

The Fingerprint Inquiry

Background

In May 1997, David Asbury was convicted of the murder of Marion Ross. The prosecution case against him included fingerprint evidence.

In the course of the investigation into Miss Ross's murder, a fingerprint was found on the doorframe of the bathroom in Miss Ross's home. It was identified as belonging to Shirley McKie, a serving police officer involved in the murder investigation. That fingerprint became known as "Y7". In the course of the trial of David Asbury, Shirley McKie denied that the fingerprint was hers.

After the murder trial, Shirley McKie was prosecuted for perjury (lying while giving evidence on oath) because of what she had said in her evidence at David Asbury's trial. The evidence before the jury at Shirley McKie's trial included evidence from defence fingerprint experts that Y7 was not her fingerprint. The jury, unanimously, found Shirley McKie not guilty of perjury.

The identification of Y7 was made, originally, by officers of the Scottish Criminal Record Office. Various fingerprint experts have expressed differing views as to whether Y7 is the fingerprint of Shirley McKie.

In August 2000 David Asbury was granted interim liberation pending an appeal against his conviction for murder. His conviction was quashed in August 2002. The Crown did not oppose his appeal.

Shirley McKie raised an action for damages arising from the identification of Y7 as her fingerprint. It was settled out of court by the Scottish Ministers, without admission of liability, in February 2006.

The steps taken to identify and verify Y7, and the measures that might be taken to avoid any shortcomings in the identification and verification of fingerprints in the future in Scotland have not previously been the subject of a public judicial inquiry.

Terms of Reference

The Inquiry has the following terms of reference:

- To inquire into the steps that were taken to identify and verify the fingerprints associated with, and leading up to, the case of *HM Advocate v. McKie* in 1999.
- To determine, in relation to the fingerprint designated Y7, the consequences of the steps taken, or not taken.
- To report findings of fact and make recommendations as to what measures might now be introduced, beyond those that have already been introduced since 1999, to ensure that any shortcomings are avoided in the future.

Initial Hearing

The Inquiry's first hearing was on Monday 20 October 2008. At this Initial Hearing, Sir Anthony announced the core participants in the Inquiry to date and called for submissions from them, and others who so wished, in writing by 14 November outlining:

- the issues within the terms of reference that they would wish to see the Inquiry pursue;
- the lines of evidence that they would regard it as necessary for the Inquiry to follow;
- a note of the witnesses and documents that they would regard as relevant to such lines of inquiry.

The Inquiry team

The Chairman of the Inquiry is Sir Anthony Campbell, a retired appeal court judge from Northern Ireland. He is supported by an Inquiry Team consisting of Gerry Moynihan QC, Senior Counsel to the Inquiry, Ailsa Carmichael, Junior Counsel to the Inquiry, Ann Nelson, Solicitor and Secretary to the Inquiry and other staff.

Biographies of the Inquiry team have been included in this pack and are available at:

www.thefingerprintinquiryscotland.org.uk