

Petition to the Scottish Parliament

‘Review of openness, transparency and the admission of mistakes at the Scottish Criminal Records Office.’

Allan J Bayle - United Kingdom
David Grieve - United States of America
Pat A. Wertheim - United States of America
Arie Zeelenberg - The Netherlands

18 September 2002

‘Consistency is not only expected, it is demanded by our methodology.

Of course examiners will all agree, if they are adhering to the methodology:

it either matches, doesn’t match, or one cannot tell either way.

Rarely is the problem, other than the McKie case, that examiners maintain their opinion of an erroneous identification.’

‘Defending Against the Critic’s Curse’

Glenn Langenburg, Minnesota Bureau of Criminal Apprehension. USA

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Petition to the Scottish Parliament.

Review of openness, transparency and the admission of mistakes at the Scottish Criminal Records Office.

We the undersigned work as professionals in the field of fingerprint identification.

We believe that the current position adopted by the Scottish Criminal Records Office (SCRO) to support their erroneous fingerprint identifications in the cases of Shirley McKie and David Asbury, that - “fingerprint evidence is a matter of opinion” – is unique in the world.

This position, as articulated during and after the court cases, is untenable, even in the medium term, threatening to the reputation and integrity of Scottish fingerprint and forensic evidence, damaging to the science of fingerprinting world-wide and has the potential to seriously and adversely impact on the administration and fair delivery of justice in Scotland.

While we believe that this position has been wrongfully used to cover up errors by experts within the SCRO its most important impact is to distract from proper action as proposed by Her Majesty's Inspectorate of Constabulary in the 2000 Primary Inspection Report on the Fingerprint Bureau of the Scottish Criminal Record Office in respect of restoring openness and accountability and instituting effective procedures for the handling of mistakes.

We maintain that such restorative action is not possible until there has been an honest admission of previous errors.

We do not believe that such a situation should be allowed to continue unchallenged and therefore have decided to petition the Scottish Parliament on the matter in order to respectfully suggest that the Parliament's Petitions Committee or some other Committee of the Parliament undertake an enquiry into the topic to seek definitive evidence and information on the issues we raise.

We know that there is huge international interest in these cases and the world-wide fingerprint community has discussed them many times and continues to exchange information on them.

We believe that the best way to resolve the matters we raise is to commission a fingerprint expert of world renown to examine them and therefore respectfully suggest that the relevant committee of the Scottish Parliament seeks the assistance of the Royal Canadian Mounted Police to obtain the services of one of the world's foremost fingerprint experts, Staff Sergeant David Ashbaugh, in this regard.

The Scottish Parliament is also petitioned to commission Mr Ashbaugh to outline what lessons can be learned regarding openness and accountability within the Scottish Criminal Records Office and how procedures for handling mistakes as outlined in recommendations of Her Majesty's Inspectorate of Constabulary enquiry can best be developed.

We append details of Mr Ashbaugh's unique qualifications and citations in the fingerprint world and we also attach details of our own qualifications and experience. We confirm that we are also happy to do everything in our power to facilitate the petitioned review.

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18 September 2002..

Allan J Bayle

Signed on behalf of the Petitioners

<i>Allan J Bayle</i>	- <i>United Kingdom</i>
<i>David Grieve</i>	- <i>United States of America</i>
<i>Pat A. Wertheim</i>	- <i>United States of America</i>
<i>Arie Zeelenberg</i>	- <i>The Netherlands</i>

Allan J Bayle - United Kingdom

Independent Fingerprint Consultant

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- Forensic Scientist and Fellow of the Fingerprint Society.
- Member of the International Association for Identification.
- Member of the Society of Expert Witnesses.
- UK Register of Expert. (1975 to 2001)
- Until 2001 employed by Metropolitan Police Service, New Scotland Yard - Fingerprint Expert and Forensic Scene Examiner.
- Expert witness throughout UK and the Federal Court in Philadelphia.
- Lecturer at Scientific Support College, Metropolitan Police Training Establishment, Hendon - fingerprint and forensic training.
- Advisor to the ACPO led Project Board re fingerprint training which includes ridgeology and designing a ridgeology course for future experts in the UK.

