

STATEMENT PRINT

Surname: MCKIE

Forenames: IAIN ARTHUR JAMES

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Occupation: COUNSELLOR

Telephone No.: [Redacted]

Statement Date: 25/07/2000

Appearance Code:

Height:

Build:

Hair Details: Position

Style

Colour

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Complexion: /

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Use:

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Specific

Qualifier

Number of Pages:

S2A

IAIN JAMES ARTHUR MCKIE (61)

In order to clarify and expand on my initial statement I now produce a composite statement dated 23/07/2000 consisting of 63 pages with appendices

Signed James McKie

Date 25/07/00

CONFIDENTIAL

STATEMENT BY IAIN MCKIE IN CONNECTION WITH THE INVESTIGATION, ARREST AND TRIAL OF SHIRLEY MCKIE.

In this statement I outline to the best of my knowledge and understanding the circumstances surrounding the investigation, arrest and trial of my daughter Shirley McKie for perjury.

Some of the information I can speak to directly and this is shown in normal type. Other information passed to me by Shirley is shown in italics. Most of this information is however corroborated in the various reports and statements prepared in connection with her trial or can be corroborated by interviewing the relevant witnesses.

I have developed my statement in this way to facilitate the ACPO's investigation team's understanding of the events and to reduce the trauma and stress involved to my daughter when she is interviewed. All of the following information is supplied in good faith and without prejudice to any legal or other actions that might be taken in connection with all or any of these incidents. Its presentation does not exclude other incidents that might subsequently be found to be relevant.

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Much of the information supplied in this statement is directly or indirectly corroborated and much is a matter of public record having been produced in evidence at Shirley's trial in the High Court, Glasgow.

My Statement is divided into 6 parts:

Part 1 - Chronological statement outlining my involvement to date.

Part 2 - Summary of my complaints and allegations as contained in my letter to the Lord Advocate dated 26 June 2000 with supporting evidence.

Part 3 - Comments and complaints re the actions of Dr W D S McLay the Strathclyde Police Chief Medical Officer in relation to my daughter's arrest.

Part 4 - Issues involving private independent fingerprint experts involved in Shirley's case.

Part 5 - Issues involving the Police Federation.

Part 6 - My conclusions.

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Part 1

Thursday 9 January 1997

My daughter Shirley McKie (Witness 2) was a Detective Constable stationed at Kilmarnock Police Office when she reported for duty at 1000 am on Thursday 9, January, 1997. She was informed that there had been a suspicious death within the house at 43 Irvine Road, Kilmarnock The deceased, Marion Ross , had been discovered about 1800 hrs on Wednesday 8 January .

Shirley worked on the murder enquiry for a total of six days until Tuesday 14 January 1997 .

Wednesday 22 January 1997

David Asbury was arrested and charged with the murder of Marion Ross.

Sunday 9 February 1997

Shirley supplied elimination fingerprints to the Scottish Criminal Records Office (SCR 0). This is normal practice for officers' working on enquiries.

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Tuesday 11 February 1997

Shirley was on duty within Kilmarnock office when she was approached by Detective Inspector Alexander McAllister (Witness 3), who informed her that one of the outstanding fingerprints in the murder enquiry had been identified, by SCRO, as her left thumbprint. He further stated that the print had been found within the house on the wooden door surround of the bathroom. Shirley told the Detective Inspector that a mistake must have been made, as she had never been into the house. He came back a short time later stating that SCRO were adamant that the print found was hers. Along with Detective Sergeant Shields (Witness 4) she reiterated the fact that she had never been inside the house, and that someone must have made a mistake .

As she was due to take two rest days Shirley was instructed to say nothing about the matter to anyone. Although extremely anxious she believed the matter would be resolved while on rest days.

Friday 14 February 1997

Shirley resumed work at 8 am and was told in no uncertain terms by Detective Chief Inspector Stephen Heath (Witness 5) that the fingerprint was definitely hers. She became extremely distressed, crying and desperately trying to convince him that she was telling the truth. Present at this time was Detective Sergeant Shields who had accompanied her throughout the murder enquiry. They were both questioned by the Detective Chief Inspector and asked to supply statements re their actions during the murder enquiry .

Page 5

Later that day Mr Heath accompanied by Shirley Detective Sergeant Shields and Detective Inspector McAllister visited the murder house and Heath pointed out the 'mark' on the bathroom door surround which he alleged was Shirley 'S' fingerprint. It was clear that Mr Heath did not believe Shirley and he became very angry when Shirley still denied having been within the house.

I became aware of Shirley's difficulties at this time and she recounted the above information to me. I was not greatly concerned although Shirley was obviously upset at the Detective Chief Inspector's aggressive attitude and his apparent refusal to listen to her. I am aware that Shirley had also spoken to her mother Nancy McKie (Witness 6)

Friday 14 February 1997

After two more extremely worrying rest days Shirley returned to work and was interviewed by the Deputy Divisional Commander Superintendent Thomson (Witness 7) at Kilmarnock Police Office . Shirley's efforts to convince him to take on board her explanation rather than the damning fingerprint evidence were futile. It was obvious he did not believe her. By this time she felt that the situation was very serious indeed

Shirley spoke to me and looked very upset. I sought to calm her fears although knowing the strength of fingerprint evidence I wondered if she really had been in the house and for some reason couldn't say. We discussed this in a round about way but she became very agitated at my suggestions. We also looked at having the 'print' reviewed and Shirley said she would look into this.

