

Chapter 10

Reviews of SCRO and changes in practice in SCRO and SPSA

REVIEWS OF SCRO

10.1 1995 Primary and 1998 Review Inspection by HMIC

10.1.1 The 1995 inspection made only one recommendation in respect of the Fingerprint Bureau, namely that forces examine the administration of tenprint forms leading to their submission to SCRO, to ensure that no undue delay occurs.
<http://www.scotland.gov.uk/Topics/Justice/Police/15403/3444>

10.1.2 The 1998 review inspection found that this matter had been addressed. The issue had been overtaken by the introduction of Livescan terminals, which permitted forces locally submit tenprint forms electronically to SCRO. The 1998 inspection did not give rise to a published report. According to the 2000 Primary Inspection report, the 1998 report referred to a “critical” position as a result of increasing workloads and serious resourcing issues.

10.1.3 Some further information as to the nature of the difficulties facing SCRO appears at SG 0822. This is an undated document, but handwritten annotations on it suggest that it dates from 1998. Other relevant documents are SG 0792; SG 0793;

10.2 The Hamilton Report SG 0837

10.2.1 The Scottish Fingerprint Service Working Group (referred to in the Justice 1 report as SFSWG) was set up in May 1997. The chair

was John Hamilton QPM, the Chief Constable of Fife Constabulary. Its remit was to examine the potential impact of Automatic Fingerprint Recognition, (AFR), Livescan and other technical developments on Fingerprint Services in Scotland, and to make appropriate recommendations for the future.

10.2.2 The group reported in March 1998. The report is at SG 0837. Its recommendations were as follows:

- that a basic model of evaluation be developed for use throughout the fingerprint service in Scotland based upon the collection and use of agreed management information (paragraph 5.3)
- that consideration be given to making a financial award to SCRO staff in the current year with parity (with Force fingerprint experts) being the aim in the succeeding year (paragraph 7.28)
- that consideration be given to the establishment of a national salary and conditions structure for fingerprint experts (paragraph 7.28)
- that a change to the present system be actively pursued in the interests of efficiency, effectiveness, economy and best value (paragraph 8.9)
- that a re-organisation of the fingerprint service be undertaken based upon an agreed level of devolution of control appropriate to the efficient, effective and economic delivery of fingerprint services (paragraph 8.27)
- that subject to consideration and approval of an option for change, the preparation of an implementation strategy forms the next stage of development. Central to such a strategy must be the re-launch and marketing of a new National Fingerprint Service for Scotland (paragraph 10.9)

10.3 Leishman Management Consulting reviews

10.3.1 As a result of the Hamilton Report, Leishman Management Consulting was engaged in March 1998 to assist with the development of an implementation strategy. The consultancy was carried out in two stages. Stage One examined structure, work practices, staffing levels and grades within SCRO fingerprint bureau and considered the ability of the bureau to meet the workload requirements. It noted that wages for experts were not in accordance with market rates.

10.3.2 The Stage One Review was produced in December 1998, and the Stage Two Report in June 1999. The Stage Two Report was presented to the SCRO Fingerprint Standing Committee on 10 August 1999.¹ The reports appear together (and subject to some duplication) at PS 0037.² A single copy of the Stage Two Report (without the duplication at PS 0037) is at SG 0811.

10.3.3 The Stage One Review recorded that SCRO Fingerprint Bureau was significantly understaffed. Pay was low when compared to what was on offer from other bureaux, indicating why staff may have left to work in England.

¹ For date, see Briefing Note at pdf p38 of PS 0037.

² The Stage Two Report runs from page 5 of the pdf through to page 37. Pp 38-39 of the pdf is a Briefing Note relating to the Stage Two Report. Page 43 is a Note dated 7 July 1999 for Mr Bell regarding a meeting to discuss implementation of the Leishman report. The Stage One Review appears at pages 78 to 95 of the pdf. Page 130-170 is a series of what appear to be word processed notes, some annotated in handwriting in relation to the Leishman Stage Two Report. Pages 171-200 are a series of Appendices A-J. It is not entirely clear what they are appendices to. Appendix A has no content. Appendix B is a comparison of salaries in English bureaux. Appendix C is a comparison of salaries in Scottish bureaux. Appendix D is a proposed structure for SCRO fingerprint section. Appendix E is a table showing the numbers of staff in SCRO Fingerprint Bureau. Appendix F is a list of grades and salaries within SCRO. Appendix G and H set out, respectively the costs of a one and two grade increase in salary for staff in SCRO Fingerprint Bureau. Appendix I summaries additional funding required for proposed new salary grades. Appendix J is a series of Job Descriptions for posts in SCRO Fingerprint Section.

10.3.4 In the Stage Two Review, the consultants recommended the introduction of an office management system incorporating automated case tracking.³ The introduction of such a system was seen as essential regardless of which choice came to be favoured as to the future structure for fingerprint services in Scotland. See also HMIC 2000 Primary Inspection Report at paragraph 5.8.1 and 5.8.11 (SG 0375).⁴ This may still be an item of significance. Point 10 of the Scientific Advisory Group draft Minutes of 25 April 2008 (PS 0041) records that the Office Management System was causing concerns, and that some bureaux found it unusable. Joanne Tierney's statement to the Inquiry provides further information.⁵ Ms Tierney states that the system had originally been designed for the Glasgow bureau. It had been less useful to the smaller bureaux as it had not been designed to reflect their working practices. She states that recent reports have revealed some inaccuracies in the data generated by the system. These are being investigated and an upgrade to the system due for roll out in the near future. She states that in the interim the Edinburgh, Aberdeen and Dundee bureau concurrently operate local management systems which, as they are designed to reflect local case submission procedures, are found to be more effective.

10.3.5 Stage Two also considered strategic issues related to the "devolved control" model favoured by the Hamilton report.

10.3.6 The consultants proposed a new model for fingerprint services in Scotland based on central management and delivery (rather than the "devolved control" model). Alternatively, if this were seen as a

³ PS 0037 at page 20 of pdf – paragraph 4.13

⁴ Pp 59 and 60 of pdf.888

⁵ Paragraphs 105 and 106.

“step too far”, there should be central management with distributed delivery.

10.3.7 SG 0910 is a note of meetings of the SCRO Development and Standing Committees of 10 August 1999. It records a presentation from Ralph Leishman regarding the desirability of centralising fingerprint services.

10.4 The 8 Force Standard Working Group (8FSG)

10.4.1 In response to Stage Two of the Leishman consultancy, the SCRO Controlling Committee agreed that as an initial step in testing the concept of a centralised model, standardised practices should be agreed among force bureaux and the SCRO fingerprint bureau. The 8FSG was formed. Its chair was John Hamilton. Workshops were established to discuss national issues including the move towards a non-numeric standard and the need for a training forum to examine and progress training needs in Scotland. Its operations were suspended as a result of events surrounding HMA v McKie. It was reconvened in September 2000 following the publication of the HMIC Primary Inspection report.

10.5 The HMIC Primary Inspection, 2000 (SG 0375)

10.5.1 Her Majesty’s Inspector of Constabulary (HMIC) had been due to conduct a Primary (full) inspection of SCRO in December 2000. Following the broadcast of the BBC Frontline Scotland documentary in January 2000, ACPOS, at a meeting on 7 February, concluded that an independent assessment of the

identification of Y7, by HMIC, should take place. ACPOS had no power to initiate this. On the same day, however, the SCRO Chief Executive met (which included the Chief Constables of the eight forces and HM Chief Inspector of Constabulary (HMCIC)). The Committee decided to commission HMIC to commission an independent assessment of Y7. HMCIC agreed to re-visit the disputed identification as part of an inspection of the SCRO Fingerprint Bureau.

10.5.2 The inspection of the SCRO Fingerprint Bureau was thus brought forward from December 2000, and also isolated from the inspection of the other parts of SCRO.

10.5.3 HMCIC made interim findings known to the media and to the McKie family without publishing an interim report. That course is the subject of criticism in the Justice 1 Committee report (paras 394-395). A brief report of the emerging findings was provided to Mr Rae, and is CO 1012.

10.5.4 Following HMIC's interim findings, the ACPOS Presidential Review produced a report advising of the measures taken by ACPOS in response to those findings. It is CO 0378, and is dated 14 September 2000.

10.5.5 HMIC reported in September 2000 (SG 0375), making 25 recommendations and 20 suggestions for improvement. These recommendations were helpfully summarised in tabular form in an annex to the Justice 1 Committee Report. That table is simply reproduced here, as it provides the relevant information in a concise and comprehensible form. It can be seen from the table

that each of the recommendations was regarded by HMIC as having been discharged.

10.5.6 It is worth noting at this point that the conclusions and recommendations of the Justice 1 Committee, informed in particular by a report prepared by Sir David O'Dowd (former Chief Inspector of Constabulary for England and Wales) in 2006 (PS 0036) indicate that it may be that not all of these should have been regarded as discharged when they were. This raised issues about the effectiveness of HMIC inspections. In response to the criticisms made in the Justice 1 Report, HMICS carried out an internal review of inspections procedures (FI 0092).

10.5.7 Summary of HMIC recommendations

Scottish Criminal Record Office: The Fingerprint Bureau – HMIC Primary Inspection 2000 – Recommendations		
	Recommendation	Discharge of recommendation
Recommendation 1	HMIC recommends that the SCRO oversight management structure be reformed as part of repositioning SCRO within a new Common Police Services arrangement.	HMIC SCRO Primary Inspection 2004
Recommendation 2	HMIC recommends that the post and role of quality assurance officer and training officer be separated.	Third Year Review of SCRO Primary Inspection of 2000.

Recommendation 3	HMIC recommends that a centralised model for a national fingerprint service be considered.	Third Year Review of SCRO Primary Inspection of 2000.
Recommendation 4	HMIC recommends that the ACPOS Presidential Review Team (APRT) scope the demands now and into the near future to determine the staff levels required. This exercise should include maximising the value that fingerprint evidence has for the prevention and detection of crime and take full account of available and emerging technological advances.	HMIC SCRO Primary Inspection 2004
Recommendation 5	HMIC supports the move towards a competency-based standard for expert qualification and recommends early progress towards this goal.	Third Year Review of SCRO Primary Inspection of 2000.
Recommendation 6	HMIC recommends that the concept of "authorisation" needs further consideration.	HMIC SCRO Primary Inspection 2004
Recommendation 7	HMIC recommends that a protocol is agreed between SCRO and forces to ensure that due consideration is given during the planning stages of operations and initiatives, to managing the impact these can have on SCRO.	Third Year Review of SCRO Primary Inspection of 2000.
Recommendation	HMIC recommends a review of current	Third Year

8	locations of Automatic Fingerprint Recognition (AFR) terminals in Scotland with a view to securing improved access.	Review of SCRO Primary Inspection of 2000.
Recommendation 9	HMIC recommends that action is taken to secure data which informs management of sickness absence levels in a manner which can be used to monitor trends, set targets and manage sickness absence.	Third Year Review of SCRO Primary Inspection of 2000.
Recommendation 10	HMIC recommends that a strategy is introduced for staff within all fingerprint bureaux and identification branches to offer staff support and to assist in the detection and prevention of stress related illness resulting in absence from work.	HMIC SCRO Primary Inspection 2004
Recommendation 11	HMIC repeats the recommendation made by consultants in June 1999 that an improved automated system of case tracking should be introduced as part of a new office management system at SCRO.	Third Year Review of SCRO Primary Inspection of 2000.
Recommendation 12	HMIC recommends the production of a national Guidance Manual on Fingerprint Standards and Procedures to be issued to all fingerprint staff.	Third Year Review of SCRO Primary Inspection of 2000.
Recommendation 13	HMIC recommends the establishment of a national policy, which encapsulates an independent review process to deal with all erroneous and disputed fingerprint	Third Year Review of SCRO Primary Inspection of

	identifications.	2000.
Recommendation 14	HMIC recommends that the external provision and management of competency testing for experts is an aspect that the APRT needs to pursue with vigour to seek an early, sustainable and defensible programme.	Third Year Review of SCRO Primary Inspection of 2000.
Recommendation 15	HMIC recommends that managing the change to a non-numeric standard should be addressed at a very early point by the APRT.	HMIC SCRO Primary Inspection 2004
Recommendation 16	HMIC recommends that the important area of court presentation skills be given a new impetus.	Third Year Review of SCRO Primary Inspection of 2000.
Recommendation 17	HMIC recommends that regular refresher training should be incorporated into a national training standard for fingerprint experts to ensure that expertise is maintained at the highest level taking account of developments in theory and technology.	HMIC SCRO Primary Inspection 2004
Recommendation 18	HMIC recommends that a specific effort be made to bring the weeding up to date. ⁶	Third Year Review of SCRO Primary Inspection of

⁶ Weeding was a reference to removing from the AFR tenprint images in accordance with SCRO's policy in respect of its Criminal History System. Marks from serious cases remained on the system indefinitely, with other marks being held for a limited period before disposal (see HMIC report paragraph 8.4.1).