David Grieve - United States of America

**Public Service Administrator (Latent Prints Training Coordinator)
Illinois State Police
Division of Forensic Services
Forensic Sciences Command
Southern Illinois Forensic Science Centre
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- Certified Latent Print Examiner, International Association for Identification.
- Certified Forensic Scientist, Illinois State Police.
- Lecturer and trainer.
- Accepted as an expert witness in state courts in Oregon, Washington and Illinois; US Federal Court; High Court of the Justiciary, Glasgow, Scotland.
- Attended 65 training courses and seminars across the world.
- Editor of the *Journal of Forensic Identification*, 1990 to 2002.
- Fellow of the Fingerprint Society of Great Britain.
- Distinguished Member, International Association for Identification, 1989.
- Inspector: American Society of Crime Laboratory Directors – Laboratory Accreditation Board.
- Articles published in the *Identification News*, *Fingerprint Whorld*, *AFTE Journal*, and *Journal of Forensic Identification*.
- Author, Illinois State Police, Forensic Sciences Command Latent Print Training Manual and Latent Print Procedures Manual.
- Burton J. Burkhe Award,, Illinois Division, IAI, 1990.
- Robert D. Olsen, Sr. Award, Kansas Division, IAI, 1990.
- Good of the Association, International Association for Identification, 1995.
- Meritorious Service Award, Illinois State Police, 1997.

Pat A. Wertheim - United States of America

Criminalist IV.

Arizona Department of Public Safety Crime Laboratory.

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- Began law enforcement career in 1973. Fingerprint trainer since 1981.
- Has taken all fingerprint comparison and identification courses taught by Texas Department of Public Safety Academy and by the FBI Academy and has attended 75 training courses overall.
- Has taught about 80 classes of advanced ridgeology comparison techniques in USA, England, New Zealand, and the Caribbean and this year in Australia and the South Pacific.
- Has taught every fingerprint expert working for over twenty-five major law enforcement agencies, plus numerous other experts. (over 2,000 students)
- Published numerous peer reviewed articles internationally and spoken at numerous international conferences and symposiums.
- Has presented 55 papers to professional organisations throughout the USA and in the UK, Israel, and Australia.
- Is a member of several representative bodies and has been a Distinguished Member of the International Association for Identification, is a Fellow of the Fingerprint Society and a member of the Canadian Identification Society.
- Has appeared for the prosecution and defence in a number of high profile cases at home and abroad including
 - John Patrick Eastlack case, Tucson, AZ: Capital Homicide charge based on fingerprints. (prosecution), 1989
 - Jeannie Tovrea murder, Phoenix, AZ: Capital Homicide with prosthetic glove defense. (prosecution), 1997
 - Shirley McKie case, Glasgow, Scotland: Erroneous identification, “16 point” challenge. (defense), 1999
 - Byron Mitchell case, Federal District Court, Philadelphia, PA: Daubert hearing consultant. (prosecution), 1999
 - Alan McNamara case, Manchester, England: Erroneously labeled latent lift challenge. (defense), 2001

- Danielle van Dam murder (David Westerfield): Capital Homicide, San Diego PD. (prosecution), 2002

Arie Zeelenberg – The Netherlands

**Head of Fingerprint Department
National Police Force
Criminal Intelligence Service
Fingerprint Department
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2700 KX Zoetermeer
The Netherlands**

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- Head Fingerprint Department, National Police Force, The Netherlands.
- 30 years experience in latent fingerprints.
- Permanent Forensic Expert for the Court.
- Independent expert – Her Majesty's Inspectorate of Constabulary for Scotland's enquiry into the 'Shirley McKie' case.
- Author: "The Identification Process of Latent Fingerprints". (A handbook for analysis, comparison and decision making with latent fingerprints.)
- Lecturer in fingerprints at the national training centre.
- Chairman of the first Interpol European Expert Group on Fingerprint Identification designing outlines and requirements for the identification process of latents.
- Published several articles and delivered presentations at numerous international conferences and symposiums.
- Member of the International Association for Identification.

