detailed fingerprint side of things, as whilst you have  
6 knowledge of such matters as a layman you weren't an  
7 expert.

8 A. Yes.

9 Q. And that is all correct.

10 You record at paragraph 5 that it struck you that  
11 during the course of the discussions in respect of  
12 Shirley McKie that no-one had paid attention to the fact  
13 that Marion Ross had been murdered and your focus would  
14 be on investigating her murder?

15 A. Yes.

16 Q. And that's all correct. We may come back to paragraph 6  
17 of your statement a little later, Mr Brown, but what you  
18 write there is since you looked into matters you have  
19 been passed information from police officers whose names  
20 you can't disclose and that many police officers call  
21 you anonymously to pass on information.

22 You are happy with that part of your statement as  
23 your evidence?

24 A. Yes, if I can explain a little bit of it, that part, if  
25 we go back to Kerr Reid again, I am only using him as an

1 example of someone who has been here, he tells me, he  
2 gives me information what he was told at Paisley High  
3 Court and I then pass that on without naming him, as you  
4 know. I say, "Right, okay". I don't give his name at  
5 that stage but when it becomes obvious he's going to  
6 have to be required to be a witness I then get back to  
7 him and say, "Whether you like it or not, I'm submitting  
8 your name because this is too important", and in his  
9 case he said, "I've no problem with that", but there are  
10 others who say, "I don't want involved".

11 Q. I think we will come back to paragraph 6 for the moment  
12 and I may ask you a little more about that but at the  
13 moment I just want to be quite clear going through your  
14 statement that you are happy with everything that's in  
15 it. At paragraph 7 you write:

16 "Attempts have been made to get positive publicity  
17 for the SCRO experts. However, this has proven very  
18 difficult. Shirley McKie's lawyers Levy & McRae act for  
19 many news organisations."

20 You are happy that records your position on that  
21 matter?

22 A. Yes. May I just say a few words about that?

23 THE CHAIRMAN: I think at the moment we are just checking --  
24 we may come back to that --

25 A. Yes, that is correct. That paragraph is correct.

1 THE CHAIRMAN: -- but at the moment it's just to check you  
2 are happy with what appears.

3 A. Yes.

4 MISS CARMICHAEL: The next part of your statement tells us a  
5 little bit more about your meeting with Marion Scott.

6 A. Yes.

7 Q. Looking at paragraph 8 what you write is that at that  
8 first meeting Marion Scott told you that it was well  
9 known in the media that Shirley McKie had a romantic  
10 liaison with her boyfriend, a police officer, and that a  
11 particular romantic liaison took place in the house  
12 where the murder took place.

13 Can you recall just exactly what it was that Marion  
14 Scott said to you?

15 A. Yes.

16 Q. Please tell the Chairman your best recollection --

17 A. She said this in my house in front of three other  
18 witnesses and myself Fiona McBride was there, Alister  
19 was there and my wife was there and she said, "It's well  
20 known in media circles that Shirley had a romantic  
21 liaison with her boyfriend in the house", and my  
22 response was, "That's impossible. How could she  
23 possibly have a romantic liaison with someone in a house  
24 that's full of police officers?" And she repeated the  
25 fact that it was well known in the media.

1 Q. At paragraph 9 you say that it's Marion Scott's practice  
2 to tape everything.

3 A. Yes.

4 Q. Did you see her taping that?

5 A. I'd be astonished if she didn't.

6 Q. If you wouldn't mind answering the question, did you see  
7 her doing it on that occasion?

8 A. No, it's not done openly. No, no, she carries a tape  
9 recorder in her handbag. She tapes everything. I know  
10 that for a fact.

11 Q. But when you meet with people do you record your  
12 meetings with them?

13 A. Sorry?

14 Q. Do you record your meetings --

15 A. No, no, I never tape anything, no.

16 Q. Do you take notes of your meetings --

17 A. Well, it depends. I don't need to take a note about  
18 that because it's such an impact that you could recall  
19 it quite easily. You learn through life in the CID the  
20 last thing you do is produce a notebook. If you are  
21 interviewing a suspect and you produce -- or a police  
22 officer, you produce a notebook, they then see that this  
23 is going down in a permanent fashion.

24 What I tend to do is get a statement from them  
25 verbally and then say, "You will have to excuse me, I've

1 got a terrible memory. I'm now going to write this  
2 down", and that's the way I've always done that and it  
3 works.

4 I did not record this. Four of us heard it.  
5 There's no doubt in my mind that's what she said. The  
6 content of what she said was a load of rubbish but  
7 that's up to others.

8 Q. You have recorded in paragraph 10 that you received a  
9 letter from Mr McKie's lawyers saying that they would  
10 take action against you unless you retracted the  
11 statement, apparently a reference to those particular  
12 allegations about Shirley McKie.

13 A. Yes. Strangely enough, about two days after I came on  
14 board, an ex-colleague police officer said, "Have you  
15 had a warning letter from McKie's lawyers yet", and I  
16 said no, and two days later I got one.

17 Q. Had you repeated anything that Marion Scott said to you  
18 to anybody?

19 A. No, I haven't repeated that to this day to anyone, apart  
20 from informing yourselves.

21 Q. Who was the colleague who spoke to you about getting a  
22 warning letter from Mr McKie's lawyers?

23 A. Just some ex-colleague. Wherever I go, at that time  
24 people officers would say to me, "Are you doing the  
25 Shirley McKie case", and I would say, "No, I'm not. I'm

1 doing the murder of Marion Ross case".

2 Q. Can you remember which colleague spoke to you about that  
3 or which ex-colleague spoke to you about that?

4 A. No, I've never even thought or trying to recall who it  
5 was. I speak to so many officers but it was just so  
6 coincidental that that's what he said and I said, "No, I  
7 haven't" and he said, "Well, you'll get one", and two  
8 days later I got one. I've got a copy of it in front of  
9 me.

10 Q. At paragraph 11 you record a matter that you didn't, in  
11 fact, about an individual who you didn't, in fact, come  
12 to interview and you excluded from your inquiries?

13 A. No, I think in fairness to Marion -- to Shirley McKie,  
14 every time Mr McKie does a press release or whatever the  
15 following day I get three phone calls on average of  
16 people protesting at what he is saying and one of them  
17 said to me that constable -- "Have you checked Constable  
18 Reese", and I said, "Who's he", and they've said, "He's  
19 one of Shirley's boyfriends".

20 Q. Who said that to you?

21 A. Well, it was said to me on the basis that I would not  
22 repeat, disclose who actually said that.

23 Q. You will appreciate, Mr Brown, that this is an Inquiry.  
24 If there is information that might help the Chairman we  
25 are very anxious to get it and you have already said

1 that where matters are what seem to you to be  
2 sufficiently important --

3 A. No, with the great --

4 Q. Please listen to what I'm saying to you, Mr Brown -- you  
5 have already told us that in relation to Mr Kerr Reid  
6 you thought it was a matter of sufficient importance you  
7 would pass the person's name on; yes?

8 A. Yes. I never passed on Kerr Reid's name at all.

9 Q. There are circumstances where things are sufficiently  
10 important that you are able to do that.

11 A. Yes. Someone said to me, "Why don't you check Constable  
12 Reese", and I made enquiries and spoke to police  
13 officers who I can speak to, still in the job, and they  
14 said that's a lot of rubbish. In fact, one officer said  
15 to me, "Never heard of him".

16 Q. But you will appreciate if you don't tell us who your  
17 sources are then we can't get statements from them and  
18 can't bring them to the Inquiry and can't ask them  
19 questions.

20 A. I am satisfied that Reese is not involved in this. As  
21 far as I'm concerned that's the end of it. My mistake  
22 was putting it down in writing. There's a lot parts of  
23 this inquiry I'm doing that I've decided myself I'm not  
24 taking it any further. The mistake I made here was  
25 putting it down in writing for you to read. Reese is

1 not involved in this. I mean, I'm sitting here doing my  
2 best giving evidence and I'm told by his Lordship that I  
3 cannot refer to a watch with blood on it and you're  
4 telling me, you're trying to push with for Constable  
5 Reese who's got nothing to do with this Inquiry. One  
6 exceeds the other.

7 Q. I think we have recorded your position on that,  
8 Mr Brown.

9 If we can move on to what you've recorded about the  
10 involvement of Peter Swann in the next part of your  
11 statement and I would like to be sure that you are  
12 happy. It may be that I don't need to read this out  
13 word-for-word if you can just look carefully because I  
14 don't want to take up time unnecessarily but if you want  
15 to look carefully at each of paragraphs 12 to 16 so that  
16 you can be quite satisfied that this records what you  
17 would want the Chairman to regard as your evidence on  
18 this matter. **(Pause)**

19 A. In chapter 14 there's a slight alteration because the  
20 second last line of chapter 14 it's written here that he  
21 told me that on a Richter scale of 1 to 10 his certainty  
22 was at 11. I never said that. What I said was that I  
23 asked him on the Richter scale of 10 how good a match  
24 was Y7 with Shirley McKie and he said 11. It's the same  
25 thing but it's been reworded.

1 Q. So you put the question to him and his answer was 11?

2 A. He said it was an 11, yes.

3 Q. Is there anything else about paragraphs 12 to 16 that  
4 you would want to change?

5 A. No, not change, no.

6 Q. The next section of your statement is headed up,  
7 "Allegations of criminal collusion: Gilchrist report"  
8 and that runs from paragraphs 17 through to 20 and,  
9 again, what I would like you to do is take the  
10 opportunity to satisfy yourself that you are happy that  
11 the Chairman look at that as an accurate record of what  
12 you would like to say? **(Pause)**

13 A. Yes, this references to William Gilchrist who I know. I  
14 knew him as a Procurator Fiscal at Paisley and he  
15 finished up at Crown Office and he's now a Sheriff at  
16 Perth and I discovered to my astonishment he was not  
17 called to give evidence at Scottish Parliament Inquiry  
18 and I contacted him through his secretary because she  
19 plays a very prominent part in all of this. He never  
20 spoke to me but I learned from one of the secretaries at  
21 the Scottish Parliament Inquiry that, as a result of my  
22 contact with him, he volunteered to go and give evidence  
23 to them. He wasn't called.

24 Q. You may be relieved to know, Mr Brown, that the Inquiry  
25 has a statement from Sheriff Gilchrist.

1 A. Yes.

2 Q. But you are happy with that part of your statement?

3 A. Yes.

4 Q. Thank you.

5 Now, in the next section of your statement at  
6 paragraphs 21 through to 26 you record certain concerns  
7 and things that you found surprising about the murder  
8 investigation. Again, I would like you to take the  
9 opportunity to read through that and make sure that  
10 what's written down here in paragraphs 21 through to 26  
11 you are happy with, that you don't feel anything has  
12 been put in that you're unhappy with and that you would  
13 be content for the Chairman to read that as part of your  
14 evidence. **(Pause)**

15 A. Yes, the information contained in that is correct and it  
16 highlights some of the problems that I was facing in  
17 this. I have to explain to you that there's a lot of  
18 things I don't know about but I do know about  
19 investigating a murder and for them to take 20 hours to  
20 decide this lady with the horrific injuries that she had  
21 was murdered totally beggars belief and I've said that  
22 on several occasions and bearing in mind that my remit,  
23 your remit is the fingerprints my remit is the brutal  
24 murder of this woman.

25 Q. I think you probably recognise that your interest and

1 the Inquiry's remit are not exactly the same, they don't  
2 cover exactly --

3 A. Well, I disagree with that.

4 Q. We may just have to agree to differ on that.

5 A. What we are both interested in is justice and there's no  
6 better opportunity than what we are getting today. I  
7 agree entire with this Inquiry and I think they're doing  
8 a wonderful job and it's not before time that something  
9 was done about this case and my responsibility is to  
10 make sure -- it was me that insisted with David Russell  
11 that some mention should be given to Marion Ross in  
12 October at the meeting at the Glasgow Royal Concert Hall  
13 and it was me that contacted Marion Ross' cousin down in  
14 Wentworth and I trawled through the whole family to try  
15 and get someone to ask David Russell to represent the  
16 dead woman and that was the first indication that  
17 something was being done in respect of her brutal death.

18 I had a phone call yesterday from one of Marion  
19 Ross' cousins thanking me for what I'm doing and I do  
20 this, as Mr Russell would say, **pro bono**.

21 THE CHAIRMAN: Could I ask you just one thing while I  
22 remember: if the police regard something as a suspicious  
23 death, would you regard that as adequate to cover both  
24 suicide and murder.