		2000.
Recommendation 19	HMIC recommends that all fingerprint experts within the SCRO Fingerprint Bureau should undergo competency testing provided and managed by an external provider as soon as possible.	Third Year Review of SCRO Primary Inspection of 2000.
Recommendation 20	HMIC recommends that a common procedure, subject to validation by an external body, be put in place in all fingerprint bureaux to deal with failure in the course of competency testing.	Third Year Review of SCRO Primary Inspection of 2000.
Recommendation 21	HMIC recommends that a review is undertaken of the current authorisation process with a view to establishing a competency based qualification for expert status.	Third Year Review of SCRO Primary Inspection of 2000.
Recommendation 22	HMIC recommends that the APRT give early attention to establishing a corporate identity for SCRO.	Third Year Review of SCRO Primary Inspection of 2000.
Recommendation 23	HMIC recommends that practices be reviewed with a view to introducing a system, which increases the independence within the identification/verification process.	HMIC SCRO Primary Inspection 2004
Recommendation 24	HMIC recommends that the SCRO fingerprint bureau liaise with the ACPOS working group on ECHR particularly in relation to its development of a manual on	Third Year Review of SCRO Primary Inspection of

	standards and procedures.	2000
Recommendation 25	HMIC recommends that the APRT look closely at the development of the National Council for Registration of Forensic Practitioners and give consideration as to how Scotland can capitalise on this new council	HMIC SCRO Primary Inspection 2004

10.5.8 While the third recommendation was that a centralised model for a national fingerprint service be considered, HMIC considered that the centralisation model with devolved elements was the way forward in the immediate and short term.

10.5.9 Of particular concern to HMIC were the following matters.

10.5.9.1 The lack of a clear corporate identity separate from that of Strathclyde Police, whose premises SCRO leased, and with whom there were other structural links. SCRO staff were employed by the Strathclyde Police Joint Board, and senior posts in SCRO had historically always been awarded to Strathclyde Police.

10.5.9.2 At the time of the inspection, a large backlog of cases had accrued. This appears to have been a result of under-resourcing, and in particular a shortage of fingerprint experts.

10.5.9.3 A large quantity of overtime was being worked, which “given the nature of the task” could be only a short term solution to

the difficulties of recruiting experts. At the time of the inspection there were six full-time and one part-time vacancy. Regrading of salaries had occurred in 1999 after the Leishman report.

10.5.9.4 Not all of the five year qualification period required for recognition as an expert was being spent actually carrying out the duties of a fingerprint expert.

10.5.9.5 Sickness absence management was a concern, as was the detection and prevention of stress-related absence. There were high levels of sickness absence.

10.5.9.6 The Leishman recommendation for an office management system with automated case tracking had not been implemented. This was of concern because of the lack of an adequate audit trail. The continuing use of case envelopes was not conducive to independent assessment of marks, as it had the potential to indicate to junior staff that more senior colleagues had already made an identification. This remains of concern, as noted above. Evidence before the Inquiry indicates that there was no single clear paper trail indicating which marks had been checked, against what, and by whom. Case envelopes, annotations on photographs, and marks worksheets were all used, but none provided a proper audit trail. Also as noted above, the SAG Minutes relate difficulties in using the Office Management System.

10.5.9.7 There was no national guidance manual for fingerprint standards and procedures. There was no national policy

regarding an appropriate review process to deal with erroneous and disputed fingerprint identifications.

10.5.9.8 Quality assurance checks had been reduced in number to increase expert availability for scene of crime fingerprint work.

10.5.9.9 Staff raised concerns with HMIC about the use of the charting PC.

10.5.9.10 Competency testing was provided and managed only internally. HMIC recommended that all experts undergo competency testing provided and managed by an external provider. It was also pointed out that authorisation under s280(4) of the 1995 Act was not dependent on any competency-based qualification.

10.5.9.11 Court presentation methods required further consideration and the provision of further training.

10.5.9.12 SCRO trainee fingerprint officers received training both in-house and in two courses (initial and intermediate) at the National Training School in Durham. They did not attend the Advanced Course at Durham, because it was thought to be too focused on English courts and legislation. As at 2000, consideration was being given to stopping using the Durham initial and intermediate courses also, because they focused on the English automated recognition system (NAFIS) which differed from AFR, the system used in Scotland. The concentration on in-house training gave rise to a risk of

perpetuating bad practices. There was little refresher training or continuing professional development.

10.5.9.13 HMIC was concerned about the introspective culture at SCRO, pointing out that other Scottish bureaux used the Durham advanced, whereas SCRO regarded its own in-house training as more relevant. It regarded the lack of external competency testing in the same light, and also the historical failure to recruit experts from outwith SCRO, rather than training all staff internally. It was concerned also in relation to working practices which meant that a person verifying a fingerprint would be aware not just of the identity of a colleague who had already looked at it, but of his or her findings.

10.5.9.14 It was in the context of the HMIC inspection that the identification of Y7 was first referred to Torger Rudrud and Arie Zeelenberg, each of whom took the view that Y7 was not Shirley McKie's mark.

10.6 Scrutiny of SCRO Fingerprint Bureau by APRG CMRT (SG 0522)

10.6.1 The ACPOS Presidential Review Group (APRG) reported in October 2000 (SG 0522). This represented a response on the part of the Scottish Police Service to the emerging findings of HMIC, which were reported first in June 2000. The remit of APRG was to review

- Personnel
- Structure

- Resources
- Procedures and processes
- Quality control

and to accelerate the ongoing and future development of SCRO in the light of HMCIC's Primary inspection, the Leishman reports, the SCRO Strategic Review and any recommendations arising from the Policing Review

10.6.2 Two teams were formed. James Mackay, DCC of Tayside Police, was appointed to lead the investigation of the circumstances surrounding the fingerprint investigation. Kenny McInnes, DCC Fife Constabulary, was appointed to lead the Change Management Review Team (CMRT) in undertaking a 90-day Scrutiny of the SCRO Fingerprint Bureau.

10.6.3 The findings and comments of the CMRT generally do not differ significantly from what appears in the HMIC report. The CMRT recommended that the SCRO Executive Committee fully support the recommendations and suggestions made by HMIC in the Primary Inspection Report. The various options for structural change are considered in much greater detail than in the HMIC report.

10.6.4 The recommendations are more numerous (87) and set out in greater detail than those in the HMIC report. For example, there is a specific recommendation that notes should be made by fingerprint experts while undertaking the identification process (p122 of pdf). HMIC had suggested that, in the context of the move to the non-numeric standard, working notes should be kept, and that more detailed court reports might be required, but had not

made a specific recommendation in relation to those matters. There is a specific recommendation that the case envelope should be changed and put in a format common to all Scottish forces (p 123 of pdf). A specific recommendation is made as regards disclosure (p124 of pdf).

10.6.5 Worthy of note also are the CMRT findings at paragraph 13.7.40 regarding the use of experts as witnesses for court where those witnesses did not make the initial identification of the print.

10.6.6 The CMRT recommended the use of a proficiency test provided by Collaborative Testing Services Inc, a US-based company, pending the development of a fuller competency test by the Council for the Registration of Forensic Practitioners (CRFP).

10.6.6.1 CRFP was a professional regulatory body which maintained a register of currently competent forensic practitioners across 11 disciplines. Registration was by application, giving details of the applicant's career, qualifications and training. References were required. A list of recent casework had to be submitted, from which examples were selected for detailed scrutiny and assessment. Each practitioner required to undergo revalidation every four years. CRFP examined the steps taken to keep up to date with developments in the discipline, maintain competence, and develop professional expertise. CRFP was set up in 1999 at the behest of government with the aim of developing, implementing and improving standards in the practice of forensic science. The Home Office provided start up funding for CRFP, and its setting up was announced by the Home Secretary in 1998 in the following Written

Answer:

http://www.publications.parliament.uk/pa/cm199798/cmhansrd/vo980521/text/80521w04.htm#80521w04.html_sbhd3. A further five years of funding from government was announced in 2005 <http://press.homeoffice.gov.uk/press-releases/future-for-forensics-register>.

10.6.6.2 CRFP was a not-for-profit company registered by guarantee. Registration was voluntary, in the sense that there was no prohibition on practising as a forensic scientist without having registration. CRPF ceased trading at the end of March 2009, and is therefore no longer a potential vehicle for accreditation of fingerprint examiners.

10.6.7 CMRT also considered HMIC's suggestion regarding blind trials, which in this context means the submission of a set of standardised, deliberately generated images for examination by experts in order to assess their proficiency. There was some perceived difficulty associated with this in creating "false" case and computer records. CMRT recommended that the matter be considered further by the 8FSG in due course, as part of its wider remit.

10.7 Project mandate and project initiation document

10.7.1 SG 0834 is a project mandate, prepared in advance of the CMRT report. It recommends the identification of a project management team and project board to progress the recommendations that might emerge from the CMRT report.

10.7.2 SG 0883 is the Project Initiation Document of the CMRT. It is dated 29 November 2000. It sets out the aims and proposed work to progress the recommendations of the HMIC and CMRT reports.

10.7.3 The project brief is at SG 0885.

10.8 Second and Third Year Reviews of SCRO Primary inspection of 2000

10.8.1 The Second Year Review (SG 0842) focuses on the Primary Inspection of SCRO in December 2000, rather than on the Primary Inspection of the Fingerprint Bureau, which as noted above, was separated from that of the SCRO as a whole.

