

THE FINGERPRINT INQUIRY SCOTLAND
WITNESS STATEMENT OF DAVID FERGUSON

(i) NAME AND PERSONAL INFORMATION

1. My name is David Ferguson and I am presently employed as a scene examiner with Strathclyde Police. I joined the Identification Bureau in 1995 as a Scene of Crime Officer. In January of 1997 I was a Scene of Crime Officer. A scene examiner is the same thing as a Scene of Crime Officer.

2. On joining the Identification Bureau I held a National Certificate in Photography and Audio Visual Technology. During my time with the Identification Bureau I have taken various courses and now hold a Diploma from the University of Durham in Crime Scene Examination. I did not hold this diploma in 1997.

(ii) INITIAL INVOLVEMENT WITH MARION ROSS MURDER INQUIRY

3. On the morning of 9th January 1997 I was advised of the suspicious death of Marion Ross at her home on 43 Irvine Road Kilmarnock. I was then on duty at Pitt Street and I was informed that I would be going to carry out an examination of the scene at the house in Kilmarnock.

4. I was tasked to go to the scene with David Thurley a police constable with the Identification Bureau. He was a more experienced officer than me and he would have taken charge of our team. At the time I had less than two years experience in the job.

5. I recall that it was fairly early in the morning and I had no equipment with me. I went to Motherwell to pick up personal equipment and then on to Kilmarnock Police Station. We met Stuart Wilson and Graham Hunter at the house on Irvine Road. I believe that I arrived in the works van and that we received our instructions to attend from Detective Chief Inspector Heath who was the Senior Investigating Officer.

6. At the scene we were given a briefing to treat the incident as a murder. There was mention that it might be a suicide. I believe the pathologist had said that suicide could not be ruled out. Someone had also indicated that the victim, Ms Ross, may have been schizophrenic. I recall that Detective Chief Inspector Heath told David Thurley that the scene was to be treated as a murder scene.
7. Outside the house there was a police officer at the door and there was a police tape across the drive. The police officer on the door was noting the names of every person who entered then house and when that person came out again. I do not recall the name of the officer who was maintaining the door and the logs on that morning. They change the officer on the door on a regular basis. However, on the morning of 9th January there was definitely an officer on the door. I saw an officer on the door on each occasion that I left and entered the scene.
8. Following the briefing it was agreed that Stuart Wilson and Graham Hunter would not be necessary for that day and that myself and David Thurley would carry out a limited examination. In the case of the death of Marion Ross the pathologist had indicated that the death was a possible suicide. However we had been instructed to treat the scene as a murder scene until the cause of death had been confirmed.
9. At the scene of a suicide we would not usually carry out any examination except for example where the deceased had jumped from a window we would carry out an examination of the area around the window for fingerprints. Generally where there is a suicide there is no need for a fingerprint examination.
10. The fact that Graham Hunter and Stuart Wilson were sent away and David Thurley thought that we only needed to examine the porch area were

indicative that suicide was being considered. Had it been a confirmed murder from the outset Stuart Wilson and Graham Hunter would not have been sent away.

11. A suspicious death is a death which requires some explanation and the circumstances might indicate some foul play but which requires confirmation. Initial attendance at a suspicious death the scene is treated the same as a murder scene and should be photographed and video recorded. Thereafter there might not be the same commitment of resources from the outset and there might not be as many staff committed. In this case two scene of crime officers were sent away to carry out divisional tasks.

(iii) THE NOTES AND SKETCHES

12. I am shown document (PS_0019) Handwritten narrative by Constable David Thurley of fingerprint examination timeline re 43 Irvine Road Kilmarnock. This details the fingerprinting that took place at 43 Irvine Road over the 9th January and following days. This is a hand written note prepared by David Thurley. I recognise the handwriting as being Mr Thurley's. I took my own notes which will be in my official note book. I no longer have that note book in my possession. I believe that my notebook will be with Strathclyde Police.
13. I am also shown document (DB_0013) Drawing of Crime Scene – Hallway. This is a sketch that was drawn by me. I do not know why it is signed by David Thurley. I am shown document (DB_0014) Drawing of Crime Scene - Plan of House. This is a sketch plan of the layout of the downstairs portion of the house at 43 Irvine Road. This diagram was drawn by David Thurley.
14. Once the decisions regarding staffing etc had been organised, I was left at the scene with David Thurley. I began an examination for fingerprints

around the porch area at the entrance. David Thurley was carrying out a fingerprint examination around the bathroom area including the bathroom door.

