

Friday, 6th November 2009

1

2 (Afternoon session)

3 (1.50 pm)

4

FIONA MCBRIDE

5

Examined by MISS CARMICHAEL (continued)

6

Q. Good afternoon, Ms McBride.

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A. Good afternoon.

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Q. I would like to turn to ask you some questions that I

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have asked a number of other fingerprint experts who

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have given evidence to the Inquiry and that is about the

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level of certainty to which you reach and to which you

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express your conclusions.

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We have heard of examiners or experts who express

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themselves as 100 per cent certain in their own

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conclusion as to identity and we have also heard people

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say that they would be 100 per cent certain that another

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examiner following after them would reach the same

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conclusion on identity.

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I would like to ask you in relation to the first of

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these, would you as a fingerprint expert express

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yourself as certain on identity to 100 per cent?

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A. No. No, I wouldn't use percentage terms at all.

23

Q. How would you express your degree of certainty about an

24

identification?

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A. I would say that I had no doubt that it belonged to that

1 person. Having said that, if the person behind me  
2 checking my work were to come back to me and say that  
3 they think I should look at it again, look at the  
4 identification again, then of course I would. I don't  
5 expect the person behind me to identify it if I've  
6 identified it.

7 Having said that, no doubt people come to -- that's  
8 what the checking process is for. Every time you do  
9 something, every time you make an identification, an  
10 elimination or whatever, the person coming behind you is  
11 expected to come to their own conclusion and of course  
12 you are very aware that the person coming behind you may  
13 reach a different conclusion, otherwise there would be  
14 no point to the checking process.

15 Q. Thinking about the way that you express yourself, which  
16 is that you have no doubt, I am wondering how that  
17 differs really from 100 per cent certainty because,  
18 obviously, if you don't have any doubts it implies that  
19 you are certain about the matter?

20 A. I think 100 per cent certainty suggests that there's a  
21 scale, a moving scale; whereas with fingerprints it's  
22 not possible to, as I said earlier on, say that there's  
23 definitely -- or definitely concluded a match on a  
24 particular number of characteristics. To say  
25 100 per cent certainty, do you then, to my mind, do you

1 then divide the number of characteristics and say well I  
2 have 4 out of 10 so I'm 40 per cent sure, that other  
3 person's 100 per cent sure because they have 10  
4 characteristics. I don't think it's useful because  
5 there's such a variation and it's so subjective. So all  
6 I can say is I have reached a threshold in my mind that  
7 I'm happy with that I'm sure it's an identification.

8 Having said that, if someone comes along after me  
9 and says, "I'm not sure", then of course I would look at  
10 it again. So I don't think 100 per cent certainty is  
11 useful because it implies, I think, a range and it's a  
12 sliding scale and it's dependent on numbers. I don't  
13 think numbers are something that's particularly useful  
14 in fingerprints.

15 Q. You said that earlier. I take from that that you would  
16 have a point in relation to a particular comparison  
17 where you were satisfied and whereby you were,  
18 therefore, certain in your own mind?

19 A. Yes.

20 Q. You have said that numbers are not helpful?

21 A. They're not useful -- not terribly useful. Maybe I did  
22 say helpful, sorry. I mean terribly useful.

23 Q. I may be referring to a note of something you said  
24 before lunch because I think you referred to numbers  
25 being helpful or useful at that stage as well.

1                   Did you have personally any kind of bottom line  
2                   numerical threshold for your own satisfaction, as  
3                   opposed to any numeric standards in the justice system?

4       A.   As I was trying to explain earlier but I don't think I  
5           went into it in enough depth, certain characteristics  
6           are assigned a value in your mind and they are assigned  
7           a value according to your experience and what you're  
8           used to seeing and you know that, for example, a  
9           particular characteristic is particularly common say  
10          around the delta area in its geographical location and  
11          spatially with other characteristics surrounding it.  
12          However, if that were to occur in another area of a  
13          print then you might lend more weight to the fact that  
14          that group of characteristics appears in a particular  
15          area where it's less common. It is purely subjective  
16          and it is based on experience and the Automatic  
17          Fingerprint Recognition and now in AFIS is very useful  
18          in that.

19                 I'm happy to say I had the best of both worlds. I  
20                 was trained in a manual system, which meant that a lot  
21                 of time was spent looking at the characteristics and  
22                 then searching manually for them and you had to really  
23                 get into the mark, you had to classify it and all the  
24                 rest of it and decide what you thought it was,  
25                 et cetera.

1                    Now the machinery can automatically code it for you  
2                    or you might choose to put the characteristics on  
3                    yourself, which I used to prefer, and you would search  
4                    it against the database. That removes the experience of  
5                    having to really know every characteristic in the mark  
6                    and know what the likelihood of the pattern is and all  
7                    the rest of it. It's not necessary for the machine.

8                    But the advantage of the machine, the computer, is that  
9                    there are so many variables that are thrown up that you  
10                    might not have seen in a manual search and there are so  
11                    many -- and of course you can ask it to bring up so many  
12                    candidates. You might check 15; you might check 40,  
13                    depending on the type of case you're checking and it's  
14                    much faster.

15                    So I had the benefit of, in the past, solely working  
16                    with a manual system, which you really had to be able to  
17                    classify and when you classify you note the differences  
18                    between inked prints even.

19                    Q.    If I can stop you there and just ask you what you mean  
20                    by classify there?

21                    A.    Sorry. Classify might mean that you determine whether  
22                    it's an ulnar loop or a radial loop or a whorl or  
23                    whatever, then you might do a ridge count between the  
24                    core and delta. When you do that you note a lot of  
25                    different characteristics that you might not have gone

1 into in so much detail if you were just putting it on to  
2 the machine and choosing certain characteristics.

3 The machine searches and pulls out candidates with  
4 that group of characteristics whereas when you were  
5 doing a manual search the person pulls out that group of  
6 characteristics from each possible candidate.

7 The benefit of the machine is that it produces so  
8 many candidates that you can get through so much more  
9 work, you see so many more fingerprints in a shorter  
10 period of time and so I think it was a benefit to have  
11 learnt under the manual system but to have had the  
12 advantages of the computerised system.

13 Q. When you say that you come to recognise some  
14 characteristics as common or less common or less common  
15 in a particular location, should we take it that you  
16 learn that in terms of your experience of the marks that  
17 you have actually seen in the course of your work?

18 A. That's true. Again, an advantage that I had was that it  
19 took me five years to qualify and when you begin in the  
20 Fingerprint Bureau you are immediately set to work on  
21 fingerprints, on the ten-print section at first, so you  
22 are checking clear mark against clear mark and then you  
23 build up. It's a quick -- it's a fast process.

24 Once you go to Scene of Crime you are given a small  
25 case because they don't want to swamp you, say with two

1 marks and two suspects and you work through it. But  
2 it's a short period of time before they give you more --  
3 this is just when you are at the very beginning. It's a  
4 short period of time before they give you more complex.  
5 In fact, they don't even regulate what cases you are  
6 getting. You are lifting cases out the basket and you  
7 are expected to work on them as an expert would.

8 Of course, you are being followed by experts who are  
9 checking your work. I think that the idea from Alex  
10 McGinnies' evidence, I don't think it come out very  
11 well, I don't know if it's different now of course, he  
12 said you build it up but the build up is actually quite  
13 quick, fast, so that you are getting the benefit of five  
14 years almost of working on live cases of varying  
15 complexities.

16 I know that nowadays I think the training period has  
17 reduced so I think that, again, I had the advantage of  
18 being trained back in the old days when you had to work  
19 for it. I know that everybody else in the case as well,  
20 they did seven years training, so it was quite something  
21 but it was worthwhile and that's what we base our  
22 decisions on.

23 Q. I am going to ask you again about another topic that I  
24 have asked other Fingerprint Examiners about,  
25 Ms McBride, and that is we have heard evidence that

1 sometimes when one gets to a certain number of volume of  
2 points in similarity and agreement between a mark and a  
3 print, one might be at a point of personal satisfaction  
4 or certainty such that, effectively, differences that  
5 might appear in other parts of the mark and print become  
6 irrelevant, they drop out of the picture, because they  
7 must have some explanation.

8 Can you comment on what your position is on that  
9 scenario?

10 A. I would agree with that. I think that particularly the  
11 example that Martin Leadbetter showed I think in the  
12 Evett & Williams test where there was a characteristic  
13 that was not explicable to him -- obviously, I haven't  
14 checked the mark against the form so I can't see but it  
15 appeared to be the case -- that was fine, that was  
16 acceptable, as far as I'm concerned. Obviously, it was  
17 acceptable to the people who set the test and it was  
18 acceptable to all the UK bureaux who got 100 per cent  
19 success in that test. I know it was nine out of nine.

20 Q. Just to be clear, you are squarely with the camp who say  
21 that once you get to a certain volume of information in  
22 sequence and agreement, even if there is a difference,  
23 you may very well still be quite happy in your own mind?

24 A. Particularly with the Automatic Fingerprint Recognition  
25 System and in AFIS, often we have found that for some

1 reason prints would be taken on LiveScan and there would  
2 be characteristics which could only be described as  
3 artefacts because it was from a known source, it was  
4 being checked again against a known source, we knew it  
5 was the same person, all the other digits matched and  
6 yet there were characteristics that appeared -- and it  
7 must have been to do with the glass surface, we guessed,  
8 or perhaps it was the electronic transmission -- but  
9 characteristics seemed to appear in one that didn't  
10 appear in the other but that didn't mean that they  
11 weren't the same person. So it's a similar thing with  
12 scene of crime --

13 Q. If I could stop you there to clarify what you are  
14 talking about. You are talking about a situation where  
15 a known print is being compared to another known print?

16 A. Yes.

17 Q. But you were seeing differences?

18 A. Yes.

19 Q. Do you know of any experimental work that has perhaps  
20 been done formally to explore the extent to which these  
21 differences may occur in that sort of situation?

22 A. I believe that a previous witness, Terry Kent, so I've  
23 heard -- I could be wrong -- in 1965 was helping to  
24 produce the first AFIS system or AFR system and his  
25 experimentation was on how the fingerprint changes, the

1 same fingerprint, changes when it touches a surface and  
2 there were differences and I heard that he experimented  
3 with the same fingerprint time and again on the same  
4 surface and checked the differences. That was way back  
5 in 1965.

6 So I'm guessing that he can't be the only person  
7 that's conducted such experiments. So while I can't say  
8 specifically what's been done, I wouldn't say that  
9 nothing's been done. There must be something. Perhaps  
10 I should have checked before I gave evidence.

11 Q. Just still on the same theme, in that situation where --  
12 and if I can return to the scenario of the crime scene  
13 mark as against the known, as opposed to the known  
14 against the known -- the situation where you have that  
15 difference but you are nonetheless satisfied, would you  
16 always personally be able to come to any explanation for  
17 the difference?