10.8.2 The Third Year Review (<http://www.scotland.gov.uk/Topics/Justice/Police/15403/3444>), however, considers the actions taken by SCRO in response to the Primary Inspection of the SCRO Fingerprint Bureau. As summarised in the table above, 17 of the recommendations were discharged, as were 15 of the suggestions. The executive summary of the Third Year Review appears at SG 0764. The outstanding matters were said to give rise to three key themes, namely

- Resourcing
- Benchmarking
- Openness

10.8.3 In particular, staffing remained at below appropriate levels..

10.8.4 As at the Third Year Review, restructuring had taken place so that there was a centralised management structure from SCRO, with bureaux located in Aberdeen, Dundee, Edinburgh and Glasgow. A head of Scottish Fingerprint Service had been appointed.

10.8.5 The structure is not fully discussed in the report of the third year review, but is more fully described at paragraph 5.6 of the report of the 2004 Primary Inspection (<http://www.scotland.gov.uk/Topics/Justice/Police/15403/3444>).

The structure, which did not have an independent legal personality, was known as the Scottish Fingerprint Service (SFS). It comprised four bureaux. One, the Glasgow bureau of SFS, was a “business unit of SCRO” administered from Pacific Quay, and the other three were maintained at Aberdeen, Dundee and Edinburgh. As paragraph 5.56 of the 2004 HMIC report explains, while the SFS had a management structure “aligned to SCRO” it existed only as a collaborative arrangement between SCRO and police forces, and agreed by chief constables.

10.8.6 A National Procedures Manual had been produced. Staff had been encouraged to register with the Council for Registration of Forensic Practitioners, and 65% had achieved or were working towards membership. As noted above, the CRFP is now defunct.

10.8.7 The SCRO position summarised in the report was that registration coupled with standardised training at the NTC in Durham and annual external testing through Collaborative Testing Services for all fingerprint experts across the SFS provided independent confirmation that standards were being met and maintained. The recommendation regarding a centralised model for a national fingerprint service was noted by HMIC as discharged.

10.8.8 Notably, the recommendation regarding the introduction of an office management system with automated case tracking was discharged, although the purchased system had not yet fully “gone live”. The SCRO position on this matter included the following, which is not the subject of further comment by HMIC: “Current in force systems will not allow full integration. To prevent double keying an IT solution will be sought to provide a migration strategy”.⁷

10.8.9 A National Procedures Manual had been produced. A document entitled the “Quality Procedures Manual – Fingerprints”, the current version of which can be found at FI 0094, which is a print-off of what is published on the SPSA website. SPSA comment that the documents presently on the website are out of date, and do not reflect current procedures.

10.8.10 Some of the documents bear to relate to particular bureau (see, for example, p104 of pdf FI 0094), others to be national documents. SPSA comment that the documents consisted of national guidelines supported by local operating guides.

10.8.11 The review process set out in the Manual regarding disputed verifications was regarded as sufficient for the discharge of the recommendation regarding the introduction of a national policy to deal with disputed verifications.

10.8.12 Structural separation in relation to the identification and verification processes had not been implemented in Dundee, Aberdeen, or Edinburgh, but in Glasgow attempts had been made

⁷ For explanation of double keying, see Tierney, para 105

to anonymise processes in the following respects. At each stage in the identification and verification process, the fingerprint officer completed his or her own evaluation of the characteristic set for the mark to achieve identification. This was not recorded anywhere, so verifiers had to find and complete their own characteristic set. At each step of the process, a verifying officer knew that an identification had occurred but did not know who had carried out the identification. HMIC commented that, even in Glasgow, it was difficult to maintain anonymity, as handwriting might be recognised from a diary page. Practice at Manchester, which involved a separate “checking team” for verification was examined.

10.8.13 SG 0779 (sent under cover of SG 0778 dated 6 January 2004) is a status report from Ewan Innes to Harry Bell regarding matters outstanding from the 3rd Year Review. SG 0780 is a related spreadsheet relating to the suggestions (as opposed to recommendations) outstanding from the 2000 Inspection at the time of the 3rd Year Review. SG 0781 is a spreadsheet regarding the outstanding recommendations.

10.8.14 SG 0782 is the Executive’s response to certain queries from the Justice 1 Committee as to improvements and developments at SCRO as regards fingerprints.

10.9 HMIC Primary Inspection of SCRO 2004 **(<http://www.scotland.gov.uk/Topics/Justice/Police/15403/3444>)**

10.9.1 Much of the report deals with issues arising from the role of SCRO in Disclosure Scotland and criminal history intelligence in the light of the Bichard report after the Soham murders. The following matters of relevance to fingerprint services were noted.

10.9.2 By the time of the report of this inspection, all of the recommendations in the 2000 Primary Inspection of the SCRO Fingerprint Bureau were discharged. SCRO, including its fingerprint staff, had relocated from Pitt Street (Strathclyde Police HQ) to premises at Pacific Quay in Glasgow.

10.9.3 The structure of fingerprint services remained as described above, under the auspices of an organisational arrangement known as the Scottish Fingerprint Service. It was, however, recognised that this was likely to merge in due course with a new forensic science service for Scotland. At paragraphs 5.10 – 5.15 HMIC identified a number of matters tending to indicate that SFS had not developed a strong corporate identity, or sense of itself as a unified structure embracing all four fingerprint bureaux. HMIC recommended that SCRO actively pursue further integration of the SFS.

10.9.4 At paragraph 5.23 it is reported that the Glasgow bureau had adopted a process where anonymity of expert opinion and verification were central factors. The report describes the process as resource intensive, involving three fingerprint experts deployed in a Verification Unit and another three with a Quality Support Unit. Those individuals were therefore not available for “front-line” comparison work. The process had been benchmarked against “other major bureaux across the UK”. Arrangements were being considered to increase the independence between identification and verification in the other three bureaux. Mr Padden has given oral evidence to the Inquiry to the effect that a process where complete anonymity was employed was attempted, but failed because it was too resource intensive. In her statement to the Inquiry Ms Tierney says that it was abandoned on the advice of a

consultant, Mr Roger Shearn.⁸ Mr Shearn's report appears at SG 0920. This is discussed in more detail below.

10.9.5 The non-numeric standard had not been adopted at the time of the report, and it was noted that it might be adopted in April 2005.

10.9.6 HMIC noted that 86% of SFS experts had been accredited by CRFP or were in the process of accreditation. As noted above, however, CRFP no longer exists.

10.10 Scottish Fingerprint Service – Report to Establish an Appropriate Authorised Bureau Establishment of Fingerprint Experts

10.10.1 This report was prepared by Inspector Graham Jones, and is dated September 2004 (<http://www.scottish.parliament.uk/business/committees/justice1/papers-06/SFS-AnalysisofFingerprintCaseload.pdf>). The purpose of this report was to establish the number of fingerprint experts required to meet demand for fingerprint services in Scotland. Inspector Jones's recommendations for staffing at the bureau in Aberdeen, Dundee, Edinburgh and Glasgow are set out in Tables 11 and 12 within the report.

10.11 Scottish Fingerprint Service – 5 Year Resourcing Plan Based on Authorised Bureau Establishment of Fingerprint Experts

10.11.1 This report was prepared by the Head of Bureau Dundee, and is dated December 2004

⁸ Tierney, paragraph 84

<http://www.scottish.parliament.uk/business/committees/justice1/papers-06/SFS-5yearresourcingplan.pdf>). The numbers of fingerprint experts and senior bureau staff appear to derive from Inspector Jones's report, mentioned above.

10.12 The Action Plan for Excellence (SG 0786)

10.12.1 In response to a remit from the Minister for Justice announced on 22 February 2006, David Mulhern, the Interim Chief Executive of the Scottish Police Services Authority, produced an Action Plan for Excellence (SG 0786; see also SG 0921). David Mulhern was assisted by Bruce Grant of the Metropolitan Police, Danny Greathouse of the US Department of Homeland Security, and Arie Zeelenberg of the Dutch National Police. Graham Bell QC advised on legal matters.

10.12.2 One of the action points from this plan was that Sir David O'Dowd should consider the 25 recommendations and 20 suggestions made by HMIC in 2000 and make an assessment of the current situation following the changes introduced in the Scottish Finger Print Service.

10.12.3 It is clear that the Action Plan was prepared in response to a ministerial statement made in February 2006. The Action Plan must have been prepared before March 2006 when Sir David O'Dowd reported. It appears that a draft was initially presented to the Minister of Justice on 31 March 2006, and that the draft was circulated to key stakeholders, including 6 expert advisers. The Action Plan was then "revised in light of comments from key stakeholders" and was resubmitted in April 2006, when Mr Mulhern sought permission from the Minister of Justice for the publication of

the Action Plan and its presentation to the Justice 1 Committee: see Advices to Ministers dated 19 April 2006 (SG 0785).

10.12.4 The views of the consultees are recorded at SG 0787. The only substantive comments come from consultees in HBOS and IBM. Gary Kildare of IBM was concerned about excessive focus on the question of which recommendations from the HMIC 2000 Primary Inspection had been discharged, to the exclusion of further recommendations in the CMRT report. He suggested a full and thorough examination of the organisation as it was at April 2006. He was concerned as to the absence of “a formal closure” to the McKie case.

10.13 Sir David O’Dowd’s report (PS 0036)

10.13.1 Sir David considered progress in relation to the recommendations and suggestions set out in the 2000 primary inspection. His consideration pre-dated the reorganisation of the police common services in terms of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (FI 0095) which came fully into force, so far as the Scottish Police Services Authority is concerned, on 1 April 2007.

10.13.2 Sir David’s report appears at PS 0036 (another copy forms part of SG 0913). Sir David did not consider that HMIC had been correct to discharge all of the recommendations of the 2000 Primary Inspection at the stage when they were discharged. Of particular significance are recommendation 11 in relation to an office management system with automated case tracking, and the related matter of recommendation 23, as regards the improvement of independence in the identification and verification processes.

According to Sir David, neither should have been discharged, and neither could be discharged as at March 2006, when he reported.

10.13.3 Sir David seems to have placed some weight on the ISO accreditation under ISO 9001:2002. SPSA website, their laboratories are accredited by UKAS and display the ISA 17025:2005 quality mark. The SPSA website relates that SPSA are “working with UKAS to achieve accreditation of [their] fingerprint departments to the same quality standard”. ISO 17025:2005 specifies the general requirements for the competence to carry out tests and/or calibrations. One of the matters that may be relevant to achievement of accreditation of their fingerprint departments is the extent of the audit trail/documentation recording the thought processes of those identifying and verifying marks: see PS 0043, PS 0047, and discussion below, at paragraph 10.17.30 et seq.

10.13.4 The various recommendations of the 2000 HMIC report and Sir David’s treatment of them, are set out below.

10.13.5 So far as structure and governance issues are concerned, Sir David’s report, like all those before it, have been overtaken by the coming into being of the Scottish Police Services Authority. It remains relevant to consider, however, how the new authority exercises the “oversight” role, referred to in the first recommendation of the 2000 HMIC report. Mr Nelson’s statement provides some more information as to the reporting structure within SPSA.⁹

10.13.6 As regards the roles of the Quality Assurance and Training Officer, Sir David indicated that the 2000 recommendation had not

⁹ Nelson para 3

yet been discharged. He described the plan to have “the Glasgow team perform a generic QA role for all four Bureaux” as “aspirational” and requiring “both funding and creation”. It is relevant to ask what arrangements the new SPSA has in place for quality assurance and for training, and this is discussed further, below.

10.13.7 In relation to the third recommendation in the HMIC report, Sir David considered that further attention required to be given to the management of the Bureaux as they then were within SFS. As regards SPSA, it is relevant to ask what steps have been taken to integrate in the new body the various bureaux as they previously existed.