25 A. Not in this case, my Lord, no. This was a murder.

1 THE CHAIRMAN: Yes, but their approach would be different or  
2 would it be the same -- if it's a murder it would be  
3 included in the phrase "a suspicious death".

4 A. No, I don't think it would. A murder's a murder. A  
5 suspicious death is somebody knocked down by a stolen  
6 car and the driver takes off and you think, "Well, is  
7 there some connection? Did the driver know the victim?"  
8 That would make it a suspicious death, but a murder is a  
9 murder is a murder and, I sitting before, you Lord, I'm  
10 an expert on that subject. Don't ask me about  
11 fingerprints.

12 THE CHAIRMAN: Well, that's why I'm asking you because I got  
13 the impression that I was being told, well, it was being  
14 treated as a suspicious death and, therefore, that  
15 covered it being a murder.

16 A. Yes. I can explain it to a certain extent by the fact  
17 that when Shirley McKie arrived for work with William  
18 Shields the following morning, I think they arrived  
19 about 9.30 in the morning they were told not to leave  
20 the office as they might have a murder -- they might  
21 have a murder. Now if I had been involved in that I  
22 wouldn't have waited until 9.30 in the morning. I would  
23 have had them out the previous evening saying, "We have  
24 a murder".

25 THE CHAIRMAN: I think I have got the point that you say

1           it's not the same to call it a suspicious death --

2       A.    Thank you. No, not the same title.

3       MISS CARMICHAEL:   Thank you, sir.

4       THE CHAIRMAN:    Just while I remembered to ask this.

5       MISS CARMICHAEL:   If you are happy with paragraphs 21 to 26

6           I would like to move on to the next section which is

7           headed, "The role of DI McAllister", and that runs from

8           27 to 30.

9       A.    Yes.

10      Q.    I will have a particular matter I would like to ask you  
11           about when you have had a chance to read over this and  
12           be clear that it does record your position, but if you  
13           would take a moment to do that just so that we are clear  
14           that you are happy with the terms of your statement as  
15           it's recorded here. **(Pause)**

16      A.    Yes, and chapter 30 refers to the case I referred to  
17           earlier, the murder of Annie Davies. Yes, that page is  
18           correct.

19      Q.    The bit I would like to ask you about is speaking to a  
20           retired officer called McAllister at paragraph 28. The  
21           Inquiry has heard there are actually two retired  
22           officers called McAllister and there is sometimes some  
23           confusion about which one is the father of Mr McAllister  
24           who gave evidence to this Inquiry and I would like to  
25           give you an opportunity to comment on that.

1 A. Yes. Fortunately or unfortunately I know both  
2 McAllisters. My wife and I were in the shopping mall  
3 and we were approached by this gentleman who was with a  
4 lady. I didn't go into this in much detail because it  
5 is rather a sad story.

6 However, this chap approached me and said, "Do you  
7 remember me", and I said, "Yes, Sandy McAllister". He  
8 said, "Oh, you remember me". I said yes. "How are you  
9 getting on with the Shirley McKie case?" This is what I  
10 get every day of the week and I said, "I'm not dealing  
11 with the Shirley McKie case. I'm investigating the  
12 murder of Marion Ross".

13 "Do you think she was in the house?"

14 I said, "Yes." He says, "So does my son. He knows  
15 she was in the house". So I looked him straight in the  
16 face and said, "Who's your son?" He said, "My son is  
17 Detective Chief Superintendent McAllister of the Special  
18 Branch".

19 Now I use Sandy McAllister from way back. I didn't  
20 even know he had a son in the police. There is no  
21 connection between the Mr McAllister who came here and  
22 gave evidence with the McAllister -- the other  
23 McAllister, Derek McAllister. I've had dealings with  
24 him and won't bore you with the detail but it's quite  
25 unbelievable. So I know both the McAllisters and

1           there's -- I was here when Mr McAllister was giving his  
2           evidence and he seemed to give the impression it wasn't  
3           his father I spoke to.

4                     Now, it was his father because, unless we've got two  
5           McAllisters in the Special Branch and both Detective  
6           Chief Superintendents, the one that sat here was the one  
7           that Sandy McAllister was referring to.

8       Q.    I think you have heard what McAllister's position was  
9           when he was asked directly whether Shirley McKie was in  
10          the house and you have heard the --

11     A.    Yes, but what he says in the Fingerprint inquiry and  
12          what he says to his father could be two different  
13          things. And his father, I met him -- now my wife was  
14          with me and Sandy McAllister's wife was there. I have  
15          to tell you this because I think it's rather sad but at  
16          the same time it means we're talking about the same  
17          McAllister.

18                    We met again two weeks later and Sandy was on his  
19          own. I was with my wife and he was carrying a  
20          large brown envelope and I said, "Is your good lady  
21          here?" He said, "No, I'm just about to register her  
22          death". She'd passed away in preceding two weeks and he  
23          said to me, adding that to my statement, "How did you  
24          get on with my son", and I said, "I haven't spoken to  
25          him yet". He said, "Well, if you have any problem let

1 me know". This is a man that's registering his wife's  
2 death saying that to me.

3 You meet people who you go way, way back, a long way  
4 back in the police and have respect for each other and  
5 that's what happens. There's hardly a day goes by that  
6 I'm not out somewhere that someone approaches me and  
7 introduces the conversation. But, as I say, my  
8 difficulty is I'm doing this investigation with one arm  
9 tied behind my back. I can't go to police records --  
10 I've been involved -- yes?

11 Q. We have an example there of somebody again, like Kerr  
12 Reid, you've told us this name, you have drawn our  
13 attention to DI McAllister, you have drawn our attention  
14 to his father and, with that in mind, I am very keen  
15 that if you can give us indications of any other people  
16 who should come to give evidence here, that you should  
17 do that and when you tell us that you have information  
18 from people who have asked you not to tell us who they  
19 are, I am wondering why it is that you want to tell us  
20 about Kerr Reid and you want to tell us about  
21 Mr McAllister but you don't want to tell us about the  
22 other people.

23 A. Well, that's up to them. Their approached me -- many  
24 police officers, as I say, every time Mr McKie appears  
25 on television or gives a statement to the press, the

1 following day I can expect three or four phone calls.

2 For example, Mr McKie said on television, "I know how

3 difficult this is. I was a detective". I get five

4 phone calls, "When was he a detective?" That's got

5 nothing to do with this but that's what happens and they

6 approach me and give me this -- but if you want me to

7 bring you up-to-date with the Kerr Reid, which is quite

8 important ...

9 Q. We will come to that. I'm going through your statement

10 in order at the moment, Mr Brown.

11 We move on in the next section of your statement to

12 Constable Mark Lees. I would like to ask you

13 particularly -- well, for completeness, paragraph 31,

14 are you happy with the terms of that? You began to

15 get information about PC Mark Lees --

16 A. Yes. Several police officers --

17 Q. -- serving and retired.

18 THE CHAIRMAN: I think he wanted to complete his answer.

19 MISS CARMICHAEL: I am sorry.

20 THE CHAIRMAN: Please complete your answer.

21 A. Yes. If I'm speaking to police officers, I have a lot

22 of contact with police officers through charity work

23 that I do. I'm supposed to be playing against

24 Strathclyde Police next week and this is subject gets

25 raised all the time and I say -- one of the questions I

1 ask, and this is from years of experience, who should I  
2 be looking at? And most of them say Mark Lees. So  
3 eventually you get to the stage it dawns on you that  
4 Mark Lees should be interviewed.

5 Q. As I said, as I said to you earlier, if there are  
6 witnesses or potential witnesses who may have  
7 information that is relevant to the Inquiry, it would be  
8 very helpful if you could tell us who they are, if they  
9 are individuals who have, personally, information  
10 themselves that suggests, for example, that Mr Lees did  
11 something he shouldn't, then it may be very important to  
12 be able to bring them to the Inquiry and have them give  
13 evidence on oath just as you are doing just now.

14 A. I agree entirely that these officers should come forward  
15 and volunteer to give evidence here but if they say to  
16 me, "Why don't you question Mark Lees", and initially  
17 I'll say, "Who's he", and they tell me. They're not  
18 going to come forward and say, "I told Mr Brown that I  
19 think" -- it's common knowledge apparently at Kilmarnock  
20 that he's the man I should be interviewing.

21 Everybody asks me about Constable Morgan who you had  
22 here as a witness. I said, "I've been told Mark Lees  
23 such and such, am I right on the right track?"

24 "Yes."

25 So eventually it dawns on you that you have to

1 interview Mark Lees and that's what I did -- or  
2 attempted to do.

3 Q. Do you know who the officers were who gave you the  
4 information about Mark Lees?

5 A. Well, I could write a list of police officers I've  
6 interviewed. I think Willy Shields is to give evidence  
7 yet. I don't know if he has been or he's still to come  
8 but Shirley McKie's partner.

9 Q. So you say Willy Shields is one of the people who gave  
10 you information about Mark Lees?

11 A. Yes, during my interview with him, for which I paid  
12 £121, under great protest, I said I've been told that  
13 Mark Lees -- I should interview Mark Lees and he said  
14 yes and if he's still to come here you can ask him the  
15 same question.

16 My difficulty is these people say that to me and,  
17 again, getting back to Kerr Reid as an example, what  
18 they say here is entirely different but that's up to  
19 them.

20 THE CHAIRMAN: If they say to you -- I want to get it clear  
21 in my own mind -- if they say to you you should  
22 interview X or Y that doesn't mean that they know of  
23 their own knowledge that X or Y --

24 A. Quite correct.

25 THE CHAIRMAN: -- was involved in some particular incident,

1           they are merely pointing you in that direction; is that  
2           what you're saying?

3    A.   Yes, continually.

4    THE CHAIRMAN:   But if there was anyone who said, "I know of  
5           my own knowledge", so to speak, I take it that you would  
6           approach that person and ask them to become available to  
7           the Inquiry.

8    A.   Yes, exactly, or I would pass his name over to whoever  
9           and say, for example, Mark Lees is refusing to be  
10          interviewed. They say, well, that's up to him.

11   MISS CARMICHAEL:   Very well so should we take it then when  
12          you are talking about getting information about PC Mark  
13          Lees you are talking about rumour being passed to you  
14          rather than anybody saying, "I know that Mark Lees let  
15          her in"?

16   A.   Yes. It's more than rumour but, as his Lordship says,  
17          the name Mark Lees keeps cropping up. If I was told  
18          that constable X, as I have been told, knows the answer  
19          to your questions, I then follow up to try and identify  
20          the officer who knows, as we did in Mark Lees case, as  
21          we did in the golf professional chap from Troon, I think  
22          he's a witness in the case, I then follow it up. I get  
23          into my car and drive down to Troon and you know what  
24          happened there.

25   Q.   Very well.

1                    Now you say -- I am going to move on to  
2                    paragraph 32. You say you were told that during the  
3                    perjury trial **HMA v Shirley McKie**, PC Lees and Shirley  
4                    McKie were seen arguing ferociously in the car park.

5                    Who told you that?

6                    A.    A strange thing that word "ferociously", I've never used  
7                    that in my life. PC Lees and Shirley McKie were seen  
8                    arguing ferociously. That's not my terminology. I  
9                    would say arguing heatedly.

10                  Q.    Heatedly?

11                  A.    Yes.

12                  Q.    So we should read ferociously for heatedly. Well, who  
13                  told you --

14                  A.    I cannot put a name to the person who told me. Somebody  
15                  told me. It could be one of a group. It could be one  
16                  of the SCRO officers. It was someone who was at the  
17                  trial but I've spoken to a lot of police officers who  
18                  were at the trial, quite a few. I can't put a name to  
19                  the person that told me that. But it's information that  
20                  might help the Inquiry: why would they be arguing in the  
21                  car park?

22                  Q.    We can't investigate whether they were arguing in the  
23                  car park unless we can speak to the person who saw that  
24                  happening, Mr Brown. So it would be very helpful if you  
25                  could try your best to remember who told you?

1 A. I'm trying my best but it's very difficult. You're  
2 saying to me that -- what you're inferring is that Mark  
3 Lees when asked in the witness box about arguing in the  
4 car park and he denied it. Well, I sat and listened to  
5 Mark Lees and if that's the standard of police officer  
6 we've got now, we're in a whole lot of trouble.

7 Q. Mr Brown, what I'm saying to you is that if there's  
8 somebody who can come along and say and give an account  
9 that PC Lees was arguing with Shirley McKie, then the  
10 Inquiry might be interested to hear that.

11 A. I do understand that, yes.

12 Q. Mr Brown, I appreciate that you said when you were in  
13 the CID you would write things down after people had  
14 told you them rather than doing it when they were there  
15 and you gave a reason why that's your practice at the  
16 time.