(iv) THE SEIZURE OF THE BANNISTER AND OTHER ITEMS

15. At about 16:00hrs on the afternoon of 9th January Marion Ross' death was confirmed as a murder. There had been scissiors in the victim's throat and other injuries. We were instructed to stop the examinations that we were carrying out and we were asked to seize the banister as well as the section of carpet near the bathroom and the bathroom door.
16. I believe that the reason we were asked to do this is that forensics had not carried out any examination. Apparently no work had been done by forensics overnight (after the body was discovered). The forensic protocol requires that forensic examination and samples, as well as photos, should be taken before a fingerprint examination. It seemed to me that things were working backwards.
17. This would not have affected the fingerprinting but may have had a consequence for the forensic examination. The fingerprint examination is the last examination which is carried out at the scene.
18. Nowadays the whole area would be locked off until the cause of death is confirmed.

(v) THE USE OF ALUMINIUM POWDER

19. David Thurley and I were working alone at the house and I saw no one else in the house. David Thurley applied aluminium powder to the doorframes of the bathroom door and other doors in the hall area while I was working in the porch. This would have been not long before we received the telephone call in the late afternoon to seize the banister.

20. Using aluminium powder on a white wooden door frames was unusual. Normally black powder is used. Aluminium powder is more suited for other surfaces such as glass although it was a powder that would still enhance marks.
21. I was surprised that David Thurley had used aluminium powder although he was finding prints and those prints were being covered with adhesive tape. Whilst I was surprised he was using aluminium powder I was not in a position to criticise. I was a junior scene examiner having less than two years experience. I did not raise any concern at the time. I did ask which powder he wanted me to use. When we examined the banister David Thurley asked me to use aluminium powder. We found prints on the surfaces that we dusted with aluminium powder.

(vi) LIFTS, IMPRESSIONS AND THEIR PRESERVATION

22. Fingerprint marks found using aluminium powder are not normally to be photographed. These prints are lifted using adhesive tape. Fingerprints found with aluminium powder are consequently called 'lifts'. Those found using black powder need to be photographed at the scene – prints found using black powder are called 'impressions'. The fingerprint marks found using aluminium powder had not been lifted when we finished our shift on 9th January.
23. When I say that a fingerprint mark had been taped I mean that a strip of transparent tape, not unlike sellotape but wider, had been placed over the fingerprint mark found. It is by the removal of this tape and then placing it on a clear acetate strip that a print is 'lifted'. In fact the fingerprint mark is transferred to the acetate film. The acetate strip is then labelled. This technique is used for fingerprint marks discovered using aluminium powder.

24. The prints that were found on the door frame to the bathroom on 9th January were preserved using tape overnight and they were lifted and recorded (marked up) the following day.
25. I cannot recall what identifying number the prints that we found around the downstairs bathroom and the hall were eventually given. They were marked up on a schedule of fingerprint marks the following day. I believe that David Thurley marked the fingerprints up with me. It was not done by Stuart Wilson or Graham Hunter on 10th January.

(vii) LIGHTING

26. The lighting conditions were poor. The hallway was dark. We had torches available but we did not have any large lighting units. The doorframe was dusted while the door was still in place. The fingerprint marks found were lifted the following day once the door had been removed.

(viii) MY FINGERPRINT

27. One of my fingerprints was found once the marks were analysed. I recall that it was a lateral reversal. That is to say, my fingerprint was found on the sticky side of the tape used. This occurs when gloves are removed when carrying out a lift and fingers touch the sticky side of the tape. It was not a print which I had left on one of the surfaces but came from the underside of the tape that I had been using.
28. It is because of this risk that our fingerprints are taken for elimination purposes. I do not recall any discussion about another police officer having been in the scene with a burst glove
29. I do not recall seeing a female in the house while I was there on either 9th of 10th January. I did not see DC Shirley McKie at the scene. I did not know Shirley McKie at the time.

30. During the day of 9th January I took photographs of the banister as we had examined it for fingerprints. When we were told to seize the banister I decided to prepare the sketch. David Thurley took the steps to remove the banister and he also removed the bathroom door. We had found prints on the banister using aluminium powder. We had not lifted those prints. We had placed adhesive tape over the prints that we had found in order to protect them. Once we had seized the door we finished our day's work at the scene. No other areas were examined that day.

