

Tuesday, 6th October 2009

1

2 (Afternoon session)

3 (1.55 pm)

4 ALAN SCOTT DUNBAR (continued)

5 Further examined by MR MOYNIHAN

6 MR MOYNIHAN: Mr Dunbar, I have one other main topic to ask

7 you about, which is the topic of peer pressure and

8 then --

9 A. May I just make a statement prior to moving on regarding

10 the blind trial, Sir Anthony?

11 THE CHAIRMAN: Yes, certainly.

12 A. I would just like to clarify, as I mention in my

13 statement, that indeed there were other officers that

14 took part in this blind trial. So it wasn't just about

15 the names that were mentioned. There were at least

16 three or four other individuals who I have no

17 recollection who they were.

18 The staff wrote a list that evening. It was passed

19 on to various inquiry teams after it and I believe they

20 made attempts to try and find out who they were but

21 again in these three or four samples there was no-one

22 who disagreed and, indeed, Mr Halliday is to be added on

23 top of that, a sergeant who served in SCRO, and he

24 examined the material on the 18th, the next morning, and

25 he found the same conclusion.

1 So it wasn't about there's one or two that maybe
2 agree; there's one or two that don't. There were only
3 two who didn't come to the conclusion for other reasons;
4 not that they didn't agree, it's just that they would
5 have preferred to see it off the comparator in the
6 morning.

7 THE CHAIRMAN: Yes, I think one was tired or felt they had
8 been working all day, and tired eyes were not the way to
9 look at it.

10 MR MOYNIHAN: I am quite happy to acknowledge that. In
11 fact, Mr Halliday as I understand it found 16 points so
12 wasn't just in agreement. He found 16 points is the
13 evidence we have from him.

14 I know others would wish me to ask the question in
15 relation to the others who were involved in the blind
16 test beyond those that I have named, do I take it that
17 you have now no recollection of the names of the others
18 who were involved?

19 A. No. As you appreciate, it was a matter of perhaps three
20 years -- in fact, two and a half years prior to even
21 looking at this question again and it was when
22 Mr Mackay's team were asked to investigate the
23 surroundings and I was interviewed regarding this
24 subject and it was then I produced the staff list. So I
25 could only tell you who was on that evening when I

1 examined the staff list and I believe I gave an account
2 of that to them, but I had no recollection of who it
3 was.

4 Q. The two that I have to ask you -- the main topic I next
5 have to cover is the topic of peer pressure and I then
6 want to ask you some points of detail in relation to
7 enlargements and reports and then something in relation
8 to Mr Ashbaugh. Those are the topics I will cover with
9 you.

10 The main one is the question of peer pressure. So
11 far as peer pressure is concerned, you yourself cover
12 this in your witness statement and you say you were not
13 aware of peer pressure. If I take you within your own
14 witness statement, please, to paragraph 157, FI0053. I
15 am afraid I have not written down the page. It will be
16 after page 24 in any event. Can we scroll through.

17 We have found it and it is the original typed
18 page 33 and it is page 33 on the computer. At 157 you
19 say you:

20 "... have never heard of any pressure to confirm an
21 identification or elimination made by a Fingerprint
22 Officer's substitute witness. The individual officer
23 signs for him or herself and nobody else."

24 A. That's correct.

25 Q. So that is perhaps the wrong sort of context. So far as

1 you are aware, do you have any recollection at this time
2 of what might be called peer pressure; in other words,
3 not overt but a subconscious pressure on particular more
4 junior officers to confirm identifications made by more
5 senior colleagues?

6 A. I have certainly not heard of that, no.

7 Q. Are you aware of such a thing occurring?

8 A. Not to the best of my knowledge, no.

9 Q. We have had evidence from some witnesses that I perhaps
10 suggest for consideration by you in this context. One
11 particular witness, if I can just find my notes, is
12 Mr Padden. This would be on day 12 at about page 81
13 when he was talking about being asked about peer
14 pressure. He said that when he was a junior officer, he
15 perhaps had less confidence in his own opinion. In
16 particular, if he was finding 14 or 15 points in
17 sequence and agreement, he would be mindful that if he
18 didn't confirm it, the identification might not go out
19 as an identification and he was conscious, he said, of
20 rolled eyes and exasperated noise if he stopped
21 something going out.

22 Would you me to read over for you exactly what he
23 said?

24 A. If you wish, yes.

25 Q. It is day 12, page 81. It starts at page 80, line 16

1 and my question was this:

2 "If I move to the final point that you're discussing

3 and move to paragraph 12, in paragraph 12 you are

4 discussing the possibility of pressure being applied.

5 If I understand what you're writing in paragraph 12,

6 please take time just to read it and be clear, what you

7 are saying is there would certainly never be any overt

8 pressure by one officer on another.

9 "A. No.

10 "However, do you describe a situation in which

11 perhaps, if not pressure, then some subconscious

12 influence might be brought to bear?"

13 So you understand the question being put?

14 A. Yes.

15 Q. What he has noted as having said is:

16 "What I'm actually talking about is perhaps it's

17 just your level, your own levels of confidence when

18 you're newly qualified that you may be asked to check a

19 case and because of your lack of knowledge and

20 experience you may not be able to reach that point with

21 the standpoint standard. You had to get 16 points. It

22 may very well be that you get 14/15 characteristics and

23 you're absolutely happy that that belonged to the

24 individual concerned. However, you can't get 16. In

25 that situation, that identification if it was the only

1 mark in the case would not have left the office. That
2 potentially is a crime that would go undetected so you
3 would then maybe take that to the first checker who's
4 absolutely confident that there's more than enough
5 information there. You say I can only see 15. Well,
6 that means that you have stopped that identification
7 leaving the office. So looking back again you will say
8 perhaps you can understand why there might have been an
9 eye rolled or an exasperated noise that somebody had
10 made because you actually stopped an identification
11 going out the office so it certainly wasn't overt
12 pressure in any way it's just perhaps the level of
13 confidence that you had as an individual to maybe make
14 that decision that you know you might be stopping an
15 identification leaving the office because you don't at
16 that point have the knowledge and experience to see it
17 was 16. I would say that we don't have the scenario now
18 because we don't have the 16-point standard."

19 That is the full answer. Is there any comment you
20 would make in relation to that answer?

21 A. Several, to be quite honest with you. Whilst I can't
22 speak or comment on what Mr Padden found on an
23 individual basis, I would be extremely disappointed if
24 that were the case every time he put something forward
25 with 14 characteristics in sequence and agreement.

1 You would anticipate that when someone is training
2 they wouldn't necessarily see the 16 points in sequence
3 and agreement that a more experienced or -- sorry, I
4 will rephrase that -- that a longer standing expert
5 would see and it's because of his practice and
6 experience and the skill that he's able to illustrate
7 that and discuss it with the trainee.

8 Now, the 14 Mr Padden refers to, there would be
9 nothing to stop a conversation taking place -- now it's
10 recorded obviously what is said -- but there'd be
11 nothing to stop conversations taking place and an
12 illustration perhaps being marked on a comparator to put
13 that. And the fact that Mr Padden perceived it an
14 identification wasn't leaving the office is incorrect.
15 If something didn't reach what you've described as the
16 court standard, if it didn't reach 16 in a volume crime
17 case, intelligence still left the Department as an
18 identification and recorded the fact that it did not
19 reach the current numeric standard. So the information
20 did leave the Department.

21 He, Mr Padden, nor any other expert did not stop
22 that information. The only reason it was stopped is if
23 he said that it didn't belong to that person and there
24 is a huge gulf between agreeing on 14 characteristics
25 and not being that individual.

1 Q. If we leave out though the complication of the dire and
2 crucial role that we have covered, when that
3 intelligence left the office, if it did not mean the
4 16-point standard, that would simply go to the police
5 and would stop there as intelligence for them to follow
6 up?

7 A. It certainly went to the Criminal Intelligence
8 Department. What they did with that information they
9 would need to respond to that.

10 Q. The point I think I was understanding from Mr Padden was
11 the information would not be communicated to the
12 prosecutor as an inimical of evidence, a piece of
13 evidence in a prosecution if the 16-point standard had
14 not been obtained?

15 A. The response in any case, indeed, is not sent straight
16 to the court. It always goes via the organisation that
17 presented or submitted the case for comparison. So it
18 would always go out via the person that submitted,
19 whether it be a police agency or, in fact, a member of
20 the public, indeed, could make a request.

21 Q. But the position would still be the same, Mr Dunbar, if
22 it did not meet the 16-point standard it would go to the
23 police and no further. You would not expect it to be
24 communicated by the police as part of their evidence
25 summary going to the prosecutor?

1 A. At that particular time, that's correct.

2 Q. There are two other documents I would like you to look
3 at in the context of peer pressure, the second of which
4 I will come to is Mr Luckcraft's statement but before we
5 come to Mr Luckcraft's statement if I could ask you,
6 please, to have a look at the document DB0554.

7 I must apologise to the members of the public. I
8 have been advised over lunch that if I simply bring up a
9 full page that can't be seen on the public benches. It
10 so happens there is, in fact, only one paragraph I want
11 to ask you about in this particular document and we will
12 come to it just in a second. It is in the middle saying
13 "Not signing full ident".

14 But before we come to that, these are manuscript
15 notes of something called the Q Circle?

16 A. Quality Circle, yes.

17 Q. The Quality Circle. There are then initials of
18 individuals, you are yourself not mentioned in that but
19 your name is mentioned in the paragraph later. This one
20 happens to be dated 24th March 1995.

21 I must make it clear, Mr Dunbar I know nothing of
22 the provenance of this particular document so I want to
23 just ask you for your comment on this, please. If you
24 know nothing of it, then just say.