17 A. Yes.

18 Q. But when you are investigating matters in the way that  
19 you do, in the way that you have told us for people for  
20 free, is it not still perhaps good practice to keep a  
21 note of important things that happen, important things  
22 that people tell you and who's told you it?

23 A. I would not bring out a notebook and write down so and  
24 so told me that he saw Mark Lees and Shirley McKie  
25 arguing in the car park. I'd just accept it as

1 information that should be passed on, why would they be  
2 arguing, and I would pass it on to whoever. My first  
3 instance would be to the SCRO officers and tell them.

4 I can't give you the name of an officer who said to  
5 me, "I saw them arguing in the car park". I picked it  
6 up by bits and pieces and speaking to officers, some of  
7 whom have given evidence here. If you are asking me to  
8 put a name on a particular person that actually  
9 physically said that to me -- and I might be wrong -- I  
10 would say Stewart Carle.

11 Q. I think Stewart Carle --

12 A. Would have said to me. My recollection is that Stewart  
13 Carle said to me they were seen arguing in the car park  
14 and I do know that he was at the trial because he took  
15 notes for Strathclyde Police.

16 Q. Thank you for that.

17 A. I would nominate him as the person that said that. But  
18 if you get him here and he says, "I didn't say that", I  
19 would accept I've got it wrong but that's my  
20 recollection.

21 As far as I'm concerned, someone saying that to me  
22 that's to be developed. It's not a case of saying to  
23 him, "I'm going to take a statement off you to say that  
24 you said that". Whether they were arguing or not really  
25 is not all that important. They could have been arguing

1 about anything.

2 Q. Just staying on paragraph 32 for a moment and, again,  
3 whether you are happy with how it expresses your  
4 position, apart from changing the word "ferociously" to  
5 "heatedly" is there anything else there that you are  
6 unhappy with?

7 A. Up to what chapter?

8 Q. Sorry, just to the end of paragraph 32, the one that we  
9 were looking at, Mr Brown?

10 A. Yes. In that last three lines of chapter 32, when I  
11 heard that I thought to myself why would they be arguing  
12 in the car park. My assumption -- it's only an  
13 assumption -- my assumption was they were arguing in the  
14 car park because she had said to him prior to the trial,  
15 "Remember, I was never in the house", and he took it  
16 literally and he said she wasn't even in the porch and  
17 as we heard Constable Lees saying in the witness box  
18 here he wasn't too sure whether she was in the porch or  
19 not.

20 Q. I think his evidence to this Inquiry is a matter of  
21 record now. As we know, we have a transcript going on  
22 the whole time, Mr Brown.

23 But in any event what you are recording there is  
24 your speculation as to why an argument might have  
25 occurred, if an argument indeed did occur?

1 A. Yes. If it turned out that they never had an argument  
2 in the car park and my information was incorrect, so  
3 what?

4 Q. Very well.

5 You have been anxious to tell us about Mr Reid and  
6 we do now come to that bit of your statement, Mr Brown.

7 You record here that you spoke to Kerr Reid in 2006?

8 A. Yes. He approached me. And just said, I might be of  
9 help".

10 Q. How did he approach you? Was it a phone call? Did you  
11 meet socially? How did it --

12 A. Both he and I and other officers who's name's are  
13 mentioned occasionally do charity work for the  
14 Children's Hospice Association of Scotland and we meet  
15 regularly and I used to be Kerr Reid's boss and he was  
16 aware that I was part of an organisation, a co-founder  
17 of an organisation called the Search for Justice and he  
18 during a conversation about whatever to do with charity  
19 said to me, "I might be able to help you", and that's  
20 how it came out.

21 Now I heard Kerr Reid giving his evidence and his  
22 evidence to me differs from what he told me but that  
23 does not bother me in the least.

24 Q. I would like you just to tell the Chairman -- I realise  
25 it's written down here but, because this is a matter

1           that you have made it clear you regard of particular  
2           importance, I would like you to tell the Chairman in  
3           your own words just exactly what it was that Kerr Reid  
4           said to you.

5       A.    Yes, I'm just looking at this just to refresh my memory.  
6           He told me he had been on dock duty at the High Court in  
7           Paisley That raises other questions, but he did dock  
8           duty at the High Court in Paisley. I didn't know they  
9           had a High Court in Paisley, but I checked and found out  
10          Glasgow High Court was being renovated so they were  
11          using Paisley and Kerr Reid was one of the officers.

12                 By doing dock duty, if you don't know, is that he  
13           and another officer on sit either side of the person in  
14           the dock being tried and this other officer and him were  
15           on a coffee break, because I think the jury were out.  
16           During this coffee break, he said -- this is what he  
17           told me at the time and I wrote it down at the time --  
18           I'm sure Mr McKie will excuse me for using this  
19           expression but this is what he said to me: "That bitch  
20           will get us done, it was me that let her into the  
21           house."

22                 Kerr Reid then asked this officer, "Why did you let  
23           her in?" and he said, "Because I fancied her." Now,  
24           that's been bandied about over some considerable time  
25           but whether that was said or was not said, that's what

1 he told me.

2 Now, when he sat and gave evidence here, that's not

3 what he said. But I appreciate that. If he -- I mean,

4 there may be different reasons for why he's altered it

5 slightly. I have not altered my version of what he

6 said, and there's a postscript to this which I think

7 you'll find is quite amazing if I'm allowed to give it.

8 Having given his evidence, we met again on a charity --

9 this is Kerr Reid and I -- and this is what he asked me

10 and I find it absolutely totally incredible. He said,

11 "Have you seen the list of the witnesses for the

12 Inquiry?" and I said yes. He said, "You know the man I

13 told you about that talked to me at Paisley High Court".

14 I said yes. He said, "Is he on the list", and said,

15 "How the hell would I know? You never gave me a name".

16 It was a great opportunity for me. I should have said

17 to him -- I'm not a fly as I think I am -- I should have

18 said to him, "Remind me who it was". He is then

19 approaching me to tell me indirectly it's quite obvious

20 he knows the name of the chap he spoke to in court.

21 There are different reasons that I can think of why

22 he's changed his version, that "That bitch", I've never

23 used that expression against a woman in my life, but at

24 court at Kilmarnock, it was quite interesting he says,

25 "will get us done", meaning plural.

1 Q. Would it not be fair to say sometimes people in this bit  
2 of the world say us when we mean me?

3 A. Yes, especially in Glasgow, yes.

4 Q. So it might not necessarily mean more than one person?

5 A. I don't think it's an expression that Kerr Reid -- I  
6 believed him at the time when he said it and I sat here  
7 and listened to him giving evidence. It does not bother  
8 me in the least that what he's saying is slightly  
9 different.

10 Q. There's two things I would like to ask you about just  
11 following on from what you have just said, Mr Brown.

12 You said that you wrote it down at the time that  
13 Mr Reid spoke to you.

14 Do you have your notes?

15 A. Sorry?

16 Q. You said that when Mr Reid spoke to you and told you  
17 about the officer at Paisley you said that you wrote it  
18 down at the time.

19 A. Yes.

20 Q. Do you have your notes?

21 A. No, I don't keep a notebook per se, I just made a note  
22 of it because of this phrase, "That bitch".

23 Q. What have you done with your note of that?

24 A. Well, I transferred that to a document of some kind and  
25 put it on the computer. He said it. Whether I took a

1 note of it or not he said that to me.

2 Q. Mr Brown, you will recall from your days in the police  
3 that often in trials police officers will pull out their  
4 notebook and say, "Can I look at my notebook, please, to  
5 refresh my memory". That happens in the courts up and  
6 down the land every day.

7 A. Yes, I did that for 27 years. I don't do that any  
8 longer.

9 Q. There's a reason for taking those kind of notes. It's  
10 so you can pull them out and say, "That's what I wrote  
11 down at the time".

12 A. You take a note to refresh your memory. There's certain  
13 things I don't need a note to refresh my memory. That's  
14 what happened; that's what he said. If he wishes to  
15 come here and give evidence which is -- the good thing  
16 about this, the good part about all of this, is we made  
17 contact with each other many times between when he told  
18 me that and his coming here to give evidence. We don't  
19 sit down and say we'd better get this together and say  
20 the same thing. I've never done that in my entire life.  
21 If I say it's a red car he says it's a yellow car, I  
22 say, well, you think it's a yellow car you say so. Lord  
23 Wheatley took me in front of him in a murder trial and  
24 said, "Mr Brown ..." I had to step in front of  
25 Lord Wheatley at the High Court in Glasgow and he said,

1 "What I like about this case is the police did not  
2 rehearse their evidence". That's the way I operated.  
3 Kerr Reid and I could have -- on many occasions, we  
4 never even discussed it.

5 Q. That's the other thing I'd like to ask you about, Mr  
6 Brown. When is it you say that Kerr Reid spoke to you  
7 about the witness list for this Inquiry? When did he do  
8 that?

9 A. When did he speak to me, sorry?

10 Q. You gave evidence a moment ago that Mr Reid spoke to you  
11 about the witness list for this Inquiry and asked you if  
12 the man from Paisley High Court was on the list. When  
13 did that happen?

14 A. When did he tell me about what the man in the High Court  
15 in Paisley said to him.

16 Q. No, you gave evidence a moment ago there was a post  
17 script, as you described it, when Mr Reid had spoken to  
18 you and said, "Have you seen the witness list for this  
19 Inquiry".

20 A. That was 28th May at Cameron Bowling Club in a  
21 children's hospice bowling match.

22 THE CHAIRMAN: On 28th May?

23 A. 28th May, yes. I think that was before -- yes, that was  
24 before he actually gave evidence here. I know it was  
25 definitely for people like yourselves to understand that

1 police officers, we don't -- Kerr Reid in particular,  
2 we've met maybe 20 times or more since he gave this  
3 information to me, the original information about what  
4 had happened at Paisley High Court. We don't -- when  
5 you meet Kerr Reid he doesn't say to you how are we  
6 getting on with this and how are we getting on with  
7 that. We don't discuss the case at all.

8 MISS CARMICHAEL: I understand that. I do have a further  
9 question for you, Mr Brown, on that point. You say this  
10 happened on 28th May. You didn't tell anybody involved  
11 in this Inquiry about that until today.

12 A. No.

13 Q. If you had done I would have been able to ask Mr Reid  
14 questions about that?

15 A. I quite appreciate that, yes.

16 Q. You sat there and you heard him give his evidence and  
17 you didn't approach anybody on the Inquiry team so that  
18 Mr Reid could be asked questions about that.

19 A. Yes.

20 Q. Why not, Mr Brown?

21 A. Because I knew we were going to have an inquiry and if I  
22 was asked I would broach the subject here.

23 Q. But it would have been fair to Mr Reid, wouldn't it, to  
24 have the opportunity to answer back as to what you are  
25 saying about 28th May. You were sitting right across

1           there. You could have passed information along so that  
2           I could have asked him a question about that and you may  
3           be assured if you had done I would have done.

4                     I really am quite concerned as to why you didn't do  
5           that.

6       A.   Yes, in hindsight probably I should have but it puts him  
7           behind the 8-ball to a certain extent. He's telling me  
8           this and I don't think he realised the significance of  
9           it and we were actually -- it wasn't on the phone. We  
10          were standing looking at each other when he said that.  
11          "Is he on the list", and I said "who?"

12                    "The man I spoke to at Paisley High Court", and I  
13          said, "How the hell would I know, you never told me his  
14          name", and that was an opportunity -- that was it. I  
15          knew I was coming here to give evidence and I would say  
16          so and if you're so concerned about Kerr Reid it  
17          wouldn't be too difficult to recall him and ask him,  
18          bearing in mind this is a man who's given a different  
19          version to what he told me originally.

20       Q.   Leaving paragraph 33, I think you have two further  
21           paragraphs 34 and 35 that deal with Mr Reid before we  
22           come back to him a little later.

23                    Can you satisfy yourself that that reflects your  
24           position.

25       A.   Yes, chapter 34 is Kerr Reid -- allowing for the fact

1           that Kerr Reid is Kerr Reid, he couldn't remember the  
2           trial, the offence, the accused or the date. I worked  
3           it out that it was the year 2000 and if he was able to  
4           tell us even the name of the person they were guarding  
5           in the dock I could have then sussed out who this other  
6           cop was. I was convinced the other cop was the cop that  
7           said about -- I won't repeat the word.

