

FURTHER STATEMENT OF PETER MALCOLM SWANN

DATED 4 SEPTEMBER, 2009.

This statement is true to the best of my knowledge and belief and I make it knowing that if tendered in evidence, I shall be liable to prosecution if I have stated in it anything which I know to be false or do not believe to be true.

1. I was born in 1934 and educated at Normanton Grammar School in West Yorkshire. Upon leaving school, I trained as an Engineering Draughtsman. Between 1953 and 1955 I served in the Royal Military Police. Upon my Honourable Discharge from the Army in 1955, I joined the West Riding Constabulary (subsequently the West Yorkshire Police) as a Police Constable. In 1957, I took up a post in the Fingerprint Department of the West Riding Constabulary, situate at the Force Headquarters, Wakefield. I undertook a series of Courses in Fingerprint Classification, Searching, Identification and Examination of Scenes of Crime. In 1967, I was promoted to the rank of Detective Sergeant and had direct responsibility for maintaining 24 hour cover in the Fingerprint Department. My duties entailed the checking of Fingerprint Identifications and attendance at major Crime Scenes, to include Murders. In 1969, I was promoted to the rank of Detective Inspector and appointed Deputy Head of the Fingerprint Department. I took on additional supervisory duties for the assessment of staff and lecturing students. My principal work, however, was to attend upon all major Crime Scenes in West Yorkshire. I was also called out on a regular basis to undertake work for other Police Forces, when our services were requested. In 1970, I was seconded to work in Malta and thereupon undertook examination and the preparation of Expert Fingerprint Evidence in a major Case, at the request of the Maltese Government.
2. In 1971 I was promoted to the rank of Detective Chief Inspector and appointed Head of the Fingerprint Department, West Riding Constabulary. Apart from running the Department, I had direct and personal responsibility for Fingerprint Evidence on all major Crime Scenes. I attended upon residential Fingerprint Courses on specialist subjects undertaken by a number of eminent Bodies, to

include Fire Brigades and the Metropolitan Police Training School in London. From 1971, I attended successive National Fingerprint Conferences. Between 1977 and 1987, I was Secretary to the Fingerprint Conference.

3. In 1974, I attended at the Crime Scene of the first of the thirteen Murders committed by Peter William Sutcliffe (the "Yorkshire Ripper" Cases). I also undertook extensive Expert Fingerprint work in connection with the IRA Explosion, involving the deaths of soldiers and their families in a coach on the M62 motorway. Extensive fingerprint work was undertaken on a number of cadavers. Throughout, I continued to undertake Expert work at a number of major Crime Scenes, giving Evidence in the ensuing Criminal Trials. In 1975, I undertook Expert Fingerprint work in the Leslie Whittle Murder Enquiry in Staffordshire. Thereafter, I continued to attend upon all major Crime Scenes in West Yorkshire and also undertook Expert Fingerprint work where other Police Forces had called upon our services, which was commonplace. I also had regular attendance upon all Regional Fingerprint Courses as well as Scenes of Crime Conferences. I lectured on a regular basis at Bishopgarth Detective Training School in Wakefield, in connection with the training of CID Officers. I also accompanied successive Chief Constables of the West Yorkshire Police upon a number of ACPO Technical Meetings.
4. In 1984, I was promoted to the rank of Superintendent, West Yorkshire Police and appointed Home Office Advisor on Fingerprints. The Home Office appointment entailed the conduct of research at Home Office establishments, to include Sandridge and Aldermaston, working on fingerprint development processes. I also participated in Working Parties dealing with automated fingerprint systems. I conducted lectures at various establishments maintained liaison with a number of different Departments within the Home Office.
5. In 1987, I retired from the West Yorkshire Police and began to undertake expert consultancy work as an Independent Fingerprint Expert, (*Fingerprint Analysis*). During the ensuing 22 years, I have been instructed to examine and report on Fingerprint Evidence in many prominent Cases and have also given Evidence, when required. I have worked on many of the major Terrorism Cases in the UK,

also working for the Director of Public Prosecutions. I undertook Expert Fingerprint Work on the Perth Mint Case in Western Australia. I have also dealt with Cases from the Far East, Middle East, Europe and the USA. Several Cases have involved the Criminal Cases Review Commission. I have worked for both the Crown and the Defence. In all Cases, I give my Expert Opinion on the Fingerprint Evidence, regardless of whether I have been instructed by the Prosecution or the Defence. At this stage, I have over five decades experience in all aspects of Fingerprint work. I have initiated and checked countless Fingerprint Identifications. I have attended upon and examined Fingerprint Evidence at many hundreds of Crime Scenes, to include Cases involving multiple Murders and Terrorism.

