

## **D R A F T**

### **LORD ADVOCATE'S GUIDELINES ON FINGERPRINT EVIDENCE**

**NOTE:** In these Guidelines reference to Fingerprints includes palm print, toe and footprints.

#### **History**

1. The Scottish Criminal Records Office (SCRO) and Fingerprint Officers of all Scottish Police Forces have traditionally identified fingerprint impressions as identical to a known fingerprint only where they have found a minimum of 16 points of similarity in fingerprint ridge characteristics, or where more than one fingerprint impression, apparently originating from the same individual, has been obtained from an object or document and there are 10 or more identifiable characteristics on each impression from the same finger or sequence of fingers. In practice, fingerprint officers may have been satisfied of identification on examinations yielding less than 16 points of comparison or at a stage in the examination before 16 points had been noted. Even in such cases the practice has been not to express a view on identification unless or until 16 points have been noted. There have been a few cases, however, where identification fell below the 16 point standard, but the print was of such crucial importance that it was led in evidence.

2. The Lord Advocate recognises that over many years, positive identification by fingerprint officers based on the national 16 point standard has been accepted as conclusive in the criminal courts in Scotland. Any departure from the established convention must not weaken the status of fingerprint evidence in criminal trials.

### **Review and changes of standard**

3. As a result of developments in England where it has been decided to change to a non-numerical standard based on the professional opinion of the fingerprint expert, the Lord Advocate has concluded that it is time to review the national standard. He has noted that experts are able and prepared to express conclusions on marks yielding less than 16 points of comparison, **where the quality of the marks is such as to enable them to do so.** He agrees that emphasis should correctly be placed on the quality of the mark and not simply the number of points of comparison that it yields. This involves consideration of a number of matters, including the detail of the mark, its clarity and any displayed rarity of pattern or characteristic as well as any incomplete detail, contamination with background material, and any smudging or blurring apparent.
4. The Lord Advocate agrees, therefore, that it is appropriate and desirable that fingerprint officers of suitable experience and expertise should be able to express conclusions as to the identity of marks where they are satisfied of the common origin of fingerprint impressions and known fingerprints and that it is appropriate for prosecutors to place the same reliance on that evidence as they currently do on such conclusions expressed in terms of the 16 point standard. An appropriate training

programme, required standards of competence, auditing and quality assurance must, however, accompany any departure from the 16 point standard to ensure that the confidence that fingerprint evidence has traditionally enjoyed is not compromised.

5. Further, however, the Lord Advocate takes the view that, even where fingerprint officers are not in a position to offer an opinion on the likelihood of the source of the fingerprint, the finding of points of comparison may be relevant to a criminal investigation or criminal proceedings. Just as it may be relevant to show that a blood stain could or could not contain the blood of a suspect, a victim or another identified person in a case where the potential exists for only a small number of persons to have handled an object, or been at a place where a stain was deposited, it may be relevant to the proof of a crime to show that a fingerprint impression was or was not consistent with having been made by a particular person or persons.
  
6. The Lord Advocate takes the view, therefore, that reports of fingerprint examination should disclose not only findings of points of comparison which enable a positive opinion to be expressed, applying either the 16 point standard or the non-numerical standard, but should also give detail of the finding of other impressions. In the case of **eliminated impressions** where sufficient detail has been found to allow the expert to establish the donor of the mark as an individual with legitimate access to the crime scene or to the articles submitted for examination, such as those made by occupiers of premises or persons who are known to have handled objects, details of the identification of such impressions should be incorporated into the body of the report or attached schedule, as appropriate. The report should also contain details of

all impressions where the donor of the mark has not been found. In cases where the impression is "unreadable", either because it is smudged or so fragmentary as to show insufficient identifiable ridge detail, this should be made clear. Where the mark does not disclose sufficient detail to allow the expert to reach a conclusion as to the donor, but there are similarities and an absence of dissimilarities between a questioned impression and a known fingerprint, then, notwithstanding that no conclusion has been reached about common origin of marks, the report should state whether the impression is or is not consistent with any known prints that have been examined.

7. Where an impression is not consistent with any known prints which have been examined, the report should, regardless of the number of characteristics which can be identified, state that the impression has not been identified. The Crown has a duty to make known to the defence information that may assist the defence in criminal proceedings and a failure to disclose that a fingerprint impression is or is not consistent with the prints of the accused person or a known third party, such as an identified incriminee, may prejudice the fair trial of an accused person.
8. Similarly, while prosecutors cannot rely solely on fingerprint evidence where fingerprint officers are not in a position to express an opinion as to the probability of a common origin of fingerprint impressions and known fingerprints, they may wish to use the fingerprint evidence in appropriate cases in order to show consistency or inconsistency of the source of a fingerprint impression.