8        Q.    We don't need to go over that again. I'm simply asking  
9           you if you are happy with paragraphs 34 and 35 --

10       A.    Yes.

11       Q.    -- and that the Chairman should treat that as your  
12           evidence?

13                I would like to look at paragraphs 36 to 39 next.

14       A.    Yes.

15       Q.    Again I would like to give you the opportunity to read  
16           that over and make sure that you are happy in the first  
17           instance with those four paragraphs, that there's  
18           nothing in there that you feel doesn't express your  
19           recollection of the position.

20       A.    I would like to add to chapter 36 the sergeant who I  
21           spoke to. The Section Sergeant who apparently knew me  
22           was a Sergeant Stewart, and that's based at Stewarton.

23       Q.    Sergeant Stewart?

24       A.    Stewart with a W, yes. This was me having applied to  
25           the Legal Services Department of Strathclyde Police to

1 interview Mark Lees. I got the okay and paid the fee of  
2 £121 under protest and telephoned to speak to -- I  
3 always do it through a senior officer and, as I say, the  
4 Section Sergeant came on and I spoke to him and he said,  
5 "He's here. You can speak to him", and I spoke to Mark  
6 Lees on the phone and he said he had no objection to  
7 being interviewed. This was on a Thursday and he said,  
8 "I'm night shift tonight. I'm night shift tomorrow  
9 night. I'm off Saturday, Sunday. I'll be back in  
10 Monday. Why don't you phone in Monday and I'll arrange  
11 for an interview on the Tuesday", and I said, "Now, this  
12 is very important to you and it is very important to me  
13 and it is very important to Marion Ross. If you wish,  
14 you can have a solicitor present or a Federation  
15 officer. I've got no objection or even a colleague".  
16 He said, "No, that will be all right". I said, "Right,  
17 I'll phone you on the Monday and we'll arrange Tuesday",  
18 and he said yes.

19 You'll notice I'm not reading this. This is from  
20 memory because it's so important. And I phoned on the  
21 Monday and the same sergeant, Section Sergeant Stewart  
22 said, "What did you say to him on Thursday because after  
23 he spoke to you he put the phone down, went out the door  
24 and I haven't seen him since. He's reported sick. What  
25 did he tell you?" I said, "He told me he was night

1 shift Thursday/Friday". He said, "Les, he doesn't do  
2 night shift".

3 Having seen Mr Lees giving evidence in this court I  
4 can understand. It all comes together about his  
5 attitude.

6 Q. I would like to be just quite clear what your evidence  
7 on this is because what you say at paragraph 38 of your  
8 statement is that you phoned the following Monday to  
9 make final arrangements and spoke to the Section  
10 Sergeant again and that he asked you what you had said  
11 as PC Lees had walked out, reported sick and not been  
12 seen since.

13 A. Yes.

14 Q. I think what you just said to the Inquiry was that the  
15 Section Sergeant asked what he'd said to you. Now have  
16 I got that wrong? Oh, yes, "What did he tell you", and  
17 you said to the Section Sergeant, "He told me he was  
18 night shift Friday and the Section Sergeant said back to  
19 you, he said, "Les, he doesn't do night shift".

20 A. He doesn't do night shift, yes.

21 Q. Now that's not what's in your statement about your  
22 conversation with the Sergeant and I'd just like to be  
23 quite clear what the position is.

24 A. Which part are you referring to?

25 Q. This is paragraph 38 of your statement. You give an

1 account at paragraph 38 of your statement of your  
2 conversation with the Section Sergeant?

3 A. Yes. No, that's correct. I stand by that chapter, yes.

4 Q. But you told us something additional that the Section  
5 Sergeant asked you what PC Lees had told you?

6 A. No, he'd asked me what I said to PC -- he said, "What  
7 did you say to him", and what was his response. It  
8 might not be written down here in black and white but  
9 that's what happened.

10 Q. I just want to be quite clear about this because you  
11 have also told the Inquiry that the Section Sergeant  
12 asked you what PC Lees told you.

13 A. Yes. He said to me, "What did you say to him", and I  
14 told him.

15 Q. Do you stand by the bit of your evidence about telling  
16 the Section Sergeant that Mr Lees told you he was on  
17 night shift and the Section Sergeant saying that he  
18 didn't do night shift?

19 A. Yeas. He added a few adjectives but that's what he  
20 said.

21 Q. So that's in addition to what you say in paragraph 38 of  
22 your statement, that's something extra that you're --

23 A. Paragraph 38 is a general summarisation of what happened  
24 and then the basis of me sitting here giving you verbal  
25 evidence, I'm entitled to add a word or detract a word

1 without --

2 Q. That is what I am trying to make clear, that that is

3 something --

4 A. Yes. The gist of it is exactly the same.

5 Q. Paragraph 39 I don't need you to read it out but are you

6 happy it records your position?

7 A. Yes.

8 Q. Does paragraph 40, if we go to the next page, also

9 reflect your position?

10 A. Yes.

11 Q. In paragraph 41 you record that you got in touch with

12 the office of the Assistant Chief Constable of

13 Strathclyde to complain --

14 A. Yes. Can I just go back to chapter 40 for a second

15 before we leave it for the benefit of his Lordship. I

16 always understood as I sit there that if you applied --

17 see, my difficulty is I'm an ex-policeman, I'm not a

18 policeman, I'm an ex, retired policeman, and I always

19 understood and in all my entire Police Service and I've

20 been on hundreds of precognitions, if I was told,

21 "There's a precognition for you for Friday at 3.00", I

22 never, ever queried it. I just presented myself for a

23 precognition and I could not understand why I was not

24 being allowed to precognosce those officers and I

25 thought, "Who do I turn to for assistance". There's no

1 use phoning the Fiscal in Kilmarnock. I phoned the  
2 Procurator Fiscal at Dumfries, a man called John  
3 Service, and asked his advice, has he ever heard of a  
4 police officer declining to give a precognition and he  
5 said, "No, I haven't. What's the problem?"

6 I then phoned Joe Beltrami's office. He wasn't in  
7 but I think it was a QC that works with Joe Beltrami and  
8 he said, "I've never heard of it". So I then  
9 established to myself to my own satisfaction that these  
10 officers had no legal justification, for declining.

11 In fact, when I spoke to Beltrami's partner I said,  
12 "What do you suggest I do", and he said, "Get a Sheriff  
13 to grant a warrant to get him in front of a Sheriff and  
14 then you can ..." I said, "I'm not doing that".

15 That's the problems I was facing. Now instead of  
16 Mark Lees saying he wasn't going to be precognosced,  
17 Strathclyde Police were saying he's not going to get  
18 precognosced either and I thought it was wrong.

19 Q. So in any event what you decided to do was to contact  
20 the Assistant Chief Constable's office?

21 A. Yes, and I did it through MSP.

22 Q. That resulted in a visit to you by some senior police  
23 officers?

24 A. Yes. Within a couple of days I got a visit from a Chief  
25 Superintendent Nicolson and a Detective

1 Superintendent Mitchell. So my complaint was obviously  
2 being addressed and I was quite impressed.

3 Q. At paragraph 42, if you could look at that, please,  
4 Mr Brown, you record that you spoke to the officers  
5 Nicolson and Mitchell in September 2007.

6 You write that you explained to them what Kerr Reid  
7 had said to you and that you actually phoned Mr Reid  
8 while you were with them.

9 A. This was me complaining about the fact that I was being  
10 thwarted by Strathclyde Police in my efforts to  
11 interview people, et cetera, serving police officers,  
12 and they assured me that they would take some action and  
13 they asked me -- at that point they did not have the  
14 name Kerr Reid and they said, "Would you be prepared to  
15 tell us the name of the officer who told you about  
16 Paisley High Court", and I said, "Yes, but I would  
17 request I be allowed to speak to him first".

18 They were in my house and I telephoned him from my  
19 house and said, "Have you any objection to me giving  
20 your name". This is the way I operated. I thought it  
21 was very fair and he said, "No, I've no objection". He  
22 said on the phone, this is about me speaking to the  
23 officer at Paisley who told me that a pal of his had let  
24 her in. This is him changing his story. I said -- I  
25 repeated that in front of these two officers. So they

1 are well aware -- I don't know if they are witnesses or  
2 not -- they are well aware that the expression on my  
3 face was that Kerr Reid had just told me something that  
4 didn't match what he'd said before and they said -- and  
5 I said, "Have you any objection to speak to these two  
6 officers?" I gave him the opportunity of saying it was  
7 okay and he said.

8 I met Kerr Reid the following day, again, at a  
9 bowling match and I said, "You're going to get a visit  
10 from two seniors officers". He said, "They've already  
11 been". They arrived at his house 20 minutes after they  
12 left mine.

13 Q. There's one bit of paragraph 42 I would like to ask you  
14 about --

15 THE CHAIRMAN: I was wondering if we could finish this  
16 section, but obviously not, before the break so we will  
17 rise now until 11.55.

18 **(11.35 am)**

19 **(A short break)**

20 **(11.55 am)**

21 MISS CARMICHAEL: Mr Brown, we were looking at  
22 paragraph 42 your statement.

23 A. Yes.

24 Q. There was a particular sentence I wanted to ask you  
25 about and it starts four line from the bottom of

1 paragraph 42 and what is recorded here is:

2 "I felt that he had altered his story, although I  
3 may have picked him up wrongly."

4 I would just like to be quite clear about what you  
5 meant by that, Mr Brown. Do you mean that you may have  
6 picked him up wrongly when you spoke to him on the phone  
7 with the officers there or do you mean you may have  
8 picked him up wrongly when he first spoke to you?

9 A. My recollection is that I thought -- a possibility I may  
10 have picked him up wrongly when he first spoke to me. I  
11 was really being sympathetic and giving him the benefit  
12 of the doubt. I know what he said to me at the time and  
13 what my response was at the time. That's what he said  
14 and got the distinct impression the chap he shared the  
15 dock with was the chap who let Shirley into the house.

16 Q. As you said yourself, this is quite important because  
17 Mr Reid's given evidence on oath to the Chairman about  
18 this matter. So it is an important matter.

19 If there is a possibility, as you seem to be  
20 indicating there in your statement, that you might have  
21 picked up Mr Reid wrongly the first time you spoke to  
22 him it's very important that you clarify that for the  
23 Chairman.

24 A. Yes, I would say that I picked him up correctly. If you  
25 said to me it means he might be in trouble, I would

1 change that and say maybe I got it wrong. But I'm only  
2 doing that to protect him. What he said and what I have  
3 written down is what he said to me at the time.

4 Q. I'm not suggesting for a moment you should change  
5 anything you say to protect anybody, Mr Brown -- far  
6 from it -- but you have here in your signed statement  
7 written:

8 "I may have picked him up wrongly", and I think it  
9 is very important that we are clear as to whether you  
10 think there is a possibility that you might have picked  
11 Mr Kerr Reid up wrongly as to what you are saying he  
12 said on the first occasion you spoke to him about this?

13 A. Yes, well, I'm saying to you now that I did not pick him  
14 up wrongly. I probably read through that before I  
15 completed it and thought I'd been a bit rough on him but  
16 what I've said is what he said to me. But when I spoke  
17 to him on the phone in the presence of these two  
18 officers and they know and they knew from my expression  
19 that what he was saying on the phone wasn't what he said  
20 to me originally, so you would have to ask yourself did  
21 he change the story and, if he did, why did he?

22 Q. So your position today is that you did not pick him up  
23 wrongly?

24 A. Correct. I think that's borne out by the fact that when  
25 I speak to him, as I said, there's a postscript and he's

1 asking me on 28th May if I had seen the list and was the  
2 man he told me about on the list and I said, "How the  
3 hell do I know? You never told me his name".

4 Q. Had you seen a list of witnesses for the Inquiry on 28th  
5 May?

6 A. Sorry?

7 Q. When Mr Reid spoke to you on 28th May, had you seen a  
8 list of witnesses for the Inquiry?

9 A. That's a good question. He said, "have you seen the  
10 list of witnesses", and I said yes. So the presumption  
11 would be I must have seen the list of witnesses. If you  
12 say to me that a list of witnesses didn't come out until  
13 after 28th May then obviously it wasn't 28 May that he  
14 told me.

15 Q. Well, in fact, that is what I am going to tell you,  
16 Mr Brown. I understand that as at 28th May there was  
17 nothing on the website of the Inquiry about the list of  
18 witnesses and at 3.30 that day an e-mail went only to  
19 the Core Participants in this Inquiry with a schedule of  
20 witnesses.

21 A. Well, I'll correct that then and say that he never said  
22 it at Cameron Bowling Club but he said to me have I seen  
23 the list of witnesses. If you are telling me the list  
24 of witnesses wasn't out on 28th May then it was after  
25 28th May he said that. I don't think it's a big deal.