18 A. Quite often, of course, you could come to an explanation  
19 but, even then, how do I know that my explanation is  
20 correct? It's my assessment of what likely has happened  
21 but since I wasn't actually at the crime scene, I can't  
22 say 100 per cent that that's the case, and no doubt the  
23 person who left the mark would be unable to say as well  
24 because it's such a slight, momentary thing. So I think  
25 it's asking too much for people to say you definitely

1 know what happened here.

2 We can give you our very best guess based on our  
3 experience and various opinions, et cetera, but in the  
4 end even our explanation isn't guaranteed to be correct.

5 Q. I would like to move on, Ms McBride, and ask you about  
6 your involvement with mark Y7. I know you have already  
7 told us some significant things, I think, on the way  
8 past in the course of questions earlier in the day.

9 Should we take it that the mark and the print were  
10 on the comparator when you saw them for the first time?

11 A. No.

12 Q. Where were they?

13 A. I remember, just for clarification, yesterday Charles  
14 Stewart thought that I'd written a name or thought it  
15 was possible that I'd written the word "glass" because I  
16 was being pedantic and, yes, I am quite pedantic  
17 sometimes but that wasn't the reason. The reason I  
18 wrote the word "glass" was because I check every mark  
19 under the glass. The reason I wrote the word "glass"  
20 was to differentiate from the usual list of initials  
21 appearing on the back of a photograph which denotes the  
22 fact that it's been seen on the comparator screen. I  
23 hadn't seen it on the comparator screen and I wanted to  
24 make that clear by writing the word "glass".

25 Q. How did you know that Mr MacPherson or Mr Stewart had

1           seen the mark and the print before you had?

2       A.    I knew that Mr MacPherson had seen it because he handed  
3           me the mark. I didn't know that Mr Stewart had seen it.  
4           I knew that Alister Geddes had seen it for the reasons I  
5           said earlier on. I checked the mark and then when I was  
6           finished, I put my signature -- well, my initial on the  
7           back as a means of tracking it so I would remember  
8           because I was in the middle of another case I put to one  
9           side. I checked a single mark and I was going back to  
10          that case. I hadn't signed any paperwork so I wanted to  
11          remember that that was actually the mark that I had seen  
12          earlier on so I put my signature on the back or  
13          initialled it and then I asked Hugh did he want me  
14          to put his -- I said, "Do you want to put your signature  
15          on? I think it's a good idea or whatever", and he said,  
16          "Oh ..." thought about it for a while and said, "Well,  
17          you can stick it on, if you like". I said has anyone  
18          else seen it and he said it was Charles Stewart. I  
19          said, "Do you think he'd mind", and I think he went  
20          round the corner and asked him. I could be wrong about  
21          that but I think he went round and the corner and he  
22          said, "Okay", and I put "CS" on it as well.

23       Q.    I appreciate we are asking you something very difficult  
24           to remember --

25       A.    No, I do actually remember that, well most of it.

1 Q. When you say something might not be right, it does make  
2 me very keen to be sure that we are getting your very  
3 best and clearest recollection.

4 A. Of course.

5 Q. So could we just be quite clear as to what it was  
6 Mr MacPherson said to you about who had seen the mark?

7 A. I asked him if anyone else had seen it and he said  
8 Charles Stewart and I asked -- my recollection is  
9 actually that Hugh went round the corner and asked  
10 Charles Stewart but if someone was to say that didn't  
11 happen, I didn't check with Charles first or  
12 whatever that's fine but my recollection is that he did  
13 actually go round and check with him that it was okay to  
14 put the initial on.

15 Q. I wonder if we could look, please, at page 19,  
16 paragraph 81, of your statement. You explain a little  
17 bit about this here and you tell us that once you had  
18 completed the identification of Y7 you asked  
19 Mr MacPherson if you should put your initials on the  
20 photograph. Yes?

21 A. That's right, actually.

22 Q. You say after some thought Hugh MacPherson agreed and he  
23 tended to think deeply about most things?

24 A. That's true.

25 Q. Then you say you placed the thew initials of

1 Mr MacPherson, Mr Stewart and yourself on the back of  
2 the photograph.

3 A. Yes. It just doesn't mention the middle part but it is  
4 true that I checked -- I had to ask who had seen it  
5 before. I didn't know. I knew that Alister had and  
6 that was it and that was for a specific reason because  
7 Alister hadn't reached the 16 standard on it. So I  
8 asked, he said Charles Stewart and my recollection is he  
9 went round the corner to ask Charlie if it was okay to  
10 put his initials on, because it wasn't usual. I was in  
11 copying Kenny Grahame because I thought it was really  
12 quite a good idea to keep a track of things that way and  
13 I think eventually it was adopted and I don't know if it  
14 was subsequently done away with but it was a good idea,  
15 I thought at the time, particularly because I was in the  
16 middle of something else so ...

17 Q. What you tell us is it was the standard practice to mark  
18 up the fact that a mark had been reviewed on a  
19 comparator screen in this way and you thought it would  
20 be a good thing to do this on photographs which had  
21 been examined by glass?

22 A. That's true.

23 Q. We can bring up the image if you need it but I think it  
24 is beside your own initials that we see the word  
25 "glass"?

1 A. That's true.

2 Q. So should we take it that it is only in relation to  
3 yourself that you are certifying that it was looked at  
4 on glass?

5 A. Yes. Having said that, if this helps any -- I'm not  
6 sure if it does or if I should be saying but if it's not  
7 any use you can tell me -- I know that Hugh MacPherson  
8 must have checked it under the glass because he was the  
9 first to review it or check it. I know that Alister  
10 Geddes or I believe Alister Geddes must have checked it  
11 under the glass because he had a debate about it. So  
12 there's no way that he would have had a debate on the  
13 screen. You could have included it in the debate but  
14 you must always check it under glass. So Alister must  
15 have seen it under glass.

16 Hugh MacPherson came round to me with it in his  
17 hand. Had Charlie Stewart had it on the screen and not  
18 had it under the glass, it would still have been on the  
19 screen. Instead, Hugh came round and asked me and said,  
20 "If you like, I'll put it on the screen for you", and I  
21 said, "No, thank you", and checked it then. So he was  
22 just offering but he wouldn't have taken it off the  
23 screen to come round and ask me did I want it on the  
24 screen. So it must have been the case that Charlie  
25 Stewart had examined it under the glass as well. Of

1 course, I didn't know it at that point, I didn't know  
2 the sequence but now after that I did know the sequence  
3 and retrospectively that's what must have happened.

4 Once I handed it back to Hugh MacPherson, he  
5 continued on down the office looking for someone to --  
6 for a fourth check and I didn't notice who he gave it to  
7 and, of course, it was Tony McKenna.

8 Q. I think we have heard from Mr MacPherson that initially  
9 after he finished his comparison he did have it up on  
10 the comparator and I think, I will be corrected if I am  
11 wrong, that he had some discussion with Mr Geddes around  
12 the comparator.

13 I think we have heard also from Mr Stewart that  
14 while the mark may have been on the comparator when he  
15 found it, he took it away to look at separately but just  
16 to understand your position when it was given to you, do  
17 we understand you rightly to say it was simply handed to  
18 you?

19 A. Yes and what I meant by that sequence of events, I'm not  
20 saying that it wasn't on a screen, I'm saying that they  
21 must have also -- if it was on a screen and they checked  
22 it on a screen they must also have viewed it under the  
23 glass, except for Tony McKenna. I don't know what he  
24 did because he came after me.

25 Q. As I say, I am just asking you about yourself at the

1 moment, Ms McBride.

2 A. That's okay. I'm trying to be helpful.

3 Q. I am very grateful for that and the Inquiry is grateful  
4 for any information.

5 Your position is that you didn't see it for the  
6 first time on a comparator screen, the real size images  
7 were passed to you simply by hand?

8 A. Yes.

9 Q. I would like to ask you, as I have others, just to  
10 explain exactly how, in practical terms, you went about  
11 the task having been handed mark Y7 and the left  
12 thumbprint of Shirley McKie that day back in  
13 February 1997.

14 A. I was handed the elimination form and the photograph and  
15 I had a quick look at it and when I say a "quick look",  
16 my initial glance at it, looking at the top, I initially  
17 thought, "Oh, that looks like a right thumb because of  
18 the slope at the top". When I looked at it closely I  
19 realised it wasn't and checked it against the left thumb  
20 of Shirley McKie.

21 The reason that I checked it against the left thumb,  
22 of course, apart from the fact it looked like a thumb,  
23 is that part of the process was the front of the  
24 photograph would be marked with which digit it was.  
25 Having said that, I clearly didn't pay any attention to

1 it because the first thing I did was look at the right  
2 thumb.

3 After that, I carried out my comparison very much in  
4 the way that was described before by Charles Stewart and  
5 whoever else. It was a binocular comparison --

6 Q. That is just the point, Ms McBride. I know we have had  
7 the description from others but I would very much  
8 welcome it in your own words, if you would.

9 A. Not at all. So I had two linen glasses, the round linen  
10 glasses, and I placed one over the thumb and the other  
11 over the mark and I checked it. Prior to that, of  
12 course, I looked at the whole mark, even though I knew  
13 it was number 6 I had to -- or it was marked as number  
14 6, I had to understand by why the top was sloping the  
15 other way. But it's quite clear to me and, I have to  
16 say, to most, I would say, if not all, that were trained  
17 in SCRO, including ten-print identification officers,  
18 that it's not a continuous print. I'm not saying that  
19 it wasn't put down at the same time --

20 Q. Sorry, I realise you are anxious to give the Chairman as  
21 much information as possible but I would like to stay  
22 for the moment as closely as we can with the topic of  
23 what you remember doing back in 1997.

24 A. Sorry, I thought you wanted it in that detail. That's  
25 fine.

1 Q. Yes, I do want it in detail but I've a feeling we were  
2 straying, perhaps for understandable reasons, into the  
3 views of others and I simply want to examine with you  
4 the process, in as much detail as you think helpful,  
5 that you carried out in February 1997.

6 A. To me, it was clear that it was broken and that it was  
7 moved at the top and so I focused on the bottom part. I  
8 can't remember if it was a third or whatever. And I  
9 can't say what target area -- I don't use the term  
10 target area anyway but I can't say what target area I  
11 chose. I did look at everything and I pushed it, as I  
12 said, by, as in I checked every characteristic that I  
13 could on the clear part, what I believed to be the clear  
14 part of the mark, against the rolled and the plain  
15 impression, so that even, as it turns out I must have  
16 checked over 16 characteristics because 16  
17 characteristics could be found on either of the marks  
18 but for my purposes I just checked both the plain and  
19 the rolled impression to get as much information out of  
20 the bottom part of the mark as possible.

21 Q. I would like to stop you there and just go back a little  
22 bit. You said you don't use the expression "target  
23 group" yourself. We have heard I think what may be the  
24 same idea expressed by different people in different  
25 ways. Some people have talked about characteristics

1           that catch their eye, perhaps characteristics that they  
2           hold in their head.

3                     Does either of those expressions make more sense to  
4           you than target group?

5    A.   The thing is it doesn't actually require to catch your  
6           eye or you don't actually have to hold it in your head.