Page 6

Monday 17 February 1997

Shirley was instructed to see Superintendent Thomson and was again challenged about her version of events. She requested that she go to the murder house with the Identification Bureau, see them re-photograph the 'mark' and then go to SCRO to see a comparison made between the photograph and her elimination prints .

Tuesday 18 February 1997

Shirley gave a new set of elimination fingerprints and was told by Superintendent Thomson that SCRO would not allow her to see their comparison as this would be a challenge to their integrity. She was then taken to the murder locus along with Detective Sergeant Shields, Detective Inspector McAllister, Inspector Robert Pollock (Witness 8), and two officers from the Identification Bureau Archibald McKinley (Witness 9) and Derek Thomson . (Witness JO) She was shown the 'mark' in question. It was then relabelled, re-photographed and taken to Strathclyde Police Headquarters by the Identification Bureau personnel .

As Shirley was extremely distressed she went to her mother's home (Witness 6) to await the result of this re-examination.

A telephone call later in the day from Detective Inspector McAllister re-affirmed the SCRO identification. Redact

Redacted

Page 7

When I spoke to Shirley later in the day she was extremely upset and desperate to know what she could do. She was already feeling isolated and shunned by her colleagues and we discussed what possibly could have happened. Although I was deeply concerned I felt it was all a mistake that eventually would be sorted out. I assured Shirley and told her to keep in touch if she felt low.

Wednesday 19 February 1997

Shirley reported sick from work. Redacted

She felt only her family believed her. At no time did the Police, despite her obvious distress, offer any support.

Although I was working in Irvine that day I kept in contact and we discussed all the options including seeking advice and assistance from the Police Federation and lawyers. I felt the matter was extremely serious [Redacted]
[Redacted] She spoke of being shunned and felt everyone saw her as a liar. No-one appeared prepared to investigate her claims.

Friday 21 February 1997

Shirley attended an appointment with her local Police Federation representative for advice .

Page 8

Wednesday 26 February 1997

Shirley saw her lawyer; Peter Watson (Witness 11) of Levy and McRae, Solicitors , for advice (although no criminal charges had been made at that time) as the situation now appeared serious. He undertook to monitor the situation and try to obtain further information.

Shirley and I were in regular contact personally and by phone discussing options. She continued to be very anxious but I still felt a resolution would be found and concentrated on keeping her spirits up.

Thursday 27 February 1997

[Redacted]

Page 9

I immediately phoned the Divisional Commander at Kilmarnock Mr Andrew Cameron (Witness 13), complained about the visit and the pressure being brought to bear on Shirley and asked to see him immediately .

Sunday 28, February, 1997

I met the Divisional Commander in his office at Kilmarnock. I expressed my anger at the previous day's visit. I considered it to be pressure on Shirley to lie. I stated that this must never happen again. We discussed what constructive things could be done to resolve this issue. I expressed my understanding of the position and explained why I felt Shirley was speaking the truth. We even looked at the position of the 'mark' on the door and I explained how it was almost impossible for Shirley to have left the mark in the position alleged. Mr Cameron appeared understanding and agreed to see Shirley the following day .

Saturday 1 March 1997

I attended an interview with the Divisional Commander at Kilmarnock Police Office with Shirley. The position was fully discussed with the many options being discussed including the possibility that the door facing might have been touched by Shirley when it was at the joiners or even that somehow the wood had been touched before it was put in the murder house. Options were discussed for returning to work .

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Thursday 6 March 1997

Shirley had a further interview with the Divisional Commander . Same theme as above.

Monday 31 March 1997

Detective Superintendent John Malcolm (Witness 14) and a Detective Sergeant Morris (Witness 15) interviewed Shirley at Kilmarnock Police Office. Various questions were put to her, which she had answered on numerous occasions at previous interviews. Questioned as to her whereabouts at the time the murder had been committed she felt she had become a murder suspect .

I spoke to Shirley by telephone shortly after this interview and yet again she was extremely upset, almost hysterical. I had reached a point of desperation. Where was this whole crazy business going to end? I felt angry and powerless that despite my pleas to the Divisional Commander the pressure never let up.

Wednesday 16 April 1997

The Procurator Fiscal Mr McMenemy (Witness 16) interviewed Shirley at Kilmarnock for precognition. The same flow of questions. Did she know how serious perjury was? etc. etc .

Page 11

Redacted

Redacted Still we believed that the best chance of solving the mystery was to wait until the Police/SCRO realised their mistake. The daily conferences between us became routine as I sought to keep her going until solutions were found. I remember Shirley saying that the great problem was that when asked for reasons why her fingerprint should be found at the murder house she had no explanations other than it was a forgery or a 'plant'. I still believed that somehow someone had put her fingerprint in the murder house.

Tuesday 22 April 1997

Shirley went to the Personnel Department, Pitt St, Glasgow in an attempt to resolve the situation and return to some sort of work . This visit was extremely unhelpful. No one would believe her.