1 Q. Again, I would stress this is an important matter,  
2 Mr Brown. We are talking about what you are saying  
3 about a gentleman who has given evidence on oath and if  
4 he has not told the truth that would be a very serious  
5 matter.

6 Now, when is it that you say that he told you this  
7 and mentioned the list of witnesses for the Inquiry?

8 A. When you posed the question to me that when exactly did  
9 he say this to you and I, while sitting here, thought  
10 back when was the last time I saw him apart from here  
11 and it was at a bowling match on 28th May. If you say  
12 to me the list wasn't available on 28th May I'll amend  
13 what I said and say it was after 28th May. But he said  
14 it and he said it to me to my face. So we met somewhere  
15 between 28th May -- it may even have been the day he  
16 came here to give evidence.

17 Q. Well, that's at one point in either -- well, in fact  
18 that was the very first day we heard evidence. That was  
19 9th June this year.

20 Are you saying that that occurred on 9th June this  
21 year in Maryhill Community Central Hall that you had  
22 this conversation with him?

23 A. I'm sorry, I only got half of what you said.

24 Q. I'm sorry, it is probably my fault for not speaking  
25 close enough into the microphone.

1                   Are you saying that Mr Reid spoke to you about the  
2                   list of witnesses on 9th June at Maryhill Community  
3                   Central Hall?

4       A.    There was an occasion when we were together. The only  
5            time we were together was 28th May and the day he gave  
6            evidence was 9th June, wasn't it?

7       Q.    That was 9th June, yes. So it must be one or the other?

8       A.    Well, it can't be 28th May if the list wasn't available.  
9            If you're trying to catch me out here you are not going  
10           to succeed. We are discussing a list --

11    THE CHAIRMAN: I don't think anyone is trying to catch you  
12            out. We are just trying to establish when it was.

13    A.    It seems to me it's more important when he said it than  
14           what he said. I'm saying to the Inquiry that he asked  
15           me if I had seen the list of witnesses and I said I had  
16           because I had so it was after 28th May.

17    MISS CARMICHAEL: You had seen a list of witnesses?

18    A.    I had seen the list; I had the list at home -- not on  
19           28th May I hasten to add.

20    Q.    When did you get a list of witnesses, Mr Brown? And  
21           from whom?

22    A.    I think I got them off the computer. I think it was on  
23           the Internet.

24    Q.    I see. If I may have a moment, sir. **(Pause)**

25           Mr Brown, which website did you go to for a list of

1 witnesses?

2 A. Sorry?

3 Q. Which website did you go to for the list of witnesses?

4 A. The Fingerprint Inquiry. I actually get it through the

5 McKie website.

6 Q. Right, so you went to Mr McKie's website which is

7 shirleymckie.com and you, what, got a link to this

8 Inquiry?

9 A. Yes.

10 Q. Is there a link --

11 A. Yes.

12 Are you telling me the list of witnesses did not

13 appear on the Internet?

14 Q. I want to find out how you found the list of witnesses,

15 Mr Brown.

16 A. I'm just looking to see if I've got it with me but I do

17 have a list of witnesses.

18 Q. I would like to take a moment, please. **(Pause)**

19 A. I get the distinct impression that you're telling me I

20 shouldn't have a list of witnesses.

21 Q. I'd just like to know what list of witnesses you are

22 referring to, Mr Brown. You told us you looked at one

23 and I'd like to know what it is?

24 A. I think -- my recollection is I downloaded it from the

25 Internet. If you are telling me it wasn't on the

1 Internet then I didn't.

2 THE CHAIRMAN: You see, if this witness is to be brought  
3 back to be confronted with what he is supposed to have  
4 said we need to know when exactly he said it and in what  
5 circumstances. I think that is what counsel is  
6 exploring. In fairness to him, he is entitled to know  
7 where and when he's supposed to have said what you  
8 attribute to him.

9 MISS CARMICHAEL: Do you have the list of witnesses --

10 A. I don't have it with me. I seeded out quite a bit of  
11 the paperwork to make it easier for coming here and I  
12 left it on my desk at home. I have a list of witnesses  
13 and I'm not on it.

14 Q. You say you're not on it?

15 A. I'm not on that list, no. So that was some time ago.

16 Q. Because what I can say is on the Inquiry website is  
17 Senior Counsel's opening statement which I think  
18 contains a table of witnesses with various references  
19 but your name is on that, Mr Brown.

20 THE CHAIRMAN: Maybe it would shorten matters if Mr Brown  
21 would be good enough to forward to us the list that he  
22 has.

23 MISS CARMICHAEL: That would be very helpful.

24 A. Yes. I think going back in my memory, I think the first  
25 or second witness was Kerr Reid.

1 Q. The second witness was Kerr Reid. You're quite correct  
2 about that?

3 A. So when did that come out?

4 Q. I'm sorry, I --

5 THE CHAIRMAN: Kerr Reid gave evidence on 9th June,  
6 according to my note.

7 MISS CARMICHAEL: Yes, that's correct, sir. There were two  
8 witnesses on the first day of evidence, Mr Steven Heath  
9 and Mr Kerr Reid.

10 A. Can I assist by saying that on 9th June that Kerr Reid,  
11 actually, he and I travelled in the same car to here and  
12 I did it on the basis he offered me a lift and I said,  
13 I'll do it on one condition, you don't discuss what  
14 you're going to say", because I knew what he was going  
15 to say was different from what I'm going to say and  
16 that's the basis on which we did it. Had he said to me  
17 prior to 9th June about this list of witnesses I would  
18 certainly have mentioned it in the car and didn't. So  
19 that tells me it was after 9th June.

20 Q. So it's after 9th June?

21 A. Yes.

22 Q. When did you see Mr Reid after 9th June? We're now at  
23 19th June. So that's a ten day period. When did you  
24 see --

25 A. Well, we're talking seven or eight days ago when he

1 spoke to me.

2 Q. And where did this take place?

3 A. Well, I meet with him occasionally, as I say, to do with  
4 the charity thing but my first recollection was the last  
5 time I met him, apart from here, was at Cameron Bowling  
6 Club but that was before he came here to give evidence  
7 and the Cameron Bowling Club wasn't even mentioned.

8 Q. You are now telling us this conversation must have taken  
9 place at some point after --

10 A. Well, if you are telling me the list come out after the  
11 28th then exactly, yes.

12 Q. Mr Brown, I am saying that because you say that you took  
13 a lift with Mr Kerr Reid and that if he had said  
14 something to you about the list of witnesses before that  
15 point you would have mentioned it in the car and didn't.

16 A. Yes, he didn't; so it came after that.

17 Q. So that's why I'm saying that, not because of any list  
18 of witnesses being available on 28th May. I'm saying it  
19 because of what you just said in evidence.

20 A. You seem to be placing an awful interest in the fact  
21 when it was. I'm telling you he said it. A nice easy  
22 way to resolve this is to recall him.

23 Q. Mr Brown, if -- and I stress if -- it comes to be that  
24 Mr Reid is recalled, in fairness to him he will have to  
25 be told what it is he is supposed to have said, when he

1 is supposed to have said it and where he is supposed to  
2 have said it?

3 A. Of course, I've no objection to that.

4 Q. I can't do that unless you tell me when he said it and  
5 where he said it. Now that is why I'm asking you.

6 A. Right, I'm telling you what he said and if he was  
7 recalled he will say that also.

8 Q. And I'm asking you when he said it.

9 A. I would say it's a week ago.

10 Q. Where did he say it?

11 A. Well, while we're discussing this it's coming back to me  
12 that perhaps it may have been as a result of a telephone  
13 con -- he may have phoned me and said and the more I  
14 think about it the more I agree, that he would phone me  
15 and say, "Have you got a list of witnesses", and I said  
16 yes and he said, "Is the man who I spoke to at Paisley  
17 High Court on the list", and I said, "How the hell would  
18 I know", and that was it.

19 Q. So that was a phone call about a week ago?

20 A. Yes. It had to be after his first appearance here  
21 because being the person I am I would have said to  
22 him -- and I missed the opportunity, I should have said  
23 to him, even on the phone -- remind me who we're talking  
24 about to see if he came up with a name. He certainly  
25 said it. If it's as important as all that, I would

1 recommend, respectfully suggest that you recall him, put  
2 him in here and ask him and I will guarantee I will not  
3 mention it to him between now and then.

4 Q. Mr Brown, the other thing that you can do for us is, as  
5 I think the Chairman suggested, is if you let us have  
6 the list of witnesses that you have been referring to,  
7 perhaps with a note of where you found it, if that could  
8 be passed to a member of the Inquiry team just so that  
9 we're all clear about exactly what it is you are  
10 speaking about. I won't detain you any longer on that  
11 point at the moment because I do realise you do not have  
12 it with you.

13 A. You know, the list of witnesses changes in appearance, I  
14 understand that I can tell you the list I have at home,  
15 I think Kerr Reid's at number 2.

16 THE CHAIRMAN: That is the list we would like to see if you  
17 could send it to the Inquiry, please.

18 A. Yes. The list -- I can -- I presume we'll be back here  
19 on Tuesday?

20 THE CHAIRMAN: Yes.

21 A. I'll come in on Tuesday and hand it in.

22 THE CHAIRMAN: The list may, you see, enable those who are  
23 better than I am on the Internet to know what date that  
24 particular document appeared which could be useful.

25 MISS CARMICHAEL: That might help us.

1 A. If I was asked to put a date on it I would say on or  
2 about 12th June. This is coming back to me while I'm  
3 speaking to you. I'm not being devious to say that it  
4 was as a result of him phoning me and he phoned me  
5 specifically to ask me if I had seen a list of witnesses  
6 and I said, "Yes, I've got one", and he said, "The man I  
7 told you about at Paisley High Court, is he on the  
8 list", and I said, "How the hell would I know". To me  
9 that's important.

10 MISS CARMICHAEL: Thank you for that, Mr Brown.

11 A. While we're talking I'll just check. It might be here.

12 Q. Take a moment if you need to but I don't want to detain  
13 you unnecessarily on that if you can give it to us  
14 later. **(Pause)**

15 A. No.

16 Q. Thank you for that. We will move on. Just to check  
17 paragraph 43, are you happy with the terms of that, in  
18 that --

19 A. Sorry, which one?

20 Q. Paragraph 43, Mr Brown. Are you happy that the Chairman  
21 should take that as your evidence?

22 A. Yes, that's okay.

23 Q. Thank you.

24 Now, we move on to a different topic here headed,  
25 "Golf professional at Troon", and you write:

1 "I was also informed by an anonymous source that a  
2 golf professional at Troon Golf Course, Gordon McKinlay,  
3 had been saying that he knew a police officer at  
4 Kilmarnock who told him that he had all the answers."

5 Is that correct?

6 A. That's correct.

7 Q. At paragraph 45 you say that you went to Troon Golf  
8 Course to see Gordon McKinlay?

9 A. Yes.

10 Q. Please tell the Chairman what happened when you did  
11 that.

12 A. Yes, this was something tangible that you could get your  
13 teeth into, if you like. I've been given the name of  
14 someone who might be able to help so I just got into my  
15 car and went down to Troon. In case the wrong  
16 professional gets libelled here, we're talking about  
17 municipal golf courses. Although it's a municipal golf  
18 course at Troon it's very, very high standard. There's  
19 three golf courses together and Gordon McKinlay is a  
20 well known -- was a well known golfer and I arrived at  
21 the clubhouse and he was in the professional shop. I  
22 recognised him. The shop was busy and he indicated that  
23 he'd seen me and said, "Can I help you", and I said,  
24 "I'll wait until the shop's empty", and I stood there  
25 for about 20 minutes and the customers -- I think it was

1 a foursome -- got what they were after and left and I  
2 went forward and spoke to him and I said -- and I didn't  
3 write this down, I do remember these things -- I said to  
4 him, "My name's Les Brown. I'm assisting the SCRO  
5 officers in the investigation. Do you know about it?"  
6 He said yes. I said, "Well, I have reason to believe  
7 that you are pally with a police officer from Kilmarnock  
8 and he plays golf on this golf course. I understand you  
9 may have some knowledge or some information about this  
10 officer that might help me", and I said to him, as I  
11 tend to do, "If you don't know what I'm talking about  
12 say so and I'm out of here", and he said, "Give me your  
13 phone number". That indicated to me there was some  
14 substance in what I had just put to him and I wrote down  
15 my home phone number on a piece of paper on his counter  
16 and left the premises.

17 Q. Now, I think what you say in your statement here is  
18 that, as you say today, Mr McKinlay took your phone  
19 number but you also say that he undertook to call the  
20 officer.