7           You have a core and a delta in some marks and you know,  
8           even if it's nothing like it, if you're checking  
9           something that's negative, you know that's the core and  
10          you look at the core and say, "That's nothing like  
11          that". So it's not always necessary to have -- you're  
12          talking about searching someone or people are maybe  
13          referring to searching a mark, which is where you choose  
14          a target group and you check it against a number of  
15          candidates.

16                    I had one particular mark that I was to check that  
17           against. It had already been indicated. So I may have  
18           chosen a group of characteristics to start with but it  
19           would have been far easier to start at the core and work  
20           out. So that's possibly more likely what I did at that  
21           point.

22    Q.   In that respect, there may be a slight difference  
23           between what one does as first examiner where one is  
24           perhaps checking against a number of things --

25    A.   That's true.

1 Q. -- and what one does in your checking role where you  
2 have been directed?

3 A. Not necessarily. Again, if you were searching you might  
4 just choose the core and so many characteristics around  
5 the core. I suppose in a way I'm almost describing the  
6 same process but there are slight nuances. All I am I  
7 am saying is it is not always necessary always to have  
8 something catch your eye and if it's a particularly  
9 bland not very interesting print you can still check it.  
10 You don't have to look for something, "Woah, that's  
11 totally different. I must look for that".

12 Q. So, again, returning to that theme, if it wasn't a case  
13 of a target group in this particular role, where did you  
14 start?

15 A. I don't know. It was far too long ago and there was  
16 nothing different about this mark to any other mark in  
17 the case. The only difference was that I got it in the  
18 middle of doing another case. I knew that they wanted  
19 it to 16, that's fine, not hugely different, acceptable,  
20 I didn't think very much about it and there were other  
21 marks in the case later on, of course, I think I've seen  
22 my signature on sheets that indicate I checked other  
23 marks in the case. Of course, I couldn't have told you  
24 that either and of course I checked every identification  
25 in the case. There was nothing particularly interesting

1           about this mark, if you know what I mean. There are  
2           other marks that have a movement in them and, yes, as it  
3           turns out, if you study the movement in detail then it  
4           is a very complex mark.

5                     However, I obtained 16 or I obtained enough for an  
6           identification. I checked that there were 16  
7           characteristics in it, on the bottom part of the mark.

8                     The top part of the mark was not required for the  
9           identification. I could see that it was moved. I could  
10          see it was in pieces. Looking at it, the chances of  
11          getting 16 in sequence and agreement, even if I could  
12          have unravelled it at that point, were very small and it  
13          would have been -- I don't know that I could have  
14          afforded as much time as has been spent on it by others  
15          over a long period of time just to ascertain what this  
16          mishmash at the top which I knew -- I didn't know it was  
17          Shirley McKie's. Further though, to make it quite clear  
18          that it was clearly insufficient for our purposes,  
19          unless of course you are going to study it in great  
20          detail, as it has been, is that it was never checked  
21          against any other person in the case because it was  
22          deemed the top part was insufficient for our purposes at  
23          that point.

24                     Obviously, we have had to look at it in greater  
25          detail now but, again, it was an unremarkable print in

1 that there was nothing to indicate that later on  
2 somebody was going to say it wasn't theirs and we were  
3 going to have a big investigation into it. At that  
4 point we were just checking identification and there was  
5 no need to venture -- of course, I analysed the top in  
6 order to discard it but there was no point in spending a  
7 long time on a not particularly significant mark when it  
8 was clearly not going to reach the standard in any case.

9 Q. I am afraid I cut you off perhaps earlier on when you  
10 were starting to tell us about using the glasses and the  
11 way that you would do things.

12 I think you used the word "binocular"?

13 A. That's true.

14 Q. I would like you to put in your own words the process  
15 you used once you had the two glasses, one over the mark  
16 and one over the left thumbprint.

17 A. To be clear, it's not always possible to check a mark in  
18 that way because if it's a piece of palm that you're  
19 checking or the digit that you're checking is in the  
20 middle of the photograph in an awkward position the way  
21 it's orientated, where you are checking it, it may be  
22 that you can't get the two images close enough together  
23 to have two glasses on it with your eyes over the top of  
24 it. But in this case it was possible and it is true  
25 that you look through and I did look through the glasses

1 and you hold your head still so you don't lose where you  
2 are. But I think an important thing about the process  
3 is that rather than focus on the eyes, as people have  
4 been, quite obviously, of course, in this Inquiry, it's  
5 important to remember -- well, from my point of view,  
6 that actually the picture is in your head. It is after  
7 all visual analysis but the picture is in your head, in  
8 anybody's head, in any picture that you see, obviously.  
9 So when people are saying, for example, the pointers,  
10 you're counting two and you're counting two, you have  
11 the pictures in your head but you change focus but that  
12 doesn't mean that you're focussing differently through  
13 the eyes, it means you're focussing differently your  
14 mind. You're paying attention to that side and you're  
15 paying attention to that side but you're not actually  
16 moving.

17 But it is quite -- when I first joined fingerprints  
18 I did move my head and use one eye until someone said,  
19 "You don't do that. This is a better way", and it was  
20 quite difficult to get used to at first and then of  
21 course you gain that skill. That's how it's done.

22 Having said that, I wouldn't say that anyone else  
23 should do it the same way. It was much easier. It is  
24 difficult. You have to really spend time to get that.  
25 You have to be given a lot of time on the mark to get

1 used to seeing, not moving and changing the focus of  
2 your mind on each image but people -- I can't tell -- I  
3 wouldn't say that everybody should check it the same way  
4 and, of course, it's not always possible just because of  
5 the size of the -- just whereabouts the marks appear on  
6 the form and the photograph, you can't bend them. You  
7 don't want to waste what you are looking at, and the  
8 palm-print.

9 I don't know if it's helpful but it might be  
10 helpful, there was some research in Glasgow University,  
11 I think, or something about -- I've actually got the  
12 article here and it's about a girl who's -- I think, the  
13 right hemisphere of her brain hadn't developed so she  
14 saw out of one eye but they've tested, I think she's ten  
15 years old, and they tested and found that she had  
16 binocular vision through one eye. So that's what I  
17 mean. I wouldn't tell anybody what they should be  
18 seeing or how they should go about it.

19 Having said that, the way I was trained was  
20 extremely useful because you weren't moving and you  
21 couldn't -- it's your concentration that's moving, not  
22 the focus of your eyes.

23 Q. You keep your eyes in the same place?

24 A. As far as possible. We're not machines.

25 Q. If I'm understanding you rightly the focus of your

1 attention moves from the one to the other?

2 A. Yes, that's true.

3 Q. Is it a process where we should understand that the

4 focus of your attention, if I can put it that way, is

5 moving back and forth from -- what from mark to print,

6 or from print to mark; how does it work?

7 A. I would have to -- unless, of course, other people might

8 do it differently.

9 Q. I am just asking about your own practice.

10 A. That's fine. Well, my focus of attention moves because

11 I'm not melding into one image, those two images. I'm

12 seeing both images simultaneously but I'm focussing my

13 attention on that side and focussing my attention on

14 that side, keeping as perfectly still as I possibly can

15 so that I don't lose place, because that's what the

16 pointers are for. Because of course you're moving your

17 attention, you must have a reference point of where you

18 were last, if that makes sense.

19 Q. Yes, and that's what the pointers help you with?

20 A. Yes.

21 Q. I think I picked you up rightly earlier on, you saying

22 you didn't personally keep any sort of internal count,

23 would that be right?

24 A. When you first look at the mark, I'm looking for

25 similarities and dissimilarities, well, dissimilarities.

1           Is this right; is this true; is this accurate; all the  
2           way through it. When you get to a point where you  
3           think, yes, it is, then you start to count and see  
4           whether it's -- that's why it's important to go back  
5           over -- the first part's important because you're  
6           assessing the actual characteristic. The second part  
7           you're counting.

8                     So if you were to count without already having  
9           assessed whether that was something that ought to be  
10          counted, if you know what I mean -- so, for me, speaking  
11          personally, that wouldn't work so I check each  
12          characteristic, double check it, keep going back  
13          spatially because of course when you're checking a mark  
14          you're not checking in a line you're checking everything  
15          around it and seeing that it's all in the right place in  
16          conjunction with other characteristics. So it's a group  
17          and a group or an angle or a shape of a ridge, pores,  
18          all sorts that you are taking into consideration.

19                    When you are as certain as you can be of course,  
20          beyond reasonable doubt or beyond your own doubt that it  
21          is a match, then you're focussing on counting. I  
22          couldn't look and see if that's a true characteristic  
23          and at the same time say and I'm going to count it as  
24          characteristic number 2 because you're -- the  
25          enlargement, I think, shows it quite well, the process

1 of the counting part, because you're going in a  
2 clockwise direction and you're counting ridges between  
3 each one.

4 But that's not how, in reality, you would be  
5 checking. You would be checking that characteristic  
6 against, say, characteristic number 1 and against  
7 characteristic number 4 and characteristic number 5  
8 looks at a slightly different angle. Can you account  
9 for why there's a difference of angle. It might be all  
10 right with those characteristics but is it okay with  
11 that characteristic? Does it make sense? Does it  
12 match? Whereas in the actual counting process you're  
13 just counting through in a more sort of linear way, if  
14 that makes sense.

15 Q. So should we understand you would only start counting  
16 after you have reached a personal point of certainty?

17 A. Yes. Having said that, just to be clear, when you're  
18 training it's not possible to do that because you have  
19 no experience, you can't know whether it's that print or  
20 not. So we are told that over 16 characteristics -- 16  
21 characteristics establishes identity beyond reasonable  
22 doubt but what I did as a trainee was I would get to 16  
23 and then I would say, "Is this true?" and I would test  
24 every characteristic on the mark just to see is it true,  
25 is there a difference or whatever. Then eventually you

1 realise that they are -- not that they wouldn't be  
2 telling you the truth but you have to check for  
3 yourself. You have to know that that is the case. So  
4 you're constantly testing this until you reach a point  
5 where you have enough experience where you don't have to  
6 count any more because you know, you have established  
7 that that is the case and then, of course, over time  
8 you've acquired enough experience to know, "That's  
9 exceptional, unusual, that's not, I will give more  
10 weight to that than I will to these other  
11 characteristics". But that's how you build up.

12 So I think it's impossible to train someone without  
13 counting. I don't know how that would happen but  
14 certainly once you've had a lot of experience it's not  
15 required.

16 Q. Of course you'd some considerable years of experience at  
17 the time you were looking at Y7?

18 A. I read my transcript and I think it said 14.

19 Q. I was going to say 15 but I will take your word for it.

20 A. I think it says 14 but I could be wrong.

21 Q. Sticking with that, with you as the experienced examiner  
22 at that point and perhaps moving away from Y7 to a  
23 general question about the counting and your personal  
24 point of satisfaction.

25 Did you ever have a situation where you reached your

1 personal point of satisfaction and you obviously haven't  
2 been doing a count on the basis you explained to us, but  
3 then you start your count and you find that you've got  
4 ten. Would you then look at it and think, well, there  
5 may well be more here that I've not noticed the first  
6 time round. I'm going to have another look at it. I am  
7 not suggesting anything improper here but that you  
8 think, well, there is a 16-point standard here. I am  
9 going to have another look and see if I can make any  
10 more of some of the rest of this mark?