25 What was the Quality Circle?

1 A. The Quality Circles were started as a kind of precursor
2 for quality assurance being truly recognised within the
3 Bureau. Whilst we always practised and adhered to the
4 policies of quality assurance we didn't have a
5 recognised quality assurance position and it's also true
6 to say that we didn't have structured manuals and
7 written procedures the way they evolved into after 1997.

8 These were introduced by Chief Inspector Lawe and
9 carried out by Chief Inspector O'Neill, who was a great
10 advocate of the Quality Circles. And it gave the
11 opportunity for staff and, as you can see from the list
12 of names, it's a cross-section of staff at that
13 particular time. One person was from the ten-print
14 section, one was from team 1, team 2, 3, 4, 5 and 6. So
15 what you had was a cross-representation of staff
16 attending these meetings. They would be pre-briefed by
17 their own teams as to any topics that were to be
18 discussed, if there was any issues that they felt should
19 be heard. At the meeting this was then discussed and
20 hopefully we could come to some sort of way forward with
21 these particular issues.

22 Now, I would say 80 to 90 per cent of them were
23 staff orientated prompts and as you can see from that,
24 "Not signing full ident", concern was shown by the
25 group --

1 Q. If you give me just a second. It's only because I have
2 been told that members of the public can't see it unless
3 we highlight it. I trust that that can now be seen. It
4 says, "Not signing full ident"?

5 A. Yes.

6 Q. There has been a problem for me with the syntax,
7 actually understanding this particular paragraph.
8 Before I ask you to comment on it, could you just
9 actually read it out for me in what you would understand
10 to be its natural way.

11 A. You wish me to read it out?

12 Q. No, if I tell you there's a section in it which says:
13 "Over the question of persons' names being taken
14 over", and I just had a little bit of -- I think I now
15 understand it but I did struggle with it for a while.
16 Perhaps it says:

17 "Concern was shown by the Group over the question of
18 persons' names being taken over not signing an
19 identification."

20 What I understand that to mean -- it's no more than
21 my interpretation of it -- is that members of the Group
22 who were expressing concern that names were being taken
23 (i.e. were being noted) and it says "over not signing",
24 by "over not signing", is meant because they had not
25 signed. So concern was being expressed that names were

1 being noted because they were not signing an
2 identification.

3 Does my reading of that coincide with your reading
4 of what is being said?

5 A. No. I can actually give you the provenance of these
6 notes, if you so desire. It's not an issue. I made
7 these notes.

8 Q. Did you? It's your handwriting.

9 A. Yes. Well, I actually I recognise it in a Sunday
10 newspaper one morning so that's how I knew it was mine.
11 That was the first time I'd seen it for many, many
12 years.

13 These notes were taken as an aide-memoire to the
14 people that attended over what was discussed. So if
15 there's any misconception of what was discussed it's
16 entirely mine. With the addendum that these were passed
17 out to the individuals that attended the meeting, asked
18 if that reflected what was discussed and then they were
19 circulated to the department.

20 This topic was a misconception by members of staff.
21 This had been a rumour factory that people were going to
22 be noted any time they didn't, as you suggested,
23 Mr Padden's 14 characteristics.

24 That wasn't the case. What was clarified was that
25 supervisors would know if there was an issue regarding

1 training, et cetera, with particular individuals because
2 they received constant feedback both with comparisons,
3 performance, et cetera, and now and again there may have
4 been to be an occasion where you sent someone back to
5 training for whatever reason, not necessarily just about
6 not signing 16 characteristics. But that was the
7 perception by the Group -- sorry, some members of the
8 Group, that this was what was going to happen if they
9 didn't sign an ident. That wasn't the case at all.
10 It's a case of when an individual constantly did not
11 sign identifications when they were clearly and
12 conclusively established to 16.

13 Q. This is, in a sense you may understand, Mr Dunbar, why
14 there's a concern about the circularity of this, that
15 the individual is having his note taken because, as you
16 say, there clearly were 16 observable points. The
17 question is who judges that there were clearly 16
18 observable points? The answer to which, it would seem
19 from this memo, is that the supervisor is judging that
20 there are clearly 16 observable points and anyone who
21 disagrees on a serial basis is going to find his name
22 noted?

23 A. No, I would take task with that in so much that
24 the supervisor would be the first line of contact for
25 this concern but he or she would have to document and

1 they would have to establish that this was a pattern,
2 not just because they fancied signing something and the
3 individual concerned didn't.

4 So, again, it's a misinterpretation of what was said
5 at the time, bearing in mind these were made in 1995 and
6 clearly had nothing whatsoever to do with this case and,
7 indeed, were not a matter for Freedom of Information.

8 So these notes that were mine escaped from the
9 office and were circulated widely. Clearly it was an
10 individual that passed this out.

11 Q. You will now appreciate why I have said I don't know the
12 provenance of this.

13 A. Absolutely and if you were to throw this into everything
14 that's gone on, blind trials and all the rest of it,
15 please, bear in mind this made over two years prior to
16 it so it can have no connection with it and, again, I
17 would show concern the fact that it was the Group, it
18 was individuals perceptions of what would happen if they
19 didn't sign it. So maybe the individual concerned had a
20 confidence crisis themselves. There wasn't necessarily
21 a management issue and I think you will see I was trying
22 to confirm this with the Chief Inspector that only on
23 these occasions that could be documented that there was
24 a lacking that that is what would be passed on perhaps
25 to the Training Department, not that their name would be

1 recorded in a black book.

2 Q. But there are two points perhaps: first of all you
3 acknowledge that there was sufficient concern among
4 members of staff about this.

5 A. Or a member of staff, yes.

6 Q. Well, do you know whether it was more than one person or
7 just one person who was expressing this concern at the
8 time?

9 A. I couldn't tell you. As I say, they are totally
10 unrelated subjects. I can see how you could make the
11 quantum leap into saying they are part of the same kind
12 of background and atmosphere that was going on, but it's
13 just not the case.

14 Q. The final part of this is based on what I had asked you
15 before lunch about a number of individuals who, although
16 they were confident and, indeed, certain of identity,
17 they might be certain of an identity on many fewer than
18 16 points --

19 A. Yes.

20 Q. -- and Mr Padden, the bridge, is some form of unease, to
21 put it at its lowest, that although they were of that
22 opinion it might not progress to a prosecution because
23 they themselves could not find 16 points --

24 A. Well again --

25 Q. If I -- forgive me -- not attributing this to Mr Padden

1 at all, it is not what Mr Padden said, could you
2 understand that the outside observer might think, well,
3 there is here some subconscious -- not positive
4 pressure -- subconscious pressure being applied to
5 members of staff to have them tease out the 16 points
6 that are required to convert their certainty into
7 admissible evidence?

8 A. I can understand how you can misconstrue it as that. I
9 can't comment on Mr Padden seeing rolled eyeballs. I
10 would be extremely disappointed if that were the case on
11 more than the one occasion that he witnessed it but,
12 again, once a fingerprint expert is qualified, as I
13 think I've said in my statement, it's not about being a
14 junior expert or a senior expert, it's whether you are
15 competent enough or not. It may be that experts of
16 longer standing have more experience in interpreting and
17 displaying the features disclosed on a chance
18 impression. That will come with time. So, again, it's
19 Mr Padden's perception and I really can't comment on
20 that.

21 Q. The final point then is can I ask you why you would at
22 all be taking a note of an individual if he refused, as
23 it would seem, perhaps for perfectly proper professional
24 reasons, he refused to sign impressions that others had
25 signed? Why are you dealing with that, even as a matter

1 of training?

2 A. You mention that in isolation over one mark. I'm
3 talking about a repetitive process. An individual might
4 need spectacles for all I know and all it is is
5 highlighting a pattern. That's what was indicated here.
6 You can interpret it until you're blue in the face but
7 the simple fact was it was brought up by staff and they
8 were assured and, okay, in retrospect it may not look as
9 if I was giving any assurances there but the problem
10 with being the leader of a Quality Circle is that you
11 are the go-between between the supervisory staff, the
12 staff and the management and bearing in and I wasn't
13 management at this stage and I was asked to chair these
14 things because they felt that I could perhaps do that
15 mediation. No other reason.

16 So you're trying to encapture people's thoughts,
17 feelings, facts and then the management responds on one
18 sheet of paper and, again, I stress it was an
19 aide-memoire to the events. They are not minutes. They
20 are my perception of what was brought up and how it was
21 dealt with and no-one ever came back to me and said,
22 "That's a load of rubbish", or "That could be
23 misconstrued as such and such", and again to reiterate
24 it was 1995.

25 Q. Since it is not my design to turn blue in the face.

1 Maybe I will move on to another topic but maybe it may
2 actually gives rise to some heightened blood pressure
3 anyway.

4 Turning to Mr Luckraft's statement have you had a
5 chance to read that statement?

6 A. I have, yes.

7 Q. Mr Luckraft's statement for us is FI0113.

8 I was going to pick up some particular point as we
9 proceeded through but perhaps if I just ask you, since
10 you had a chance to read Mr Luckraft's statement do you
11 have an overarching comment on Mr Luckraft's statement
12 or do we need to go through it?

13 A. No, you can go through it if you wish. Clearly there's
14 an agenda here so if you wish to take the points
15 point-by-point that's up to you.

16 Q. My reason for starting was really to pick up what I
17 anticipated you might say, which is there is an agenda
18 here. So if there's a more general approach -- we will
19 look at some of the specifics, what do you mean by
20 there's an agenda here?

21 A. I'd just like to clarify that prior to reading this and
22 even in the description of the events that he describes
23 I have no issues with Mr Richard Luckraft and indeed I
24 regarded myself as being friendly with him, sincerely.
25 But on a professional basis that's another matter. When

1 Mr Luckraft was in the department, that was quite clear
2 that there were issues and he himself broaches the
3 subjects but clearly he remembers them completely
4 different in their interpretation from -- and I don't
5 just mean me, I'm talking about the rest of us. So his
6 perception of his time in SCRO is his perception and
7 that's really all I can say without being too personal.