10.13.8 Recommendation 4 related to a review of staffing levels. Sir David was satisfied that plans and funding were in place for eight new trainees to meet requirements until 2008. It may be relevant to inquire as to current staffing levels in SPSA.

10.13.9 Dealing with HMIC recommendation 5, Sir David noted that the Scottish Justice Department Police Circular 1/2003 formalised arrangements whereby fingerprint experts were authorised only if they passed the advanced training course at Durham. This therefore represented a move towards a competency based authorisation.

10.13.10 Dealing with HMIC recommendation 6, Sir David noted the encouragement of registration with CRFP. The Inquiry requires to consider what has taken the place of such registration in relation to ongoing accreditation of fingerprint experts within SPSA. He also notes the use of CTS.

- 10.13.11 Sir David also related that refresher training was provided under the Continuous Performance Development Programme, with all experts mandated to attend one course in a three year time frame. SPSA have been asked for, and have provided, further information about CPD requirements (see MM 0055, Continuous Professional Development Policy document; sample training record at MM 0056; examples of course timetable MM 0060; and participant feedback forms at MM 0057 and 0058).
- 10.13.12 Recommendation 7 of HMIC related to the establishment of a protocol between police forces and SCRO. This was in relation particularly to the development of Service Level Agreements. This is not an area which appears to be directly related to the work of the Inquiry.
- 10.13.13 Recommendation 8 related to a review of current AFR terminals. There is presently no evidence to indicate that this is directly relevant to any steps taken or not taken in relation to Y7 and Q12.
- 10.13.14 Recommendations 9 and 10 related to the management of sickness absence levels and prevention of stress-related illness.
- 10.13.15 As noted above, Recommendation 11 is significant, and related to that the introduction of an automated case tracking system. Sir David O'Dowd agreed with the discharge of the recommendation. He did identify a "double keying" problem which had not been resolved either in 2003 or 2006. Ms Tierney states that in addition to the Office Management System, some bureaux also create local spreadsheets with the relevant information, and

that the reference to “double keying” is a reference to this practice.¹⁰

10.13.16 Recommendation 12 was for the production of a National Guidance Manual on Fingerprint Standards and Procedures. According to Sir David’s report, a National Procedures Manual was published in 2001. He went on to explain that there was a second working manual namely the “Scottish Fingerprint Quality Assurance Manual”, published in 2000 for the Glasgow Bureau, and which became in 2005 the “single service manual”. The National Procedures Manual had apparently been validated by the National UK Fingerprint Board.¹¹ Sir David places some stress upon the achievement of “ISO” in this context. This is a reference to ISO 9001. As noted above, however, ISO 17025:2005 has not yet been achieved for the SPSA fingerprint departments.

10.13.17 Recommendation 13 was for the establishment of a national policy to deal with erroneous or disputed identifications. Sir David relates that the National Procedures Manual includes a section dealing with this matter, and also that QP24 of the Quality Procedures Manual deals with the matter. The Inquiry is interested to know how the National Procedures Manual relates to the Quality Procedures Manual.

10.13.18 Recommendation 14 related to the external provision of competency testing. Sir David was content that the recommendation should have been discharged on the basis of the service provided by CTS. He noted that investigations were underway to see whether there was a UK company which might provide a similar service.

¹⁰ Tierney para 105

¹¹ This is presumably a reference to the ACPO National Fingerprint Board.

- 10.13.19 Recommendation 15 related to the change to the non-numeric standard. HMIC had discharged it, and, not surprisingly, Sir David disagreed.
- 10.13.20 Recommendation 16 related to improvement in court presentation skills. .
- 10.13.21 Recommendation 17 related to the incorporation of regular refresher training into a national training standard for experts.
- 10.13.22 Recommendation 18 related to “weeding”. There is currently no evidence to indicate that the weeding policy was relevant to any possible misidentification of Y7 or related marks.
- 10.13.23 Recommendation 19 again related to competency testing by an external provider. This has been dealt with above.
- 10.13.24 Recommendation 20 was as to procedures for those who fail the competency test.
- 10.13.25 Recommendation 21 was related to recommendation 5 (not 6, as noted by Sir David), regarding a competency based qualification for expert status.
- 10.13.26 Recommendation 22 was that early attention be given to Corporate ID for the Bureau. Again, this has rather been overtaken by the creation of SPSA, but Sir David noted that the change processes involved in that would require careful planning and handling. He noted difficulties caused by the McKie case, and also differences in working practices and employment processes among the component parts of what would become SPSA.

10.13.27 Recommendation 23 was for the introduction of systems which increase the independence of the identification/verification process. Sir David took the view that this recommendation could not be discharged even as at March 2006. The position seemed to be that he was satisfied with the system that operated in Glasgow. There was a separate checking team for verification, which was changed on a weekly basis. Other bureaux, however, did not operate this system, and it was this that troubled Sir David. It is not clear how the system described to Sir David as operating in Glasgow relates to that described in evidence by Mr Padden.

10.13.27.1 Mr Nelson states that Mr Padden's evidence should be read as referring to current practice, rather than the anonymised system initially introduced into the Glasgow bureau. He states that there is currently a verification team which carries out the final check, and that, historically, the team was never changed on a weekly basis as described by Sir David O'Dowd, and indicates that the Unit Manager, Lorna MacQueen, has provided him with information about this.¹²

10.13.28 Recommendation 24 was for liaison with the ACPOS working group on ECHR regarding the Manual on Standards and Procedures. The Inquiry does not require to investigate this recommendation.

10.13.29 Recommendation 25 related to examination of the Council for the Registration of Forensic Practitioners and consideration as to how Scotland could capitalise on the Council. The Council no longer exists. As noted above, the Inquiry is interested as to whether there are credible vehicles for the ongoing accreditation of

¹² Nelson para 105

fingerprint examiners. SPSA comment that the National Policing Improvement Agency might be a relevant body, and that the Forensic Science Regulator is taking forward the proposals to deal with the gap created by the demise of the Council.

10.13.30 The 2000 HMIC Primary Inspection also made 20 suggestions.

10.14 HMICS Review of Scottish Criminal Record Office Primary Inspection of 2004

10.14.1 This was carried out in 2006, and the report of the review is dated December 2006 (<http://www.scotland.gov.uk/Topics/Justice/Police/15403/3444>). As noted above, the 2004 Primary Inspection had related to SCRO as a whole, and not merely to the SCRO Fingerprint Bureau.

10.14.2 Recommendation 4 from the 2004 Inspection had related to the integration of SFS. The 2006 Review, at paragraph 3.4.3 found that variations in working patterns and conditions of service existed among the four fingerprint bureau.

10.14.3 Like the O'Dowd report, the 2006 Review noted that the Glasgow bureau had introduced a revised operating procedure in relation to the independence of fingerprint verification, but that the smaller numbers of staff in Aberdeen, Dundee and Edinburgh had given rise initially to difficulties in implementing the same process as in Glasgow (para 4.11.1).

10.14.4 Paragraph 4.12.1 noted the introduction of the non-numeric standard, recording that the Inspectorate had received confirmation

from the Crown Agent that he was encouraged by the development and implementation of the standard.

10.15 Updates on the Action Plan for Excellence

10.15.1 SG 0915 is a proposal from Mr Mulhern for the delivery of the 25 action points in the Action Plan. It is dated 18 May 2006. Action point 12, which relates to the introduction of the non-numeric system, does not mention any action to be taken in relation to the development of standards or guidance to assist with the use of the non-numeric system. The only action listed to be taken is “Engage with corporate communications SCRO”.

10.15.1.1 SPSA comment that this should be read against a background in which the introduction of the non-numeric standard in Scotland had been the subject of debate and consideration over a lengthy period. Ms Tierney states that she has been informed that there was debate within Scotland’s Standing Committee on Expert Evidence in the 1990s. A Non-Numeric Standard Project Group was established in 2000. She has been informed that SCRO Fingerprint Bureau was prepared for a move to the non-numeric standard in the late 1990s.¹³

10.15.2 SG 0914 is a first Progress Report in relation to the Action Plan and associated Minute to Ministers. It is dated 15 August 2006. Point 12 on this relates to the introduction of the non-numeric standard, and indicates that there have been discussions with stakeholders “(eg Crown Office)”. This is consistent with a meeting having taken place on 4 July 2006 at which the form of

¹³ Tierney paragraph 19.

joint report and the question of enlargements were discussed (Minutes – CO_4326).

10.15.3 SG 0919 is a letter to Jim Brisbane from David Mulhern regarding the “launch” in Scotland of the non-numeric standard. It mentions dialogue with Crown Office regarding a standard Joint Report on the non-numeric standard. It reports a lack of engagement from the judiciary and the Law Society of Scotland. SG 0918 is a news release and factsheet from September 2006 relating to this launch.

10.15.4 SG 0916 is a record of a meeting with an expert panel on 11 and 12 December 2006. Further detail is given at paragraphs 9.16.1 and 9.16.2 below. Significant issues regarding anonymity in the verification process were raised as a result of a report by Roger Shearn (SG 0920).

10.15.5 Mr Mulhern’s second Progress Report appears at SG 0912. It is dated 9 January 2007. One of the significant matters highlighted here were Mr Shearn’s views relating to the existing “blind” verification process and recommendation for a “more open and transparent verification process”

10.16 Other relevant reports before February 2007

10.16.1 In June 2006 Independent Counselling and Advisory Services (“ICAS”) reported on a consultation that had taken place with SFS staff. A key issue in all bureaux arose in relation to the McKie case. Staff in Glasgow felt that they had been “prevented from bringing issues into the open”. They believed that “closure”

was required to enable them to “move forward”. Staff in the other three bureaux are recorded as expressing strong feelings that not all the information on the case had been made available to them. Experts believed that their reputations had suffered as a result of what was seen as “a mistake by Glasgow combined with subsequent mishandling”.

10.16.2 Roger Shearn provided a report for SFS. His first, scoping, report appears at DB 0650 and at the final report SG 0920. Mr Shearn’s report is summarised in SG 0916 (a memo relating to a meeting of fingerprint experts on 11 and 12 December 2006). Highlighted was a lack of standardized documentation across the four SFS bureau as they then were.

10.16.3 Mr Shearn’s report was also recorded in SG 0916 as concluding that the “blind verification process in place across Scotland was neither desirable nor effective”. Rather than focusing on difficulties with resources, the concern seems to have been that the anonymity was not real anonymity, in that, given the numbers of personnel involved and the structure of the bureau, staff in reality did know who had made an identification or carried out the first level verification process. A recommendation was made for an arbitration panel to deal with disputed verifications. Mr Shearn’s advice was at odds with the recommendation of the ACPOS CMRT, which had recommended the creation of a dedicated verification team.

10.17 The Justice 1 Committee

10.17.1 The Justice 1 Committee of the Scottish Parliament published the report of its Inquiry into the Scottish Criminal Record Office and the Scottish Fingerprint Service on 15 February 2007.