11 A. I would look at it again. I wouldn't be teasing out the  
12 points. I would just be double checking my own work to  
13 be certain before I say to someone, "I can't get 16 but  
14 it is" -- of course I would have to check it, otherwise  
15 I would be a little bit arrogant, I think. So of course  
16 I would check it. It doesn't mean I'm looking to tease  
17 out -- and I'm not saying you are suggesting this -- but  
18 it's not that I'm looking to tease out points as one of  
19 the phrases that have been used or whatever, it's just a  
20 case of being certain and making sure before you pass it  
21 on and say, "I'm not able to get 16".

22 Q. That is in the situation where perhaps somebody else has  
23 seen 16 --

24 A. No, no.

25 Q. -- or would that be in any situation --

1 A. That would be in any situation, absolutely any  
2 situation. You check and double check and check your  
3 own work before you hand it -- and you are absolutely as  
4 certain as you possibly can be and you hand it over to  
5 the next person and the next person may or may not agree  
6 with you.

7 Q. Of course and, again, please, don't take this as any --

8 A. No, I'm not taking any. No, I'm not at all. Sorry if  
9 I've got an expression on. I don't.

10 Q. But it was part of your job to make sure something that  
11 should have been an identification wasn't missed?

12 A. Absolutely, yes.

13 Q. And that the chance to take it to court wasn't missed?

14 A. Absolutely, yes.

15 Q. So there could be reasons for going back and looking  
16 again to see if you could get the 16?

17 A. Of course because, again, a fingerprint, it's not a  
18 linear set of -- they are unique sets of characteristics  
19 so you may have counted in a direction and you think, "I  
20 wonder if there's something I can get up here", or,  
21 "Where those -- are very really pores or are they a  
22 lake?" I'll check it against another, perhaps another  
23 form that we have on file for the person, check it  
24 against the plain impression, the rolled impression,  
25 just basically trying to see if it's possible but if it

1           isn't possible, it isn't possible, but you just want to  
2           make sure that you are correct before you pass it on and  
3           say, "I cannot achieve the court standard here".

4    Q.    When you say checking it against another form would  
5           there be situations perhaps where you had more than one  
6           form to look at?

7    A.    Oh, absolutely. Of course the database has the master  
8           form, the database of the -- the computer database and  
9           the master form is the best form and of course that's  
10          arbitrary. It's some have a good thumb on it but it's  
11          not such a good little finger, et cetera. You've got to  
12          make a judgment. What's most likely to reveal the  
13          greatest area with the best clarity for a scene of crime  
14          mark, an unknown mark, to have the best chance of  
15          hitting it on the machine. So you choose what you think  
16          overall is the best form and it goes on to the computer  
17          database. But every single time a person's arrested or  
18          charged or whatever and they have a fingerprint form  
19          taken we would get the fingerprint form and we would  
20          file it as a spare so we have all those fingerprint  
21          forms to check, to choose from.

22   Q.    Would I be right in thinking though that if you were  
23          taking a case to court there might be a problem with  
24          going to court using any form other than the arrest  
25          form?

1 A. Absolutely. For example, if there was a suspect to be  
2 quoted but the police hadn't actually arrested him there  
3 wouldn't be a fingerprint form in existence for that  
4 person for that crime. You have to identify them first  
5 to give the information over to the correct parties and  
6 they may go out and arrest that person, take a  
7 fingerprint form and when we've got the fingerprint form  
8 in we would have to check that form to see that revealed  
9 the correct area for that particular case.

10 So there was a system in the office where we wrote  
11 at the top of a master, at the top in pencil, "Current  
12 form required", and the CR number, so that when the  
13 person who received -- it would be clerical people who  
14 would receive a bundle of ten-print forms. They'd file  
15 them and when they filed them they would look at the top  
16 of the form to see if there was a request for that  
17 particular form and, if so, they would take it to the  
18 person who had signed for it saying, "Please pass the  
19 form on", and that person would pull the case and make  
20 sure that they were sufficient characteristics on it,  
21 the right area was revealed for the identification to  
22 continue.

23 That was something that, of course, you have to be  
24 careful of in court when we're asked, "At what point did  
25 you identify this person", the answer would be, "I

1 identified that mark against that form on that date".  
2 If the person -- if it was -- if they were asked again,  
3 we would then ask the judge or say, "It may be  
4 prejudicial to the accused to answer this question", and  
5 if he said answer it then we would answer it. Having  
6 said that, the Fiscals' Office sometimes, if we didn't  
7 have a current form, they would authorise use of a form  
8 with previous convictions or they had that opportunity  
9 and they did sometimes take it up, although it wasn't  
10 very often.

11 Q. I think it's probably my fault for leading you down that  
12 diversion because you weren't faced with that problem  
13 with Ms McKie?

14 A. No, she was an elimination and later, I suppose, I  
15 suspect.

16 Q. You told us a moment ago about your view of the upper  
17 part of the mark.

18 A. Yes.

19 Q. You said, I think, you could see it had moved and you  
20 don't know if you could have afforded the time and I  
21 think you said to do something like going through the  
22 mishmash?

23 A. Well, I could have afforded the time but I'd already  
24 reached a conclusion on the bottom part of the mark.

25 Looking at the top part of the mark, when I said

1 "mishmash", basically what I meant was I was describing  
2 what's been on the screen very often is the top part of  
3 the mark. We identified Second Level Detail  
4 characteristics so there was not going to be 16 in  
5 sequence and agreement in any part of the mark that I  
6 could see at the top and, therefore, there was no  
7 benefit to spending any time checking a mark that was or  
8 spending a great deal of time on something I'd already  
9 identified and the part at the top was clearly  
10 insufficient and was designated so because it hasn't --  
11 nobody has checked the top part or at that point we  
12 hadn't checked the top part against anybody else, any  
13 other suspect because you were never going to achieve  
14 the 16-point standard anyway. So it was insufficient  
15 for our purposes. It was broken with a couple of points  
16 here or a few points there. It was dark in places.  
17 There were compressed ridges. It was clearly not a  
18 straightforward mark.

19 I did have a look at it against Ms McKie to  
20 understand why the ridge flow was the wrong direction.  
21 I could see that it was broken and that it wasn't a  
22 continuous single movement that had produced that mark.  
23 I couldn't say it was Shirley Ms McKie's mark.

24 Q. If I can just stop you there, you say you were never  
25 going to find 16 points in sequence and agreement in

1           that part of the mark?

2       A.    At that point that's what I thought, yes.

3       Q.    I suppose what others might seek to say against that  
4           approach is that you might have looked there to see if  
5           there were actually things that showed any difference  
6           between what you could see on that part of the mark and  
7           what you might be able to find on the fingerprint form  
8           available to you?

9       A.    Well, I did analyse it. I came to the conclusion that  
10          it was of no value, certainly to the standard that we  
11          were working. Below that thumbprint there's a piece of  
12          palm as well but it's also insufficient and I haven't  
13          spent time looking for that either, so ...

14      Q.    Because we have heard I think many times and you have  
15          heard the evidence as well, much of it, I think,  
16          Ms McBride, about a characteristic called the Rosetta  
17          characteristic.

18      A.    Yes.

19      Q.    Which those who say that you and your colleagues were  
20          wrong say is a point of difference between Shirley  
21          McKie's print and mark Y7.

22      A.    Yes.

23      Q.    Do you recall whether that was a characteristic that  
24          passed through your consciousness back at the time that  
25          you first viewed this mark?

1 A. I can't recall. However, I would imagine -- in fact,  
2 I'm pretty sure -- having looked at the entire mark, I  
3 must have seen it and I must have discounted it as part  
4 of the top area. There is an area which suggests  
5 movement or there's a fault line, or whatever, they're  
6 called it a fault line or whatever, and a particularly  
7 useful exercise I found with this mark is to take the  
8 enlargement or the photograph -- I've not tried it with  
9 the photograph I've only tried enlargements -- and to  
10 hold it up against the light and you can see a clear  
11 digit there, a clear digit there.

12 I'm not sure, I think the Rosetta characteristic  
13 could be described, without going into great detail, as  
14 existing in the twilight zone between the two. Having  
15 said that, I'd have to double check that to make sure  
16 that I'm absolutely accurate but that's what I would say  
17 at this point. So the chances -- yes, I would have  
18 looked at that characteristic and I would have had an  
19 explanation that the top part of the mark is moved,  
20 broken, or whatever, not necessarily Shirley McKie's and  
21 there was sufficient detail below that, the bottom third  
22 or whatever of the mark, to effect an identification to  
23 the 16-point standard.

24 Q. Would it assist you to have any of the images on screen  
25 to help you describe what you mean?

1 A. I don't know. Was that a sufficient description do you  
2 think or would want me to? I'm fine, from memory, that  
3 that's fine. As far as I'm concerned, I will have noted  
4 a Rosetta characteristic, as it's called. I would have  
5 noted the characteristic at the top. I would have noted  
6 the compressed ridges and the movement and the line. So  
7 it's all, as far as I'm concerned, not part of my  
8 identification because it was above what I needed.

9 I had my identification in the bottom part and to me  
10 at that point it would have been as futile as spending  
11 hours on the palm below the thumbprint just to discover  
12 it might be that person but I can't do anything with it.

13 Q. If you have 16 points in sequence and agreement, will  
14 that always be an identification? Will it always be the  
15 same person?

16 A. Again, it depends. 16 characteristics of what quality?  
17 I have -- I do check beyond, obviously, when I am doing  
18 the analysis, 16. However, if there is something that  
19 is perhaps poor quality, I will work on and on and on in  
20 that mark until I achieve certainty and if I count the  
21 characteristics at the end I will probably have checked  
22 over 16 because being ultra cautious, yes, that's in the  
23 correct area; yes, it looks like that; it's fairly faint  
24 or it might not be that, it could be -- it's slightly --  
25 it looks as though it's going in and out of reverse.

1            Sometimes it's in reverse and another part of the mark  
2            it's the right way round it's -- the black ridges are  
3            white and in another part of the mark the black --  
4            sorry, what am I saying. Black ridges are white and in  
5            other parts of the mark they are the correct way round  
6            and they are black. That quite often happens with  
7            ninhydrin which is a particular process carried out by  
8            the IB and you can have digits with it changing from  
9            black to white throughout. So, yes, you are then  
10          counting the spaces as ridges instead of the other way  
11          round.

12                      So in a case like that, in a mark like that, just to  
13          be doubly doubly sure, I would continue on just to  
14          make -- apart from the sequence and agreement part I  
15          would quite often find I'm just exploring the mark and  
16          I've gone well past the required standard.

17                      At what point was I satisfied? I don't know because  
18          I was still wanting to explore it because there are  
19          certain things that are different that I want to be  
20          certain of.

21          Q.    I think I understand from what you said earlier that you  
22          personally might well go beyond 16 in some situations  
23          but, if I can put it this way, has there ever been a  
24          situation where you have got to 16 and you've thought it  
25          wasn't a match?

