

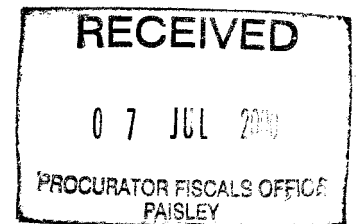


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06 July 2000

Our ref: FRC/rae

W A Gilchrist Esq  
Regional Procurator Fiscal  
Procurator Fiscal's Office  
1 Love Street  
PAISLEY, PA3 2DA



Dear Mr Gilchrist

**COMPLAINT AGAINST THE POLICE BY IAIN A J MCKIE – HMA v SHIRLEY  
CARDWELL OR MCKIE**

I refer to our telephone conversation today and confirm that the Lord Advocate has instructed that you should make investigations into complaints of alleged criminal conduct made by Mr McKie in relation to the case involving his daughter Shirley.

To that end I enclose a copy of a letter of 26 June which Mr McKie sent to the Minister for Justice.

In particular, I would direct you to allegation 3. on page 2 of the letter.

Also enclosed are copies of previous correspondence which Mr McKie has had with this office since the acquittal of his daughter at Glasgow High Court last year.

As can be seen, the McKies' position has changed from allegations that Shirley McKie's fingerprint was planted at the locus to allegations of incompetence by SCRO officials to allegations of possible perjury and now to perjury.

The sequence of events surrounding these matters is as follows:-

In January 1997 the body of Marion Ross was found in suspicious circumstances at her home at 43 Irvine Road, Kilmarnock. The house was sealed off and scenes of crime and forensic teams attended to photograph and examine the locus. The day after her body was discovered a post mortem examination revealed that death was as a result of murder. In due course David Asbury was arrested and convicted of murder at the High Court in Glasgow on 3 June 1997. Asbury's conviction involved the discovery of a fingerprint identified as his on a



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Christmas tag in Mrs Ross' home and the discovery of a fingerprint identified as being Mrs Ross' on a tin containing money found in Asbury's room.

During the course of the murder investigation a fingerprint identified as being that of Detective Constable Shirley McKie was found on the door frame of the bathroom of Mrs Ross' house. This was the room in which Mrs Ross' body had been found.

Although there had been no specific instruction to dissuade other officers from entering the house, officers were discouraged from visiting the locus. DC McKie visited the locus on two occasions and was refused entry by officers who were present at the door on these occasions. At Asbury's trial DC McKie was called to give evidence by the defence and maintained her position that she had never been within the house, albeit that she had attended at the front door. She denied that the print found on the bathroom door was hers.

In light of DC McKie's evidence the matter was considered further and she was prosecuted at Glasgow High Court on a charge of perjury. The trial took place between 21 April and 14 May 1999 after which DC McKie was found not guilty unanimously.

Following the acquittal a meeting took place at SCRO on 20 May 1999 between myself, the Advocate Depute Sean Murphy, Detective Chief Superintendent Bell (Head of SCRO) and the fingerprint experts who had been involved in the Asbury and McKie cases. I enclose a copy of the minutes of that meeting. In light of that meeting no further action was thought necessary. Since then, to my knowledge, no other cases have come to light where SCRO experts' evidence has been challenged in court in this way.

I enclose copies of transcripts of Frontline Scotland programmes broadcast on 18 January and 16 May which highlighted the Shirley McKie and David Asbury cases.

It was understood that the defence expert produced in the Shirley McKie case, Mr Wertheim, an American, had been contacted to give evidence in a drugs case [Redacted] [Redacted] a Hamilton case which was prosecuted at Glasgow High Court earlier this year. As a result the fingerprint evidence was submitted to the Metropolitan Police who provided an independent comparison confirming the SCRO identification. In the event [Redacted] pled guilty and was sentenced to five years' imprisonment and the fingerprint evidence accordingly was not challenged in court.

I am also aware that in an older case [Redacted] where fingerprint evidence was crucial to the conviction, a firm of defence solicitors, [Redacted] approached me earlier this year to obtain a copy of the fingerprint evidence which they submitted to Mr Wertheim. This was prior to the second Frontline Scotland programme and one can only assume that Wertheim's analysis was that the identification of the prints [Redacted] [Redacted] was correct. As can be seen, when Wertheim examined the Asbury evidence he concluded that the fingerprint attributed to Asbury was Asbury but challenged the Marion Ross fingerprint.

Since Asbury is a live appeal we have had the fingerprint evidence independently considered



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by Malcolm Graham, a retired Lothian and Borders fingerprint officer. He has provided us with a report that the disputed fingerprint is definitely that of the deceased. We have, however, instructed Danish fingerprint officers to examine the evidence and I hope to arrange for them to travel to Kilmarnock to view the productions in the week commencing 7 August.

In the first instance it would be helpful if you could arrange to make contact with Mr McKie and see Mr McKie and Shirley McKie to ascertain the full extent of their complaints. I understand that Shirley McKie, however, may be on holiday for the next week or so.

It would also be helpful if you could write to John Duncan at Strathclyde Police indicating that you have seen a copy of Mr McKie's letter of 26 June and have been instructed by the Lord Advocate to make enquiries into the allegations of criminal conduct and that you are to conduct these enquiries yourself with such assistance from DCC Jim Mackay who is conducting a parallel enquiry and accordingly it is not necessary for officers from Strathclyde Police Complaints and Discipline Branch to provide you with a report.

I have asked Jim Mackay to write to me since he requires access to papers to carry out his own enquiries. I have been given an indication that I should comply with any reasonable request made by him.

To that end it would be helpful if we could meet next week to discuss the way forward. Clearly you will require to recover the relevant case papers from the Procurator Fiscal at Kilmarnock.

Since I was involved in the SCRO meeting after the McKie trial it seems proper that I should not be further involved in this matter although I am happy to assist if you require information regarding the McKie and Asbury cases.

I suggest you make it clear to Mr Mackay that you will see the McKies in the first instance and you should agree how other parts of the enquiry can best be divided up but no doubt you will wish to see the main witnesses yourself or involve experienced officers to assist you.

Yours sincerely



F R Crowe  
Deputy Crown Agent  
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