10.17.2 It was not part of the remit of the Committee's Inquiry to reach a view as to whether Y7 was or was not correctly identified as being Shirley McKie's mark. The Committee found it "staggering" that respected and highly experienced experts could have such widely divergent professional opinions on the identification of the mark (para 342). It did not comment on QI2, as the matter was regarded as being *sub judice* (para 818). It did not comment on QD2, as the identification was, at the time of the report, no longer disputed by the Danish experts (para 820)

10.17.3 The Committee considered that the case highlighted inconsistencies in the identification and verification processes within the SCRO Fingerprint Bureau. Insofar as procedures were written down, they had not been properly followed, or had been ignored. In some instances ad hoc procedures had been adopted (paras 352, 497). The Committee considered that the standards of court presentation displayed by SCRO fingerprint officers had been lacking, and that this resulted from inadequate training for and limited experience of officers facing cross-examination (paras 489, 490).

10.17.4 Notwithstanding the structural and organisational change that had taken place in fingerprint services in Scotland, the Committee considered that there remained a continuing sense of crisis within the Scottish Fingerprint Service, with its root causes in weaknesses in management, processes and human resources (para 651).

- 10.17.5 The Committee was particularly concerned regarding the integration of the bureaux within the Fingerprint Service as it then was (paras 678, 679). It was concerned about the discharge in 2003 of the recommendation for a fully centralised national fingerprint service. HMIC had not reviewed whether that model would deliver an efficient and effective fingerprint service for Scotland.
- 10.17.6 Noted with concern was the absence of a common standard for fingerprint identification and verification across the SFS (para 691). The Justice 1 Committee recommended the implementation of consistent processes across all four bureaux (para 806). It called on SFS to put on record the procedure under the non-numeric standard for the identification and verification of elimination marks, and to put on record whether it differed from the identification and verification procedure for suspect marks (para 812).
- 10.17.7 The Committee had serious concerns about the effectiveness of the quality assurance systems of the SFS, particularly given that the training and quality assurance roles had yet to be separated in the three smaller bureaux (paras 695, 696).
- 10.17.8 The Committee considered the ICAS report to be an important barometer of staff morale, health and wellbeing. The ICAS report revealed an organisation still riven by inter-bureaux disputes over the McKie case, and a deep division between management and staff. In considering the evidence of David Mulhern regarding integration of fingerprint services within the new SPSA, the Committee was concerned by the short timescale for

that, when it was clear that the SFS itself still had to achieve full integration of the four fingerprint bureaux into a genuinely national service (para 736). Given the extent of the integration issues still at that time to be resolved by the SFS, the Committee considered that there was a danger that the merger could be counterproductive, in that focus might be lost on addressing the existing areas of weakness in the fingerprint service (para 865). Relations between staff and management were strained as a result of various actions and statements by staff and management surrounding the McKie case, and the response of senior management to these (para 874).

10.17.9 The lack of stability and continuity in senior management was a concern also (paragraph 744). Succession planning ought, the Committee considered, to be made a priority.

10.17.10 The Committee was concerned that the bureaux in Edinburgh and Dundee were below establishment levels as to the numbers of fingerprint experts, and that the bureau in Aberdeen had too high a ratio of trainees to qualified experts. It was also concerned about continuing high levels of sickness absence in the Glasgow bureau (paras 761, 762, 767).

10.17.11 In the context of procedures relating to disputed identifications, the Committee noted the lack of common procedures and terminology in the available documentation. A helpful table appears at paragraph 824 of the report. The Committee did not believe that the SFS could claim to offer a unified national standard until it had established common procedures, standards, training and terminology (para 829).

10.17.12 The Committee also noted that the achievement of ISO 9001: 2002 accreditation was not conclusive as to the question of whether the procedures and standards within the organisation were actually best practice. It merely required an audit as to whether the procedures and standards in the organisation were being followed.

10.18 SPSA and current practice

10.18.1 The Scottish Police Services authority was constituted by virtue of the Police, Public Order and Criminal Justice (Scotland) Act 2006. Before its formal constitution in April 2007, David Mulhern was engaged as the “Interim Chief Executive” of SPSA, and it was in this capacity that he produced the Action Plan for Excellence mentioned above. In May 2006 he put on record (SG 0915) his concern that he did not at that stage have a formalised mandate to engage with the Scottish Fingerprint Service as the strategic lead, notwithstanding that he had responsibility for delivering the various actions set out in the Action Plan for Excellence. He was concerned that ACPOS might challenge the basis for his engagement.

10.18.2 It is not clear by what means the structural difficulties mentioned by Mr Mulhern were resolved, but it was with him, in the run-up to the constitution of SPSA, that discussions were had regarding the steps to be taken to implement the action plan (see, for example SG 0916). ACPOS seconded two senior officers to support Mr Mulhern.¹⁴

10.18.3 In January 2007 Tom Nelson was appointed Director of Forensic Services at SPSA. From April 2007, Mr Nelson reported

¹⁴ Nelson para 6

to Mr Mulhern in relation to fingerprint matters. Mr Nelson's statement refers to various steps taken to implement the Action Plan for Excellence and Mr Mulhern's updating the Scottish Government on progress. He describes the structure of the organisation. He reports to a Chief Executive, who in turn reports to a Board of Executive and Non-Executive members. The members are senior police officers and individuals from business and the public sector. He states that this structure promotes oversight of operations, and differs from the structures which governed the former SCRO.¹⁵

10.18.4 Incorporated within Mr Nelson's statement is an update in relation to each of the action points identified in the Action Plan for Excellence. A summary of progress with comments as at October 2008 is also provided by SPSA in the form of an Excel table (citrix no).

10.18.5 The Inquiry also has information as to progress and current practice in SPSA in the statements of Mr Nelson and Ms Tierney.

10.18.6 Matters that are of particular interest to the Inquiry, having regard to the findings of earlier reviews, inspections and inquiries, including the Justice 1 Committee Inquiry, are:

- Procedures for verification
- Competency testing
- The introduction of the non-numeric standard (see Chapter 11)
- Preparation of reports for court
- Training to give evidence in court

¹⁵ Nelson para 3

- Recording and documentation of examiners' thought processes
- Publication of National Procedural Documents
- The Office Management System
- Staffing levels
- Authorisation
- Integration of the four bureaux within SPSA, organisational culture
- Interim strategic management arrangements
- Progress towards accreditation under ISO 17025

Progress on the Action Plan for Excellence

The Baseline Assessment, and practice in relation to verification

10.18.7 Action Point 2 in the Action Plan for Excellence was that a baseline Assessment of SFS ought to be carried out, informed by Sir David O'Dowd's assessment and advice from external practitioners. Thirteen additional recommendations were made in December 2006 in relation to verification, negative checks, corporate documentation and inter bureau activity (see paragraph 23 of the November 2008 report). This is apparently a reference to the Final report by Roger Shearn (SG 0920), referred to above.

10.18.8 So far as verification is concerned, the current process is described in Ms Tierney's statement.¹⁶ Eliminations are now verified by only one expert at stage 1 reporting (that is, the stage of first communicating results of fingerprint examination to the police to assist their inquiries). That means that a total of two experts will have confirmed the elimination (ie the first examiner, and the

¹⁶ Tierney paras 43-52

verifier).¹⁷ Suspect identifications are subject to confirmation by a total of three experts (ie two verifying the identification). Ms Tierney (para 46) refers to a Case Examination SOP dated March 2009 (delivered to Inquiry with email of 10 August 2009 – PS_0238 and PS_0239). The document is described as follows in “more up to date version of what we are working too (sic) but not issued through the quality system as yet”. The Inquiry understands from SPSA that the document reflects the system that all bureaux currently operate, but that the procedures have not been formally circulated, as they require to be approved through the quality management system. The Inquiry has also been provided with a “generic” SOP entitled “Case Analysis-Case Identification (MM 0071), which includes a flow chart which does not suggest that there is any difference in procedure as between eliminations and identifications. The change in practice as regards the verification of eliminations would appear to be an innovation on what appears in the flow chart. Ms Tierney’s statement makes reference to the background to this change. She has been informed by colleagues that the procedure was introduced as a direct result of discussions at a meeting of the international panel of fingerprint experts, fingerprint managers, and Mr Nelson.¹⁸

10.18.9 The verification of eliminations by only one expert after the first expert has made the initial identification is a matter of interest to the Inquiry, given the observations of the Justice 1 Committee at paragraphs 515 and 959. It may be relevant to inquire as to how the current process for verification would have applied in relation to either Y7 or QI2. Marion Ross was the victim and Shirley McKie was not a suspect in relation to the murder investigation. QI2 was an important piece of evidence against the suspect, David Asbury.

¹⁷ Tierney, paragraphs 43-46

¹⁸ Tierney, paragraph 50

SPSA has informed the Inquiry that these marks would be reported as eliminations and therefore be analysed by a total of two experts.

10.18.10 Ms Tierney describes the process which would apply where a verifying expert has queried a conclusion as to identity.¹⁹ (The case would be reported to the Unit Manager, the case material removed from the bureau and submitted to a panel of nominated experts for review, the panel's decision being final. This would appear to be in accordance with Mr Shearn's recommendation for the use of an arbitration panel. The Inquiry has been provided with a SOP relating to the Questioned Identification Procedure (MM 0073). As Ms Tierney says the document provided does not include details of the process regarding the use of a panel of nominated experts.²⁰

10.18.11 Ms Tierney states that before reporting the dispute to the Unit Manager, there would be opportunity for facilitated discussion between the disagreeing experts, with the potential for their reaching agreement between themselves.²¹

10.18.12 It is relevant to inquire whether the use of any of these processes would be disclosed to the Crown.

10.18.12.1 Ms Tierney states that these would not automatically be disclosed. It should be noted that in almost all cases of facilitated discussion, the mark will be reported as being considered of too poor quality for further identification. These processes could be disclosed through the precognition process.²²

¹⁹ Tierney para 30

²⁰ Tierney para 30

²¹ Paragraphs 35-37

²² Tierney para 38

- 10.18.12.2 Scott Pattison refers to paragraph 36 to 46 of his statement.²³ He writes, further, that the Crown have an expectation that all relevant information will be disclosed by fingerprint experts in order that the Crown can properly fulfil its own disclosure obligations to the defence; be able to carry out effective precognitions and best present a full explanation to a jury as to the basis on which the opinion was reached.
- 10.18.12.3 Any doubts expressed by an expert about an identification would be considered by the Crown to be a relevant issue upon which COPFS would expect disclosure.
- 10.18.12.4 What Mr Pattison says might be read as indicating that the Crown would need notice of issues of this sort before precognition so that precognition could be effective.
- 10.18.13 The OIG report in Mayfield recommended that consideration be given to alternatives to the use of dispute resolution in cases of refused verifications (Recommendation 15, pdf page 217). The OIG perceived a potential tension between the concept of the verification stage as a significant screen, or hurdle, in the identification process, and the requirement that any disagreement by a verifier be treated as a “conflict” requiring “resolution”. It detected the potential of dispute resolution for diluting the stringency of the verification requirement. The OIG was concerned that requiring conflict resolution might undercut the independence of the verification step by allowing the verifier to be “talked into” agreement with the examiner through conflict resolution, particularly

²³ Letter of 2 September 2009

if the alternative were for the verifier to be formally adjudged wrong at the conclusion of the process.

10.18.14 At the time of receipt of Mr Shearn's report, the OIG recommendations had been published. One of the experts advising Mr Mulhern was Mr Greathouse of the FBI. It is relevant to inquire whether any consideration was given to the recommendations of the OIG?