1 A. No.

2 Q. I'm sorry --

3 A. Not that I can remember, anyway.

4 Q. I think my earlier question maybe wasn't as clear as it  
5 should be for you, Ms McBride.

6 I would like to ask you a little bit about preparing  
7 reports in situations where, unlike with Y7, if I can  
8 put it that way, you have not had a previous involvement  
9 with the mark and the print before you come to prepare  
10 the case for court and I think an example in this case  
11 was Q12 because you became part of the team that was  
12 preparing things for court and you weren't one of the  
13 people who had initially identified part of Q12 as  
14 Marion Ross's?

15 A. Yes.

16 Q. Could you tell us, please, what you would do -- first of  
17 all, how would the case come to you? In what form and  
18 with what papers?

19 A. The case would come to me as a package, everything  
20 together, with all the signatures on it of the people  
21 who had seen it before on front of the case envelope  
22 with the marks in order in the packets inside the  
23 envelope and with the forms attached. I would check  
24 that all the marks were there. I would check that the  
25 details were correct and I would check the

1 identifications on the front. So it would really be a  
2 first check for me of the scene of crime mark against  
3 the known print.

4 Q. Is this something that would happen before -- assuming  
5 you're not writing the report yourself and not preparing  
6 enlargements yourself, is this a package that you would  
7 get before the joint report was prepared and the  
8 enlargements prepared or after that?

9 A. Prior to that you would have to have it before it  
10 because it may be the case that I would check it and  
11 then disagree with something. So you couldn't have a  
12 joint report made up without everyone who was signing  
13 for that report agreeing on identifications in the case.

14 Q. If we can move on to the stage then when the joint  
15 report is being prepared and you have perhaps not been  
16 involved in the case in first instance. Should we take  
17 it from what you have said that you will have had a  
18 packet that has permitted you to carry out your own  
19 examination of the mark?

20 A. Yes, I would have the entire case and I would check  
21 everything, so yes.

22 Q. Do you have any recollection yourself of being involved  
23 with the mark Q12 in that capacity, in getting the  
24 packet and dealing with the mark and the print?

25 A. Of course. It was at the point when I was allocated the

1 case. So I got all the paperwork and I checked all the  
2 marks. So when you say Q1 -- I know that it must have  
3 been in there because it would have been on the front of  
4 the envelope and I would have checked it because it was  
5 on the front of the envelope. In fact, I think the  
6 envelope has been shown on the screen with a piece of  
7 sellotape over my name. I wouldn't have signed that if  
8 I hadn't checked everything that was on the front of the  
9 envelope.

10 Q. You are describing the case envelope we have looked at  
11 with five signatures on it, including yours?

12 A. Yes, that's right, yes.

13 Q. But do you have any particular recollection of your own  
14 examination of Q12?

15 A. No. I think there were many identifications of Marion  
16 Ross but that's just retrospectively. I can't remember  
17 that. There wouldn't have been any -- I would have just  
18 gone through the case and checked it --

19 Q. -- at the time when the case --

20 A. -- it wouldn't have been part of everything else, sorry.

21 Q. Sorry, I didn't mean to talk over you, please go on.

22 A. No, it's quite all right.

23 Q. At the time when the case came to you for preparation  
24 for court and you get the packet that you describe, did  
25 you have any picture of the significance of the mark Q12

1 in the case against Mr Asbury?

2 A. No.

3 Q. Because I mean, we have heard from other colleagues and

4 I think, again, you have heard the evidence yourself,

5 Ms McBride, in the hearings, that the police had

6 regarded the mark as a significant one and that had been

7 brought to the attention of at least some of your

8 colleagues in the earlier stages of the investigation.

9 Just thinking of an office environment and, again, I

10 am not suggesting anything improper by any means --

11 A. Of course.

12 Q. -- might it not be there would be some sort of chat

13 about the case, even to those who came to check it at

14 the stage that you did?

15 A. No, not at all. The reason for that is something that

16 has been, in a way it was a -- we had so much work, we

17 had a high workload which, in effect, insulated us. We

18 just didn't have time to talk about marks in particular,

19 unless we were working with it at the time and it was

20 exciting, explain this characteristic, do you know why

21 this has happened and it would be shown round the office

22 and we would discuss it. But as for ordinary casework,

23 there was no reason for them to impart that and I had no

24 idea and there wasn't any chat and -- because it was

25 just another case. Yes, it was a special case. It was

1 a murder but, unfortunately, there were a few murders,  
2 there were a few murders on the go at the time, and it  
3 was always be the case so there was nothing to attach  
4 specific significance to any of the marks in the case.

5 The only reason I remember Y7 is because I was busy  
6 doing another case and I happened to look up at the  
7 wrong time or the right time and Hugh MacPherson is  
8 like, "Ahah, could you check this for me", and I did.  
9 So that's why I remember that.

10 Q. Coming back to Q12 and the envelope coming to you, would  
11 the process that you described as to your checking of Y7  
12 be the same process or would it be different in some way  
13 when you are dealing with a packet of marks for  
14 preparation for court?

15 A. No, it's the same. I would pick it up, have, a look at  
16 it. I would know that -- it would say which digit on it  
17 I was to check it against but if there was anything that  
18 I thought, oh, I have to understand why this is the  
19 case, I would look to see if I could understand why it  
20 was the case that this particular mark, whichever mark  
21 it was, had a ridge flow a particular way or was it  
22 twisted or was it -- and I had to understand that and  
23 then I would check the mark and see if it was an  
24 identification.

25 Q. When it comes to the joint report and the enlargements

1 for a case, again assuming a case where you yourself are  
2 not the drafter of the report or the person who prepares  
3 the enlargements, how does that come to you?

4 A. You mean the actual -- for signing, you mean?

5 Q. Yes. Yes, indeed.

6 A. It would depend. Obviously, I'd need all the  
7 information in front of me so I could check the joint  
8 report was accurate. If it wasn't, there could be typos  
9 or something not included or whatever or I thought  
10 should be included or I thought shouldn't be included.  
11 I would double-check all that. If there was anything  
12 different it would go back to the person who had created  
13 it, who would then pass it back to the typist and I  
14 might have kept -- we would keep a copy with the changes  
15 on it. So it might come back. After I've checked  
16 everything in the case to make sure that it's correctly  
17 noted in the joint report. If there were any changes  
18 and it had to go back, the changes would have been noted  
19 in the joint report so when the joint report came back  
20 from the typists for the signatures, I wouldn't have to  
21 go through the case again. I would be sure of the  
22 fingerprint work in it. It would just be a case of  
23 changing the typing. So it would be the full case  
24 unless it had gone back for alteration, in which case I  
25 would have the full case but I certainly wouldn't go

1 through it again.

2 Q. So far as the preparation of enlargements is concerned,  
3 how does the agreement among, at the time, four experts  
4 who will all have viewed the mark separately come about?

5 A. What would happen would be -- do you want the charting  
6 PC particularly or would you like to know about  
7 photographic enlargements because they are slightly  
8 different?

9 Q. I wonder if you can tell us about the charting machine  
10 because we know that was what was used in the cases we  
11 are concerned with.

12 A. With the charting machine, someone would sit at the  
13 charting machine and chart the mark -- generally not me  
14 because I was useless with it. I wasn't very good at  
15 working it. So if there were four signatories, I would  
16 prefer that someone else charted the mark. There are  
17 people who were more skilled at using the machine than I  
18 was, so it was better that they did it, although if I  
19 had to I would.

20 Because it was a machine, you couldn't transport it  
21 from desk to desk like you would have done with a  
22 photograph. If there was a particular characteristic  
23 but the person who was making up the enlargement thought  
24 will I put in or I see a couple of characteristics, they  
25 are the good ones, but here are a couple of

1 characteristics. It's six and half a dozen which of the  
2 two which is the better one for demonstrating the  
3 process. They might come to your desk and ask you to  
4 come and have a look before they print it off.

5 Having said that, we weren't always there at the  
6 same time, in which case they would print it off and  
7 give it to us to have a look at and see if we agreed  
8 with it and of course if we couldn't agree with it, we  
9 would have to go back and change it. So it was easier  
10 to take people to the machine to have an opinion on the  
11 characteristics that were marked prior to printing it  
12 out because when you went back into the machine, it lost  
13 some of the information, particularly the cropped part,  
14 the image that showed up, the square, the dimensions of  
15 the square. So you would have to redo that.

16 I notice there's a difference in the charting images  
17 that were shown to the Inquiry. The difference is only,  
18 as far as I can see, the square round about it and the  
19 second time it looks nice, it looks better to me because  
20 it's the same dimensions as the -- although the scene of  
21 crime mark square or rectangle, or whatever it is, is  
22 the same size almost probably to the one in the inked  
23 impression; whereas the other one has a big space at the  
24 bottom, which is of no use anyway and it's a different  
25 size from the one on the right-hand side which doesn't

1 look as nice.

2 Q. If I can just stop you there so that we can all just be

3 absolutely clear what you are talking about there, I

4 might be able to --

5 THE CHAIRMAN: Just give me one moment if you would. **(Pause)**

6 I think I should say that I am planning to stop at a

7 3.45 so I think there is no point in stopping for ten

8 minutes now and disrupting things. So we will continue

9 unless you find it difficult.

10 A. Not at all. Thank you.

11 MISS CARMICHAEL: Thank you, sir.

12 I was going to suggest that we perhaps, just as

13 Ms McBride has touched on this matter, put up an image

14 of ST0006.7 and also an image of DB0011.06. I wonder if

15 Ms McBride could perhaps be shown the originals of

16 these. They were production 180 and 152 from the case

17 against Ms McKie. They should be in the box on the

18 floor in the accordion-type folder marked SCRO. A lot

19 of people have found it of assistance to look at the

20 originals and I want to be quite clear what you are

21 referring to. If you will just bear with me for a

22 moment, Ms McBride, I should be able to get this to you.

23 **(Pause)**

24 **(Handed)** I think if you go to the final page of

25 each of these, you should be looking at the same thing

1           that we're looking at on the screen there. If you just  
2           want to take a moment to satisfy yourself as to what you  
3           are looking at there, Ms McBride.

4    A.    Thank you.

5    Q.    I think what you were talking about was the image  
6           showing up depending on the dimensions of a square that  
7           was put round it on the charting machine; would that be  
8           right?

9    A.    Yes, that's right.

10   Q.    What we can observe when we look at the image of Y7 in  
11          152, as you will have it numbered I think, which should  
12          be the uppermost ST0006 on our screens, with what we see  
13          on the lower image DB0011 on our screens, is that the  
14          mark appears to be positioned lower down in the square,  
15          although the points charted are identical?

16   A.    Actually I don't think that's the case.

17   Q.    Ah.

18   A.    Of course, I could be wrong, but in fact it looks  
19          identical. It's not positioned lower down. I think the  
20          mark itself -- the actual print Y7 is in the same --  
21          it's exactly -- it's at the top and, in fact, if you  
22          look at the ridges, it's very close. The ridges at the  
23          very top of it are very close to identical from the top  
24          and of course they can only extend so far down. So the  
25          actual difference isn't the positioning of the mark,

1           it's just that the lower part of the image has been  
2           removed and has not been captured -- not the mark, but  
3           the space at the bottom.

