

LORD ADVOCATE
SOLICITOR GENERAL

Copy to: Chief Executive
Crown Agent (Designate)

Delt.
I agree
CB
27/5/02

SHIRLEY MCKIE

I met with Harry Bell from SCRO and the Clerk to the Strathclyde Joint Police Board on 20 May to discuss the disciplinary inquiry instigated by the Police Board. The Clerk maintained his opposition to providing any third party with a copy of the internal report. However, he did indicate that I could attend at his office and read the report!

The Clerk confirmed that the independent expert instructed by the Board examined whether the four experts had broken any rules or failed to follow set procedures. He confirmed that the expert did not attempt to enquire into whether the experts made a misidentification. Accordingly, I do not think there will be anything in the report which will assist the Crown in deciding whether or not to accept reports from these experts in future cases.

The position confronting the Crown remains as before. Experts instructed by HMCIC and by Crown Office have advised us that the four experts made a misidentification and that it was a bad misidentification. There are other experts, however, who insist that SCRO got it right. There is also, of course, no real basis for challenging the expertise of the experts. All cases in which they were involved in the 12-month period prior to the McKie case, and all cases in the subsequent 12-month period, were independently evaluated and no mistakes were identified. That does make the misidentification in the McKie case perplexing; but we cannot say that they are incompetent just because they got it wrong in one case.

The civil action by Shirley McKie continues, and Justice Department are attempting to find an expert who can be asked to examine the fingerprint evidence with a view to saying whether there is any evidence of negligence on the part of the four experts.

I do not think it would be appropriate for a decision to be taken on whether or not to accept reports from the four experts until the civil proceedings have been concluded. Accordingly, I recommend that we take no further action at this time. Harry Bell confirmed, in any event, that none of the four experts will be used to identify fingerprints for the foreseeable future. All four are to be seen by a psychologist, who will assess their current state of mind. Some of the experts are unlikely ever to want to give evidence again. In addition, all four will require to be "re-educated". If any of the experts expresses a wish to be involved in making identifications in criminal cases, and if Harry Bell feels that they are ready to be used in such work, he would contact Crown Office at that time to ascertain whether the Crown would be prepared to accept reports from the experts. No such approach will be made until after the civil proceedings have been concluded.

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In all the circumstances, I recommend that we await developments. If you agree, I will write to Iain McKie to inform him that the use of any of these experts to give evidence does not arise at this stage, and will not do so until after the civil proceedings have been concluded.

W A GILCHRIST
Deputy Crown Agent

24 May 2002