8 Q. I don't want you to be --

9 A. I'll try not to be.

10 Q. If you are still friendly with him I don't want it to
11 become --

12 A. I don't have any contact but that was my consideration
13 at the time. There was no ulterior motive for making
14 these comments.

15 Q. If I begin on page 3, there are a few passages I just
16 want to pick up. Page 3, paragraph 6 he says:

17 "From what I could see, there was a culture in the
18 SCRO Fingerprint Bureau of holding their peers in very
19 high esteem, for example, Hugh Macpherson was considered
20 a brilliant, fantastic fingerprint expert who was not
21 capable of making a mistake and I observed that the same
22 inference was applied to Robert Mackenzie. It was very
23 much an environment in which the view was taken of the
24 more years' service equalled a higher skill level. In
25 my experience, this scenario is not always correct."

1 Do you have any particular comment on that? Plainly
2 you will accept that Mr Macpherson was, indeed, held in
3 high regard.

4 A. I accept it but, yes, I do have an observation on this
5 paragraph.

6 Q. I should also say I was not intending to insult
7 Mr Mackenzie by omission but Mr Mackenzie was also held
8 in high regard.

9 A. Indeed, yes, but I would like to take the personal
10 aspect of it and whilst the intonation of being a
11 culture, et cetera, I take strong challenge with. It's
12 not unusual. In fact, it's universal in bureaux
13 throughout the UK. I can't speak for other countries,
14 continents, but I know for a fact, indeed, the two
15 bureaux that Mr Luckraft worked prior to SCRO they have
16 this same notion that they hold people in high regard.
17 These people will have earned that on a day-to-day basis
18 over years and years of giving feedback to others. So
19 whilst he describes it as a culture. No, it's just a
20 fact. That's what happens. People are there and they
21 are consistently doing their job. Thousands and
22 thousands of cases, turning out findings. That's what
23 happens and I've been to Manchester and Aberdeen and
24 they did the same. They held their peers with longer
25 service -- sorry, certain of their peers with longer

1 service in high esteem. That has to be clarified. It's
2 not just everybody with longevity in the job that's held
3 in high esteem, it's earned.

4 Q. There are two particular points I will ask. First of
5 all -- and, please, I am not suggesting anything
6 conscious and deliberate in what I am next about to
7 suggest -- can you understand in a situation in which
8 there is that degree of respect afforded to certain
9 senior individuals that it does have at least a risk of
10 compromising the independence of the verification by
11 more junior individuals if they follow on and are told
12 that Mr Macpherson, for example, has already confirmed
13 this identification to a 16-point standard?

14 A. I can understand the thought process behind it but in
15 reality I would suggest that that's not how they were
16 trained; that's not how they performed. In fact, you
17 might even have regarded that some fingerprint
18 comparisons are almost adversarial, that you are trying
19 to find something wrong, so if you can eliminate that
20 fact from your mind that there is nothing wrong then the
21 decision is correct. So I would suggest that,
22 irrespective of whether it was Mr Macpherson,
23 Mr Mackenzie or anyone else, he or she is making a
24 decision on their behalf not Mr Macpherson's behalf and
25 any training that I've been involved in that's certainly

1 been imparted to the individuals: you make the decision
2 for you. You have to speak to and also on behalf of the
3 system, the organisation, everything it stands for, not
4 Mr Macpherson.

5 Q. The other point is in relation to the question of
6 someone being, in some senses, better at the job the
7 more number of years they have. That is what Mr
8 Luckraft is saying here: a culture where years of
9 service is made equivalent to a higher skill level.

10 Can I ask you this: in 1997, February 1997, when you
11 were looking at Y7, how long had you been qualified as a
12 fingerprint expert? If I remember correctly, the period
13 is taken from the point at which you start training not
14 the period at which you qualify as an expert. Is that
15 correct?

16 A. Yes, that's when you present your CV to court you
17 mention the fact from the day you start. So it was 5th
18 January 1971. So that would be whatever that was.

19 Q. 26 years?

20 A. Yes.

21 Q. So by February 1997 you are 26-years qualified. You are
22 the second most senior Fingerprint Officer in the
23 Glasgow Bureau?

24 A. No, I would suggest I was the Quality Assurance Officer,
25 whether I was the second most senior, I don't ...

1 Q. So you were more than eminently qualified in relation to
2 fingerprint examinations?

3 A. It's not a case of being eminent. If you are qualified
4 as a fingerprint expert and you have been doing the job
5 day-in-day-out through thousands and thousands of
6 comparisons, if that qualifies you then the answer is
7 yes.

8 Q. The reason I ask you this question is even in your own
9 statement when you come to the fact that in the civil
10 charting, the charting you did of Y7 for the civil case,
11 you were able to chart 16 points in sequence and
12 agreement, whereas in February -- and that would be in
13 2006 -- whereas in February 1997 you had not found
14 16 points. You don't know how many you found but it was
15 fewer than 16.

16 If I understand the explanation you give for being
17 able to do it in 2006, there are two explanations: first
18 of all, you may have had different material in 2006 and,
19 secondly, you had greater experience in 2006.

20 A. I don't think I actually mentioned that. I know other
21 witnesses have said that, about having greater
22 experience but I don't think I said that. What I did
23 differentiate is that the material I was presented with
24 by the Scottish Executive lawyers, who then had the
25 benefit of producing enlargements from digital lab as

1 opposed to a photographic lab, seemed slightly clearer
2 to me.

3 The remit I was given -- and I think previous
4 witnesses like Mr Bruce and company explained to you,
5 that we weren't asked to mark 16 in sequence and
6 agreement, what we were asked to mark was what we saw at
7 the time. So what I produced I couldn't tell exactly
8 which characteristics.

9 I believed in 1997 that some of, perhaps, the
10 incipient ridges weren't so clearly visible to me but
11 with the material I was afforded or was asked to mark up
12 these characteristics which I thought I looked at, they
13 seemed sharper to me.

14 So I demonstrated them on the enlargement but there
15 came a commentary with it to the Scottish Executive
16 lawyers. So it wasn't just about, "Here's 16 that I
17 prepared for court". It wasn't like that at all. I was
18 asked to mark what I thought I saw at the time. The
19 reality was I believed it was characteristics in this
20 group. Which 10, 11, 12, 13 they were, I'm sorry, I
21 don't know.

22 THE CHAIRMAN: You had no record of what you had seen in
23 1997.

24 A. Absolutely none, no. Again, to repeat myself from this
25 morning, I was asked to validate the response from the

1 Bureau and that's what I did.

2 MR MOYNIHAN: If I can then go on to paragraph 7 in
3 Mr Luckraft, again what he is doing is carrying on with
4 this question of what he calls the peer pressure culture
5 within SCRO.

6 There's obviously -- and I will not read it out for
7 obvious reasons -- an offensive remark made about
8 Ms McKie.

9 Do you have any comment on this?

10 A. No, I'm astonished that actually appears here. I'd like
11 to know who it was he was saying said this. Whilst I
12 can't guarantee every piece of conversation that went on
13 within SCRO at that time, it is hearsay and I've never
14 heard that described. I personally have no opinion on
15 any of these individuals described in this document. So
16 for any of us, particularly in my position, to say that
17 would be just farcical.

18 Q. The final paragraph on page 3 is paragraph 9. He says:

19 "In my experience, there was definitely a pattern
20 emerging at the SCRO Fingerprint Bureau of a culture of
21 being able to push a comparison to tease 16 points in
22 agreement. This was also the area where there was
23 probably the most peer pressure with junior fingerprint
24 officers because the SCRO fingerprint volume crime case
25 section, in which I worked, did not make identifications

1 in cases with less than 16 points."

2 Again, I just put that to you for your comment?

3 A. Yes, two things, Mr Moynihan. I've heard this before
4 "tease". I'm still at a loss to understand what that
5 actually means and I've heard it described as if you've
6 got 14 you've got 16. No, you don't. If you've got 14
7 you've got 14, so why would you tease it.

8 The second point, not to make identifications with
9 less than 16, I believe I've already described that that
10 information did, in fact, leave the organisation and was
11 regarded as an identification.

12 Just to wind back ever so slightly, you mentioned
13 Mr Padden being concerned over the fact it didn't reach
14 prosecution. I would suggest that any fingerprint
15 expert. It's nothing to do with him and her whether it
16 reaches prosecution or otherwise. They have a finding
17 which they report on, whether to the police or the
18 police and the prosecutors. That's what they do.

19 Q. If I move to page 4, paragraph 13, this is the start of
20 a long chapter in which he relates a specific incident.
21 The background to this is that we had evidence earlier
22 at the Inquiry from a Mr Sheppard from the National
23 Training Centre at Durham. He recounted, if I remember
24 it correctly, that an officer, subsequently confirmed to
25 be Mr Luckraft, had received a written warning. What

1 Mr Luckraft is saying is no, he did not receive a
2 written warning. So that is the first part: did not
3 receive a written warning deals with what Mr Sheppard
4 had understood.

5 If I understand, though, what this relates to is he
6 recounts a particular case in which he had been involved
7 where he had questioned the conclusion reached by other
8 officers?

9 A. Yes.

10 Q. What I would like you more specifically to comment on --
11 it begins at paragraph 13 -- is paragraph 22 on page 5.
12 He says at some point later on -- so that is after the
13 matter had been dealt with -- you, as the Quality
14 Assurance Officer, asked to see him and:

15 "I was allowed to look at the case again with
16 enlargements but I came to the same conclusion it was
17 not an identification. I stated that it was not
18 possible for such a vast difference of opinion between
19 experts. Alan Dunbar said to me that he was
20 disappointed that I had not resolved the issue by
21 initially stating to Collette Orr that the scene of
22 crime mark was insufficient for any comparison to be
23 made, ie containing between 1 and 7 characteristics. I
24 answered how could this be the case when two fingerprint
25 experts had found 16 and 14 characteristics in

1 agreement?"