Tuesday 29 April 1997

Shirley attended at Kilmarnock Police Office. Interviewed by Mr Cameron, the Divisional Commander, again. More questions about the fingerprint. Redacted

Redacted She was also asked again if she understood what 'Perjury' meant Page 12

Redacted

Redacted

Monday 5 May 1997

I attended at Shirley's home when she was interviewed by two of David Asbury's defence lawyers Ms Lesley Dowdalls (Witness 17) and Mr Stuart Dey (Witness 18). Despite having been told by the Procurator Fiscal that the Crown Office would tell the defence of her position, these lawyers had no information on the 'rogue fingerprint.' Detective Chief Inspector Heath (Witness 5) had told them however that 'Shirley might have something interesting to tell them '.

This put us in an extremely difficult position in that we were left to make the decision whether they should be informed of this potentially damning evidence for the prosecution. We had a private conversation in a bedroom and it was clear that the one thing Shirley had to do was stick to the truth. The lawyers seemed very surprised at Shirley's statement re the disputed 'print'.

Page 13

Thursday 8 May 1997

Shirley 's Liaison Officer Sergeant Hugh Mitchell (Witness 19) telephoned with a request from the Divisional Commander that she attend for interview by the Discipline Branch at Kilmarnock Police Office. She was re-assured that they only wanted to speak to her about the investigation into her denials. On her arrival she was informed that an official enquiry would be taking place into the circumstances of the fingerprint. Shirley was then served with discipline papers by Chief Inspector Wilson (Witness 20) and Chief Inspector McLeod (Witness 2)) of the Discipline Branch .

Shirley contacted me before going to Kilmarnock and we agreed that she should contact the Police Federation before the interview if possible. Her mother and I were present at the office although we did not take part in the official interviews.

Redacted

Redacted

Redacted

Page 14

Redacted

Wednesday 28 May 1997

Shirley gave evidence in the High Court in Glasgow at the murder trial of David Asbury. I attended court for most of the trial. During her evidence she stated over and over again that she had never been in the murder house. The prosecution continually challenged this assertion and it was implied that she was a liar on various occasions . To discredit her the Advocate Depute Robert Dewar (Witness 24) used the fact that Shirley had been served discipline papers on the 8 May. It now became clear why these papers had been served so quickly. He also referred to a 'similar' incident, which occurred two years previously when Shirley was alleged not to have worn gloves and contaminated evidence. Her statement that she had been wearing rubber gloves was subsequently vindicated. (See below)

Page 15

Redacted

Redacted

Redacted

After the trial we were pursued down the street by the press and photographers. A nightmare!!

Redacted

Redacted

August 1997

Shirley was still trying to get back to work and we spoke about suitable posts.

Redacted

Redacted

Monday 8 September 1997

Having been off work sick for a long period, and after two Personnel interviews, Shirley started working within the Mounted Branch as a 'strapper' (groom). The work involved cleaning out stables and grooming police horses. This attempt to get back to some form of work was at her instigation. She continued this work for some months

Redacted

Page 17

I visited Shirley at the stables and she looked so isolated. I remember thinking her only true friends outside of her family were the horses. Neither a police officer nor a civilian my experienced and intelligent daughter was engaged in shovelling shit.

Redacted

Redacted

Thursday 4 March 1998

I had left for a short break in Southern Ireland.

Redacted

Friday 5 March 1998

About &30 am the next morning Shirley was in bed when Detective Superintendent Malcolm (Witness 14) accompanied by Detective Sergeant Morris (Witness 15) and Detective Constable Faulds (Witness 29) arrived at her home in possession of an arrest warrant on a charge of 'Perjury'

Redacted

Redacted

Redacted Shirley was then officially charged with Perjury and suspended from duty. She was photographed, fingerprinted then driven to Glasgow Sheriff Court and locked up in a cell until appearing in court over four hours later. She was terrified and convinced that she was going to prison for something she hadn't done She was however released on bail.

I heard of Shirley's arrest in a telephone call from her while on the ferry sailing into Stranraer.

Redacted

Saturday 13 March 1998

Redacted

Friday 27 March 1998

Redacted

Redacted

Page 20

12 June 1998

In an effort to resolve this nightmare and encourage some official action I wrote to the Deputy Chief Constable Mr Richardson (See letter dated 12 June 1998 at Appendix 'B') and asked him to intervene in the current situation Redacted

Redacted

Redacted

Tuesday 11 August 1998

Shirley's appeal to the Deputy Chief Constable against his decision to deny funding was refused. She attended with her lawyers at the City Chambers Glasgow for an appeal hearing to the Joint Police Board. The appeal was successful. (See Appendix 'B')

Redacted

Page 21

October 1998

For some months I had been looking at the possibility of contacting an independent fingerprint expert to establish if the 'mark' found had been forged or otherwise fabricated. I was given the name of Peter Swann (Witness 32) and Shirley and myself travelled to Wakefield to see him. He agreed to examine the 'mark' for forgery etc., and I passed his name to Ms Angela McCracken. (Witness 33)

14 December 1998

I attended with Shirley at the offices of Levy and McRae, Shirley's Federation solicitors, to meet Mr Bert Kerrigan QC (Witness 34) He discussed details of Shirley's case and our theories of what had happened. Redacted

Redacted

Other meetings followed in January 1999.