4    Q.    So the space at the bottom that we see in 152 has been  
5           removed by the positioning of a different rectangle?

6    A.    Precisely.

7    Q.    By whoever has been using the charting machine?

8    A.    Yes, because if you look at the top of the two marks in  
9           both cases, they are practically identical. So whoever  
10          chopped it or cropped it did quite a good job, I  
11          think -- at the top, I mean, in capturing the same area.  
12          I think that is -- I mean, it looks very, very, very  
13          close.

14   Q.    I really just wanted to be sure that when you were  
15          talking about this in something we had seen that this is  
16          what you were referring to.

17   A.    So all they've done really is they removed the bottom  
18          part, which is superfluous in any case, and it does make  
19          it -- it looks better to the eye because the sizes are  
20          practically identical on both sides in the lower images  
21          than in the top one where there's an extra area which is  
22          superfluous to the identification anyway and it just  
23          doesn't look as neat.

24   Q.    What you have helpfully told us is that this is  
25          something that was achieved by the placing of a

1 rectangular shape by the operator of the machine?

2 A. Yes, that's true.

3 Q. Should we also understand then that this machine had  
4 some kind of saving facility?

5 A. I think it saved the actual characteristics. This is  
6 from memory. However, I don't think it was possible to  
7 save the area because if you came out of the manoeuvring  
8 part of it and you looked at the image and you  
9 thought -- for example, if it were me, I might think I  
10 don't like that space at the bottom, I'm going to go  
11 back in and change it, when you went back in you  
12 couldn't just -- from memory, you couldn't just lift the  
13 bottom part of the ... how do I describe it?

14 On the left-hand side of the image, you couldn't  
15 just go in, as I would have done in this case, and moved  
16 the line up. The whole rectangle would be lost and  
17 you'd have to start again. That's from memory.

18 Q. So you couldn't just chop a bit off; you would need a  
19 new rectangle?

20 A. Precisely. But it was more difficult than it sounds  
21 because it was quite difficult to work with and because  
22 of the magnification and all the rest of it and it sort  
23 of jumped sometimes when you touched the mouse,  
24 et cetera. So it was quite difficult to get it to be  
25 the same as before.

1 Q. I am grateful for your explanation on that, Ms McBride.

2 We can perhaps taken that down.

3 You described, I think, a process where people might

4 be brought to the desk if they are available. If they

5 weren't available, would we take it that the book would

6 be passed along to them for their consideration?

7 A. Yes, that's true.

8 Q. Thinking about the two marks that we have been most

9 concerned with here in turn, first in relation to Q12,

10 do you remember the process for agreeing the points that

11 came to be charted?

12 A. I don't remember specifically at all. However, I do

13 know what the process would have been. I don't know if

14 that's useful, but if you're asking me to remember

15 particularly that enlargement or whatever, I wouldn't

16 remember it.

17 Q. Thinking about Y7, I suppose that's perhaps a

18 slightly different mark, even in the context of

19 preparing Mr Asbury's case, because it had become known

20 presumably that Ms McKie was disputing that the mark was

21 hers.

22 A. I don't know about Mr Asbury's case. Yes, I would have

23 known there was a dispute but it only became -- I

24 remember it from preparing the work for Shirley McKie's

25 trial, but prior to that she was still just an elim,

1           so -- and of course we must have made up a chart of  
2           Shirley McKie's mark for Asbury but I don't particularly  
3           remember it because it wasn't -- well, I don't know. I  
4           don't particularly remember it but I imagine it was  
5           because it wasn't of any import really because we had no  
6           idea she was going to end up in the situation that she  
7           did.

8        Q.    So we take it from that there was nothing in your mind  
9           that sticks particularly about agreeing the  
10          characteristics by whatever means?

11       A.    No, but I know the process that we would have followed  
12          but I'm not sure if that's what you're interested in.  
13          You're interested in that particular --

14       Q.    I think you have told us about the process more  
15          generally.

16       A.    That's fine.

17       Q.    What I was trying to ask is whether there was anything  
18          you could remember particularly in the run-up to the  
19          Asbury case about the enlargement, but if the answer is  
20          no, that's the answer.

21       A.    No, I don't remember.

22       Q.    Thinking about the time when you came to be preparing  
23          the case against Shirley McKie, I think we have heard  
24          that by that time there was of course an arrest form?

25       A.    Yes.

1 Q. And a fresh production was prepared to be added to the  
2 original productions from Asbury in the case against  
3 Ms McKie?

4 A. I presume so, yes.

5 Q. Sorry?

6 A. I don't know what you mean by a fresh production. What  
7 do you mean?

8 Q. A joint report --

9 A. Of course, yes.

10 Q. -- and enlargements were specifically prepared for  
11 Ms McKie's trial?

12 A. Yes, that's true.

13 Q. The Crown didn't simply rely on the productions that had  
14 been available for Mr Asbury's case. There was another  
15 one as well.

16 A. Yes, we would have to use the current form.

17 Q. Do you remember being involved in the preparation of the  
18 report for that case?

19 A. It would have been as before, just -- I don't remember  
20 it actually. I don't remember it at all specifically,  
21 I'm afraid. I know what -- I mean, I've already  
22 described how you go about checking such things. So  
23 that would have been done but I can't remember.

24 Q. Just to be quite clear, would you have viewed the new  
25 form and an image or images of Y7 afresh?

1 A. Of course, because I would need to know if it was  
2 possible to reach the required standard for that case  
3 against the current form.

4 Q. Thinking on to the preparation of the charted  
5 enlargement for that case, given that we are now dealing  
6 with a case against Ms McKie and the situation has  
7 perhaps changed rather since the case against Mr Asbury,  
8 I am assuming that this might be a process that had  
9 perhaps stuck in your mind rather more than the earlier  
10 one. Would that be a fair assumption?

11 A. I don't know. I think if you ask me questions, it might  
12 spark my memory but I'll have to just tell from the  
13 questions whether I remember or not. I can't ...

14 Q. Do you remember any process or discussion or agreement  
15 between yourself and your colleagues about the points  
16 that you were all agreed on for the production for  
17 Ms McKie's trial?

18 A. I'm not sure if I'm remembering remembering or whether  
19 I'm actually remembering the original time and it was a  
20 different characteristic. I know that Hugh would have  
21 asked me to check the enlargement again. However, I'm  
22 not sure how that memory's there, whether it was a  
23 genuine memory or whether it's something that's become  
24 incorporated because I know so much now.

25 THE CHAIRMAN: There has been so much talk about it, it must

1 be very difficult to separate out what you knew at the  
2 time and what you did at the time and what you have  
3 heard since.

4 A. Exactly, yes.

5 MISS CARMICHAEL: If you have no recollection that you are  
6 sure is a clear recollection, please do let us know  
7 that, Ms McBride.

8 Should I take it from what you have said that you  
9 don't have a clear recollection of --

10 A. Sorry. I have a recollection but I can't be sure if  
11 it's from that time or if it's something that I'm aware  
12 I must have done; therefore, that's what I'm  
13 remembering. That is the case. It's facts I'm  
14 remembering rather than the actual going to the  
15 comparator or going to the charting PC and checking it.  
16 So I think it's -- I can't be sure.

17 Q. Can you remember if there was any additional discussion  
18 amongst you and your colleagues because of the  
19 particular context that you were working in here, a lady  
20 who was saying that her fingerprint -- that there was  
21 certainly some problem of some nature with her  
22 fingerprint?

23 A. So what kind of discussion are you looking for? I'm  
24 just wondering.

25 Q. I just wondered if perhaps you had a more extensive

1 discussion than you would normally have when you were  
2 trying to agree your characteristics for the charting?

3 A. To do with the charting, there wouldn't have been a  
4 change. There wouldn't have been a discussion  
5 particularly round that. We would have checked the mark  
6 again against the current form and at that point, if  
7 there was anything worth discussing, if we had thought  
8 something different, then clearly we would have  
9 discussed it.

10 I do remember being surprised that a police officer  
11 was being taken to court and I felt quite sorry for her  
12 at that point, so ... but that's the sort of discussion.  
13 It wasn't a discussion around the mark, because I had  
14 verified it again.

15 Q. You started to tell us a bit about some difficulties, if  
16 I can put it that way, with the charting machine and you  
17 described the difficulty of not being able to alter the  
18 scope of the image without starting again, effectively.

19 A. From memory, yes.

20 Q. Can you tell us if there were any other difficulties  
21 with the use of the machine?

22 A. I wasn't very good at operating the machine so I had  
23 less experience of working with it; therefore, I've got  
24 not such a good memory as other people of exactly how  
25 you went about using it because it was anathema to me.

1 It was extra work that took me a long time to chart an  
2 enlargement. So I do know there were various  
3 difficulties with it because I found it difficult to  
4 work with but what specifically, I don't know.

5 Q. I will ask you some specific questions and see if that  
6 helps, Ms McBride.

7 As regards the quality of the image, was that  
8 something that was better or worse than you would have  
9 got from the process of using photographic enlargements?

10 A. I preferred photographic enlargements of wet photography  
11 in those days because the digital -- when the image was  
12 enlarged, it would pixillate. So obviously I'm trying  
13 to remember what the characteristic looks like before  
14 its enlarged before you can put a point on it and then  
15 you would go down to a normal size and you think, "Oh  
16 that's not in the correct area" and I would have a few  
17 goes to get it as close to the characteristic as  
18 possible and that's what held me up. That's what I  
19 found annoying.

20 Q. So you found it difficult to plot the characteristic  
21 using the machine?

22 A. Yes. There were people that were very good at it but I  
23 just wasn't one of them, unfortunately.

24 Q. We have heard one of your colleagues describing the  
25 difficulty caused by thinking that he had got to just

1 the right point with his mouse and then something  
2 jumping and the line ending up perhaps just not exactly  
3 where he wanted it to go. Is that something that you  
4 would recognise?

5 A. Well, not exactly where you wanted it. If it had been  
6 in a photographic enlargement, we would have plotted  
7 where we wanted it specifically to be. On the charting  
8 PC, it was as close as you could get it.

9 Having said that, there was no doubt when we charted  
10 it that that was the characteristic we were indicating.  
11 However, it was much more difficult to use and it might  
12 be slightly -- and of course we are working exact or  
13 being as exact as we can. So there was a difference for  
14 me, because I wasn't very good at using it, between the  
15 two. If it had been someone else, they might have been  
16 able to put it in a far better position. I wasn't any  
17 good at it and there were times that were particularly  
18 frustrating was I thought I got to the end or close to  
19 the end when I lost everything and I don't know what  
20 button I'd pressed and I would lose the whole thing and  
21 have to start again. So I didn't practice long enough  
22 to get to become skilled because I'm afraid I didn't  
23 have the patience for it and other people were better.