(ix) 10TH JANUARY 1997

31. The following day, 10th January, I attended at the scene. Also working that day were David Thurley, Stuart Wilson, Graham Hunter and Michael Moffat. Mr Moffat, I believe, was making a video recording for the inquiry team. Mr Moffat was based at Dumbarton at the time. I do not now recall seeing anyone else on the premises.
32. There was a policeman on the door maintaining the log of people entering the house. There was someone on the door on each occasion that I entered and left the house. We would all have gone to lunch together at about 13:00hrs although I am not certain of this. There was a policeman there when we left and when we returned.
33. While I was in the house I always wore appropriate protective clothing as did all the other Scene of Crime Officers I saw there. I cannot recall a visit by other police officers and I do not recall anyone else visiting the scene during the day of 10th January. There may have been other officers who came to the house, but I do not recall them entering the house. There may have been visitors inside; I just do not now recall them.
34. We began work at about 09:00hrs on the morning of 10th January. I came direct from home in the works van. During that day Graham hunter and

Stuart Wilson were working upstairs. They were using aluminium powder and some black powder. As I have said when using black powder when a fingerprint mark is found it needs to be photographed. They discussed with David Thurley the recording of the marks. He told them that no marks had been recorded the previous day and that marks found could commence with the letter A – which would amount to the first mark recorded.

(x) FINGERPRINT LABELS AND FORMS

35. Fingerprint marks are given a unique alpha-numeric identifier. These identifier numbers commence with the letter A. When the whole alphabet has been used we will simply start the alphabet again inserting a numerical suffix after the letter. The first 26 marks will have an identifier comprising solely of a letter. Thereafter each fingerprint mark will have an identifier of a letter followed by a number e.g. A2.

Form BY31

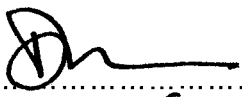
36. David Thurley would have taken charge of the recording of the marks. The marks in this case were recorded on a hand written form. These or similar forms were used at all major crime scenes to keep track of the marks found.
37. I am shown document (DB_0003) Marks Worksheet BY31. This contains a schedule of the fingerprint marks that were found at the scene. This is the form on which each mark that is found is recorded. The form contains information regarding where and when the mark was found, who found it, whether it relates to a lift (aluminium powder) or an impression (black powder). There is a column left for the staff of the Scottish Criminal Records Office to indicate whether the mark was eventually identified or eliminated.
38. The hand writing relating to the prints recorded on 10th January is the handwriting of David Thurley. On 9th January David Thurley and I had taped over the fingerprint marks we had found. Therefore, all the fingerprint marks found on 9th January, were lifted and recorded 10th January.

39. David Thurley co-ordinated the recording of the prints found and Michael Moffat took the photographs of the fingerprint marks found using black powder. There were fingerprint marks, which had been found on the 9th January, that needed to be recorded on the form BY31 in the hall, the bathroom door frame, the porch.
40. Graham Hunter and Stuart Wilson would have asked David Thurley to make the record of the fingerprints found as necessary. When the print in question is preserved using an impression it is not necessarily the case that Graham Hunter and Stuart Wilson be present. They would simply have left the label near the print and David Thurley would have noted up the appropriate information. Michael Moffat would have photographed the fingerprint marks as they were marked up
41. I continued to carry out a fingerprint examination of the living room. I was not involved in the process of recording the fingerprint marks which had been found upstairs. I would have seen the marks which were found upstairs. There were additional marks found downstairs on 10th January which needed to be recorded and lifted.
42. I was not present when the fingerprint mark 'Y7' was found.

Form 13

43. When the film used for taking photographs of the impressions is full, it will be removed and a Form 13 is completed for submission to the photographic lab. The information on a Form 13 is then entered into the computer system by the administrative staff at the photographic lab and the computer generates a photographic envelope. Once the prints have been developed from a film, the developed prints are sent to the Scottish Criminal Records Office and the negatives are returned to the Identification Bureau.

Insofar as the facts to which I attest in this, my witness statement, are within my direct knowledge I confirm that they are true. Where based on information provided to me by others I confirm they are true to the best of my knowledge information and belief.

Signature 
Print Name DAVID FERGUSON
Date 23rd APRIL 2009