2 If I understand it correctly, what Mr Luckraft is
3 saying is that the matter ended not with any written
4 warning but at most that expression of disappointment by
5 you the matter had been handled in the way that he did.

6 Is there any truth in what Mr Luckraft says about the
7 manner in which this particular matter was handled?

8 A. For his perception, absolutely not. I'd just like to
9 clarify that he said that he never received a written
10 warning from Mr Bell or I. Now, I can't comment on who
11 Mr Bell sends written warnings to because that should
12 be confidential and I accept that -- I wasn't in a
13 position to offer --

14 Q. If I just confirm, it's Mr Sheppard, the gentleman at
15 the National Training Centre at Durham, who said a
16 written warning had been issued. Mr Luckraft agrees
17 with you that there was no written warning. So
18 Mr Luckraft's not at odds with you. So if you forget
19 about a written warning.

20 What Mr Luckraft is doing in these pages that I have
21 just quickly gone through with the beginning and end is
22 there was no written warning but there was an expression
23 of disappointment by you at the manner in which he had
24 handled the particular disagreement?

25 A. You are right to say that's the beginning and the end.

1 The beginning I don't recognise. The middle bit is the
2 important part.

3 Mr Luckraft had occasion to challenge an
4 identification but not in the appropriate manner that
5 was described. What you have got here is a culmination
6 of his perception of how it was handled. Mr Luckraft
7 didn't listen to what was being advised to him regarding
8 the way we go around a possible erroneous identification
9 claim, because bearing in mind when it's brought forward
10 it's only a possible erroneous identification. You will
11 see from Mr Luckraft's statement when you read through
12 it he has been the arbiter of that fact himself,
13 contrary to what it was illustrated to him.

14 There is one other fact that he doesn't mention. He
15 confronted Mrs Orr -- and I will bring Mrs Orr's name
16 into this testimony -- he confronted Mrs Orr who made
17 the identification in an open office in an aggressive
18 manner. He, at a later stage, then confronted the next
19 person who had agreed with identification, Mr Charles
20 Stewart, in the office.

21 The procedure was quite clear -- and just no doubt
22 what the procedure is -- that at that time if there was
23 any thought of a possible erroneous identification it
24 had to be immediately passed to the Head of Bureau.

25 After this particular instance it reverted to the

1 Quality Assurance Officer and we reissued the procedure
2 regarding this matter.

3 He had twice not followed procedure. I had then
4 tried to regain the procedure, whereby we would obtain
5 multiple sets of enlargements which people could mark
6 and illustrate and then discuss and it was at this
7 discussion Mr Luckraft then winds forward to. His
8 memory is not quite correct in so much that he says
9 after this paragraph at a later juncture that he
10 produced a report to say he wasn't happy about it.

11 During this facilitated meeting with myself with two
12 enlargements trying to demonstrate or otherwise as to
13 identity he produced the report during the discussion
14 regarding possible erroneous. In his report he made
15 complaints about the way it was handled, about myself
16 and the fact he had already decided it was an erroneous
17 identification. So he had shifted the goal posts
18 100 per cent and, yes, I was extremely disappointed that
19 I hadn't been able to manage the situation and at a time
20 where the McKie case was prevalent we had this stuff
21 going on in the office. It wouldn't have gone on had
22 the procedures been followed appropriately because
23 allowance was made for individuals to say, "I don't
24 agree with this because ..." and you would demonstrate
25 it.

1 There's a two part phase to this discussion. I
2 would discuss with the individuals opposing. We're
3 talking about an instance that happened three times in
4 my entire tenure -- ten and a half years -- and on
5 occasions they weren't round to be erroneous. There was
6 a reason and parties accepted. We never got to that
7 phase with Mr Luckraft because he escalated it into
8 something else and I informed him at that time I had to
9 step back from it at that stage.

10 So it was then passed on because what I regarded as
11 a complaint, because you don't come to a facilitated
12 discussion regarding a fingerprint comparison with a
13 seven or eight page report with 50-odd paragraphs
14 telling me how you have been treated. That's got
15 nothing to do with the fingerprint identification. So
16 clearly I had to step back from it and asked him to do
17 the same.

18 I'd also like to clarify just at the end of this,
19 because it's coming up next, that he says he doesn't
20 know whether it went to court or not. Now I assured him
21 at that particular time we were actually beyond the
22 court procedure because of the backlogs and I assured
23 him it hadn't gone to court.

24 Q. That was going to be the end of my rehearsing of the
25 specifics of what Mr Luckraft had said.

1 Now I will just give you the opportunity, is there
2 anything that I have not covered that you would feel the
3 need to cover in relation to Mr Luckraft or have we
4 exhausted the point?

5 A. No, I don't think so. There are several points and I
6 could go on about it. Again, it's Mr Luckraft's
7 perception which I genuinely don't recognise. I could
8 take it from you if there were several people that were
9 coming. Mr Luckraft's sets himself up as somebody
10 different because he was the first to come in from
11 outside SCRO. He worked somewhere else but what he
12 fails to tell you is the reason for that is that
13 SCRO didn't pay very well and to attract people to
14 Glasgow was an absolute chore and even if we had an
15 expert shortage, which clearly we did with a 7,000-case
16 backlog, then it was only when we were able to advertise
17 an appropriate going rate of financial remuneration did
18 people start coming. So Mr Luckraft just happens to be
19 the first person but I don't see statements from all
20 those others that have come into the Bureau.

21 Q. That concludes that particular chapter of peer pressure.
22 I want now to go just to two incidental details, one
23 that serves two points.

24 If I begin with the question of reports and
25 enlargements. I would just like to clarify one

1 particular thing: in paragraph 4 of your witness
2 statement, you mention that after you qualified in 1978,
3 at the top of page 2 of the statement, around 1990 joint
4 reports were introduced and then you say:

5 "This resulted in a dramatic drop in the number of
6 cases where officers actually gave evidence."

7 A. Yes.

8 Q. What I would like you to clarify is what the causal
9 effect was. What was it that produced the reduction in
10 the number of occasions when officers were giving
11 evidence?

12 A. Prior to this when we gave evidence to the courts, they
13 then decided whether to call the expert or not. More
14 often than not they had you attend, just in case. When
15 they decided to use you, you had to try and use
16 everything from your memory. You weren't allowed
17 that -- it wasn't a production, your statement. It was
18 your statement. So they were very police-oriented.

19 When the joint report came in it was actually used
20 as evidence and could be served on a person in advance
21 of a trial. So if a person had three weeks' notice to
22 consider the information they would decide whether to
23 contest or not. So on many, many occasions they decided
24 not to contest.

25 Q. So, if I understand it correctly, prior to 1990

1 Fingerprint Officers were just like any other witness,
2 there was no formal notice of their inclusion?

3 A. No, that's correct.

4 Q. But from about 1990 there was a report disclosed to the
5 defence that, more often than not, brought about an
6 agreement of the fingerprint and Fingerprint Officers
7 did not need to give evidence.

8 A. Yes, there's that and it also gave the defence a chance
9 to prepare any defence that they had when they saw the
10 information.

11 Q. I am grateful to you. The other end of that particular
12 topic is at paragraph 170 of your statement.

13 A. Yes.

14 Q. This takes us to the point where the decision has been
15 made to move away from charted enlargements and you
16 mentioned being present at a meeting.

17 The only reason I wanted to ask you about this is
18 that Mr Gilchrist, who is the person who is named as
19 having been present, has no recollection of the meeting.
20 It is not to say it didn't occur, he just has no
21 recollection of the meeting so it was just to -- yes, it
22 is Mr Gilchrist, just to ask you to clarify, first of
23 all, you are referring to a meeting attended by Cathy
24 Jamieson, that would be the Justice Minister?

25 A. Yes, that's correct.

1 Q. And Mr Gilchrist?

2 A. No, it's a completely separate meeting. I think when
3 you read it -- I know Mr Gilchrist referred to that
4 because I read his transcript that night but it was
5 never intended to confuse the issue with being one
6 meeting. What I've actually said was "I was present at
7 the time of the suggestion that non-specific
8 case-specific photographed enlargements ought to be used
9 was made to senior figures such as ..."

10 So here we are, maybe on different occasions. Now,
11 Mr Gilchrist indeed met with myself, Mr Ewan Innes who
12 was the head of the then Scottish Fingerprint Service
13 and Karen McBride who was filling in a trainer's role
14 and taking part-time quality assurance. The three of us
15 met with Mr Gilchrist to put forward what we had
16 available to view. They were only suggestions at the
17 time in the move to the non-numeric standard.

18 People in other parts of the country had been doing
19 much the same thing so we were very, very close to the
20 generics that perhaps Mr Mackenzie showed you in his
21 demonstration about the lake, the bifurcation, all that
22 sort of stuff and poroscopy and ridgeology. So they
23 were very generic.

24 One thing I do remember is that both he and then
25 when we again met with Cathy Jamieson, was they

1 understood what we were trying to do but were both very
2 concerned they were non-case specific because of the
3 McKie case. That was just their concern. They made
4 that very clear.

5 Mr Gilchrist met with us in what was -- when we were
6 still based in Pitt Street in Glasgow prior to the move
7 to Pacific Quay and the reason I remember it so vividly
8 is because I booked the room and I booked coffee and
9 biscuits, et cetera because that's what you had to get
10 signed for. I didn't have that power in those days but
11 I do remember him and the reason I remember it so
12 vividly there were committee rooms in the top floor of
13 Pitt Street that you could hire -- sorry, not hire but
14 put your name against as a department and block times
15 allotted and they were all non-available. So I was
16 given permission to use one of the Chief's committee
17 meeting rooms. So it was the only time I was in this
18 exalted area in the building and that's why I remember
19 it.