24 Q. If I could refer you to paragraph 62 of your statement  
25 FI0039, in paragraph 62 you tell us there that the

1 enlargement had to be accurate. In relation to Y7 and  
2 the two chartings that you were involved in agreeing,  
3 bearing in mind the difficulties with plotting things on  
4 this particular machine, were you satisfied that they  
5 were accurate?

6 A. When I checked it, obviously I was satisfied that the  
7 characteristics that we intended to mark had been  
8 marked. I'm not one to criticise anyone else's mark-up  
9 because, if it had been me, it would have been miles  
10 out. So I thought it was sufficient for the purpose and  
11 that was to illustrate the identification process to a  
12 jury.

13 Possibly if people had spent hours upon hours upon  
14 hours on it, they might have got it slightly closer but  
15 at the time that I checked the enlargement, I thought  
16 that will do the trick, that will do the job. Of  
17 course, had it been a photograph it would have been  
18 easier and I certainly wasn't going to criticise someone  
19 else's efforts when I couldn't do it.

20 Q. Should we understand when you refer to checking that  
21 this might be something where you actually examine the  
22 production itself rather than the process where you are  
23 called to the machine?

24 A. Yes.

25 Q. Still on the theme of enlargements -- and we can take

1 that down and look instead, please, at page 14 -- what  
2 you tell us at paragraph 58 is that enlargements were  
3 prepared as part of the productions and an enlargement  
4 comprised an enlarged image of the mark and an enlarged  
5 image of the relevant fingerprint. You explain that:

6 "The enlargement was shown to the jury as a means of  
7 explaining, in a generic way, how fingerprint experts go  
8 about the task of comparing marks to prints."

9 You say:

10 "It was a way of showing how fingerprint experts did  
11 their work."

12 A. Yes.

13 Q. If I can take that down and put up paragraphs 59 and 60,  
14 what you tell us there is that:

15 "It was also a way of illustrating the process that  
16 resulted in a conclusion being reached as to an  
17 identification in the case in question. The enlargement  
18 would show 16 characteristics in sequence and agreement  
19 in respect of a specific mark and print.

20 "The enlargement was not a substitute for the  
21 identification itself. It was not designed to enable  
22 the jury to make an identification. Juries are not  
23 qualified to decide on fingerprint identifications. It  
24 is a professional task."

25 Bearing in mind what you tell us there, should we

1 take it that your view of the enlargements was  
2 principally that they were to demonstrate a process?

3 A. Yes.

4 Q. With that in mind, might that purpose not equally well  
5 have been served by having simply a generic  
6 demonstration involving a fingerprint that might be  
7 completely unconnected with the case in question?

8 A. Yes, it could have been. Having said that, I liked  
9 having case-specific enlargements. I thought it was  
10 useful and it did perhaps help the jury see some of the  
11 characteristics that were in the identification.

12 The reason it's the process and not the  
13 identification is, of course, because you cannot  
14 replicate four people's conclusions on one enlargement  
15 without it -- you had to come to a consensus and really  
16 the consensus wasn't yes, it was that you agreed with  
17 those characteristics but it was also is this the best  
18 or are these the best characteristics to show to a jury,  
19 because we're not there to confuse them, we're there to  
20 help them. So we're not going to mark something that  
21 was the least obvious characteristic. We would choose  
22 what we could to help the jury understand the process.

23 Having said that, dependent on the quality of the  
24 mark and the fact that we had to produce 16 for the jury  
25 on a range of qualities of marks for different cases,

1           some were easier to help the jury with than others. But  
2           I still thought it was a useful process and I thought it  
3           was useful for the jury to at least see some of the  
4           case-specific identification.

5                     However, to have noted every characteristic or Third  
6           Level Detail or all the information that you use to come  
7           to your conclusion, for a start it's not possible for an  
8           expert to do because it would be a huge task and it  
9           would be mentally exhausting to go to that effort and it  
10          wouldn't serve the jury in any case because it would be  
11          too information.

12    Q.    If I can stop you there, I am not suggesting --

13    A.    I know. I just thought I would put that in.

14    Q.    -- that an infinite number of items should be plotted on  
15          an item that's for jury consumption.

16                     You say obviously that it may not, assuming that  
17          people have seen different things in a mark and a print  
18          be possible to put every one of the four's conclusions  
19          on one image?

20    A.    The reason I said about an infinite number. It may be  
21          the case though that you have looked at so much that's  
22          only a representation of the most obvious for the jury.

23          It's not the identification process -- it's not the  
24          identification, it's the identification process. Not  
25          only could you not put everybody's work on it, to put

1 your own work on it is absolutely -- it would be a  
2 mammoth task if you were to include every little piece  
3 of detail that you've taken into consideration. Of  
4 course, to even write that down as you're doing it,  
5 again it would be a mammoth task, never mind  
6 representing it on a piece of paper.

7 That's why it's only a representation of the process  
8 because it's an impossibility to show what an expert --  
9 the visual images, the images in your mind. Basically,  
10 you're asked -- to have produced an identification, the  
11 actual identification in that form, we're being asked  
12 then to produce what's in our mind's eye at a specific  
13 time and that's not possible. I don't know if that  
14 helps.

15 Q. Understanding, what you are saying there, as I say that  
16 noting perhaps in some cases all the information you say  
17 is not practicable and you, therefore, say that it is  
18 more a matter of illustrating a process. It's  
19 nonetheless the case, is it not, that those must be  
20 16 points that each one of the four experts would be  
21 happy to stand up in court and explain if asked?

22 A. Yes, that's true.

23 Q. So to that extent, that is, I suppose, the case that you  
24 and your colleagues make when you pass that information  
25 out of the Bureau. Those are the 16 points by the

1 standards of the time by which you are going to stand or  
2 fall and by which you are going to be judged?  
3 A. I don't think that's the case at all. My evidence,  
4 because summary cases didn't require enlargements, my  
5 evidence is my comparison work in the office and the  
6 productions would contain the fingerprint form and the  
7 photograph and that's my evidence and my opinion that  
8 was formed in the office and not at a later stage of  
9 consensus and, basically, a removal of a lot of the  
10 detail of the enlargement, of the identification,  
11 because we've gone into a great detail of detail, we've  
12 come to a conclusion and then we're only transmitting a  
13 consensus. We're taking away a consensus. Were not  
14 putting in the Third Level Detail. We're not putting in  
15 arrows or whatever to show a twist or that ridge could  
16 be slightly pulled out. We don't go into it in that  
17 detail. We don't go into the process that went through  
18 our minds and the images that we saw, it's impossible to  
19 replicate. So, yes, there are 16 characteristics marked  
20 and, yes, we will see that those 16 characteristics  
21 exist but we don't stand or fall or at least I didn't  
22 think we should stand or fall by 16 characteristics  
23 which, if you like, is in a simplified notion of the  
24 identification. That's what all it is and it is to aid  
25 the jury.

1                   It so happens that we use 16 because it was the  
2                   number arrived at to prove beyond reasonable doubt,  
3                   et cetera. That's fine, but certainly that's not the  
4                   information that's in the mind or the picture that's in  
5                   the head of the Fingerprint Officer when they are  
6                   carrying at a comparison and when they made their  
7                   identification. So it's not my identification. It's  
8                   something that doesn't overload a jury and helps them  
9                   because we pick the best characteristics but in reality  
10                  we would look at the horrible -- the not so nice  
11                  characteristics, the not so clear characteristics. But  
12                  we don't present that to the jury because it's  
13                  unhelpful.

14    Q.    If I can perhaps make some suggestions to you,  
15            Ms McBride, and you can see what you make of them and  
16            whether you have any comment in particular to make on  
17            them. When a case goes to court and it may be a very  
18            rare case where there's a hotly disputed fingerprint,  
19            but when a case like that goes to court the Fiscal or  
20            the Advocate Depute is going to have to ask you  
21            questions about your identification.

22                    You would accept that?

23    A.    Of course.

24    Q.    He or she is going to have to have some guide in the  
25            first instance as to just what to ask you about. You

1 would accept that as well?

2 A. That is if they are going to ask us questions on the  
3 enlargement. It wasn't always the case that we were led  
4 in that way. Quite often we would go in and speak to  
5 the joint report and we would --

6 Q. But the situation where you simply speak to a joint  
7 report would presumably be in a less contentious sort of  
8 case where there may be some reason for leading you but  
9 presumably there isn't a hot dispute about whether your  
10 identification is right?

11 A. I would imagine so.

12 Q. Sticking if we can with what may be the very rare case  
13 where there is the disputed fingerprint, the Advocate  
14 Depute is going to have to know how to ask you about  
15 your identification and in a situation where there is  
16 the 16-point standard at the time, he is going to have  
17 to lead your evidence from you and probably one or more  
18 other colleagues about what the 16 points were that you  
19 found. You would accept that?

20 A. Firstly, I can't quite hear but it's all right I can  
21 hear, it's just I can hear a wee noise in my ear that's  
22 putting me off because I can't help listening at the  
23 same time but if you wouldn't mind repeating the  
24 question.

25 Q. Is there anything that the Inquiry can assist with --

1 A. No, no. I'm sure -- they have stopped talking now  
2 anyway. Thank you.

3 Q. I will perhaps try and stop my machine here and see if I  
4 can give you the same question?

5 A. I'm sorry, it's just attention moved there.

6 Q. We're sticking with this unusual case where the  
7 fingerprint evidence is disputed for the moment and the  
8 Advocate Depute is going to have to establish an  
9 identification to 16 points to prove his case and he's  
10 going to have to lead evidence from you and one or more  
11 others about the 16 points that you identified?

12 A. Yes.

13 Q. He is going to need to have something to tell him what  
14 the 16 points are. You would accept that?

15 A. I'm not sure, because it doesn't have something to say  
16 what the 16 points are in a summary case so I don't know  
17 is the answer to that.

18 He may -- I wouldn't say -- I'm understanding what  
19 you're saying but I'm not going to agree to what the  
20 Fiscal requires or doesn't require or whatever because  
21 I'm a Fingerprint Officer. I have gone to court and  
22 people have led evidence on 16 characteristics without  
23 any enlargement. In fact, it happens today. So it's  
24 just the way the question is put I wouldn't agree with  
25 "going to have to". I wouldn't agree with that.

1 Q. Can you think of a case involving a disputed fingerprint  
2 other than the one that we are dealing with here that  
3 went to court?

4 A. I know there have been disputed fingerprints. I know  
5 that the Fiscal, I think, accepted a case in the, the  
6 **Sinclair** case and I know that Allan Bayle disputed it,  
7 although he wasn't clear in his dispute. I'm not sure  
8 what happened to that mark, whether it made it to court  
9 or not. I'm guessing it didn't --

10 Q. Do you know -- just leaving aside the cases that you  
11 don't know about or that you might be unsure about --

12 A. Just when you're saying do I know of one, I'm trying to  
13 think do I know of one.

14 Q. Yes, that is all I am asking you, your own knowledge,  
15 not to speculate about what might have happened in some  
16 cases.