21 Is that your position today, that Mr McKinlay  
22 undertook --

23 A. No. My idea was if I gave him my phone number he could  
24 speak to this person if he existed and give that officer  
25 my phone number and that officer would then phone me but

1 of course it never happened.

2 Q. Did Mr McKinlay undertake to call the police officer?

3 A. No, I never said that. I just said, "I'll give you my  
4 phone number".

5 Q. I would like you to look carefully, please, at  
6 paragraph 45 of your statement, Mr Brown, if you've got  
7 that. What it says there is:

8 "He took my phone number and undertook to call the  
9 officer."

10 A. Yes, I see that.

11 Q. Is that wrong?

12 A. No, that's not wrong. That's correct.

13 Q. Just a moment ago -- and for those with the transcript,  
14 it is at page 65, line 3 -- you were asked:

15 "Did Mr McKinlay undertake to call the police  
16 officer?"

17 You said:

18 "No, I never said that. I just said, 'I'll give you  
19 my phone number'."

20 Which is correct, Mr Brown?

21 A. I think one of the problems I'm facing here is I'm not  
22 catching every word that you're saying. So --

23 Q. If there's a question you don't hear, tell me when I've  
24 asked it and I will make it louder.

25 It's not entirely satisfactory if you say you

1 haven't heard after you've actually answered a question,  
2 Mr Brown.

3 A. I probably take the easy way out by doing that, assuming  
4 that you have put the words together to say that  
5 particular question.

6 What I've said in paragraph 45 is correct.

7 Q. I see. That's your position?

8 A. Yes.

9 Q. Mr McKinlay will give evidence, I hope. If Mr McKinlay  
10 comes here and tells us that he doesn't know any police  
11 officers from Kilmarnock, what would your response be to  
12 that?

13 A. I wouldn't have given him my phone number. This is the  
14 difficulty I'm facing. I speak to these people and some  
15 of them by the time -- if they are coming here, appear  
16 to have altered their story slightly, albeit the gist is  
17 the same. He confirmed to me by his asking for my phone  
18 number that he did know of such an officer. In fact, at  
19 one stage -- it's not written down -- at one stage he  
20 said, "Half of Kilmarnock Police Office plays golf  
21 here". So you would follow on that by saying, "To which  
22 officer are you referring", but he never said that.

23 I was quite satisfied when I left that he did know  
24 of such an officer and, in fact, I telephoned him, I  
25 think it was about two weeks later, and I said, "Did you

1 pass on my message", and he said yes.

2 He can come here today and say, "I never said that".

3 That's up to him. I'm giving you the evidence that I

4 have, basically.

5 Q. You're telling us now that you had a phone call with

6 Mr McKinlay a couple of weeks later.

7 A. Uhu.

8 Q. You don't mention that in your statement though.

9 A. No. Well, that was the end of it. As far -- there are

10 inquiries I take that don't reach paper because, like,

11 Constable Reese. There's no point pursuing in Constable

12 Reese if he doesn't exist and I understand that Shirley

13 McKie has intimated elsewhere that she's never heard of

14 him. Well, I would go along with that.

15 Q. Still on the topic of Mr McKinlay, if it were to be that

16 Mr McKinlay came along and told us that he doesn't

17 remember you saying anything like, "If you do not know

18 what I'm talking about, say so and I'm out of here" --

19 A. Well, if he says that I didn't say that, he's a liar.

20 Q. -- and if he says that he would have told you had you

21 said that, that he didn't know what you were talking

22 about --

23 A. That's not what happened. I mean, I can remember that

24 quite clearly and it's a way that I tend to do -- if I'm

25 talking to someone seeking assistance from someone else,

1 I do put it in such a way that it leaves a door open.  
2 He may well very well never have contacted the officer.  
3 My information was that he was friendly with a police  
4 officer from Kilmarnock and on that basis I went to see  
5 him and the reaction I got from him confirmed to me  
6 there was such an officer. If he says that I never said  
7 to him, "If you don't know what I'm talking about, I'm  
8 out of here" he's telling you a lie on oath.

9 Q. Now, we will leave paragraph 45, Mr Brown. I would like  
10 to go back to paragraph 46 because I have a document I  
11 would like to show you. It's your witness statement  
12 with your own handwritten revisions on it and you have  
13 written some things on it and scored some things off it.  
14 I would like you to look at that carefully and in  
15 particular at paragraph 46 dealing with the evidence of  
16 SOCO Kerr, as he is described in that document.

17 I wonder if that could be shown to Mr Brown. Please  
18 take a moment just to look at that and satisfy yourself  
19 that it is what I'm telling you it is. **(Handed)**

20 **(Pause)**

21 A. Is this one you're referring to about Advocate Depute  
22 Sean Murphy?

23 Q. No, it isn't. It's paragraph 46 headed "SOCO Kerr".  
24 You gave evidence earlier that that was a paragraph that  
25 you were saying that somebody else had put into your

1 statement and that it wasn't something that had come  
2 from you. What I'm showing you is the statement that  
3 you sent back to the Inquiry with your own annotations  
4 on it and you have indeed scored out some paragraphs  
5 that you weren't happy with. You haven't scored out  
6 paragraph 46 relating to SOCO Kerr.

7 A. Yes, I see that, yes.

8 Q. Is it still your position that that is something that  
9 somebody put into your statement after you had signed  
10 it?

11 A. Well, I don't see 46A in this statement.

12 Q. Forget about 46A. Let's just concentrate, please, for  
13 the moment on paragraph 46, Mr Brown.

14 A. Bearing in mind the problems I had with other  
15 statements, anything is possible. I've got a statement  
16 now in my possession that came back from your office,  
17 after a two-week delay, with a 46A.

18 Q. That's absolutely correct. A paragraph was numbered 46A  
19 in your statement, Mr Brown. I have no dispute with you  
20 about that. The numbering of the paragraph relating to  
21 Sean Murphy is 46A and that does not appear as the  
22 numbering in the document that is in front of you.

23 But I am asking you about paragraph 46 because you  
24 had indicated that -- you seemed to be indicating that  
25 you thought that somebody else had put that in. Now, in

1 the document you have got in front of you you have  
2 actually scored out some bits that you obviously weren't  
3 happy reflected your evidence, haven't you?

4 A. Yes, I have amended it, yes.

5 Q. But you haven't scored out paragraph 46 and you haven't  
6 made any, I think, alteration to paragraph 46 in your  
7 handwriting. Am I correct?

8 A. The only thing I see is that everything's been altered  
9 except 46. I seem to have amended everything but 46 and  
10 there's parts of 46 I don't agree with and I do not  
11 understand why I haven't amended it.

12 Q. Are you saying that you have altered every paragraph in  
13 that document apart from 46?

14 A. No.

15 Q. No, you haven't.

16 A. I get the distinct impression you're trying to catch me  
17 out here. I'm doing this to the best of my ability.

18 Q. It is important -- it is very important, Mr Brown --  
19 because if you are suggesting that somebody has put  
20 something in your statement that is not your evidence,  
21 that is a very serious matter for the Inquiry and I  
22 would require to be quite clear that nothing of that  
23 sort has been going on. That is why I am asking you  
24 this.

25 A. I sent an e-mail to your office complaining about the

1 standard of statements and highlighted the fact that I  
2 referred to in one of my statements about the  
3 blood-stained watch and by the time it come back from  
4 there, it had been amended to two blood-stained watches.

5 How do you explain that?

6 Q. Mr Brown, we're not talking about watches. We're  
7 talking about paragraph 46 of your statement. What's  
8 your position? Was that in your statement as you sent  
9 it back to the Inquiry revised?

10 A. On the basis of what I'm looking at at the moment, I  
11 agree with what you're saying that that 46 is what I  
12 said, yes.

13 Q. Thank you. Copies of that document will be made  
14 available to all around the table in due course so they  
15 can satisfy themselves of what's in it.

16 Moving on to paragraph 46A, as it is numbered, what  
17 you record here is that the Advocate Depute Sean Murphy  
18 has said to some officers that PC Lees committed  
19 perjury. You say that you reinvestigated this and you  
20 were told that Mr Murphy had told a number of police  
21 officers outside the court after Mr Lees had given  
22 evidence, "That's two that have committed perjury."

23 Are you content in the first place that this is in a  
24 form of words that you're happy for the Chairman to look  
25 at?

1 A. Yes. The form of words I recognise as me having said  
2 that, yes.

3 Q. Can you tell us who the officers you spoke to were?

4 A. More than one. Don't ask me their names because I can't  
5 tell you. More than one person said to me that that  
6 happened outside the court. I suspect it was said to  
7 SCRO officers.

8 Q. Well, who did you speak to? Why can't you tell us who  
9 you spoke to?

10 A. Well, whoever it was that told me is telling me  
11 something that I felt could be confirmed somewhere, just  
12 ask Mr Sean Murphy did he say that, because I remember  
13 saying who are the two he was referring to.

14 Q. I'm simply trying to find out if you can remember who  
15 you got your information from, Mr Brown. Can you  
16 remember that?

17 A. Well, I'll answer that quite succinctly and say I don't  
18 remember.

19 Q. You don't remember?

20 A. No. I put that in for what it's worth. If the  
21 Fingerprint Inquiry later it's found to be surplus to  
22 requirements and be deleted, it's no big deal. But my  
23 information is that Sean Murphy said that and if anyone  
24 asked me how do you resolve that then if I can't name  
25 who it was, my suggestion would be to put Mr Murphy on

1 the stand and ask him. He either said it or he didn't.

2 I was told that and I've thrown it in for what it's

3 worth.

4 Q. Thank you. We move on to paragraph 47 which is headed

5 "Collette McKay and Constable Morgan". I do have a

6 particular question for you about paragraph 47 but

7 before I ask you that, I'd like to be sure you're happy

8 with the way paragraph 47 is expressed. **(Pause)**

9 A. Yes.

10 Q. What I'd like to ask you is when you phoned Collette

11 McKay, did she know the name of the officer?

12 A. Collette McKay phoned me, as I recall.

13 Q. I see. Sorry --

14 A. I think she got my phone number from Fiona McBride.

15 Q. In fact, what you say in your statement here is "I

16 phoned Collette McKay" which is why I put to you that

17 you'd phoned her. Is that not now your recollection?

18 A. As a result of information I had received at that time,

19 I understand from Fiona McBride, I spoke with Collette

20 McKay on the phone. I've never met the lady.

21 Q. Did Collette McKay tell you the name of the officer

22 she'd spoken to?

23 A. The officer she had spoken to?

24 Q. Yes.

25 A. Yes, and my first question was "How can you remember his

1 name?" and she said there was a schedule put up on the  
2 wall to say that officers from Kilmarnock were coming to  
3 be appraised of how the SCRO worked and she said, "As a  
4 matter of fact the names are still here and I was  
5 allocated Constable Morgan."

6 Q. Because you'd written that you'd obtained a description  
7 of the constable and I wondered why you'd done that if  
8 you knew his name at the time.

9 A. Sorry?

10 Q. In your statement you say you phoned Collette McKay and  
11 obtained a description of the constable.

12 A. Yes.

13 Q. I'm wondering which you obtained a description if she  
14 was able to give you his name.

15 A. I said, "Can you describe him?" I just did that  
16 automatically and she did.

17 Q. I see.

18 A. But I cleared the point about how did you know -- after  
19 that length of time, how do you know what his name was?  
20 She said, "It's still up on the wall. I was scheduled  
21 to show a Constable Morgan round the office, which I  
22 did."

23 Q. Paragraph 48, again, if you could look at it before I  
24 ask you about it and check that you are happy with the  
25 words that used there.

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

2 Q. Can you tell us just today in your own words just as  
3 closely as possible what it was that PC Morgan said to  
4 you when you met with him on 6th May 2007?

5 A. Yes. I must tell you that I of course paid £121 to  
6 interview him, again to which I protested.

7 I went down to Kilmarnock Police Office and as I  
8 entered the front door of Kilmarnock Police Office, I  
9 was surrounded by uniformed cops who were leaving the  
10 building in a hurry and the sergeant at the head of the  
11 posse said, "There's been a major incident in the high  
12 street. Everyone's attending, except Constable Morgan.  
13 He's waiting for you."

14 So I would have to say for the first time in this  
15 inquiry, I was assisted by Strathclyde Police.

16 Q. What did Constable Morgan say to you?

17 A. Constable Morgan said that he had spoken to -- he could  
18 remember speaking to a lady when he was shown round but  
19 he disagreed with what her interpretation of what he had  
20 said to her and I said to him at one stage, "It really  
21 gets to the point you were really just chatting her up."  
22 He said yes.