20 Q. What I what to understand is why it was that these
21 senior figures, as you say, conscious of the McKie case,
22 were at that stage reluctant to move to generic
23 enlargements.

24 What were the reasons being given by these senior
25 figures to you for not making that change?

1 A. I think you've basically answered what they said to us.
2 It was the timing in their perception. We went through
3 the procedures and we laid it down in front of them and
4 we tried to explain that there was no
5 scientific evidence of 16 points. There was no legal
6 requirement for 16 points, that it was indeed a
7 recommendation.

8 So that they accepted. It was only when we started
9 talking about these non-case specific enlargements
10 compared to being requested, we assured both
11 Mr Gilchrist and Mrs Jamieson that if, indeed, they were
12 requested on an individual basis then they would be
13 produced but it was, as far as I could see, it was
14 purely on the timing of this announcement that we would
15 move away from it and it was to do, indeed, with the
16 McKie case. They didn't make any secret of that fact.

17 Q. Did they at that stage wish the Scottish Criminal Record
18 Office to stick by the existing practice that charted
19 enlargements would be produced in every, at least, High
20 Court case?

21 A. I think that, again, at the risk of repeating myself, I
22 think it was the timing. They saw what we were trying
23 to -- the reality is we were ready for non-numeric
24 standard long, long before this. We were actually held
25 back from progressing it because of the events

1 surrounding the Mackay Inquiry, et cetera. But we, in
2 actual fact, were ready to go at the same as England and
3 Wales and we were -- representatives from our
4 organisation (Mr Mackenzie, Miss Milligan and myself)
5 were all on committees and groups that discussed this
6 throughout the UK and we weren't doing something
7 different from England and Wales, we were on the same
8 page, but we were prohibited from doing it through
9 external factors.

10 Q. The final topic -- I will be brief, sir, I am conscious
11 of the time -- is in relation to Mr Ashbaugh. You will
12 have heard Mr Mackenzie speak of a conference or talk
13 having been given by Mr Ashbaugh in relation to Third
14 Level Detail that was then brought back by some trainers
15 to SCRO in Glasgow. I understand you may have been one
16 of individuals who was at the course by Mr Ashbaugh.

17 What I wanted to know was what the duration was of
18 the course with Mr Ashbaugh in relation to Third Level
19 Detail that preceded its being taught at the SCRO?

20 A. I would like to clarify just exactly what the attendance
21 was. I was there for a week and I was one of 80
22 trainers who participated in four one-week courses, two
23 in the south of England and two at Durham University.
24 Mr Ashbaugh used the basis of the material from his book
25 and several other marks, et cetera, that he had come

1 across and what it was, indeed, was an awareness course.
2 I mean, what he was trying to suggest was if you wanted
3 to get down to this sort of level you would need to
4 study a lot more, but it was the essence of the thing
5 and one of the pieces of feedback he actually got from a
6 Head of Bureau in England, Thames Valley Head of Bureau,
7 was that he had enjoyed the course but he was pleased to
8 report that it wasn't actually something different from
9 what he had been doing before but was, indeed, in fact,
10 verbalising what he used to carry out. So Mr Mackenzie
11 used the word "armoury". It was another tool to use but
12 it wasn't a different tool from what we had. It was
13 just it wasn't described on a day-to-day basis.

14 Q. The final question in relation to this was I asked
15 Mr Mackenzie what the scientific claim was in relation
16 to Third Level Detail and what I mean by that is what
17 value was being attributed to Third Level Detail.

18 Is part of the claim that Third Level Detail itself
19 alone can form a reliable basis of identification of a
20 fingerprint? Is that part of the claim?

21 A. Yes. Yes, that's correct.

22 Q. Do you know what investigations have been carried out to
23 validate or verify that claim?

24 A. I mean, there's been a lot of work carried out in this
25 particular field and previous witnesses have

1 described -- and Mr Wertheim included -- about Edmund
2 Locard in 1912 and Salil Chatterjee, there's still work
3 going on and there are numerous pioneers that have
4 looked at this but the reality is -- I think the
5 question you gave a witness the other day: what is the
6 scientific proof in this country? And the reality is we
7 are still looking at stated cases of Robert Hamilton and
8 a single print. But an expert cannot differentiate, he
9 cannot ignore that Third Level Detail when he is making
10 a comparison. So that comes as part of the package.
11 What Mr Ashbaugh is doing is allow you to interpret and
12 explain what you see.

13 I heard the description that you will get a target
14 set of points, four or five characteristics, and then
15 move over to the known print and see if you could
16 identify it. Yes, we'll accept that but you also bring
17 this other baggage that comes in the forms of pores,
18 ridge edges, shapes and an immediate comparison kicks
19 into place when you look at that known print so it's
20 actually your memory and your memory is telling you, "I
21 see the edge of that ridge. I see a pore here", so you
22 can't discount it. So Third Level Detail has always
23 been there.

24 MR MOYNIHAN: Those are all the questions from me, sir,
25 thank you.

1 THE CHAIRMAN: We will rise now for ten minutes until 3.10.

2 **(2.58 pm)**

3 **(A short break)**

4 **(3.10 pm)**

5 THE CHAIRMAN: Mr Smith?

6 MR SMITH: Sir, I do just really have two matters. They can

7 be dealt with fairly briefly. The first relates to the

8 general charting machine and the second relates to how

9 diligently the 16-point standard is applied in a general

10 sense.

11 THE CHAIRMAN: All right, if you want to ask about those.

12 MR SMITH: I'll try of course not to cover anything else

13 before.

14 **Cross-examined by MR SMITH**

15 Q. Mr Dunbar, as far as the charting issue is concerned, I

16 think that we are aware of a number of views indicated

17 that it was less than satisfactory in its function.

18 Is that something you would agree with?

19 A. Yes, I do.

20 Q. Can I ask you just to move towards the microphone a

21 little bit. I think some people are having trouble

22 hearing what you are saying.

23 A. Is that better?

24 Q. As far as the defect in its use is concerned, we heard

25 some suggestion that when one was trying to mark points

1 on it they weren't actually hitting the mark, almost
2 literally, the point you were trying to aim for.

3 Is that your experience of it?

4 A. It's my personal experience, yes. I found it very
5 difficult. In fact, I mention it in my statement. With
6 the slightest variation the cursor or pointer could
7 actually jump clear of the ridge. Whilst I can't speak
8 for every other member of staff, that was certainly my
9 perception of it -- sorry, my findings of it and on the
10 few occasions that I actually prepared enlargement
11 charts using the charting PC I found it very, very
12 difficult -- very difficult.

13 Q. Can I ask you this: I take it that obviously about this
14 time, about 1999, in particular the time of the trial of
15 Shirley McKie, the charting machine was the one that was
16 used as a means of attempting to demonstrate to, if
17 necessary, a jury as to where the points matched between
18 the latent and the inked print; is that right?

19 A. Yes, that was the media that we had. To let you
20 understand, Lord Anthony, we had no Photographic
21 Department so we really were relying on the good grace
22 of Strathclyde Police to provide photographic
23 enlargements when they could. Now at that certain time
24 what they call "quick spend money" became available
25 where the Department had the ability to buy this

1 charting PC. The charting PC was viewed as the future
2 and would be refined when it went on but the reality is
3 that it didn't.

4 I have since seen systems that are reproduced by
5 Sagem and it's their latest versions incorporated in
6 their AFR systems that are very accurate and very, very
7 good. But what we got was a stand-alone model with some
8 software written in it so it didn't quite capture
9 everything we tried to illustrate.

10 Unfortunately, because we were separate from
11 Strathclyde Police that was a decision that was made.
12 It wasn't necessarily made on a quality decision. It
13 was made on a needs must and financial decision.

14 Q. I understand that you were unhappy with it. Was that
15 really from the outset of its being introduced?

16 A. I was unhappy in my performance in being able to work
17 it. That was for sure.

18 Q. Equally, I suppose -- and I don't criticise that, I
19 think we have all had trouble with software in the
20 course of this Inquiry to some extent, at least in using
21 the various machines -- but, as far as that is
22 concerned, I am guessing that the fact you had
23 difficulty using it meant the demonstration it was
24 designed to provide wasn't actually necessarily capable
25 of producing an accurate demonstration if the jury was

1 to look at it?

2 A. I would suggest what we were trying to do, the
3 enlargements were prepared for illustration purposes
4 and, in any case, one enlargement was prepared per
5 individual and used solely as an illustration purpose.
6 The fact that you may not have been able to indicate
7 with the absolute minutest detail on the end of a ridge
8 or the centre of a bifurcation the officers were
9 describing the event that occurred there and, as you
10 seen from earlier evidence, even between the two
11 fingerprint forms there are interpretative differences
12 with regard to bifurcation or ridge ending.

13 What you were doing with the illustration was
14 highlighting the feature or event that took place in
15 that position, whether it was 1 millionth of an inch off
16 I have no idea but you were indicating to the place.

17 Now, I would suggest that the officers that were
18 doing this would redo it if it didn't adequately
19 describe what they were trying to do.

20 Q. I follow. But I take it that -- let's imagine you were
21 going to court and you had a charted enlargement and no
22 matter how hard you tried you weren't quite able to get
23 it exactly spot-on right what you wanted to demonstrate
24 where a point in the latent could be found. I take it
25 that is something you would disclose, as it were, to

1 either the police or the Procurator Fiscals' Department
2 and say, "Look, I've tried my best but I've got to tell
3 you this machine is not great. This doesn't actually
4 demonstrate what I was trying to demonstrate". That is
5 something that surely you would discuss with the
6 prosecution authorities, is it not?