Redacted

Page 22

23 December 1999

Although we had made contact with Mr Swann in October and passed his particulars onto Levy and McRae we continued looking for fingerprint information and in December we decided that Shirley would search the Internet for information as part of a computer course she was attending in Troon.

During this search she came up with information about Pat Wertheim (Witness 35) a fingerprint expert based in Oregon, USA.

I wrote to Levy and McRae notifying them of Mr Wertheim's address and telephone number and asked them to make contact.

Redacted

25 January 1999

Meeting with Peter Watson (Witness 11) of Levy and McRae

Redacted

Redacted

At a later meeting she agreed to be represented by Donald

Findlay QC (Witness 36)

Page 23

Thursday 28 January 1999

Shirley was served with an indictment for Perjury to appear at the High Court of Justiciary at Glasgow on 1 March 1999 ~ This was the first date set for her trial.

This was a truly awful time. Our worst fears had been realised. Two months to the trial and we still had no expert to challenge SCRO. Shirley continued to spend most of her time with myself at my home in Glasgow.

March 1999

In early March accompanied by Angela McCracken of Levy and McRae, Peter Swann examined the productions in Shirley's case including the door surround and SCRO's fingerprint analysis. Shirley and myself were not allowed to be present when this analysis took place and we had no contact with Mr Swann.

The following week Shirley attended at Levy and McRae's to be told Mr Swann had stated that SCRO's identification of the 'mark' as Shirley's fingerprint, was correct. There was no question of forgery or planting

I immediately wrote a paper challenging some of Mr Swann's findings and when he confirmed his original report I wrote another paper in reply. (See Appendix 'C')

Page 24

Redacted

17 February 1999

I re-contacted Levy and McRae to be told by Angela McCracken that she had not been able to contact Pat Wertheim. I immediately picked up my phone and was put through to him a few minutes later. I arranged for him to consider taking on Shirley's case and confirmed this in writing to Levy and McRae.

Shirley and I first met QC Donald Findlay in early February and from then until her trial had a series of meetings.

At one of these meetings in March I had a serious fall out with Mr Findlay when he accused me of interfering, insisting that I do not contact defence witnesses. I refused given my experiences to date.

For me this was my lowest point. Two weeks from Shirley's trial, no coherent defence and seemingly back to square one.

4 March 1999

Redacted

Page 25

Redacted

In late March Pat Wertheim travelled to Glasgow from a conference in England and examined all the relevant productions. He also took a large number of Shirley's fingerprints at different angles and pressures.

My wife and myself attended with Shirley at Levy and McRaes' a few days later where Shirley had a private meeting with Mr Findlay. She met us in my car weeping with happiness. Mr Wertheim had confirmed that while the mark was not a forgery or a plant' it wasn't even Shirley's fingerprint. Another American expert David Grieve (Witness 38) who had also travelled to Glasgow had apparently independently confirmed this.

For the first time in over two years there was hope.

Wednesday 21 April 1999

The trial at the High Court didn't start until 21 April 1999. I attended every day. It ran until ~ 4 May 1999 - my 60th birthday

At this trial there were many areas of evidence, which proved that Shirley had never been in the house.

Page 26

Scrutiny of the trial transcript or any of the trial records will clearly show the Trial Judge Lord Johnston had severe reservations about the prosecution of the trial. More than once he commented that certain issues should be reviewed after the trial.

These included Shirley's arrest and degradation, the poverty of the SCRO evidence and the evidence led by Stuart Wilson (Witness 39), a Scenes of Crime Officer, which ruled out Shirley being in the Murder House at the times alleged by the prosecution. This latter evidence could have led to Shirley's being cleared even without the defence evidence of the American fingerprint 'experts'. It was referred to at some length in Lord Johnston's charge to the jury.

He takes almost three pages in his charge to deal with the fingerprint evidence. Within the strictures placed on a judge not to lead the jury, outwith points of law, it is remarkable for the way it casts doubt on every aspect of the prosecution evidence and particularly on the SCRO fingerprint evidence.

During the Trial the Advocate Depute Mr Sean Murphy (Witness 40) tried to raise the incident from the Asbury trial where Shirley was accused of previously contaminating evidence.

After debate this was thrown out by Lord Johnston as having no relevance to the current proceedings.

Redacted

Page 27

Shirley was unanimously acquitted and left the High Court on 14 , May with Lord Johnston 's words ringing in her ears, I'...personally I would like to extend to you my respect for the obvious courage and dignity which you've shown throughout this nightmare as you've described it. I very much hope you can put it behind you, I wish you all the best. I discharge you and you're free to go."

Shirley's trial had proved that her fingerprint had been wrongly identified by SCRO experts' Charles Stewart , Fiona McBride and Hugh McPherson , (Witnesses 41, 42 and 43 Respectively) who gave evidence at both trials, and Anthony McKenna (Witness 44) who had been ill and did not appear as a witness. Redacted

Redacted

The trial is of course a matter of Public record and a transcript is available. There was also a daily record kept in court by the Strathclyde Police Discipline Branch for the Deputy Chief Constable. I feel strongly that all these trial records should be made available as they contain important information relevant to the complaints and allegations presently under investigation.