23 Q. What did he say to you? Did he tell you what he had  
24 said to the lady at SCRO?

25 A. He said it was a general conversation. I said, "Well,

1 this lady's now alleging that you said talking about  
2 Lees" and he said, "No, I didn't say that." That's what  
3 he said to me.

4 And I put the point that the lady had said he had  
5 described Lees as a friend of his and he said, "Nothing  
6 could be further from the truth. I don't like the guy".

7 Q. Are you saying that Collette McKay told you that the  
8 name "Lees" had been mentioned to her?

9 A. No, no.

10 Q. So how does the name "Lees" come into this?

11 A. Because I said to him, "Do you know Constable Lees?"

12 Q. But before we get to Constable Lees -- and I appreciate  
13 you have mentioned Constable Lees' name here -- before  
14 we get to that, I would just like to be try to be clear  
15 what your recollection is that Mr Morgan told you he did  
16 say to the lady at SCRO.

17 A. He said it was just general chit-chat and I said, "Did  
18 you mention any name to her?" and he said, "No." I  
19 said, "Did you mention the fact that a friend of yours  
20 was involved in this?" and he said, "No", and I said,  
21 "Was the name 'Lees' ever mentioned?" He said, "No." I  
22 said, "Do you know Constable Lees?" He said, "Yeah, I  
23 don't like the guy."

24 Q. What you said in your statement here is that Mr Morgan  
25 told you that he had been trying to impress Collette

1 McKay and that he was making out he knew more than he  
2 did.

3 A. Yes, chit-chat.

4 Q. You can put me right if I am wrong, but what I'd taken  
5 from your statement was that Mr Morgan had said to you  
6 something like, "Well, yes, I did say that I knew the  
7 guy that let Shirley McKie in the house but I didn't  
8 really. I just said it because I was trying to impress  
9 her to chat her up".

10 A. No, that's not the case at all, no.

11 Q. That's not what happened?

12 A. No, he admitted to me that he spoke to the girl and I  
13 said to him, "Basically then were you just chatting her  
14 up, general conversation?" He said, "Yes." I said,  
15 "Did you ever say to her that the man you were talking  
16 about was Constable Lees". He said, "No."

17 Q. Why have you written here that Mr Morgan told you he was  
18 making out that he knew more than he did? What do you  
19 mean by that?

20 A. Who's saying that sorry.

21 Q. Please look at paragraph 48 of your statement, Mr Brown.  
22 If we read from the end of the second last line on the  
23 page, page 10, what's here is that he said he had been  
24 trying to impress Collette McKay and was making out that  
25 he knew more than he did?

1 A. Yes, that was the impression I got, yes.

2 Q. Did you get the impression that Mr Morgan had or had not  
3 said to Ms Mackay that he knew the chap who let Ms McKie  
4 into the house?

5 A. No, I'm saying exactly what it says here, that he was  
6 trying to tell her that he knew more than he did.  
7 That's what he's telling me. That was the impression he  
8 was giving to the girl and, strange as it may seem, I  
9 believed him.

10 Q. How did he make her think he knew more than he did.  
11 What was your understanding?

12 A. Well, my understanding was just he just said, "I know  
13 all about it". That's all. He didn't tell me that but  
14 that's my understanding. If he's chatting this lady up,  
15 he's trying to give her the impression that he knows all  
16 about the Shirley McKie saga.

17 Q. So --

18 A. But I believe when he said that it was chit-chat and  
19 that was the extent of it and when we shook hands at the  
20 end, I said, "Well, I believe what you've said and I'll  
21 inform your Section Sergeant accordingly".

22 Q. Did he ever say to you that he'd actually mentioned the  
23 Shirley McKie case or talked about the Shirley McKie  
24 case to the lady at SCRO?

25 A. No. You see, I think that perhaps what is alluding

1 everyone in this case is a lot of these cops are  
2 terrified to speak out and there's several reasons. If  
3 you want to know the reasons, I'll tell you but you  
4 won't like it, but there are certain reasons that police  
5 officers when they speak to me say, "Don't mention my  
6 name". And to be fair, a lot of them are considering  
7 their career and their pension. You've heard some of  
8 the police witnesses in here giving their evidence and,  
9 to me, it really does leave a lot to be desired.

10 Q. Mr Brown, if there are people that you think have  
11 information that's important to the Inquiry, then I  
12 would urge you to tell us who they are. I'm not  
13 particularly interested in why they might not want us to  
14 find out, I'm simply interested in finding out who they  
15 are because if there is information that the Chairman  
16 should hear, it's important that he hears it.

17 A. There are police officers out there who under no  
18 consideration whatsoever would appear here as a witness.  
19 There are about five police officers, within my  
20 knowledge, who I cannot name, who could solve this by  
21 telling us what actually happened and, for different  
22 reasons, they are afraid to do so.

23 THE CHAIRMAN: You can't name them. Is that because you  
24 don't want to name them or because you don't know their  
25 names?

1 A. Because I don't know their names, my Lord, yes.  
2 I've been told regularly by officers, senior  
3 officers, retired officers, that there are police  
4 officers out there who could solve this and I've done my  
5 very best to identify them. My wife and I were at a  
6 wedding and the couple dancing in the opposite  
7 direction, the chap intimated me and he said, "Give me a  
8 phone number and I'll give a phone. I can solve this".  
9 I don't need to tell you, I haven't heard from him since  
10 but what I did do was check with the bridegroom and  
11 asked who he was and he named him and I'm not going to  
12 name him here. That's not the way this is done.

13 My basic understanding is if anyone's got  
14 information for the Inquiry team, it's up to them to  
15 come forward.

16 Q. Moving on to paragraph 49, you mentioned Chief Inspector  
17 Stewart Carle. Could you read that paragraph and are  
18 you content that reflects what you want the Chairman to  
19 take as your evidence on this matter?

20 A. That's correct, yes. And, again, that's a name that's  
21 given to me that I can speak to and I spoke to him. I  
22 think this is the only police officer I've ever spoken  
23 to that I didn't pay £121 to do so. I spoke to him and  
24 he confirmed and I said, "If it's any consolation to  
25 you, I will not put your name forward without your

1 permission" and then of course, when I was contacted by  
2 the Inquiry team, I was asked who this inspector was and  
3 I said, "I'll need to speak to him first" and spoke to  
4 him and he said, "I have no objection to giving  
5 evidence."

6 So on one hand we've got officers that are willing  
7 to give evidence, like Stewart Carle, and fro him we've  
8 got another five that won't appear here for different  
9 reasons.

10 Q. I thought they wouldn't appear because you didn't know  
11 their names, Mr Brown. I thought that's what you said  
12 to the Chairman --

13 A. Yes. Most of them I don't know. I get phone calls and  
14 people stop me and speak to me and I've really got to  
15 say, "Who are you?" "I'm not giving you my name" and I  
16 say, "What's the reason?" I mean, this has gone on long  
17 enough for both sides.

18 Q. Now, for reasons that we canvassed yesterday about the  
19 Inquiry's Terms of Reference, I'm not going to ask you  
20 anything about the rest of your statement until we get  
21 to the paragraph 55 of it.

22 A. I quite agree with what you're saying and I would just  
23 like to record that I take exception to the fact we're  
24 not referring to chapters 50, 51 and 52. I do  
25 understand the reason, but I'd just like to make it

1 clear that under the situation that I find myself in  
2 trying to find out who murdered Marion Ross, then that's  
3 not being admitted.

4 Q. I think you made your position very clear about that  
5 yesterday --

6 A. I understand that, yes. Yes, I'm just making the point.  
7 I understand that, yes.

8 Q. Now, looking at paragraph 55, there is one matter that I  
9 would like just to ask you about.

10 A. Yes.

11 Q. That is when -- if we look at page 13 --

12 A. Yes.

13 Q. -- what's recorded here is:

14 "What I discovered is that Charles Stewart,  
15 Principal Fingerprint Officer, who attended the scene at  
16 the material time has the answer. Apparently in the  
17 'Case Papers' there is a note describing the 'tin  
18 impression'. During my inquiries, I telephoned the  
19 person in charge of the SOCO officers, a Kenneth Baillie  
20 and sought his assistance. I am still awaiting his  
21 response."

22 What I would like to ask you is when you discovered  
23 that there was something in the case papers describing  
24 the tin impression?

25 A. I would say about two years ago, shortly after I came on

1 board. Someone told me that there was a dust-free  
2 impression on a shelf in a room covered with dust.

3 Q. Well, I understand that information about a dust-free  
4 area may have come to you some time ago and you  
5 mentioned that, in fairness to you, in an e-mail some  
6 time ago which you then sent on to the Inquiry.

7 A. Yes.

8 Q. I understand you've known about that for some time and  
9 the Inquiry has heard some evidence about that.

10 What I want to know is when you found out that  
11 Charles Stewart might know something about it and that  
12 there was something in the case papers about it.

13 A. Yes, I pursued this. To me, it was very, very  
14 important. We've got a lady who's murdered and there's  
15 an impression on a dust-covered shelf free of dust which  
16 is the same shape as the tin that was found in Asbury's  
17 house. Nobody seemed interested.

18 Q. I understand why you're interested. My question was a  
19 simple one: when did you find out that Charles Stewart  
20 might know something about it and that there was  
21 something in the case papers about it?

22 A. I would say about three months ago.

23 Q. About three months ago?

24 A. Yes.

25 Q. Where did you get that information from?

1 A. That information came to me from, I think, Robert  
2 Mackenzie, who's a witness in this Inquiry.

3 Q. What did Robert Mackenzie tell you?

4 A. He said this -- sorry, I asked him, "Do you know  
5 anything about this?" and he said, "I do know and the  
6 man who also knows is a colleague called Charles Stewart  
7 and he has written a note about this very impression in  
8 the dust-covered shelf". It was only when I heard  
9 someone giving evidence in this hearing last week I  
10 suddenly realised that this information apparently is  
11 contained in the HOLMES setup and no-one seemed to  
12 pay it -- in fact, if I could just --

13 Q. Well, no. I would like you to stick to the topic that  
14 I'm asking you about please, Mr Brown.

15 Did Robert Mackenzie tell you that he had been shown  
16 the case papers with that when his statement being taken  
17 for this Inquiry?

18 A. No. I said to him, "Have you heard about this dust-free  
19 impression on the shelf?" and he said, "Yes" and I said,  
20 "What do I do about that? How do I find out?" He said,  
21 "Speak to Charles Stewart."

22 Q. I see. But you are quite clear that is something you  
23 found out about recently in the last three months. That  
24 was really all I wanted to know about that.

25 A. Yes.

1 Q. Thank you.

2 A. And he mentioned the fact that he thought -- Robert  
3 Mackenzie thought that Charles Stewart had written a  
4 note about the very same item.

5 Q. We can move on from that and the next section of your  
6 statement is headed up "allegations of perjury against  
7 Shirley McKie".

8 A. Yes.

9 Q. I would like you to read through from paragraph 56  
10 through to 61 and I would like to be sure that you are  
11 happy that the words there express what it is you would  
12 like the Chairman to take as your position.

13 A. Yes.

14 Q. And what you are doing here is you are drawing to the  
15 Chairman's attention an allegation that Shirley McKie  
16 didn't tell the truth in her perjury trial?

17 A. Yes. What prompted me in this angle was the fact that  
18 if Shirley McKie was telling the truth about Y7, this is  
19 superfluous. This Inquiry's superfluous if she's  
20 telling the truth. So I then decided is she a truthful  
21 person?

22 Q. I think we can probably follow your line of thought  
23 there. Your concern is that if she told an untruth in  
24 one place, she might not be a truthful person and you  
25 would be concerned for the Chairman to be aware of your

1 concern about that.

2 A. Yes. I'm happy that it's noted that -- I've noticed (I  
3 don't know if anyone else has noticed) that Shirley  
4 McKie has maintained all along that she's never been in  
5 that house. She doesn't always necessarily say it's not  
6 her fingerprint and on certain occasions when asked at  
7 the trial to explain how her fingerprint's got inside  
8 the house, on the basis that she's telling the truth and  
9 she was never in the house, she comes up with theories  
10 that are so bizarre they are incredulous.

11 For example, when asked how -- this is at her  
12 trial -- to explain the hand print, sorry, fingerprint  
13 Y7 being on the doorframe, she said that "My father does  
14 renovations on old houses and it may well be that I put  
15 my print on a doorframe that he has used somewhere else"  
16 and that's her explanation.

17 Q. Well, I think so far as Ms McKie's evidence at the trial  
18 was concerned, I think the Chairman does have the  
19 benefit of a transcript of that and we can no doubt  
20 refer to that in due course if we need to.