6. I have had extensive involvement through the Home Office in the research and development of many laboratory based processes for the examination of a number of substrates. I continue to keep up to date and have for many years, maintained my own extensive Fingerprint Library, containing, for example, Journals and Technical Publications relating to Expert Fingerprint Work. My Expert work has been peer reviewed. I also remain a Fellow of the Fingerprint Society, a Fellow of the Academy of Experts, a Member of the International Association for Identification, a Member of the Forensic Science Society, a Member of the Society of Expert Witnesses. I was registered with the Council for the Registration of Forensic Practitioners (“CRFP”), prior to its winding-up.
7. My first involvement in this matter was as the defence Fingerprint Expert in the criminal proceedings *Her Majesty’s Advocate v. Shirley Jane McKie aka Cardwell*, having been instructed by Shirley McKie and her Solicitors, Levy & McCrae, a firm of Solicitors based in Glasgow. I duly exhibit a document prepared by my Solicitor for the Justice 1 Committee hearing in the Scottish Parliament entitled *A chronology/timeline of Peter Swann’s involvement as Shirley McKie’s defence Fingerprint Expert in the proceedings, Her Majesty’s Advocate v. Shirley Jane McKie aka Cardwell*.
8. It was in May, 1998 that I was telephoned by Angela McCracken, a Solicitor with Levy & McCrae, Solicitors and arrangements were made for a meeting to be held

in Wakefield with Shirley McKie and her father, Iain McKie. The May, 1998 meeting took place at my then Office situate at 17 Barstow Square, Wakefield with both Shirley McKie and Iain McKie in attendance. We spent the better part of the day discussing Fingerprint Evidence, Procedures and the possibility of fingerprints being lifted, transplanted and forged. At that time, I was given the background facts and told by Ms. McKie that she was a serving Detective Constable in Strathclyde Police and that Mr. McKie was a former Superintendent in the same Force. At that stage, neither Ms. McKie nor Mr. McKie made any allegations against the Scottish Criminal Record Office ("SCRO") and appeared to have high regard for the expertise of its Fingerprint Officers.

9. The first formal communication from Ms. McKie's then Solicitors, Levy & McRae was by a letter dated 12 May, 1998 from Peter Watson, a Solicitor Advocate and Partner with that firm. Mr. Watson provided me with the Petition Warrant and Ms. McKie's Statement. He then requested my Curriculum Vitae and related documentation. On 14 May, 1998 I wrote to Levy & McRae and in so doing was able to confirm that I had already undertaken a lengthy meeting with their client and her father. Levy & McRae wrote to me again on 22 May, 1998 and confirmed my appointment as Shirley McKie's Defence Fingerprint Expert in the Case, *Her Majesty's Advocate v. Shirley Jane McKie aka Cardwell*. I exchanged further correspondence and telephone calls with Levy & McRae, concerning Inspection of the Crown's Exhibits. On 10 November, 1998 a note was faxed to my home by Angela McCracken, a Solicitor with Levy & McRae who was handling the Case. Mrs. McCracken stated that Ms. McKie's Senior Counsel, Bert Kerrigan QC and Junior Counsel wanted to meet with me at my Wakefield Office the following day, for a general discussion about the Case. At that stage, I was in Australia, acting as a Fingerprint Expert in another Case. The required meeting with Bert Kerrigan QC and Mrs. Biggart subsequently took place on 8 December, 1998 in my Wakefield. During that meeting, we had a lengthy discussion about Ms. McKie's Case and all aspects of fingerprinting and associated matters. I recall it as having been a very pleasant meeting, during which all of the points raised by the McKies were dealt with. I understand that subsequently, Ms. McKie was dissatisfied with Mr. Kerrigan's services and he

was replaced by Donald Findlay QC. However, I do not know the circumstances which lead to Mr. Kerrigan ceasing to act for Ms. McKie.