14 May 1999 to Present

After her trial and the unanimous 'Not Guilty' verdict she hoped for resolutions and vindication of her position were not forthcoming from Strathclyde Police, SCRO, or the Lord Advocate.

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I entered into a year long series of correspondence with the Lord Advocate, who initially was Lord Hardie (Witness 45) and subsequently Cohn Boyd QC (Witness 46), officials of the Crown Office and the Minister for Justice Mr Jim Wallace QC (Witness 47) (See Appendix 'E')

I have referred to this correspondence in detail below at Part 1.

On 26 January 2000 14 Fingerprint experts from Lothian and Borders Police, following a 'Frontline Scotland' TV programme, wrote to the Lord Advocate and the Minister for Justice. (See appendix 'F')

They stated, "At best the apparent 'misidentification' is a display of gross incompetence by not one but several

experts within that bureau. At worst it bears all the hallmarks of a conspiracy of a nature unparalleled in the history of fingerprints."

Despite letters of complaint, extensive media support and two investigative TV programmes by BBC 'Frontline Scotland' these authorities have until recently refused to accept that anything was wrong.

Redacted

Page 29

Redacted

Redacted

Redacted

At the end of February ACPOS belatedly announced that they were asking Her Majesty's Chief Inspector of Constabulary (HMCI) Mr William Taylor (Witness 49) to immediately bring forward his annual inspection of SCRO and to use the 'Shirley McKie case' as one of the case studies. This inspection was aimed at examining the effectiveness and efficiency of SCRO and did not include enquiry into my complaints or allegations of criminal acts.

Page 30

Unusually the HMCI published an interim statement on 22, June, 2000. He concluded that the latent mark identified by SCRO as Shirley's was not hers and stated that, 'at present SCRO(fingerprint bureau) is not fully effective and efficient.

His full report is expected in early August, 2000.

This finding was quickly followed by ACPOS creating a Presidential Review Group under Chief Constable William Rae (Witness 50) to carry out a, 'wide ranging review of SCRO's This is ongoing with a dedicated team from Tayside Police led by Mr James McKay (Witness 51) and Mr Scott Robertson (Witness 52) the Deputy Chief Constable and Detective Chief Superintendent respectively of that Force.

Redacted

In addition the Lord Advocate has now appointed Mr Gilchrist (Witness 53) the Regional PF at Paisley to investigate my claims of possible criminal acts by Strathclyde Police, SCRO and/or Scenes of Crime Officers.

From the end of Shirley's trial up to the present date I have analysed all the evidence available to me in connection with the 'Marion Ross' murder enquiry and Shirley's investigation, arrest and trial and have made enquiries of my own.

Page 31

As a result on 26 June 2000 I wrote to the Minister for Justice Mr Jim Wallace making 5 specific allegations arising from my analysis.

I have summarised these allegations and the supporting 'evidence at Part 2 below.

It appears as if the ACPOS enquiry has been widened to investigate all the complaints and allegations referred to in my letter to the Minister for Justice.

Over the past year Shirley has been supported in her call for Justice by Mr Michael Russell (Witness 54) her MSP and Mr John Scott (Witness 55) of the Scottish Human Rights Centre. Both have been in regular correspondence with The Minister for Justice, the Lord Advocate and Strathclyde Police and I believe them to be relevant witnesses in connection with some or all of the complaints and allegations I have made.

Ms Shelley Jofre and Ms Dorothy Parker (Witnesses 56 and 57) made extensive enquiry into Shirley case for two BBC 'Frontline Scotland' documentaries. They interviewed many of the witnesses and have an in depth understanding of the background to Shirley's case. They also caused the fingerprint productions to be independently reviewed by a team of 'experts' led by Mr Ron Cook (Witness 58) I believe them to be relevant and necessary witnesses in the investigation of my complaints and allegations. Video recordings of both programmes and the related media coverage are available but are not part of this statement.

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Redacted

An Internet Web site maintained by Mr Ed German (Witness 60) an American Fingerprint Expert was established at www.onin.com. This site contains a great deal of information about the fingerprint evidence in the Shirley McKie case and contains comment and opinion from throughout the world. I have copies of most of the material on this site but again because of bulk it is not contained in this statement.

Part 2

In a letter to the Lord Advocate dated 26, June, 2000 (See Appendix 'E') I summarised my complaints and allegations relating to various actions and omissions arising out of the investigation, arrest and trial of my daughter Shirley McKie and the Marion Ross murder investigation .

This is a summary of the evidence in support of my allegations.

Redacted

Redacted

In 1993 Shirley 'S' fingerprint was found on a polythene bag she had handled as a productions officer in a murder case. She maintained that she had been wearing rubber gloves but when faced with the SCRO evidence agreed that she must have been mistaken . This was not a serious matter and no further action was taken.

My enquiries have revealed that a Strathclyde Memorandum dated 10, March, 1998 (See Appendix D'), published a full year before Shirley's trial showed that fingerprint impressions can be passed through rubber gloves and it was 'strongly recommended' that such gloves should be worn over cotton ones.