10.18.15 Ms Tierney confirms that an attempt to employ anonymous verification was made in Glasgow following the 2000 HMIC report. She states that there was an attempt to roll out the process in the smaller bureau in Edinburgh, Aberdeen and Dundee, but that it was agreed that anonymity would not be effective or efficient in these bureau. On transfer of the fingerprint services to SPSA, the "anonymity" process in Glasgow ceased, following Mr Shearn's recommendations.²⁴

10.18.16 According to the Excel table provided by SPSA, all of the Shearn recommendations were covered by separate actions in the SPSA Operating Plan for 2007 and 2008. SPSA have now also provided a table setting out the Shearn recommendations and the actions taken in relation to them (PS 0459), and the Operating Plan for 2008-2009 (PS_0460).

Competency testing and the consequences of failing tests

10.18.17 Action Point 3 was for a formal evaluation of both initial and refresher training delivered to fingerprint experts in the Scottish Fingerprint Service. A review was carried out by staff from the Learning Support Division of the Scottish Police College

²⁴ Tierney para 84

(PS_0380). This was presented in March 2007 and contained 21 suggestions for improvement. Suggestions 11 and 12 are of particular interest to the Inquiry. Suggestion 11 was for the development of a clear benchmarking policy and process for continual measurement against both UK and international standards in relation to fingerprint analysis (presumably, given the context of the report, with a view to informing future training and assessment). Suggestion 12 was for the issue or re-issue of a definitive policy with regard to administration of the annual test of competency on a cross-Bureaux basis, and for guidance on the implications of failure to achieve the desired standard. SPSA comment that the review was about training provision rather than competency testing.

10.18.18 It is not clear what steps have been taken in relation to ongoing study of standards in the UK and elsewhere. So far as the requirements for qualification and accreditation are concerned, Ms Tierney prepared a paper comparing requirements in various jurisdictions in December 2006 (MM 0059 – see also tables at MM 0068 and 0069).

10.18.19 Competency testing with SPSA is currently provided by a company, CTS. Ms Tierney speaks to having compared services provided by alternative providers of fingerprint competency tests (see also MM 0067).²⁵

10.18.20 So far as suggestion 12 is concerned, there is no definitive written policy as regards the implications of failure to pass a competency test. Mr Nelson confirms that there are no specific procedures that would be followed where an individual did not pass a competency test. According to Mr Nelson, whether an individual

²⁵ Tierney para 110

would be permitted to continue to practise following the failure of a test would be assessed “on an individual basis, depending on the nature of the inadequacies”.²⁶ It is relevant to inquire whether the Crown would be made aware of a failure of a test in order to assess whether the Crown wished to continue to call the individual as an expert witness.

10.18.20.1 Mr Nelson states that the Crown would be informed if a member of staff was deemed not sufficiently competent, and that this would be dealt with via the quality management system. The Crown would not be made aware if the member of staff had simply made a typing error in the test.²⁷

10.18.21 It would appear that recommendation 20 of the 2000 HMIC report has not been discharged, in that it called for a common procedure, subject to validation by an external body, to deal with failure in the course of competency testing.

10.18.22 It is relevant to inquire whether the competency testing itself focuses only on providing marks where the examiner should be able to identify the mark with the print, or whether it includes marks which should not be identified with any known print provided, and in particular “near misses”, which resemble a known print, but are not correctly identified with it. Evett and Williams recommended the use of testing generated by AFIS/AFR in order to generate artificially “near misses” for competency testing. AFIS will produce a set number of prints which should be matches or near matches with the known print and is therefore a potential source of near misses.

²⁶ Nelson para 91

²⁷ Nelson para 102

- 10.18.22.1 Ms Tierney states that the test used is the only external competency test available. She would be happy to consider introducing testing including near misses if a computer programme generating near misses were established, and incorporated within an externally applied competency test.²⁸
- 10.18.23 The Inquiry understands that this is not a course presently followed by SPSA. SPSA comment that they use the only test available, and that they would use any test which was thought properly to challenge fingerprint experts. They comment that it is also important to note that dip sampling and the National Policing Improvement Agency training are important indicators of competency.
- 10.18.24 HMIC suggestion S14 (para 6.6.1) was that blind trialling, that is, a case being submitted as if it were genuine in order to test the procedures applied and the quality and accuracy of the processes, was a tool that was worthy of consideration.
- 10.18.25 The US Office of the Inspector (“OIG”) in Mayfield, in the context of their recommendations regarding verification (recommendation 13) suggested introducing “blind” “decoy” prints into the process, to ensure that the verifier was doing a careful job, and not merely “rubber stamping”.
- 10.18.26 Blind or undeclared testing of this sort is currently used by the Forensic Science Service (FSS). In order to maintain accreditation, the FSS is required to undertake regular in house

²⁸ Tierney, para 19

quality audits, including both declared and undeclared casework trials.²⁹

10.18.27 According to Tom Nelson, SPSA found it difficult to carry out undeclared testing. Mr Nelson states that staff would phone police or interrogate police systems in order to find out more information. They would find no information available on these systems, which would immediately reveal that it was an undeclared test. He states that FSS may not have access to police systems in the way that SPSA employees do.³⁰ The Inquiry does not know whether there has yet been any discussion between SPSA and UKAS regarding any need for undeclared testing in the context of ISO 17025 accreditation.

The non-numeric standard

10.18.28 Although the non-numeric standard has been introduced, there does not seem to be any associated guidance, instruction or standard as to how fingerprint examiners are to assess the quality of a mark or of a characteristic in a mark. Without such guidance, instruction or standard, it is difficult to understand on what objective basis a fingerprint examiner can explain in evidence how he has come to his conclusion as to the identification of a crime scene mark.

10.18.28.1 Ms Tierney states that guidance is included within the NPIA training manual referred to in paragraph 10.18.29 below. She states further that training incorporates discussion around the nature of individualising features. The emphasis is on the order and relationship of

²⁹ Chamberlain para 22

³⁰ Nelson para 101

individualising features. To establish specific guidance around a weighting scale would effectively seek to place a quantitative analysis on a qualitative process.³¹

10.18.28.2 Crown Office take the view that the matter of any guidance as to how to assess the quality of a mark is an operational matter for SPSA. COPFS would not take a role in formulating such guidance. The Crown agrees that employees must be given access to adequate guidance to enable them to produce the evidence required. This is a relevant issue for COPFS insofar as it may impact on the credibility of witness. The Crown expect that a witness will be able to explain properly in reports and statements, and also in court, how he arrived at his conclusions and describe why he has made an identification.³²

10.18.29 HMIC regarded the production of a Quality Assurance/Procedures Manual as a pre-requisite for the introduction of the non-numeric standard. So far as the Inquiry is aware, there is no SPSA document which provides detailed guidance or standards by which the quality of a mark or a feature within a mark is to be assessed. MM 0065 (an extract from Section 06 of the NPIA Training Manual), includes the following:

“The mark is initially analysed in order to ascertain and establish the amount of friction ridge detail that is present. Because fingerprints are found in varying degrees of clarity, the quantity of detail present for comparison and evaluation is variable, resulting in various levels of increasing detail that

³¹ Tierney para 21

³² Letter dated 2 September

can be used in the identification process. Clarity also has significant repercussions on the amount of tolerance for discrepancies when comparing the mark to a print.”

10.18.30 The OIG (page 198 of report) considered that SOPs ought to include detailed guidance as to the weight to be given to individualising features within a mark – it should be made explicit in a SOP that more weight should be given to a feature which can be identified as being of a particular type (eg ridge ending, bifurcation) from the crime scene mark than to one which cannot.

10.18.31 It is relevant to inquire in relation to the following issues:

- On what basis does an examiner give evidence as to the quality of a crime scene mark, the quality or rarity of any feature within it, or the volume of information within a crime scene mark?
- On what basis does a Crown Office precognoser precognose an examiner about these matters?

10.18.31.1 SPSA comment that an expert gives evidence on the basis of the individual case and gives what is ultimately a subjective view based on their analysis, comparison and evaluation of the features visible with the mark along with the order and relationship of those features. An expert’s competency in conducting an analysis is subject to ongoing assessment through regular competency testing, dip sampling and CPD.

10.18.31.2 On the second bullet point, Mr Pattison, on behalf of COPFS, refers to paragraphs 5 and 6 of his statement, as regards the precognition process(FI_0114). The basis for

precognition is the joint report and witness statement. He writes that the Crown are entitled to rely, in terms of SPSA's disclosure obligations, on the fact that all relevant information about the identification process will be disclosed in these documents.

10.18.31.3 In the light of this information from the Crown, the Inquiry has obtained from SPSA the pro forma for the preparation of a witness statement from a fingerprint expert (MM 0134). On the face of it, it appears to invite completion only in fairly formal terms.

Preparation of reports for court

10.18.32 CMRT commented on the practice which enabled one expert to complete the initial identification or verification, but another to give evidence in court. It considered that experts should follow a case from identification to trial, with substitution of experts occurring "only in extreme circumstances" (para 13.7.40). As regards current practice, according to Ms Tierney "where possible two of the original examining experts prepare the court report". In response to questions from the Inquiry, Ms Tierney states that the circumstances in which it is not possible for two of the original examining experts to prepare the court report would be unavoidable absence due to sick leave, holidays or maternity leave. Ms Tierney states that where an original examining expert is not available, the third checker will be approached and if he or she is not available, the case would be passed to other fingerprint experts who would conduct a full analysis, comparison, evaluation and verification of all the case materials.³³

³³ Tierney para 27

Training to give evidence in court

10.18.33 The Justice 1 Committee was concerned in relation to the court presentation skills of officers, and the training given to them in this connection. It recommended that SFS consider urgently how Crown Office input could best be made use of as part of a training programme for experts. SPSA has provided the Inquiry with a course programme from January 2009 (MM 0054). A course is provided at the Police Training College, with training delivered by Neil Almond, a procurator fiscal depute. Course feedback sheets have been provided (MM 0051, 0052), and it appears that a mock courtroom is used with two procurator fiscal deputies carrying out mock examinations of the participants in the course. Mr Pattison's statement also refers to COPFS input into SPSA training courses.³⁴

Recording thought processes and associated documentation

10.18.34 One of the recommendations of the ACPOS Presidential Review Group (CO_0378) was that examiners keep notes of their fingerprint examinations. HMIC had also, as noted above, commented that working notes should be kept in the context of the introduction of the non-numeric standard, in the interests of accountability and transparency (paragraph 8.1.10 HMIC).

10.18.35 Comparison with FSS practice (bearing in mind that FSS is the only UK bureau to have achieved accreditation for fingerprint work under ISO 17025) may be instructive. Mr Chamberlain states that Section 4.13.2 (Technical Records) of ISO 17025 requires that all examinations be recorded through

³⁴ Pattison, paras 14-25

contemporaneous note taking.³⁵ At the stage when an identification is achieved, a feature map is prepared. This is a digital image of the marks on which is annotated the features that correspond to the donor fingerprint. There may also be written notes or drawings on the file. The first verifier will also produce his own feature map.