10. On 22 February, 1999 Angela McCracken of Levy & McRae wrote to me and confirmed arrangements for me to attend Glasgow on Tuesday, 2 March, 1999 in order to undertake Expert Inspection of the Crown's Exhibits. Mrs. McCracken also confirmed that at 2 p.m. on that same date, I was to attend Consultation with their Senior Counsel, (Mr. Donald Findlay QC). On 22 February, 1999 Mrs. McCracken of Levy & McRae wrote to me, confirming the arrangements for Expert Inspection of the Crown's Exhibits in Glasgow on Tuesday, 2 March, 1999. I was notified that we would also be meeting with Senior Counsel at 2 p.m. on the same date. On 26 February, 1999 Mrs. McCracken forwarded to me my airline ticket, together with copy Productions and photographs, apparently obtained from the Procurator Fiscal's Office. I undertook exhaustive examination of the material provided to me by Ms. McKie's Solicitors, Levy & McCrae. I recall one particular Chart of the disputed Mark Y7, which was not too clear, and probably a second or third generation copy. In my examination of that Chart, I identified 16 ridge characteristics, which were in agreement. I also recall examining the material provided on alternate days. In the event, I was satisfied that it was a positive identification.

11. On 2 March, 1999 I attended at the Offices of Levy & McRae in Glasgow and met with Mrs. McCracken. We then both attended at the High Court of Judiciary, Glasgow in order to view the Crown's Exhibits, to include the door standard. We entered a very small room, containing one small desk and Exhibits. That room was small, but I have worked in worse. It was adequately illuminated. The room was adequate for the purposes of inspection and examination. (It might usefully be borne in mind that in serving with the West Yorkshire Police, I had worked in many crime scenes where the conditions were frequently difficult, to say the least). In the event, the door standard was propped up against one wall. I removed the wrapper from the door standard and located Mark Y7. I examined the door standard, both sketching and measuring it. I also noted the Mark in question. The Mark was on the face of the door standard, 19 to 19 ½ inches from the top, the total length being 76 inches. It was a black powdered Mark, still

being clearly visible in situ. In my opinion, it was a genuine Mark resulting from contact between the thumb and door standard. There was nothing I could see to suggest that the Mark was other than entirely genuine. There was an actual size copy of the Mark and a Fingerprint Form on the desk. During that Inspection, I examined Exhibit 102, being the door standard, a Fingerprint Form in the name of Shirley Jane McKie/Cardwell, and an actual size photograph of the Mark Y7 on Exhibit 102. In the course of the inspection and examination, I made a sketch of Exhibit 102, the original of which is being lodged with the Inquiry. I conducted a thorough and lengthy examination. In examining the actual size photograph of the Mark Y7 and the Fingerprint Form, I used my glass, a linen prover. I had not seen the actual size photograph of Mark Y7 prior to that day, but recall regarding it as being spot on. I compared the Mark in the photograph with the Mark on the door standard and was satisfied they were the same. I compared the Mark in the photograph with the left thumb impression on the Fingerprint Form in the name of Shirley McKie and found at least 16 ridge characteristics in agreement. Having undertaken full examination, I identified Mark Y7 as being the left thumb print of Shirley McKie; I was entirely satisfied that Y7 belonged to her. I conducted such examination in the presence of both Mrs. McCracken and a female Court security Officer. I remember both being present throughout.

12. As a result of that Inspection and examination, I confirmed that the Mark was the left thumb print of Shirley McKie with at least 16 ridge characteristics in agreement in both detail and position. The appearance of the Mark had all of the signs of having been made by the natural thumb. The Mark's disposition, that is to say the way it lay on the Exhibit, evidenced the natural manner in which the thumb had made contact. The ridge structure and presence of sweat pore detail all added to the genuineness of the Mark. There was no sign of any disturbance to either the Mark or the area around the Mark. After the Inspection, accompanied by Mrs. McCracken I met with Donald Findlay QC and Victoria Young, Advocate, Ms. McKie's Senior and Junior Counsel. Mr. Findlay asked me if I had seen the Mark. I confirmed that I had seen it in situ on the door standard. He asked me whether it was genuine and I confirmed that it was. He asked me whose fingerprint it was. I stated that it was the left thumb print of Shirley McKie. I confirmed that the Mark on the door standard, the photograph of the Mark in the

Production and the left thumb impression of Shirley McKie on the Fingerprint Form were all of one and the same person, that is to say Shirley McKie. The conversation with Mr. Findlay went as follows:

DF Have you seen the mark on the door standard?