This vindicated Shirley's position that she had worn gloves.

Page 34

Redacted

In addition Mr Dewar made use of the fact that Shirley had been served discipline papers shortly before the trial in another attempt to discredit her.

Redacted

Redacted

On 9, June 1999 I wrote to the Lord Advocate Lord Hardie (Witness 45) asking him to review the many issues arising out of Shirley's trial and acquittal.

In a reply on behalf of the Lord Advocate dated 12, July, a Mr Miller (Witness 61) of the Law Officer's Secretariat stated that, 'the various issues raised by this case have been subject to investigation by the Lord Advocate (he) does not propose to publish the details of his investigations (he) does not propose to prevent the citation as prosecution witnesses... of the officers from the Scottish Criminal Records Office who gave evidence in this case (he) does not propose to instruct review of the findings of those officers in relation to other cases.'

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In essence I was being informed that the Lord Advocate did not intend to take any action on my complaints.

Given the evidence available at this time, much of which is referred to above, I believe this to be a completely flawed decision. The Lord Advocate had ignored information available and within the public domain which clearly pointed to problems within SCRO and with the investigation, arrest and trial of my daughter. Redacted

Redacted

It was as if Shirley's trial had never happened.

Evidence led by the defence and Lord Johnston's severe reservations about much of the prosecution evidence was being ignored.

His Lordship's comments about Shirley's arrest and degradation, the evidence of 32 Police officers who had sealed off the murder house, the poverty of the SCRO evidence and the evidence led by Stuart Wilson (Witness 39), a Scenes of Crime Officer, which ruled out Shirley being in the Murder House at the times alleged by the prosecution, were deemed irrelevant by the Lord Advocate. This scenes of crime evidence alone could have led to Shirley's being cleared without the defence evidence of the American fingerprint 'experts' being heard.

Page 36

Lord Johnston takes almost three pages in his charge to deal with the fingerprint evidence. Within the strictures placed on a judge not to lead the jury, outwith points of law, it is remarkable for the way it casts doubt on every aspect of the SCRO evidence.

His Lordship's comments to Shirley as she left the dock underlined his feelings, "... personally I would like to extend to you my respect for the obvious courage and dignity which you've shown throughout this nightmare as you've described it. I very much hope you can put it behind you, I wish you all the best. I discharge you and you're free to go."

Redacted

Redacted

If we return to Mr Miller's letter dated 12, July, 1999 (See Appendix 'E') we find the statement, "There were however other areas of the evidence which were in dispute and may have influenced the jury's verdict."

On 2, July, 1999 Superintendent Brian German (Witness 62) in a letter, to Mr Chris Coombes, (Witness 63) Director of Identification at New Scotland Yard (See letters at Appendix 'I') states, " there were other areas of evidence in this case which were challenged by the defence...." and concludes that it might have been those areas which the jury didn't except rather than the fingerprint evidence.

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Redacted

Redacted

When I wrote to the Lord Advocate Lord Hardie on 14, January, 2000 , having spent the intervening months furthering my investigations and working with BBC 'Frontline Scotland', I challenged the accuracy and the logic of the Lord Advocate's previous letter.

This was an extremely comprehensive letter outlining in detail my complaints and allegations and the supporting

evidence. (See Appendix 'F')

I clearly alleged that perjury might have been committed, "I would now go further and inform you that there is a substantial body of evidence indicating that all or at least some of (the) witnesses might have committed perjury...."

On 3, February, 2000, I received a letter informing me that a copy of my letter of 14, January , had been passed to the Minister for Justice Mr Jim Wallace (Witness 47). There was no attempt to answer the many points I had made including allegations of perjury.

Page 38

On 18, February, 2000, I again wrote to Lord Hardie requesting a reply to my earlier allegations.

A reply was received on 10, March, 2000 (See Appendix B ') which completely failed to answer any of the issues raised including those of criminal conduct [Redacted]

[Redacted]

[Redacted]

By this time ACPO(S) had called for the HMCI to bring forward his Inspection of SCRO. It is important to note that this was not an enquiry into possible criminal acts initiated by the Lord Advocate but a procedural Inspection initiated by ACPO(S). [Redacted]

[Redacted]

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The Minister for Justice however in a letter dated 22 March 2000 to Mr Michael Russell MSP (Witness 54)(See Appendix 'E ') is considerably more frank and concludes, "The inspection to be carried out by HMCI will not investigate specific allegations of criminal wrongdoing or complaints about individual members of the police service. This is a matter for the Procurator Fiscal or the Chief Constable of the force concerned."

Interestingly the Lord Advocate wrote to Michael Russell MSP on 7, July, 2000, referring on my correspondence and stated, "His complaints have moved perhaps not unnaturally as events have developed from suggesting SCRO fingerprint experts were incompetent to accusing them of possible perjury to making allegations of criminal conspiracy."

Redacted

the public interest?

Why did no one from the Crown Office have an objective look at the case. On what information and evidence was the decision to prosecute made and who made that decision?

Page 41

Redacted

Why was there no further enquiry made to have the disputed 'mark' independently reviewed as it has been now? This action was clearly indicated before any prosecution was undertaken and would have prevented continuing the trauma of the past year.