7 A. With regard to discussing it with the prosecution
8 authorities I would rather doubt. As I've already
9 explained what you are trying to do is highlight the
10 feature described. Maybe when you're in the witness box
11 you would offer the explanation that I have already
12 given for the perceived non-accuracy but we are talking
13 about something that's enlarged. So any perceived
14 difference is going to be magnified. So whilst it may
15 be suggested that it's not precisely on that same spot,
16 it's close enough to indicate the feature described.

17 Me, personally, you asked that question: if I wasn't
18 satisfied with what I was producing for court I would
19 either do it again or I would get somebody that could do
20 it and they would demonstrate what I was trying to
21 demonstrate. So I wouldn't send it -- if you are
22 suggesting I would send in some substandard material
23 then the answer's, no, I wouldn't do that no.

24 Q. No, I'm not suggesting that for a moment there. I'm
25 just conscious of the fact that you weren't always

1 entirely happy with what was being produced but it is
2 something that you would, as it were, explain --

3 A. Indeed, whether it be in court or to the prosecutor but
4 it wouldn't be as a matter of course to the prosecutor,
5 as you maybe inferred.

6 Q. Very well. On one point of detail, finally, on this
7 question of the charting machine, were there ever
8 circumstances under which the image of the inked print
9 as compared to the unknown print, there would be mirror
10 images, one would be, as it were, flipped over; would
11 that ever happen?

12 A. Flipped over. Could you describe that more thoroughly,
13 sorry?

14 Q. Yes, it's a terrible question. I apologise for it.

15 Are you aware of circumstances under which, when a
16 charting enlargement is prepared, with on one side the
17 un-inked print, on the other the inked print, that
18 effectively one is a mirror image of the other? They
19 are a match but one is presented as a mirror image?

20 A. Yes, but again that would have to be clarified with the
21 addendum that we would produce three enlargements side
22 by side. If one was what they call a lateral reversal,
23 which Mr Smith describes as mirror images, so the
24 bifurcation doesn't end that way, it ends in the
25 opposing direction, when indeed they are the same print,

1 it is caused by the medium that was used to lift. So a
2 lateral reversal is nothing whatsoever to do with a
3 colour reversal, indeed the two prints when you face
4 them would actually be like that (**indicated**), albeit
5 they were identical. So that is a lateral reversal.

6 A third enlargement would then be an illustration of
7 the impression laterally reversed. So you would flip it
8 and put it round the right way. So, yes, I have
9 prepared and sent that stuff off but it does come with
10 an explanation.

11 Q. Yes, but you are saying there would be three images on
12 the --

13 A. When it's laterally the reversed, yes, that's the case.

14 Q. The reason I ask is we have been trying to get actual
15 copies of it but we only have photocopies.

16 I think in the David Asbury case there is an example
17 of a charted enlargement where there is the flipped
18 image but only two images on the form.

19 Is that something that you have not seen before?

20 A. Sorry, I don't know anything about the Asbury case, no.

21 Q. Very well.

22 Can I ask you a little bit about the 16-point
23 standard. I know you have been asked some questions. I
24 won't cover them again, hopefully.

25 Can I take it that as far as the 16-point standard

1 is concerned, your starting point is, "Am I satisfied
2 with this mark", and the 16-point it's neither here nor
3 there. Is that a fair way or approaching it?

4 A. Yes, particularly when I became the Quality
5 Assurance Officer and with regard to this case, that is
6 the attitude that I had to adopt because the information
7 had previously left the organisation, as I described.

8 Q. I think in this case -- I am sure you don't remember the
9 exact numbers -- but we have heard some suggestions that
10 have been agreed to that in this murder inquiry there
11 were 428 finger and palm impressions of which 235 --
12 about half of them or thereabouts -- were thought to be
13 fragmentary and contained insufficient detail for
14 comparison purposes.

15 Again, it is unsurprising, I suppose, in these
16 figures that you would reduce it to about 200
17 impressions. Is that a fair, run of the mill --

18 A. Yes, that's correct.

19 Q. -- kind of thing.

20 As I understand it, out of the 193 impressions, the
21 SCRO experts were able to positively identify, as it
22 were, to match up 172. Again, are you aware of roughly
23 the quantity -- I am not going to hold you to 172 or 158
24 or whatever?

25 A. Sorry, I don't know.

1 Q. I would like your comments on something that we
2 understand was said by Mr Macpherson to the Justice 1
3 Inquiry. It is a fairly short quote but I think what he
4 indicated to the Justice 1 Inquiry was that:

5 "The deceased, relatives, the eventual accused,
6 workers, an Identification Bureau employee, were all
7 compared, identified and signed off by four experts to
8 the 16-point standard."

9 As I understand it, the context is that these 172
10 marks were signed off to 16-point standard. Is that
11 something, if it is correct, it would surprise you in
12 the circumstances that each and every one to 16 points?

13 A. No, absolutely not, no.

14 Q. It would not?

15 A. No, not at all.

16 Q. As far as this particular case is concerned, Mr Moynihan
17 was asking you a number of questions about your state of
18 knowledge that certain people, I think including
19 yourself, had not got up to the 16 points at the
20 material time -- sorry, I've obviously --

21 A. No, it's okay. Could I just clarify that, again, I will
22 repeat, I wasn't trying to find 16 points in sequence
23 and agreement. I never have tried to do that.

24 Q. Yes, I am sorry. I am not if I used the word "try" but
25 I am happy to withdraw that.

1 As far as the examination within SCRO there were
2 certain people who didn't find -- if I can put it as
3 neutrally as I can -- 16 points relating to Y7.

4 Can I just understand this, I am assuming that once
5 it was known that Mr Wertheim was challenging the
6 identification of Y7 as belonging to Shirley McKie that
7 is something that would have come to your notice pretty
8 quickly, I take it, as Quality Assurance Officer within
9 the SCRO. Is that fair?

10 A. No, as a matter of fact it didn't and I believe I've
11 said in my statement that it didn't. I had no reason to
12 believe there were any issues. There were four officers
13 who were dealing with the case. They were giving
14 evidence and I believe they had been in communication
15 with the prosecutor at that particular time. I didn't
16 have any thoughts about it one way or the other.

17 Q. Can you remind us when was it you first became aware
18 with regards to the trial. Was it before the trial,
19 during the trial or after the trial you became aware
20 that a challenge was being presented to the SCRO four
21 officers' identification?

22 A. From my recollection and as I've said in my statement
23 the first time I heard about this is when it appeared in
24 the Daily Record during the trial.

25 Q. During the trial?

1 A. Well, I believe it to be during the trial.

2 Q. I take it at that point you would have been a bit
3 concerned about what was happening, at least interested
4 in what was happening?

5 A. Well, I was certainly curious and, as I said in
6 testimony and in my statement, that I enquired at that
7 particular time if there was anything I needed to be
8 involved with.

9 Q. Can I ask you what was it, your title was Quality
10 Assurance Officer?

11 A. In 1997 it was Quality Assurance/Training Officer. It
12 was a dual role.

13 Q. The quality aspect was to do with what, the quality of
14 the work being produced by those within the office or
15 was it --

16 A. The quality aspect was the evaluation, implementation
17 and validation of the quality processes within the
18 department.

19 Q. So was it the procedures rather than the actual work
20 being produced by individuals?

21 A. Yes, overall, yes, that's correct.

22 Q. But nonetheless I take it in that capacity you would be
23 concerned to know in case there had been an error, if I
24 put it as loosely as I can, bearing in mind the
25 challenge that had been presented you would be concerned

1 to know what systems could be in place to avoid the
2 recurrence of an error or to show that there had been no
3 error, you would be concerned about that, I take it?

4 A. If there was an error I would certainly be very
5 concerned about it. As I've already explained with the
6 position with Mr Luckraft, any possible
7 erroneous identification had a procedure, not something
8 that had an error. With errors we were very definite
9 about what we were going to be doing with it. In this
10 case, there was no error so that procedure never arose.

11 Q. Can I ask you why you were so certain there was no
12 error?

13 A. This mark had been viewed by four experts, two further
14 experts were then asked to review the mark and they gave
15 their findings. By the end of that working day, a total
16 of 12 Fingerprint Officers had agreed that this mark had
17 been eliminated with no person in disagreement. So I
18 don't realise where the error would come in.

19 Q. The last thing I wanted to ask you about was something
20 you raised about the phrase "teasing the points". I
21 think you said you'd some difficulty with understanding
22 what was being suggested by that; do you remember that?

23 A. Yes, indeed.

24 Q. Something that may give some assistance in that regard,
25 it a quotation contained in the statement of

1 Mr Zeelenberg.

2 Can I ask you to look at FI0115, please, at page 28.

3 Before going to this I just want to check if you are
4 aware of the Evett and Williams report. There has been
5 some reference to it already. You are aware of what
6 that is about I take it?

7 A. Yes, I was certainly more up-to-date with it at the time
8 I was practising, yes.

9 Q. The two quotations that are contained
10 within paragraph 121 and 123, I will just read out what
11 is said there and perhaps we can highlight the quotation
12 for the benefit of those in the public benches. What we
13 can see is:

14 "There is a widespread view among UK fingerprint
15 experts that, because they work to a higher number of
16 points than most of the rest of the world, their
17 'standards' are, in some sense, higher. The
18 collaborative study showed this to be a mistaken view.
19 If standards are measured by the avoidance of mistaken
20 identifications, then experts in Holland and Germany are
21 more cautious than their UK colleagues -- even though
22 they declare a lower number of points for identity."

23 If we just go on to the next quote, in number 123 we
24 can see as mentioned:

25 "Probably because of the 16-point standard, a

1 practice has grown in the UK service which the team did
2 not find in the other countries visited. A fingerprint
3 expert will generally reach an inner conviction about
4 the correctness of an identification long before he has
5 found 16 points. His or her subsequent activity will
6 centre on establishing that features which are clearly
7 visible in the print can also be seen in the poorer
8 quality mark. The print is used as a guide for
9 scrutinising the mark. This is called in some quarters
10 teasing the points ..."