PS Yes.

DF Is it a genuine mark?

PS Yes. In my examination of it, I could detect nothing to suggest otherwise.

DF Whose mark is it?

PS It's the left thumb of Shirley McKie.

DF Are you sure of that?

PS Absolutely.

Mr. Findlay terminated the meeting rather abruptly and left the room, accompanied by Miss Young. Shortly after that, I returned to Wakefield.

13. Upon my return to Wakefield, I prepared my expert Fingerprint Report, setting out my Findings. That Report was completed and signed by me on 16 March, 1999. I made all of my Findings independently as a Fingerprint Expert. I did not adopt nor rely upon the Identification made by SCRO. My job as a Fingerprint Expert was to arrive at my own Findings and that is precisely what I did. The Mark Exhibit Y7 had clearly been developed by the application of black fingerprint powder. It was located between 19 and 19 ½ inches from the top of the door standard. My Identification of Exhibit Y7 and its positioning were consistent with Ms. McKie having held or touched the door surround at that point. In making my Identification of Exhibit Y7 as being the left thumb print of Shirley McKie, I identified at least 16 ridge characteristics in agreement in both detail and position.

As stated, the Mark had been deposited by the natural thumb and there was no evidence whatsoever of interference with the Exhibit. In the circumstances, the only conclusion that could be drawn from my Expert Findings was that Ms. McKie had entered the bungalow and touched the door standard. Having served in the Fingerprint Department of the West Yorkshire Police for some 30 years, I am very familiar with the consequences of inadvertence on the part of Police Officers who have made unauthorised entries into a Crime Scene, leaving their fingerprint. In respect of the Identification of Ms. McKie's left thumb print, there can be no doubt whatsoever that she had been in the crime scene. It was a conclusive Identification.

14. Having drafted and completed my Primary Fingerprint Report in the Case of *Her Majesty's Advocate v. Shirley Jane McKie*, I received further correspondence from Levy & McRae. In this connection, I received a letter dated 12 March, 1999 from Mr. Watson of that firm, in which he provided me with correspondence exchanged with Shirley McKie. Mr. Watson asked me if I could deal with the matters raised in Ms. McKie's correspondence. I was provided with a letter dated 7 March, 1999 from Ms. McKie to Mrs. McCracken at Levy & McRae. Ms. McKie's letter incorporated a series of questions to be answered by the Fingerprint Experts. Ms. McKie was clearly fully aware of the fact that I had identified Mark Y7 as being her fingerprint. Having regard to her correspondence, it could not have been otherwise. Ms. McKie wanted Levy & McRae to provide her with that firm's "Brief" to me, that is to say their instructions. Ms. McKie complained that I had not seen her or taken her prints, prior to undertaking Expert Examination in Glasgow. She questioned why I had apparently accepted the elimination prints provided by the Prosecution. (By letter dated 3 March, 1999 Levy & McRae had also provided me with the original left thumb print, a rolled impression, of Shirley McKie). She asked how it was known that the Fingerprint Forms had not been fabricated. She questioned whether the fingerprint on the door was the same one which had been there, when initially examined. A substantial number of written questions were then raised.

15. On 16 March, 1999 I wrote to Levy & McRae and provided them with my two Fingerprint Reports, each dated 16 March, 1999. The first such document was my

Primary Report. The second Report constituted my response to all of the questions raised personally by Shirley McKie in her letter of 7 March, 1999. In responding to those questions, I conclusively confirmed that Exhibit Y7 was her left thumb print. Ms. McKie even questioned whether someone, who had the same fingerprint as her, had secured access to the locus. In further advising, I confirmed that the fundamental basis for fingerprint identification is that we all have different fingerprints. No human has ever been found to have the same sequence of fingerprint characteristics as another. Whilst we all shared common patterns and types of ridge characteristics, the overriding factor is that, irrespective of pattern or characteristic type, the sequence in which they appear in a human fingerprint has never been known to have been repeated. At that stage, and having been examining fingerprints for 42 years, I was able to confirm that to my knowledge, there would be no-one else with the same fingerprints as Ms. McKie or, indeed, anyone else. As to whether there had been a “cover-up”, I advised her that I could not subscribe to any such allegation. Quite simply, there was no evidence whatsoever of any “cover-up”. I confirmed, therefore, that my conclusion remained the same, namely, that Exhibit Y7 was the left thumb print of Shirley McKie.