Redacted

Page 42

This complaint against the Lord Advocate is not motivated by revenge but by a sincere belief that he and his office need to be much more transparent in their handling of complaints from the public. The focus should be individual freedom

Redacted

Redacted

Redacted

present day.

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Redacted

Redacted

Page 46

3. That the SCRO 'experts' namely Charles Stewart, Fiona McBride, Hugh McPherson and Anthony McKenna (Witnesses 41, 42, 43 and 44 respectively) should be investigated in respect of possible perjury and criminal conspiracy committed by them at the trials of David Asbury and Shirley McKie.

The above named SCRO experts claimed to have identified three critical 'prints' in the Marion Ross case.

- 1) David Asbury's on a Christmas label found within the murder house.
- 2) Marion Ross's on a biscuit tin found in Asbury's bedroom.
- 3) Shirley McKie's found on the door surround of the downstairs bathroom of the murder house.

It is within my knowledge that witnesses Stewart, McBride and McPherson gave evidence to this effect at the David Asbury and Shirley's trials. I am not aware of witness McKenna's position.

It has now been proved by three of the world's foremost fingerprint experts Pat Wertheim, David Grieve and Alan Bayle (Witnesses 35, 38 and 67 respectively) that SCRO were wrong in their identifications of the Shirley McKie and Marion Ross marks but correct on the Asbury mark.

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This latter identification shows that SCRO are capable of accurate and highly competent work. They cannot therefore be dismissed as incompetent experts. As our experts have confirmed the former two identifications were not marginally in error but clearly and unequivocally wrong to a degree that no competent examiner could accidentally be.

The clear choice is that SCRO have examiners who are competent one day and incompetent the next or there are other factors entering into the equation.

It is these other factors which interest me. I believe they clearly point to a deliberate and calculated act in falsely identifying the Ross and McKie marks.

The SCRO 'experts' are clearly competent. As the prosecution stated in the High Court they have over 100 years experience between them.

Given that they are competent it is beyond the realms of possibility that knowing the massive opposition to their identifications world wide they have not re-visited their work and found the error.

If this is accepted then they are deliberately hiding their mistake, have committed perjury and may have conspired with others to pervert the course of justice.

It is my understanding that the expert witnesses Wertheim, Grieve and Bayle will speak to the productions produced by SCRO for court purposes in the Asbury and McKie Trials being 'interfered' with by being cropped and degraded. 'Best Evidence' was not led.

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In this connection David Grieve observed to me, "Both (cases) had digital reproductions deliberately manipulated to conceal information." The findings of the fingerprint experts appointed by the HMCI's Inspection and the on-going ACPOS review will be interesting in this respect.

I believe that the clear pattern of misinformation by SCRO at home and abroad, as referred to above, has been aimed at silencing potential expert witnesses from other agencies and has been an important part of a 'cover up'.

Despite suggestions to the contrary (see below) it is clear that SCRO did not have their 'experts' work 'independently reviewed' despite the mass of evidence against them.

If they had nothing to hide what easier way of proving their efficiency and integrity than by asking an outside agency to review their work.

Although not necessarily significant in itself I observed a heated argument between two SCRO experts Charles Stewart and Hugh McPherson (Witnesses 41 and 43) in a car park near to the High Court. It occurred after Stewart had given his evidence in Shirley's trial and just before McPherson entered the witness box . It pointed to a clear difference of opinion that I believe should be pursued.

It appears to me that these SCRO experts have nowhere left to hide. I believe them to be competent experts who for reasons known only to themselves have lied. Whether they have done so for their own ends or in a conspiracy with others is still an open question.

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4. That the organisations and persons responsible for supervising SCRO failed to carry out their responsibilities and as a result failed to identify serious shortcomings in the operation of that organisation.

There is clear evidence that the SCRO supervisors and those in the SCRO Executive Committee failed to operate effectively over the three years after the disputed print was found.

I would hope that the issue of supervision will be dealt with by the HMCI in his report to be published in August.

Many questions remain to be answered by those responsible for the supervision of SCRO.

Are comprehensive audit trails available for all of the relevant productions from their original location to SCRO and back to the Murder Investigation team?

Do these audit trails include details of the reviews of the prints allegedly carried out for Strathclyde Police after Shirley had challenged their identification?

Detective Chief Superintendent Harry Bell (Witness 68) in a letter dated 11, January, 2000 to the BBC (See Appendix 'I') stated that, "SCRO remains satisfied with its identification of the fingerprint impression recovered from the crime scene we have revisited this case and re-affirmed the identification."

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Which officers re-visited and re-affirmed this identification? Is this work shown on the audit trails?

How was this 'identification re-affirmed' as suggested by Mr Bell? Was there any independent verification of SCRO's work by an outside agency over the three years Shirley's print was in dispute? If not - why not given the high level of controversy surrounding their identification ?

There have been many independent confirmations of the SCRO mistakes by defence experts, five experts consulted by the BBC 'Frontline Scotland ' , the HMCI's experts and of course literally hundreds of experts throughout the world via the Internet.

Given this evidence any competent examiner would have seen the errors, any ethical examiner would have noted the irregularities and any effective supervisor would have ensured a review was carried out.