11 I'm not sure if we've got more of a quote and
12 perhaps we can have the next page just to see if there
13 is any more that's quoted, "teasing the points out".

14 I'm just reading on if I can:

15 "This contrasts sharply with the practice in
16 Holland, for example, where the expert must decide on
17 all of the usable features that are present in the mark
18 before comparing it with the print."

19 Do you understand what at least the Evett and
20 Williams report is referring to as "teasing the points"?
21 Do you understand the context from that?

22 A. Yes, I understand that that was their findings on
23 interviewing several members of staff from different
24 bureaux, yes. I understand that, yes.

25 Q. I am just anxious that you understand, I think, what was

1 being suggested by teasing the points.

2 Is that something you see there is any possible
3 danger of in the analysis, particularly I'm talking of
4 course about Y7, do you think there was ever any danger
5 or possibility that the four experts who identified Y7
6 as coming from Shirley McKie may have, as is described
7 here in the Evett and Williams report, that methodology,
8 teased the points out?

9 A. No.

10 MR SMITH: Thank you very much.

11 THE CHAIRMAN: Miss Grahame?

12 MISS GRAHAME: No, thank you.

13 THE CHAIRMAN: Mr Holmes?

14 MR HOLMES: Yes, sir, there are four matters that I would
15 like to cover, hopefully briefly, with Mr Dunbar. The
16 first is the course that himself and Miss Milligan
17 attended in 1999. Some evidence has been given about
18 that already and I would like him to clarify a couple of
19 points with regard to that.

20 THE CHAIRMAN: Yes.

21 MR HOLMES: The second is the introduction of competency
22 testing to the Glasgow Bureau.

23 The third is a question that was asked by my learned
24 friend, Mr Moynihan, about the onset of Mr Wertheim's
25 involvement in this case.

1 A. Yes, it was the last one, the fourth one I did.

2 Q. The last of the four. Were you surprised when you
3 attended that course to recognise Y7 amongst the
4 materials that was being used?

5 A. It was actually highlit to me that this mark was
6 actually going to be used in the course and Mr Ashbaugh
7 described it to Miss Milligan and myself as "Pat's
8 mark", and that it would be in our best interests to get
9 it out there and discuss the situation surrounding this,
10 to which he was answered that we weren't in a position
11 to do this. Whilst it would be very good to be able to
12 do so with other Fingerprint Experts, we weren't in a
13 position at that moment in time to discuss the situation
14 and, indeed, Mr Sheppard was notified that it was highly
15 improper and definitely not appropriate to introduce Y7
16 into the classroom scenario because what was happening
17 with these known against unknown prints, Mr Mackenzie
18 showed you the fold-up impression that had an elongated
19 whorl and in actual fact when it was folded up it became
20 the tight whorl. So it's on the record as being shown.

21 That was the way or Ashbaugh was doing it. He was
22 giving out the unknown print for analysis and a view and
23 he was giving out a copy of the known print and people
24 were being asked to make comments on it.

25 Not only did I feel that that was inappropriate

1 because you were really looking at an enlargement of a
2 photocopy, again you weren't looking at normal evidence
3 but when Y7 appeared it definitely wasn't appropriate.
4 So Mr Sheppard was informed that this shouldn't happen.

5 It was at this point I found out that it had
6 actually happened in the previous three courses and not,
7 as suggested by Mr Sheppard, that it was just a chance
8 thing that happened on course 4. It was a big chance
9 that one but, in actual, fact it had happened at the
10 previous three.

11 This was endorsed whilst in my duties as training
12 officer at the time, when I had my training role on, I
13 had occasion to visit the Dundee Bureau in Scotland and
14 saw above the trainer's desk a copy of what is referred
15 to as "Pat's mark" which was a blown-up photocopy of Y7.
16 So this material had been given out at previous courses.

17 Q. Can I ask when did the discussion with Mr Ashbaugh take
18 place to which you were notified that Y7 was to be used?

19 A. I don't remember the exact sequence of events but he
20 did, in all fairness to him, mention in advance it was
21 going to happen. Again, this is where I know the term
22 "Pat's mark" from. It was this point we sought
23 guidance, naturally, from our own organisation this was
24 going on. Because we were away from our organisation,
25 we sought guidance from senior management. Mr Sheppard

1 was then informed at an appropriate break that this
2 shouldn't happen and that information was then relayed
3 to Mr Ashbaugh.

4 Q. That was to be my next question. When Mr Sheppard was
5 informed, this was during the course?

6 A. Yes. I asked Mr Sheppard to step outside. Mr Sheppard
7 doesn't remember which one of the Glasgow officers it
8 was that was irate, or whatever it was he used, but it
9 was me. It wasn't a case of bring irate, I just thought
10 it was a very improper and a very inopportune time to be
11 using this material.

12 Q. Did you have any contact with Mr Sheppard regarding the
13 appropriateness or otherwise of using Y7 in the course
14 prior to your attendance at Durham?

15 A. No.

16 Q. Mr Sheppard -- and I will be corrected if I am wrong --
17 has given evidence that he would be surprised if he had
18 seen Y7 prior to his examination of it in 2000 and,
19 indeed, that he wasn't aware until you intimated to him
20 that the mark was being used as part of the course
21 materials for the course that you attended.

22 I wonder if you could have a look at a document for
23 me. It is Mr Ashbaugh's e-mail. It is at CO1752 and it
24 is page 7. I don't know how that translates into pdf.
25 That is the page. It is the fourth paragraph down I

1 would like you to have a look at, please. It is not a
2 particularly good copy, I am afraid, but it is the
3 paragraph that begins:

4 "During October and November 1999 ..." and goes on
5 to say:

6 "I was in London for the Millennium Conference and
7 to carry out the training programme as envisioned by
8 Mr Coombes in Liverpool at the spring conference. Two
9 courses were to be presented at Hendon in London and two
10 courses in Durham under the auspices of the National
11 Training Centre. I had copies of the McKie prints on my
12 computer but was unsure if it was appropriate to use the
13 prints as a training tool. This issue was discussed
14 with the head trainers at both New Scotland Yard and the
15 Durham National Training Centre. They decided to use
16 the mark but not to reveal where the mark came from."

17 When Mr Ashbaugh refers to the "head of training at
18 the Durham National Training Centre" do you understand
19 that at that particular time to be Mr Sheppard?

20 A. I understand that to be Mr Peter Ablett. Mr Sheppard
21 was the Head of Fingerprint Training.

22 Q. But the use of mark Y7 on all four of the courses that
23 took place in 1999 was discussed with both Durham and
24 New Scotland Yard; is that correct?

25 A. Clearly it's been discussed but again, if I could just

1 reiterate, that comes as no surprise and in fact it
2 endorses what Mr Ashbaugh commented to me on that he had
3 the courtesy to mention it upfront because two officers
4 from SCRO were attending, and even he could see the
5 unappropriateness -- if that's a terminology -- but he
6 could see it was inappropriate to do so. But I would
7 like to reiterate yet again that it had been used
8 because it was referred to in previous courses.

9 THE CHAIRMAN: But SCRO officers hadn't been on those
10 previous courses.

11 A. No, they only took -- one of the basic reasons myself
12 and Ms Milligan didn't go separately, which would have
13 been better, to go gather information compare it and
14 then, with Mr Ashbaugh's permission, use his material
15 and cascade this training, which is what we did. But we
16 were both on a core trainers' course that lasted for two
17 weeks at the Durham Training School. The third course
18 that Mr Ashbaugh's information was delivered on the last
19 week of the core trainers' course that we were
20 attending. So there was other reason apart from that.
21 It wasn't about safety in numbers or anything.

22 MR HOLMES: Was the mark Y7 identified in any way during the
23 course?

24 A. No. As I say, it actually stopped at that moment in
25 time. It was explained to Mr Sheppard -- we had a

1 discussion with Mr Ashbaugh who was disappointed that it
2 couldn't be used in the light that this would be
3 fingerprint experts discussing it. I said that I would
4 be glad to discuss it at any time with him provided we
5 were all afforded the same privileges and all the rest
6 of it but at that moment in time, as far as we were led
7 to believe, that mark was not in an open forum or it
8 should not have been in an open forum and hence the
9 reason it was described as "Pat's mark".

10 Q. The second issue I need to cover with you is competency
11 testing. Are you aware of when competency testing was
12 introduced at the Glasgow Bureau?

13 A. I'd certainly be making a guess at it but prior to this
14 case, I would suggest.

15 Q. That would be prior to 1999?

16 A. It would be prior to 1997 because Mr Mackenzie was
17 actually doing work on a competency test when I obtained
18 the position of Quality Assurance Officer and I actually
19 helped him put the material together from the old case
20 envelopes that were down in the basement. So it was
21 ongoing at that time.

22 Q. Was that an annual thing as --

23 A. It developed into an annual thing competency test, yes.

24 Q. So would all the officers who were at work in the
25 Glasgow bureau in 1997/1998/1999 have sat a

1 competency test at some stage during that period?

2 A. Definitely.

3 Q. The third issue that I would like to cover with you is a

4 question that you were asked about Mr Wertheim's

5 involvement in this case. You were asked by my learned

6 friend Mr Moynihan at the point Mr Wertheim came on the

7 scene he is now disputing the matter, the prosecution

8 might expect to be told there's a problem here.

9 Can I ask when did you discover that Mr Wertheim had
10 been instructed in this case?

11 A. I wasn't informed. I actually read it in the Daily

12 Record. I believe it was a Saturday morning and I was

13 in on other duties. As you will appreciate, even HMI

14 announced that the Quality Assurance Officer was

15 spending 90 per cent of his time on training matters and

16 really the post should be split. So, to try to keep

17 abreast of everything that was going on with the

18 ludicrous situation, the first time I was aware of it

19 was an impression of Y7 appeared in I think it was the

20 front page or page 3 of the Daily Record. That was my

21 first knowledge of it.