16. In the event, after submitting my two Expert Fingerprint Reports, I heard little more from Levy & McRae. At that time, I had no knowledge of any listing or details of trial dates in the case of *HMA v. Shirley McKie*. I do, however, recall that during that time, (I cannot recall when), I received a telephone call from a gentleman who stated that he was from the Procurator Fiscal’s Office in Glasgow. The gentleman concerned asked me if I would be willing to answer some questions, simply responding yes or no. I said that I would be prepared to answer. He then asked me if I was involved in the Shirley McKie Case and I said yes. I was then asked if I had examined the Exhibit and again, I said yes. I was then asked if I had submitted my Expert Findings and I replied yes. In response to questions put to me by the Fingerprint Inquiry, I have given a more detailed account below. When I was contacted by the Procurator Fiscal’s Office, I had no understanding as to why they were making such enquiries concerning Shirley McKie. In 2005, however, my Solicitor obtained a Certified Transcript of Proceedings in respect of the Trial, *Her Majesty’s Advocate v. Shirley Jane McKie*

aka Cardwell. I have noted in particular the Transcript for Tuesday, 11 May, 1999 when Shirley McKie was Cross-Examined by the Advocate Depute as to the involvement of any Defence Fingerprint Expert, prior to her subsequent Fingerprint Expert, Pat Wertheim. In reading that Transcript, it is very clear that Shirley McKie gave false answers (that is to say she lied), whilst giving evidence as a Police Officer Defendant on Sworn Oath, thereby committing Perjury during her Perjury Trial, *Her Majesty's Advocate v. Shirley McKie*, having appeared on Indictment charged that she had previously committed Perjury as a Police Officer Witness in the murder Trial, *Her Majesty's Advocate v. David Asbury*. I now realise, therefore, why I had been telephoned by the Procurator Fiscal's Office and in particular, why those specific questions were put to me.

17. At some later stage, I recall someone telling me that Shirley McKie had been acquitted. I also recall being told that some Experts from the USA had given Evidence that Exhibit Y7 was not Shirley McKie's fingerprint. Subsequently, I was able to obtain a photograph of Exhibit Y7 and to re-examine it. However, my view remained unchanged: Exhibit Y7 was the left thumb print of Shirley McKie. I obtained some excellent copies of the Fingerprint Evidence and spent some very considerable time undertaking re-examination and preparing a Comparison Chart. At that stage, I prepared a Comparison Chart on Exhibit Y7 evidencing 21 ridge characteristics in sequence and agreement with the left thumb print of Shirley McKie. My Findings were peer reviewed by other Fingerprint Experts. I was also fully aware of the extensive work being undertaken by an eminent Fingerprint Expert, John Berry BEM who had confirmed the Identification. Mr. Berry's Expert Findings were communicated to the Office of the Solicitor to the Scottish Executive, (Scottish Government).
18. I became aware of the fact that as a result of allegations made by Shirley McKie, her father, Iain McKie and others, together with a biased, unrelenting media campaign, the SCRO Fingerprint Experts were suspended and subjected to Criminal Investigation. In connection with that Investigation, I was visited by Officers of the Tayside Police and was interviewed. I provided the Tayside Police Officers with my Findings, to include a Comparison Chart. I also recall that during the meeting with the Tayside Police, notes were made in longhand by the