21 A. You see, I'm very well aware that this lady Shirley  
22 McKie -- and I've said this before and I've said it to  
23 her father -- throughout all of this has been to hell  
24 and back more than once. So have the SCRO officers.  
25 The only difference between them is Shirley's are

1 self-inflicted.

2 Q. Well, can we take it that that's your opinion, Mr Brown?

3 That's your opinion.

4 A. It's not my opinion (inaudible) dishonest. She  
5 committed perjury at her perjury trial and I've reported  
6 to the Crown Office to see what they're going to do  
7 about it and, again, in fairness to Shirley McKie, it's  
8 quite obvious to anyone reading her evidence at the  
9 trial she was acting on the advice of Mr Findlay.

10 Q. I think it would be fair to say, Mr Brown, that you were  
11 not yourself present watching Ms McKie give evidence.

12 A. No. I've read the transcript.

13 Q. And you are not privy to what went on between her and  
14 her legal adviser?

15 A. Sorry, the last bit?

16 Q. You weren't present, were you, when Ms McKie spoke to  
17 her legal advisers?

18 A. Of course not.

19 Q. No. So anything that you say about that is inference  
20 that you personally have drawn about why Ms McKie might  
21 have said something that she said.

22 A. My impression is the way she answered -- one of the  
23 questions she answered, "You would need to ask my lawyer  
24 that" --

25 Q. Well --

1 A. -- would tend to suggest that her lawyer had said to  
2 her, "Don't mention Peter Swann". That's quite obvious  
3 to anyone with any intelligence that reads that that's  
4 what she's saying. She's under a considerable amount of  
5 pressure in that witness box and she committed perjury  
6 and I've reported it as such to Crown Office and we're  
7 still waiting a reply.

8 I mean, it's straightforward. We're sitting here  
9 discussing things about who did you tell it to, what  
10 time, what day was it? Here's something that's fact and  
11 nothing's been done about it. You're sitting here today  
12 discussing the circumstances, what we're trying to get  
13 to the truth of the matter and that's what I'm  
14 determined to do.

15 Q. Well, the aim of the Inquiry is indeed to find out just  
16 as much as we can of the truth, Mr Brown.

17 A. I mean, this Inquiry has ruled that there's certain  
18 aspects of the Inquiry they're not prepared to discuss.

19 Q. Mr Brown, there is another matter that I do need to ask  
20 you about. I need to look at a note I've being passed  
21 before I do that and I am going to need a moment to do  
22 that. I am not asking a further question at the moment.

23 If I may just have a moment to check something, sir,  
24 before I continue.

25 THE CHAIRMAN: Yes.

1 MISS CARMICHAEL: **(Pause)**

2 I do want to return to the question of Marion Scott  
3 briefly before we finish, Mr Brown. We expect that  
4 Marion Scott will come and give evidence to the Inquiry.  
5 It may be that the Inquiry will hear evidence from her  
6 that you contacted her rather than she contacting you?

7 A. Sorry, who's this that you're on about?

8 Q. Marion Scott, the journalist lady that we spoke about  
9 earlier today.

10 A. Yes.

11 Q. It may be that she will come and tell the Inquiry that  
12 you contacted her rather than she contacting you,  
13 because you were already involved in the matter before  
14 the contact with her.

15 A. That's not my recollection. Whatever Marion Scott says  
16 sitting in this seat if she's appearing today I would  
17 take with a pinch of salt.

18 Q. And she may say that when you contacted her you said  
19 that you picked up some information from someone you'd  
20 met in a bowling club and that it was a friend of a  
21 police officer who'd let Shirley McKie into the house  
22 because she fancied her. Do you remember that?

23 A. No, I never said that.

24 Q. Now, you told us about what was said at the first  
25 meeting you had with Marion Scott about an alleged

1 romantic liaison in the house where the murder had taken  
2 place. Now, it may be that Miss Scott's position in  
3 evidence will be that the matter was mentioned as rumour  
4 in the course of that meeting.

5 How does that accord with your recollection?

6 A. Yes, on the basis that she has said in front of four  
7 witnesses what she said, I'm the type of fellow that  
8 doesn't let it lie. I investigated this myself to find  
9 out. Somebody must have said something. You're going  
10 to cut me off here, aren't you?

11 Q. Not all. I'm looking down at my note. Please don't  
12 infer anything from that.

13 THE CHAIRMAN: I think you wanted to complete your answer,  
14 did you?

15 A. Yes. She said in our house in front of these witnesses  
16 that it was well known in the media that Shirley McKie  
17 had a romantic liaison with a police officer in the  
18 house and I said, "Marion, what you talking about? It's  
19 impossible". Even allowing for the obvious lack of  
20 professionalism regarding this house at the time, it  
21 would be impossible for her and him to do anything in  
22 the house. It's been impossible to find out if she was  
23 actually in the house and anyway ...

24 So I then decided in her saying that after she'd  
25 gone and agreed what we were going to do and let me tell

1           you that I was a co-founder of an organisation called  
2           The Search for Justice. On that day and the following  
3           day The Search for Justice Did not exist as a result of  
4           a phone call from Mr Iain McKie to the other chap who  
5           formed us. It existed only in name. Up until then, I  
6           had investigated about 11 serious crimes, most of which  
7           I solved -- again without payment from anyone, a  
8           voluntary organisation. If you'd like me to tell you  
9           what Mr McKie put in his website in connection with this  
10          incident, it was a very interesting postscript to this  
11          one.

12                 This is an e-mail I sent as a result of a letter --  
13          to me a threatening letter -- from Digby Brown. I've  
14          got a copy of it here. They wrote to me to say that  
15          this information had come to hand that I was spreading  
16          malicious rumours. I don't spread malicious rumours  
17          about anyone. They sent me a letter to say that:

18                 "... you immediately disclose the name and address  
19          of the individual you say told you they had a  
20          conversation with dock escort."

21                 That of course was Kerr Reid and I didn't reveal it.

22                 However, I replied by saying -- and I think this is  
23          worth hearing -- this is on Iain McKie's website. I  
24          looked it up. I mean, if they are saying that, it must  
25          have some from somewhere. Statement from them -- this

1 is what it said. The heading is "A statement from the  
2 McKie family":

3 "In 1997 an informal briefing was given to  
4 reporters."

5 I never knew there was such a thing. I've never  
6 heard of an informal briefing with the reporters.

7 "In 1997 an informal briefing was given to reporters  
8 by a senior police officer involved in the Marion Ross  
9 investigation."

10 That's in 1997.

11 "At this time he stated that Shirley's fingerprint  
12 had been placed in the murder house while she was having  
13 sex with her married police lover."

14 The McKie website says:

15 "The descriptions given were graphic and cannot be  
16 repeated here ..." and so it goes on.

17 The outcome of it was I replied, as I say, Gordon  
18 Dalyell of Digby Brown -- I think he's sitting beside me  
19 here -- and, as I say, the day after Mr McKie phoned  
20 Brian Davis, who was the co-founder of the Search for  
21 Justice with me. As of that day, we've ceased to exist.  
22 I've said to Mr Dalyell -- he'll have a copy:

23 "I have mentioned to you earlier that all  
24 correspondence I send or receive relative to Shirley  
25 McKie, including the e-mail I've sent to you, I forward

1 to Crown Office and have done so from the start,  
2 regards."

3 Now, a very interesting thing happened here when a  
4 witness was giving evidence. I think it was Stephen  
5 Heath and Mr Dalyell asked Stephen Heath if he could  
6 recall having a conversation with a newspaper  
7 reporter called Marcello --

8 Q. Well --

9 A. You're going to interrupt me again and it's important.

10 Q. I am going to interrupt you, Mr Brown. I am going to  
11 interrupt you.

12 A. And I think that was a press conference.

13 THE CHAIRMAN: I didn't hear Mr Dalyell ask any questions in  
14 this Inquiry. So it could have been Mr Smith maybe.

15 A. Sorry, it was Mr Smith was on the point of asking  
16 Mr Heath if he could recall speaking to a reporter and I  
17 think you, my Lord, interrupted him and said, "We won't  
18 go down that road". I suspect that was the informal  
19 press conference and I think Stephen Heath told that  
20 reporter what he shouldn't have said.

21 MISS CARMICHAEL: I think we can probably refer to the  
22 record of that day to see what was said, but I think  
23 Mr Heath was in fact asked and answered some questions  
24 on that topic.

25 THE CHAIRMAN: Yes. I recollect stopping a witness at one

1 stage and I think a person was actually named,  
2 journalist.

3 MISS CARMICHAEL: Returning to Marion Scott, if we may, she  
4 may say -- it may be that she says to the Inquiry that  
5 you contacted her shortly after the meeting and asked  
6 her if she was going to do a story. Is that something  
7 you remember happening?

8 A. Sorry, say that bit again.

9 Q. That you contacted her -- that's Marion Scott -- shortly  
10 after the meeting and asked her if she was going to do a  
11 story.

12 A. Well, I would not disagree with that, no. She --  
13 Mr Smith has referred to me as an investigative  
14 journalist. I take it that was meant as a compliment.  
15 Marion Scott is an investigative journalist: I am not.

16 Q. Is it right that she told you that she wasn't going to  
17 do a story about it?

18 A. About what?

19 Q. About what you told her at the meeting and that you  
20 seemed put out by that.

21 A. I mean, it's entirely up to her. The only reason I can  
22 think she was there was she was acting as a kind of  
23 conduit, if you like, because of our successes as a  
24 search of justice in other cases, some going back -- one  
25 going back 47 years and she was so impressed that

1 anything to do with a good story she would be interested  
2 in.

3 Q. Well --

4 A. And I felt if the SCRO interest was made known to the  
5 public -- however, I discovered at a very early date  
6 that there's no publicity in favour of SCRO and I found  
7 out the reason why and I've noted there's very little  
8 publicity about this Inquiry, which is rather strange.

9 Q. Now, returning to your conversation with Marion Scott --

10 A. Yes.

11 Q. -- what she may say to the Inquiry is that she told you  
12 she wasn't doing a story on the basis of what you had  
13 said to her, that you seemed put out by that and that  
14 she told you that none of it had been proved and the  
15 newspaper weren't willing to act on it.

16 Now, do you remember her saying that to you?

17 A. No. I don't understand why she's saying anything I've  
18 said to her. I didn't say anything to her. She said to  
19 me about this and I ridiculed it. I said, "That's a  
20 load of rubbish. I don't believe that" and I still  
21 don't believe it. I do not believe that Shirley McKie  
22 was in that house with a police officer for a romantic  
23 liaison.

24 Can I say to you that if Shirley McKie(sic) alleges  
25 that I said something to her in the house or elsewhere

1 prejudicial to Shirley McKie, she will have it on tape.  
2 When she comes into this courtroom (if she's not here  
3 already) and hears this, she will almost certainly tape  
4 record it. She tape records everything. A lot of  
5 reporters do tape record. You will notice newspaper  
6 reporters now when they're sitting in the court of a  
7 hearing, they don't seem to write anything down. They  
8 don't need to. They're taping it.

9 MISS CARMICHAEL: Mr Brown, I don't have any further  
10 questions for you.

11 THE CHAIRMAN: Thank you. Obviously we have come to the  
12 lunch break. I take it there will be applications for  
13 leave to cross-examine the witness from you, Mr Smith.  
14 I will not take it now but it's just to see so that  
15 other witnesses are not kept waiting unduly long.

16 MISS CARMICHAEL: Sir, there's a matter that Senior Counsel  
17 has asked me to raise if I may have a moment. I am  
18 sorry; I know we are trespassing into the lunch break.  
19 **(Pause).**

20 Senior Counsel has indicated there is a witness he  
21 is intending to lead who is available this afternoon and  
22 this afternoon only. While I appreciate it is unusual,  
23 it would be most helpful if consideration could be given  
24 to interposing that witness before this witness is  
25 examined. It might be possible to fit the witness in if

1 examination is brief, but I wonder if that will be the  
2 case.

3 THE CHAIRMAN: I think you are getting more instructions or  
4 advice.

5 MISS CARMICHAEL: It may be that some discussion amongst  
6 representatives can take place as to the suitability or  
7 not of that happening as well.

8 THE CHAIRMAN: Yes.

9 MISS CARMICHAEL: I have been asked to raise it at this  
10 stage.

11 THE CHAIRMAN: If there was a problem, Mr Brown, I am  
12 sure you won't mind if we have to interpose a short  
13 witness.

14 A. Not at all. I'm here to help, my Lord.

15 THE CHAIRMAN: Thank you very much. We will sit again at  
16 1.50.

17 **(1.05 pm)**

18 **(Luncheon Adjournment)**

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