22 Q. Was that before or after the trial had taken place?

23 A. I believe it was almost at the culmination of the trial

24 at that time.

25 Q. The final matter that I would like to ask you about is

1 the meeting that yourself and Mr Mackenzie attended at
2 Tulliallan. I am not going to ask you anything about
3 what took place during the meeting but you will have
4 heard Mr Mackenzie give evidence about the conversation
5 that he says took place between yourself, Mr Mackenzie,
6 Mr Zeelenberg and Mr Rudrud during one of the breaks.
7 Do you recall that conversation?

8 A. Yes, I recall the conversation.

9 Q. What, can I ask, is your perception of what was said to
10 you during that break?

11 A. Well, Mr Zeelenberg was discussing with Mr Mackenzie and
12 I the fact that he would ask us to think of our futures,
13 both professionally and personally, and think of our
14 families. At that stage, I just stopped listening
15 because in all the years that I'd compared fingerprints
16 up to that point, irrespective of what my findings were,
17 my family had never been mentioned. I take great
18 personal umbrage the minute you bring a family into a
19 fingerprint comparison. It just beggars belief.

20 So the conversation was terminated and this
21 information was imparted to Mr I think it was Lesley of
22 UNISON. Anyway, it was the UNISON lawyer that attended.
23 But at that particular time the discussions upstairs
24 were terminated as well and that was the only reason
25 they were terminated. Because it's never happened to me

1 before and I certainly would hope it would never happen
2 to anyone that their family would be mentioned.

3 Q. What was your interpretation of what was said to you at
4 that time?

5 A. Well, not only did I regard that as a threat, an open
6 threat, he also mentioned the fact that if we were to
7 change our mind, then the fingerprint community would
8 applaud us. So if that wasn't pressure, I don't know
9 and it just beggars belief that Mr Zeelenberg was given
10 a completely separate remit from Mr Mackenzie and I
11 which I'm prepared to believe now, in retrospect, that
12 it was, because I've seen charts that Mr Zeelenberg
13 prepared on Mr Mackenzie's presentation at Tulliallan,
14 commenting on them, and these were clearly submitted to
15 the investigation team.

16 Now, we were never asked that question about
17 Mr Zeelenberg and Rudrud's presentation. So there were
18 clearly two different factors going on here.

19 Q. You received a telephone call, according to
20 Mr Mackenzie's evidence, a short time after the
21 Tulliallan conference; is that correct?

22 A. Indeed, yes.

23 Q. Was that from Mr Zeelenberg?

24 A. Yes. Mr Zeelenberg came on looking for Mr Mackenzie.
25 To let you understand the situation, we had an open

1 plan office in Pitt Street before we moved to Pacific
2 Quay and Mr Mackenzie and I occupied the top two desks
3 in the Chief Inspector's office facing one another. It
4 wasn't exactly ideal for privacy nor personnel-related
5 issues but, however, that's what we had and we shared a
6 phone.

7 When I picked up the phone, it was Mr Zeelenberg
8 informing me that he wasn't particularly pleased with
9 the presentation that SCRO had given and that if we
10 continued in this vein -- I don't know the exact words
11 now -- but he would call foul to the fingerprint world,
12 whatever that meant. So I duly asked him to take his
13 time and just repeat what he had said and I recorded it
14 on a message pad. I brought that to the attention of
15 the Director of SCRO, Mr Harry Bell, just a few minutes
16 later after Mr Mackenzie had returned because I felt it
17 was fairer the information should go to him as that's
18 who it was intended to be delivered in the first place.

19 Q. Once again, can I ask you what your own perception of
20 what was said to you was?

21 A. He was clearly annoyed that we were ... how should I put
22 it? Sticking to this presentation as he described it.

23 As I say, I'd be a liar to say that I remember all the
24 exact words but he was quite excited about it. When we
25 reported that to Mr Bell, we happened to be in the

1 office at the time when Scott Robertson phoned -- or
2 Scott Robinson; I'm not sure of his surname -- and he
3 was actually the investigating officer on behalf of
4 Mr Mackay and he actually came on to say that
5 Mr Zeelenberg had been on to him. So Mr Robinson
6 apologised to Mr Bell on Mr Zeelenberg's behalf because
7 it was inappropriate what he did.

8 Q. We may hear other evidence in due course that others
9 take a different view of the conversations that you had
10 with Mr Zeelenberg but, for now, that is your
11 understanding at the time and your actual understanding
12 today; is that correct?

13 A. I would take task with that. It's not only my
14 understanding, I would like to reiterate where did my
15 family come into this analogy? I'm just absolutely
16 astounded now as I was then. It just beggars belief
17 that fingerprint comparison would end up with that. We
18 have people in this particular investigation that have
19 turned themselves into judge, jury and executioner and
20 what they should be doing is saying, "I found this print
21 to be identical or not identical" and the answer to some
22 of Mr Moynihan's questions, it's not up to the
23 fingerprint expert to prosecute nor find guilty nor
24 impose a sentence and that's what's happened here.

25 MR HOLMES: Thank you, Mr Dunbar. Those are all the

1 questions I have.

2 THE CHAIRMAN: Mr Moynihan, do you have anything?

3 MR MOYNIHAN: I have no further questions.

4 THE CHAIRMAN: I just want to ask you about something
5 totally different to anything we have dealt with today
6 and that is in paragraph 227 of your statement -- and
7 you may not recollect or you probably do recollect -- we
8 have this question over Q12 about the words "ident
9 required". I just was interested in your interpretation
10 of that.

11 It could be that Q12 involves possibly three prints
12 or the prints of three people -- may do, I'm not sure --
13 but one was said to be or one was identified as that of
14 what was then the accused or being treated as the
15 accused. Your interpretation of it, could you just give
16 me that again as to why they would ask for the "ident
17 required"?

18 A. I'd like to record I never compared Q12 nor any of the
19 surrounding marks that there were there, but I was
20 present when I saw this being displayed on the screen in
21 the Inquiry.

22 It is an unusual phrase to put but I've seen all
23 sorts of stuff written there and I'm surprised tat no
24 other witnesses have pointed that out to you. Whilst
25 I'm not suggesting it's not evidence or could be used

1 further down the line as evidence, I really have no
2 comment to make. All I could put myself in a position
3 if I saw that as the examining fingerprint expert, I
4 would be thinking, "Well, you'll get what you get
5 because I can't do anything different than what I've
6 got." It would hold nothing for me.

7 It may point out the fact that I should be starting
8 with the deceased with all my comparisons and this would
9 be included in it, but I really can't say any more than
10 that on it. I really don't know what was in his mind.

11 THE CHAIRMAN: I was just trying to get it clear in my own
12 mind. Mr Asbury had been identified and so it was
13 really could be interpreted in your view as meaning that
14 the Fingerprint Officer should be looking at it in
15 relation to somebody else.

16 A. Really, I don't know what was in his mind. I apologise
17 but I certainly didn't see that at the time and it's
18 only when it's been brought to our attention here. I
19 was never in receipt of that material.

20 THE CHAIRMAN: It is just the comment in your statement I
21 wanted to clarify with you.

22 A. It is to do with -- I was shown a document -- maybe I'm
23 looking at the wrong part, sorry.

24 THE CHAIRMAN: I do not really want to labour over this
25 because all I was interested in was just the

1 interpretation that you placed upon it.

2 A. So that's with regard to what the next comparison was to
3 be.

4 THE CHAIRMAN: Yes.

5 A. As I say, I would be looking into it rather than
6 anything else. But the bottom line if somebody put any
7 comments on a form 13 for us to examine, I would be
8 dismissing it. Yes, I would take it as guidance and
9 maybe start in a particular fashion. It might even be a
10 group of marks I was asked to go to first. There may be
11 a reason for that that I'm not aware of, but I would
12 then tend to try and find out what that reason was from
13 my own personal standpoint. But what he meant by it, I
14 don't know.

15 THE CHAIRMAN: I appreciate you did not write it and it was
16 really seeing the benefit of your experience as to what
17 it could mean. Thank you very much. That is very
18 helpful.

19 A. Could I just make one statement, Lord Anthony, before I
20 leave.

21 Through this since 1997 I compared this mark
22 honestly and professionally, despite what other folk
23 have said. I came to my conclusions independently,
24 contrary to what people have said, and I genuinely
25 believe there's a reason this mark Y7 has not been

1 identified as anyone else, because that's what the
2 investigation team tried to do. They took the material
3 away for a lengthy period of time and tried to appoint
4 ownership to someone else and believe there's a very
5 good reason why they couldn't do that: because it's
6 already been identified.

7 THE CHAIRMAN: Thank you very much.

8 **(The witness withdrew)**

9 THE CHAIRMAN: Mr Moynihan, a short time but --

10 MR MOYNIHAN: It is a matter for you, sir. The next witness
11 is Mr Zeelenberg. What I had suggested to
12 Mr Zeelenberg, but anticipating we would have arrived at
13 this point at 3.30 not 3.50, is we might have had a
14 break here of, say, half-an-hour to make sure the
15 technology is working properly for him because he is
16 going to present a presentation. I am in your hands,
17 and indeed in Mr Zeelenberg's hands, whether we have
18 gone beyond the point where there is value in that.

19 THE CHAIRMAN: It is 3.50. I think it would be better to
20 make a fresh start tomorrow morning. That will be the
21 course that we will take. So, if Mr Zeelenberg does not
22 mind, we will start tomorrow at 10.00.

23 **(3.55 pm)**

24 **(Adjourned until 10.00 am the following morning)**

25