10.18.35.1 Mr Nelson states that FSS is a very different organisation from SPSA. The two organisations have different workloads, with SPSA's being the heavier, at around 10-12,000 cases per year, as opposed to around 1,600 per year dealt with by FSS. He states that FSS deals only with serious crime, and not with volume crime.³⁶

10.18.36 Arguably, however, the initial assessment of the crime scene mark (as opposed to its eventual identification with a known mark) might also be thought to demand documentation. This starts with a proper understanding of the assessment phase of the ACE-V method. The National Policing Improvement Agency Training Manual, at Section 06, "The Identification Process" (MM 0065 p2 of pdf) includes the following:

"As an area of the unknown mark is viewed, the brain stores that detail in memory. When the print is examined, the stored information is compared with the information from the unknown mark. It is important that comparison occurs by viewing the unknown mark *prior to* the known print in order to avoid preconceived thoughts or expectations from influencing the comparison and identification."

³⁵ Chamberlain, para 23

³⁶ Nelson para 80

10.18.37 If it be correct that the assessment phase begins with the identification of potentially significant features in the latent before the examiner turns to the known prints, it would seem to follow that this stage should be documented fully. If the objective of the assessment phase of ACE-V is to make examiners conscious of the risk of reverse reasoning, that is to say seeing points on the known print and then coming back and “finding” points on the latent which they had not been able to identify when viewing the latent in isolation, there might be merit in the examiner documenting his initial assessment. It is relevant to inquire in relation to the following matters.

- How does the assessment phase of the ACE-V method operate in practice?
- What are the merits of documentation of this phase of the method?
- If, as is understood to be the case, the assessment phase of the ACE-V method is not currently documented, what is the justification for that omission?
- By extension, if (as is understood to be the case) the other phases in ACE-V are not documented, what is the justification?

10.18.37.1 Ms Tierney describes how the ACE-V process operates in practice. She states that it is a thought process which does not require to be set out in detail in order to be effective. The approach is embedded in the Standard Operating Procedures. The result is then documented and recorded on the appropriate form.³⁷

³⁷ Tierney, para 28

10.18.37.2 Ms Tierney states, further, that documentation of the ACE-V process is not necessary for an expert to carry out his work effectively. If it were something the Crown required in relation to proceedings, it could be done. The work required, bearing in mind the volume of work carried out by experts, would, however, be significant.³⁸

10.18.37.3 Ms Tierney states that the absence of a record of the expert's reasoning does not inhibit an expert's ability to give evidence. It is more challenging for someone to require to explain de novo that they are of the view that there is an identification.³⁹

10.18.38 The question of appropriate documentation of thought processes of examiners, and the importance of recording the assessment of the crime scene mark, was one developed in greater detail by the OIG in its examination of the FBI's identification of Brandon Mayfield. The OIG favoured recording the analysis of the crime scene mark, with Standard Operating Procedures reflecting this requirement. This recommendation was not one considered by SPSA in formulating their own procedures.⁴⁰

10.18.39 The ACPOS recommendation and the comments by HMIC regarding recording have not been taken up by SPSA or its predecessors. SPSA explain that the course adopted by FSS, namely to record images showing the points of similarity found on the crime scene mark and the known print, is not followed by SPSA.⁴¹ The diary sheets within the modern case files (examples of which have been produced by SPSA) record only formal matters,

³⁸ Tierney para 29

³⁹ Tierney para 60

⁴⁰ Tierney para 29

⁴¹ Tierney para 66 et seq

and do not record the detail of the analysis, the comparison, or the verification stages. Ms Tierney states that if there is something about the mark or the comparison which the expert feels should be recorded then this will be done on the diary page.⁴²

10.18.40 According to SPSA an option of a more in-depth report dealing with matters such as deposition pressure, substrate and development medium was put before Crown Office but rejected on the basis that this level of detail was not required by the Court.⁴³ Ms Tierney states that it was agreed with the Crown that more detailed reports could be provided for specific cases, although to date, none have been requested.⁴⁴ There is also reference, in the context of the rejection of the photographing of fingerprint identifications reference to the “lack of customer requirement for such a report”.⁴⁵ SPSA’s position seems to be that the Crown did not require a report including a photographic record of the identification, and that this may have influenced the SPSA’s decision not to record the analysis in this way. The Inquiry asked Crown Office to comment on the following.

- Does Crown Office take the view that this level of detail is not required by the Court?
- If so, what reasons underlie that conclusion?
- Does the Crown Office recall any discussions as to the recording (whether in the joint report or in SPSA’s own internal documentation) of the thought processes of the examiners?
- Did Crown Office reject a more detailed form of joint report?

⁴² Tierney para 23

⁴³ Tierney para 59

⁴⁴ Tierney para 59

⁴⁵ Tierney para 57

10.18.40.1 Mr Pattison responds that Crown Office have examined their record of discussions regarding forms of report, and can find no evidence of a more in depth report having been offered or rejected.⁴⁶

10.18.40.2 The Crown would not object to a longer report, but do not consider that longer report would add value to the process, given that SPSA are already obliged to disclose to the Crown all relevant information. The disclosure of handwritten notes would not be a satisfactory way for SPSA to fulfil their disclosure obligations. He writes that experts are already obliged to make the basis for their identifications clear in their reports and statements.⁴⁷

10.18.41 On the face of it, it is impossible for an SPSA examiner whose evidence might be challenged in court to produce an audit trail setting out his reasoning in relation to the original identification or verification. It would also appear difficult for the examiner to reconstruct his reasoning if asked about it at precognition. Further, in the absence of a contemporaneous note of the examiner's reasoning, it is difficult to see what basis the precognoser would have for asking the examiner informed questions at precognition.

10.18.41.1 Mr Pattison writes that precognosers will be informed by the contents of the Joint Report and statement.

10.18.41.2 As noted above, at 10.18.31.3, the statement appears to be a fairly formal document. Similarly, the style joint report contained within CO 4109 seems to be formal in nature.

⁴⁶ Letter dated 2 September

⁴⁷ Letter dated 2 September 2009

10.18.42 SPSA and Crown Office were invited to respond in relation to the following issues:

- Why has the ACPOS recommendation/HMIC comment, not been followed by SPSA?
- How does SPSA intend to satisfy the requirement of Section 4.13.21 of ISO 17025 that all examinations be recorded through contemporaneous note taking?
- Does Crown Office have a view as to the desirability of recording the reasoning of examiners as they carry out their analysis, comparison and verification or any of these processes?
- Since March 2009 when Crown Office issued the circular with guidance relating to fingerprint evidence, how frequently are fingerprint examiners precognosced?
- Are fingerprint examiners routinely precognosced in all cases in which there is fingerprint evidence or only in cases where a challenge to that evidence is anticipated?
- How is the precognition process carried out in the absence of a contemporaneous record of the examiner's workings?

10.18.42.1 Ms Tierney's understanding is that the diary page of a case file was introduced in order to deal with this recommendation.⁴⁸

10.18.42.2 Ms Tierney states that it has not been definitively established that there is a requirement for a particular level of detail within contemporaneous note in order for fingerprint departments to achieve ISO 17025. ISO accreditations will depend on the organisation being accredited, and what is

⁴⁸ Tierney para 23

required of SPSA will be discussed with them at a pre-assessment.⁴⁹

10.18.42.3 Crown Office comment on the last four bullet points as follows.⁵⁰

10.18.42.4 As to examiners' recording their work, Crown Office regards this as an operational issue for SPSA. Crown Office will however expect a witness to be able to explain how he arrived at his conclusions and why he has made an identification.

10.18.42.5 Crown Office will forward figures regarding the precognition of fingerprint experts since the issue of the Circular.

10.18.42.6 Crown Office refer to their guidance, which requires the precognition of experts in all High Court cases, unless it is known that the fingerprint evidence is to be agreed.

10.18.42.7 In relation to the final bullet point, Crown Office refer back to what appears at 10.18.41.1 of this document.

Publication of national procedures

10.18.43 Action point 4 in the Action Plan for Excellence was the publication of the Scottish Fingerprint Service's training and quality assurance manuals. The documents that appear on the SPSA website do not appear to be a complete and up-to-date record of the procedures operated within SPSA. By way of example, Ms

⁴⁹ Tierney para 67

⁵⁰ Letter dated 2 September 2009

Tierney explains that the Generic SOP produced to the Inquiry relating to Questioned Identifications (MM 0073) does not reflect the use of a panel to adjudicate on such identifications. The publication of documents reflecting current practice might appear to be in the interests of transparency.

10.18.43.1 Mr Nelson states that it is unlikely that in the future all policies will be produced on the internet. He does not see this as necessary for transparency. He states that he is not clear as to for whom such transparency is required.⁵¹

10.18.44 It is also not clear (bearing in mind HMIC recommendation 12, and the very clear concerns expressed by the Justice 1 Committee) the extent to which procedures are truly national. Some of the documents on the SPSA website still bear to relate to individual bureaux. It would appear from what is publicly available on the web that it remains the case that there are not common operational standards across the four bureaux. SPSA has produced to the Inquiry what bear to be local work instructions relating to different units (MM 0078 – MM 0108). Mr Nelson states that each bureau has its own administrative requirements, but that all local procedures are fundamentally the same.⁵²

Office Management System

10.18.45 The use of an Office Management System with automated case tracking was the subject of a recommendation by HMIC. As noted above (para 10.3.4), it appears that some bureaux found the system which came to be installed to be unusable. According to Ms Tierney the system has been found to generate inaccurate data,

⁵¹ Nelson para 79

⁵² Nelson para 80

and the matter is being investigated. Edinburgh, and Aberdeen, as a result, operate local management systems.⁵³

Staffing

10.18.46 Inspector Graham Jones's report in September 2004 concluded that the Aberdeen, Edinburgh and Dundee Bureau each needed one Head of Bureau, two Senior Fingerprint Officers, one QA/Training Officer and nine experts. A resource level of eight experts excluding trainees was the minimum deemed necessary to perform the range of duties then current. SPSA provided the Inquiry with spreadsheets setting out the staff in the four bureaux (PS 0240). They may be incomplete, as the information in them does not appear to match precisely with the figures referred to in the following paragraph.

10.18.47 Mr Nelson's statement incorporates tables prepared by SPSA. He states that these tables reflect accurately the staffing position in the four bureaux. The current staffing levels are set out alongside the recommendations made by Inspector Jones in 2004.⁵⁴

10.18.48 Mr Nelson states that Inspector Jones had envisaged 72 staff in the roles "functional experts" – including team leaders and senior experts involved in day to day operations. He explains that there are currently 53 such experts in post, and projects that there will be 62 within four years. When there are 62 such experts, there will be a 14% difference between the resources envisaged by

⁵³ Tierney para 106

⁵⁴ Nelson para 100

Inspector Jones and those which he predicts will be available within four years.⁵⁵

10.18.49 On the basis of the calculation suggested by Mr Nelson, it would follow that the current shortfall is 26%.

10.18.50 Mr Nelson states that the present context is different from that which obtained when Inspector Jones prepared his report. He states there have been changes in resourcing and demand. He makes the following particular points:

- Fingerprint managers are now fingerprint experts, where previously the heads of bureaux, other than in Glasgow, were business managers only.
- Quality Assurance is now supported through the Forensic Services Quality teams in each area
- The Ident 1 project manager and AFR co-ordinator in Glasgow have both been funded from the resources available for experts
- There are fewer trainees in 2009 than in 2004, and less training resource is required. Consideration is being given to increasing resource by one trainer to support further CPD and any future recruitment.
- There are 23% more functional fingerprint experts in post than there were in 2004.
- The actual level of cases submitted is 25% lower than that projected in 2004.
- The lower overall caseload has offset the increased number of identifications resulting from Ident 1.