Biography: David Ashbaugh

Authority for Staff Sergeant Ashbaugh to carry out commissions can be obtained by writing to:

**The Commissioner,
RCMP Headquarters,
L.H. Nicholson Building ,
1200 Vanier Parkway,
Ottawa Ontario, Canada. K1A 0R2**

David R. Ashbaugh is a Staff Sergeant in the Royal Canadian Mounted Police. He is currently assigned to Forensic Identification Services and works from his residence in Black Creek, British Columbia. Staff Sergeant Ashbaugh is also the Director of Ridgeology Consulting Services, a company that specializes in friction ridge identification training for accredited police organizations. Staff Sergeant Ashbaugh currently sits on the Fellowship Board and the Editorial of the Canadian Identification Society, the Editorial Board of the Journal of Forensic Identification, the Forensic Identification Standards Committee and the Fingerprint Identification Sub-committee for the International Association for Identification. He is also a member of the Scientific Working Group on Friction Ridge Analysis, Study and Technology, which meets bi-annually at the Federal Bureau of Investigation Training Academy in Quantico, Virginia.

Staff Sergeant Ashbaugh has been a sworn police officer for 33 years and has served the last 26 years as a Certified Forensic Identification Specialist. He received his forensic training at the Ontario Police College in Aylmer Ontario. He completed an understudy program and was certified as a Forensic Identification Specialist by the Royal Canadian Mounted Police. Staff Sergeant Ashbaugh is a Life Member of the Michigan-Ontario Identification Association, a Life Member of the Canadian Identification Society, a Distinguished Member of the International Association for Identification, a Fellow of the Fingerprint Society of the United Kingdom, a member of the Forensic Science Society of the United Kingdom and a member of the Pacific Northwest Division of the International Association for Identification. He has presented expert evidence at the various levels of court in the provinces of Ontario, Manitoba and British Columbia in Canada, as well as, Federal Court in the state of Pennsylvania in the United States.

During the last 26 years, Staff Sergeant Ashbaugh has carried out extensive research into the scientific basis and identification process of the friction ridge identification discipline. In 1982, he coined the term 'Ridgeology' to describe a modern evaluative friction ridge identification process based in science.

Staff Sergeant Ashbaugh is the author of "Qualitative Quantitative Friction Ridge Analysis" (1999), that is accepted as the definitive source in the science of friction ridge identification.

He has published several papers on the subject and has lectured extensively in North America, as well as, in South America, Sweden, Finland and the United Kingdom. From 1989 to 1993, Staff Sergeant Ashbaugh was the Program Leader of the Ridgeology Project in the Forensic Identification Research and Review Section at R.C.M.P. Headquarters Ottawa. The Ridgeology research was instrumental in modernizing identification training in Canada. Currently, his Ridgeology philosophy and methodology are taught at both the Canadian Police College and the Ontario Police College, as well as, at some other training facilities throughout the world. This has resulted in Staff Sergeant Ashbaugh being frequently called upon as a lecturer and as a consultant on friction ridge identification cases or training needs both in the national and international arena.

Staff Sergeant Ashbaugh played a role in bringing about changes to the Canadian Identification of Criminals Act. He has contributed documents to the Province of British Columbia Criminal Justice Branch Database on Ridgeology and the Training Branch of the Province of Alberta Attorney General's Office. Staff Sergeant Ashbaugh assisted the Northern Territory University in Australia with preparing an Associate Diploma of Applied Science program for the Institute of Tertiary and Further Education. He is frequently called upon to consult with other Canadian Police Departments on Ridgeology and is an ad hoc national and international consultant for friction ridge identification training and operational cases.

Staff Sergeant Ashbaugh was a key witness for the United States Government during a Daubert Hearing when the friction ridge identification science was challenged in United States Federal Court in Philadelphia, Pennsylvania. He also played an active role in the Training the Trainers Program for the Association of Chiefs of Police Officers of the United Kingdom, at New Scotland Yard in London and the National Training Center for Scientific