On 2, July, 1999 Superintendent Brian Gorman (Witness 62) in a letter to Mr Chris Coombes, (Witness 63) Director of Identification at New Scotland Yard (See letter at Appendix 'I ') re-assured him that all was well within SCRO and warned him against, "...a great deal of disinformation" which was being circulated. He went on to offer some factual background...". (We believe a similar letter was copied to individuals and agencies throughout the fingerprint world),

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Who authorised this and the other similar letters sent to Police Forces and Agencies throughout the UK? What was requested of these agencies and who requested it? Was any pressure brought to bear on Durham who are apparently assisting the ACPOS Presidential Review Team? Were formal or informal approaches made to the 'Fingerprint Society' not to allow discussion of the 'Shirley McKie' case at their annual conference in Liverpool in March this year? Who made the approaches and on whose behalf?

In the case of New Scotland Yard Allan Bayle , (Witness 67) a senior Fingerprint Expert, was threatened with Discipline following SCRO's overtures (See Appendix 'I')

Why were Pat Wertheim and David Grieve (Witnesses 35 and 38) visited by senior members of the American FBI and asked not to publish anything about the SCRO error and to stop providing copies of the mark and Shirley's thumb print to other individual experts and agencies? This visit apparently followed a visit to the FBI by Robert McKenzie , (Witness 69) a senior examiner, at SCRO who might have been responsible for other approaches to fingerprint agencies. Who within SCRO authorised this pressure?

If half of the informal and confidential contacts we have had are true SCRO went to extraordinary lengths to have their mistakes 'covered up'. I believe it is important to formally ascertain exactly the measures they took and who authorised and participated in any 'cover up'.

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In many ways a lack of effective and objective supervision allowed the SCRO 'experts' mistakes and/or cover-ups to be perpetuated. This in turn increased the pressure on Shirley given that SCRO had never been successfully challenged in their history.

Redacted

5. That many question marks surround the Police investigation following the death of Marion Ross and that the said investigation should be independently reviewed.

I believe that considerations of a conspiracy to pervert the course of justice follows naturally on from the allegations made above. All of the evidence produced in support of these allegations has relevance.

There is little doubt that from an evidential point of view the identification of the Marion Ross print on the biscuit tin found in Asbury's house was highly fortuitous and essential to establishing Asbury's guilt beyond doubt. Asbury had worked in the murder house previously and in alibi claimed that he had been in the house to telephone some time before Mrs Ross was murdered. The fingerprint evidence on the label did not positively tie him to the house at the material time.

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The question is who initiated these wrong identifications? Was it the SCRO experts/supervisors acting on their own initiative or was there some form of conspiracy with the Police Investigators or Scenes of Crime Officers?

Redacted

My understanding is that when Marion Ross's body was found suicide was suspected and only after the post-mortem was murder confirmed. There is no indication of this in court evidence. What happened over this period?

Were the strict rules protecting the locus applied as is suggested in the evidence? Was there contamination of the locus?

When I tried to run an audit trail of various productions I found that the biscuit tin which was apparently taken possession of early on the morning of Wednesday 21 January 1997 was not examined by Scenes of Crime at Police Headquarters in Glasgow until Monday 27 January. SCRO experts carried out their examination on Wednesday 29 January. A vital piece of evidence against David Asbury had taken 8 days to be examined by SCRO. (See Appendix 'J')

Interestingly a second set of Marion Ross's fingerprints was taken in the mortuary on Thursday 22 January but as far as I can see were never used. - WHY?

During Shirley's trial as referred to above Stuart Wilson (Witness 39), a Scenes of Crime Officer, revealed that Shirley could not have been at the murder scene at the times suggested by the prosecution.

Evidence has been led by Constable David Thurley (Witness 75) that on 10 January, 1997 he, Michael Moffat (Witness 76), David Ferguson (Witness 77) and Graham Hunter (Witness 71) dusted for fingerprints at the murder house using aluminium powder.

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Mr Thurley had examined the downstairs bathroom surround and dusted it. At that time the disputed 'mark' was not revealed.

On 14, January Witness Stuart Wilson accompanied by Scenes of Crime Officer Hunter (Witness 71) re-dusted the bathroom door surround using black powder and revealed the disputed 'mark' labelled 'Y7'.

In evidence Witness Wilson offered the opinion that if the 'mark' had been placed on the door surround AFTER the aluminium powder was laid on 10 January that he would have seen it on top of the aluminium powder.

He was pressed by the defence QC Mr Findlay and the trial judge Lord Johnston on this evidence and he confirmed his opinion.

This evidence meant that for Shirley to have left her print as alleged she would have had to be in the murder house before 10 January i.e. before the aluminium powder was laid. The prosecution did not challenge this evidence and had tried to prove that Shirley had been in the house probably on the Saturday following.

Lord Johnston made great play on this evidence in his summing up and stated, "One obvious conclusion which is open to you is that the print was there when the aluminium powder was put on it. That is consistent with Wilson's evidence and there is no evidence to a contrary effect. If that is the case, the Crown case falls."

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Was this evidence known to the prosecution before the trial and if so why was it not revealed?