17 A. Well, I am aware of that case and it is within my own  
18 knowledge but, again, I don't know what the Fiscals'  
19 Office does, that's the difficulty. I can answer from  
20 fingerprints but I can't answer on what the Fiscal might  
21 or might not require.

22 THE CHAIRMAN: But if the Fiscal asks to be shown the  
23 16 points so that he or she can deal with it in court, I  
24 think if you look at it in that way --

25 A. Yes.

1 THE CHAIRMAN: -- should you be able to demonstrate those  
2 16 points to the Fiscal?

3 A. To the best of my ability. However, I believe it was a  
4 perfect example was Pat Wertheim's evidence on image  
5 blindness. I don't know if the Fiscal suffers from  
6 image blindness. I don't know other people -- he  
7 probably doesn't. I don't know what the jury can see.  
8 I don't even know what my colleagues are seeing when  
9 they are looking at a mark. So I cannot -- I'll do it  
10 to the best of my ability and I'll try and explain and  
11 answer any questions that he or she may have. However,  
12 I cannot, since I cannot get into somebody's else's head  
13 and know what they are seeing and everyone's unique, I  
14 couldn't say that's definitely the case.

15 THE CHAIRMAN: I think that as far as you can go because you  
16 can't say what somebody else can see. You can only do  
17 your best to demonstrate to them what the points are.

18 A. Yes, that's right.

19 MISS CARMICHAEL: Thank you, sir.

20 Can you explain how, in a case where there was a  
21 disputed fingerprint and the case did end up going to  
22 court, you as an expert would explain the 16 points that  
23 the Crown were relying on without using an enlargement  
24 with the 16 points on of the type that we have seen.

25 A. How I would explain it?

1 Q. Yes.

2 A. I'm not sure I've ever been asked to do that and I don't  
3 know -- I think it would be rather difficult.

4 Q. So to that extent, seeing 16 points charted is a useful  
5 way of helping to explain to the jury and, of course, in  
6 the first instance, to the lawyers who have to ask you  
7 questions what you are relying on?

8 A. Yes. I do like case-specific enlargements. I think  
9 they are very useful.

10 Q. When you say juries are not qualified to decide on  
11 fingerprint identifications and bearing in mind all  
12 the caveats you have very carefully given us, including  
13 the one in answer to the Chairman's question that you  
14 can't see inside other people's heads, generally  
15 speaking, would you expect that if you have seen  
16 something in a mark you should be able to make someone,  
17 a lawyer, a juror, somebody who does not have your  
18 training, in the first instance, see what it is that you  
19 are seeing?

20 A. Absolutely not and for that answer there's a very easy  
21 example and that is when I first started as a  
22 fingerprint trainee and I was given fingerprint forms,  
23 they all looked the same to me and it was a morass of  
24 ... my goodness, and then I was shown what to look for  
25 and worked my way through it and then I became more

1 confident on ten-print to ten-print, that is inked to  
2 inked marks. But even that took a bit of work and  
3 experience and study to be able to even make the  
4 simplest identification. So I wouldn't expect a juror  
5 to see a scene of crime mark against a fingerprint form.  
6 I can show them it but I know that I couldn't  
7 differentiate without training, et cetera, and I don't  
8 expect that they could either.

9 Q. So, effectively, the jury is taking your word as an  
10 expert and that is really the end of the matter. You  
11 are the person who can give them the interpretation, it  
12 is not something they should expect to be able to see  
13 for themselves?

14 A. It's not really the end of the matter. I will do my  
15 best to show them and there might be someone who is  
16 particularly gifted and particularly good at that sort  
17 of thing on the jury and they will see it, some of it.  
18 How do I know? I don't know. Again, I can't say what  
19 other people see but, however, if there were any -- if  
20 it was going to be contentious, I would imagine that an  
21 independent would have been brought in. Independents  
22 have been brought in to review SCRO work and sometimes  
23 they have something to say about it and other times they  
24 are quite happy with the identification or, oh, they  
25 wouldn't have marked that point. They would have marked

1 another point.

2 But again, I think the very fact that the Fiscal --  
3 not the Fiscal, the defence, brings in another expert is  
4 in itself evidence that you require an expert to review  
5 an expert's work and an expert to test whether it is  
6 true or not, the identification, and even the defence  
7 wouldn't imagine that if there was something that they  
8 thought was wrong with a mark that a jury could see that  
9 on its own and they would require evidence from another  
10 expert.

11 Q. I think I may come back to that particular theme in a  
12 slightly different context, Ms McBride, but for the  
13 moment I would like to move on to asking you about the  
14 trial of Ms McKie, in which of course you gave evidence.

15 Can you recall when you were cited for the trial?

16 A. No, but it was close to the trial or it had started. I  
17 don't know which. What I do particularly note about  
18 timing is that Hugh and Charlie (Hugh MacPherson and  
19 Charles Stewart) had a meeting with Mr Sean Murphy. At  
20 that point I wasn't invited by Mr Murphy to go to this  
21 meeting, so something must have happened between the  
22 time that the meeting transpired and the time that I was  
23 cited, for him to cite me because I was on the joint  
24 report as a substitute for Hugh MacPherson in the event  
25 that he was on annual leave.

1 I did at one point think I was going to court  
2 instead of Hugh MacPherson. I'm not sure why. I'm not  
3 sure whether there was an earlier date or whether there  
4 was a change because our annual leave dates were put in  
5 a year in advance but sometimes people would take a day  
6 or two here and there. So I don't know why I thought I  
7 was going to be going to the trial instead of Hugh  
8 MacPherson and then Hugh MacPherson was going to the  
9 trial so I don't know why I thought that precisely.

10 However, it came as a surprise that I was cited to  
11 appear along with Hugh MacPherson. So something  
12 happened between the meeting with Mr Sean Murphy and my  
13 citation for him to believe, I would imagine, that it  
14 was suddenly -- I don't know what the change would have  
15 been but why I was required? I wasn't required a short  
16 time before and suddenly I was required and it had never  
17 been the case that I would have appeared in the same  
18 case as someone I was substituting for.

19 Q. If I can just stop you there. If I have understood  
20 rightly you certainly hadn't been cited at the time that  
21 your colleagues met with Mr Murphy?

22 A. No.

23 Q. So I think you said you weren't invited to the meeting  
24 but as somebody who hadn't been cited for the trial it's  
25 perhaps not unnatural that you weren't called to come,

1 perhaps, along with the colleagues who had been cited?

2 A. Well, if Hugh MacPherson had perhaps fallen sick I would  
3 still have been expected to have attended instead of  
4 Hugh MacPherson, if I was available. So it would have  
5 been better if I had been called. However, that's not  
6 the point I'm making. The point I'm making is that I  
7 wasn't required because he didn't want to speak to me  
8 and then something in a very short period of time  
9 transpired after the meeting with Charles Stewart and  
10 Hugh MacPherson for Mr Murphy to want me to attend also.

11 Q. Just on that theme, Ms McBride, when did you first  
12 become aware that Shirley McKie was contesting the  
13 identification of Y7 as hers?

14 A. I'm not sure. It would have been ... I'm not sure. It  
15 would have been early on, I would imagine. I can't be  
16 sure.

17 Q. We have heard that Sheriff Murphy, as he is now, showed  
18 a defence production to your colleagues at the meeting  
19 that he had with them.

20 A. That's slightly different. I think you said when did I  
21 know -- I thought you meant Shirley McKie  
22 was contesting. You're not, you're meaning Mr Wertheim  
23 is contesting the identification, is that what you're  
24 asking me?

25 Q. Any contention, I suppose, would be made on behalf of

1 Shirley McKie, given that it was her trial. I'm not  
2 trying to confuse you.

3 A. No, no, I just thought when you said was she contesting  
4 I was thinking way back to the beginning when she said,  
5 "That's not my mark".

6 Q. I am sorry if my question has confused you, Ms McBride.

7 A. That's quite all right.

8 Q. The question is when you became aware that there was  
9 going to be a dispute at the trial about whether you and  
10 your colleagues had got it right.

11 A. I didn't know and the reason I didn't know and the first  
12 time I knew was when Pat Wertheim gave evidence because  
13 I was in the court at the time listening to his  
14 evidence. In fact, Mr Murphy had requested that we  
15 listen to the evidence and give him an update on how the  
16 evidence was going, was there anything obvious about the  
17 evidence. That was Charles Stewart and myself, we were  
18 in court listening for that purpose.

19 Q. I am becoming, perhaps, just a little bit confused  
20 myself, about this here, Ms McBride. We can perhaps  
21 take this in stages.

22 There had been a meeting between Mr Murphy and your  
23 colleagues and we understand that, at that meeting, your  
24 colleagues, Mr Stewart and Mr MacPherson, became aware  
25 that there was a dispute about whether the

1 identification was correct.

2 Should we understand that that wasn't passed on to  
3 you at all?

4 A. What do you mean by the identification wasn't correct?

5 I think it's a definition. The identification not being  
6 correct could have meant it was insufficient.

7 Q. Well, if I can put it in perhaps broader terms if it is  
8 easier, Ms McBride: they became aware that Mr Wertheim  
9 was going to be going head-to-head with them on their  
10 conclusions.

11 A. Head-to-head?

12 Q. Disputing that the SCRO identification was a correct  
13 identification?

14 A. I don't think they knew that. Perhaps they did. If  
15 they did, they certainly didn't tell me.

16 Q. They became aware that there was going to be  
17 defence evidence that differed from the evidence that  
18 was going to be led from your colleagues.

19 A. Defence evidence, of course, by its very nature if it's  
20 being led must differ from our evidence and I'm quite  
21 sure there have been defence experts before who have  
22 given information to the Fiscal -- no, it wouldn't be,  
23 to their employer, to say, "I don't like this about an  
24 identification or that about a part of an  
25 identification".

1                   If you're asking about mis-identification -- which  
2                   is precisely what I didn't know about and I'm not aware  
3                   that my colleagues knew that either, and the reason for  
4                   that is when I heard Pat Wertheim say it was a  
5                   mis-identification, I nearly fell off my seat in shock.

6                   So ...

7           MISS CARMICHAEL:   I fear we may have you stop there but I  
8           think we will have to return to this theme, Ms McBride.

9           THE CHAIRMAN:   Yes, unfortunately, I think cannot continue  
10           much longer.

11          MISS CARMICHAEL:   I understand, sir, that we will have to  
12           interpose a witness who has to be away on Tuesday  
13           morning which would mean interrupting Ms McBride's  
14           evidence.

15          A.   No, I don't mind at all.

16          THE CHAIRMAN:   That is very good of you because I know you  
17           are a frequent attender, to say the least of it, but if  
18           you wouldn't mind if we interpose a witness and then we  
19           will complete --

20          MISS CARMICHAEL:   Sir, I understand that it is proposed that  
21           we sit at 9.30 on Tuesday. Would that be correct?

22          THE CHAIRMAN:   I am sure that will be popular. If you don't  
23           mind, 9.30. It is just we are in the last phase and if  
24           we can complete the witnesses that might help us to do  
25           so. Thank you very much.

1 (3.45 pm)

2 (Adjourned until 9.30 am on Tuesday, 10th November)

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