⁵⁵ Nelson para 100

- On the other hand, there has been an increased number of marks processed per case, which in turn has offset a proportion of the reduction in overall caseload.⁵⁶

10.18.51 Paragraph 39 of the update embedded in Mr Nelson's statement indicates that new trainees are due to qualify as experts by July 2010, and taking that and known staff turnover into account, it is expected that there will be 45 experts in post, with a further 9 in senior roles, representing an increase of 50% over the expert resources available in 2004.

10.18.52 It appears that there is still understaffing, particularly in Dundee and Edinburgh, as regards the numbers of fingerprint officers or experts. It is clear from Mr Nelson's statement that it is intended to increase staffing levels during the next four years.

10.18.53 Only the Aberdeen spreadsheet disclosed any staff dedicated to training or Quality Assurance. SPSA has informed the Inquiry that Quality Assurance is intended to be delegated to bureau managers to deal with. The annotations to the tables in Mr Nelson's statement indicate, further, that quality is now managed through local SPSA Forensic Services quality teams. Training of fingerprint staff is going to be integrated with that of other forensic staff and Alex McGinnies, as Training Officer, will be responsible for that. There is also a Forensic Training Co-ordinator based in Glasgow and a trainer based in Aberdeen, although only the latter was disclosed on the staff spreadsheets provided to the Inquiry.

10.18.54 According to the Justice 1 Committee Report (para 772) there were at the time of the report six dedicated training staff in the

⁵⁶ Nelson, para 100

Scottish Fingerprint Service (three in Glasgow, and one in each of the other three bureaux). There was also a training manager and a training co-ordinator nationally.

10.18.54.1 Mr Nelson states, however, that there were never six local trainers. There was one trainer/quality assurance officer in each of the Aberdeen, Dundee and Edinburgh bureaux, and one training officer in Glasgow.

10.18.54.2 It may be relevant to inquire as to how the projected arrangements for training of fingerprint staff to be integrated with that of other SPSA staff will operate in practice.

10.18.55 . HMIC (paragraph 2.12.1) supported the separation of the roles relating respectively to training and QA, because each role merited a full time job in SCRO Fingerprint Bureau as it then was. The Justice 1 Committee was also concerned in relation to the fact that training and quality assurance roles had not been separated in the smaller bureaux at the time of its report. As outlined above, Quality Assurance is now delegated to bureau managers, supported by SPSA Forensic Services quality assurance. It may be relevant to inquire further as to the way in which the current quality assurance arrangements operate in practice.

10.18.56 SPSA were invited to disclose current levels of staff sickness absence in each of the four fingerprint bureaux. They have done so, and the relevant spreadsheet appears at PS_0458. SPSA has commented that a single member of staff in the Aberdeen bureau has been absent for a lengthy period, and that the figures should be read with that in mind.

Authorisation

10.18.57 As noted above, at paragraph 10.13.9, the requirement in Police Circular 1/2003 to pass the advanced test at Durham represents a move towards a competency-based criterion for authorisation under section 280 of the Criminal Procedure (Scotland) Act 1995. It only seems to apply, however, to those being newly authorised. What about experts who have been out of front line duties for a period? What about renewal or revocation of authorisation? Some of the areas of uncertainty are highlighted in correspondence about the formerly suspended SCRO experts: see CO 4103.

10.18.58 According to Christie Smith (FI 0116) the criterion requiring that an expert pass the advanced course at Durham had been agreed in 1993. This conflicts to some extent with the information in the HMIC report (SG 0375) at paragraph 3.5.2. According to the HMIC report, as at 2000 the criteria included “5 years continuous experience in a recognised fingerprint bureau, plus the successful completion of the advanced fingerprint course at the National Training School at Durham”. Experts from SCRO had not, however, attended Durham since 1993, attending in-house training instead. Experts from other Scottish bureaux, however, had attended the advanced course at Durham. The SCRO training programme was accepted by the Scottish Executive as fulfilling the necessary criteria at that time.

10.18.59 Authorisation (see statement by Christie Smith, FI 0116) appears to be an entirely formal process. It is not a mechanism for accreditation. It is not time-limited or subject to withdrawal.

Integration of the four bureaux within SPSA, organisational culture

10.18.60 The Justice 1 Committee <http://www.scottish.parliament.uk/business/committees/justice1/papers-06/FinalPDFversion-volume1.pdf> raised concerns about the process of integration of the four SFS bureaux, first within SFS as it then was, and then in relation to their integration within SPSA. Some of the “hard” aspects are identified above, in relation to what appears to be a continuing absence of agreed, published, national procedures within SPSA.

10.18.61 So far as the “soft” aspects are concerned, it appears to be the case that some staff within SPSA continue to differ from others as to whether or not Y7 was correctly identified as belonging to Shirley McKie. SPSA were invited to comment as to how this apparent difficulty is currently addressed within the organisation. The report embedded in Mr Nelson’s statement provides some information regarding a “safecall” system, for anonymous reporting of concerns, and the provision of some further support from ICAS, some of which is with the specific aim of providing support to those who need it in the context of the present Inquiry.

- SPSA were invited to comment as to whether SPSA as an organisation regards Y7 and/or Q12 as misidentifications.
- If it does so regard either, what was/were the sources of the misidentifications, and what steps have been taken to prevent the same sources of error from giving rise to misidentifications in the future?

- SPSA were invited to indicate what communications it has had with its staff regarding the correctness or otherwise of these identifications and as to what strategies it employs to promote cohesion amongst staff in the face of an ongoing dispute regarding these marks.
- SPSA were invited to indicate whether it has followed up the ICAS report with any similar investigation in relation to the feelings and attitudes of its staff.
- How does “safecall” operate? How are concerns recorded in this way dealt with?
- What practical measures are taken to promote the culture, described in paragraph 85 of Ms Tierney’s statement, whereby staff feel able to challenge the opinions of professional colleagues?

10.18.61.1 SPSA’s position on these points is set out in Mr Nelson’s statement.

10.18.61.2 Mr Nelson states that there are so many varied views that the identifications of Y7 and Q12 are unsafe identifications. SPSA will accept the findings of the present Inquiry.⁵⁷

10.18.61.3 SPSA was not the employer at the material time and it is not appropriate or possible for them to give a view as to the sources of misidentification. The findings of this Inquiry will inform any further steps which might be necessary to prevent any further issues arising.⁵⁸

⁵⁷ Nelson para 103a, see also para 97

⁵⁸ Nelson para 103b

10.18.61.4 Mr Nelson states that while there may continue to be different views on the question of Y7 within the organisation, these do not affect the day to day operation of the service, and that, as such, the divisions previously identified no longer exist.⁵⁹

10.18.61.5 In relation to the third bullet point, David Mulhern addressed the issue with staff before the transfer to SPSA. It was not considered helpful to continue to raise it with staff. To his knowledge there are only 2 or 3 staff who have publicly said that it was a correct identification. The SPSA strategy has been to reduce the impact of the issue by not focussing on it.⁶⁰

10.18.61.6 There has been no further review along the lines of the investigation carried out by ICAS, but ICAS continues to be available for staff.⁶¹

10.18.61.7 Safecall is a confidential helpline used by many forces and police organisations where allegations of inappropriate conduct or wrongdoing can be reported on an anonymous basis. These will then be investigated by the organisation concerned.⁶²

10.18.61.8 In relation to the final bullet point above, Mr Nelson suggests that QID, facilitated discussions and procedures for technical error are all helpful in creating official forums in which to raise such issues rather than challenging the

⁵⁹ Nelson para 5

⁶⁰ Para 103c

⁶¹ Para 103d

⁶² Para 103e

opinions of colleagues on a personal basis. This has also been developed through the NPIA training, where there is more of a focus and Question and Answer sessions. SPSA comment that in England there are no arrangements for dip sampling comparable to those in place in Scotland.⁶³

Interim strategic management arrangements

10.18.62 The Justice 1 Committee was concerned in relation to the issue of succession planning in order to ensure continuity and stability in the senior management structure. It made its observations in the context of the short tenure of John McLean (the former Director of SCRO) who had served only 13 months in post before leaving in May 2006. SPSA were invited to comment on what arrangements were made in response to the Justice 1 Committee's concerns about succession planning, and how these have operated in practice.

10.18.62.1 Mr Nelson states that in the past the Directors were police officers either seconded or who had retired. He states that the SPSA structure is quite different from this. Ewan Innes (who was Head of Glasgow Bureau and Head of SFS) was based in Glasgow only. Mr Nelson believes that he did not regularly visit other bureaux. He relates that there is much more interaction between managers now, for example in the context of the Scientific Advisory Group.⁶⁴

Progress towards accreditation under ISO 17025

⁶³ Para 103f

⁶⁴ Nelson, para 104

10.18.63 In Minutes of SAG Meeting from 13 May 2009 one of the Fingerprint Business Priorities agreed was to research ISO 17020 as an alternative to accreditation under ISO 17025. The Forensic Science Service is accredited under ISO 17025. The Forensic Science Regulator (EB 0001 at paragraph 44) has stated that ISO 17025 is now widely acknowledged as the most appropriate standard, to date, to govern the work of forensic science laboratories albeit that it is general standard and it has not been tailored specifically to the needs of forensic science. He states that ISO 17020 is relevant to scenes of crime work (EB 0001 at paragraph 49). SPSA were invited to provide information on the following points:

- What stage has SPSA reached in the process of seeking to be accredited under ISO 17025?
- What are the reasons for seeking to research whether accreditation under ISO 10720 might be a suitable alternative?
- Does SPSA consider that ISO 17025 is not the appropriate standard for a fingerprint service in relation to the processes of identification and verification of crime scene marks?.

10.18.63.1 Mr Nelson states that the Scientific Advisory Group will soon finalise all Standard Operating Procedures and local working practices and these will then be put through the local management Quality Assurance process. There is already agreement in principle in relation to almost all of these issues, the question [presumably within SPSA] is how best to represent these as a package. Arrangements will then be made for a pre-assessment [presumably by UKAS].

It is hoped by SPSA that this will be at the end of 2009 or early in 2010.⁶⁵

10.18.63.2 Mr Nelson states that there was discussion nationally about whether ISA 17020 was more appropriate as it was more competency based. It is now agreed that ISO 17025 is the correct standard to work towards. The discussion regarding ISO 17020 was before UKAS was involved. It was appropriate to look at what alternatives existed and make sure that the organisation was going down the right path.⁶⁶

Chapter 10 issues

Chapter 11 sets out issues which arise in relation to the non-numeric standard, and authorisation, and these are not repeated here.

1. Are current arrangements for the provision of statements, Joint Reports and precognition facilities sufficient to ensure that the Crown, and in turn the defence, receive disclosure of all matters that may be relevant to the prosecution and defence of a criminal case in which fingerprint evidence features?
2. Are present arrangements for verification of eliminations and suspect identifications robust?
3. Should experts be required to make more detailed working notes in relation to the identification of fingerprints?

⁶⁵ Nelson para 94

⁶⁶ Nelson para 94

4. Are current arrangements for training and quality assurance robust?
5. Are current arrangements for competency testing of experts robust?
6. Should competency testing include “near misses” of the sort envisaged by Evett and Williams?
7. Have SPSA achieved integration of the four former SFS bureaux into one unified service,
 - (a) as regards uniformity of procedures; and
 - (b) having regard to the divided views among staff recorded at the time of the ICAS report