Detective Constable, who was accompanied by a Detective Sergeant Harry Dunn. On 17 July, 2009 the Fingerprint Inquiry provided me with an office copy of a document they described as my Alba Statement, Tayside Police. It was a typed document, which was unsigned. I have requested a copy of the original handwritten Statement/Notes made by the interviewing Officers, as apparently signed by me. I am told by the Inquiry that no copy of the signed, handwritten Statement/Notes can be located. This matter causes me great concern. The two named Officers interviewed me in Wakefield. As stated, notes were made in longhand. Upon conclusion of the meeting, I told the Officers that I wished to copy the notes, in order that I could check them through and make alterations and corrections. It would only have taken a couple of minutes for us to attend at Eagle Press, a Wakefield shop with full copying facilities. The Officers said that they had to be on their way, but categorically assured me that their notes would be typed-up upon their return to Scotland and that they would then be copied to me, in order that I could check what had been written and make necessary corrections and alterations. I would then return the approved notes or Statement (altered, corrected and amended as necessary), duly signed to the Tayside Police. However, the Officers failed to provide me with copies of their notes or the typed version. Having now read the office copy, unsigned, typed "Alba Statement" provided by the Inquiry on 17 July, 2009 I place on record the fact that it is grossly inaccurate and represents what must be a very deliberate misrepresentation or distortion of my evidence. The Alba Statement does not reflect what I told the Officers; it is inaccurate and in many respects, entirely wrong. As to my evidence, I refer the Fingerprint Inquiry to this, my present Statement, which accurately records my involvement in all of those events which fall within the Inquiry's remit.

19. At the time of making my Statement to the Tayside Police, I had still not resolved one issue, which concerned certain characteristics at the top of the Crime Scene Mark. Irrespective of that fact, the position remained that there were in excess of 20 ridge characteristics in sequence and agreement in the area below, so as to fully satisfy me as to the Identification. It was after the meeting with the Tayside Police that I resolved the issue of the characteristics at the top of the Mark and in so doing, realised the severity of distortion that had occurred, when the Mark had

been deposited on the door standard. Thus, it was assessed to be a 66 degree anti-clockwise movement of the tip of the thumb, which resulted in ridge characteristics seen at 12 o'clock on the Crime Scene Mark, appearing at 2 o'clock on the rolled impression (not the plain impression) of Shirley McKie's left thumb.

20. Latent print distortion is a problem that can easily deceive the inexperienced Expert or Examiner and cause even the most knowledgeable Expert to take a second look. Ridge structure movement, due to pressure and other forces, may create the illusion that two different, but similar prints are involved. As all Fingerprint Experts should be aware, however, ridged skin is extremely flexible and plastic in nature and when subjected to pressure, may change the appearance of the pattern, causing the ridges to change the direction of flow. It may also result in ridge characteristics being out of position, when compared to the inked or known donor print. This is exactly what had happened with Mark Y7. Almost every latent print is distorted to some degree, but some are distorted to the extent of creating a problem in recognition. Some loop patterns, which is what we have here, whether right or left slope, will lean more or less in the Crime Scene Mark when compared to the inked print, giving the impression, not of similarity, but of difference. That too appears to have occurred with Exhibit Y7. Having said that, there can be no excuse at all for any competent Expert being deceived by an apparent difference in ridge flow or the position of ridge characteristics, because of external forces. Movement can be severe, resulting in distortion, but as all competent Fingerprint Experts are well aware, Identification is based on the sequence of ridge characteristics in the two prints, Crime Scene Mark and inked print, and not on ridge flow or pattern which are simply "class characteristics".

21. In January, 2001 I received a letter from the then Chairman of the Fingerprint Society, putting to me various allegations of Unprofessional Conduct, by reference to my Identification of Mark Y7 as being Shirley McKie's left thumb print, with inappropriate and inaccurate reliance upon a Report by H.M. Chief Inspector of Constabulary. It was suggested that I had given Evidence of Identification during the Trial, *Her Majesty's Advocate v. Shirley Jane McKie*. I duly responded, also pointing out that I had never given evidence at trial, since I

had not been called. In the event, between January, 2001 and June, 2005 I was subjected to serial Complaints made by Shirley McKie and her father, Iain McKie,. At the outset, their principal objective was to try and force me to withdraw my Identification of Exhibit Y7 as being Shirley McKie's left thumb print. They also sought to prevent me from making any disclosures in connection with the Case, alleging both Breach of Confidentiality and Breach of Legal Professional Privilege. The Complaints of Professional Misconduct to the Fingerprint Society were orchestrated by the McKies. Repeated Complaints were lodged by the McKies with the Fingerprint Society. I am aware that on 12 August, 2003 Iain McKie (with the express authorisation of Shirley McKie) wrote to the Fingerprint Society, demanding to know why they had failed to interview me or relevant Witnesses. The McKies wanted to know whether Committee Members of the Fingerprint Society were "Friends and Supporters of Mr. Swann and/or SCRO". By that stage, the McKies' Complaints had been dismissed by the Fingerprint Society. It was evident, however, that Iain and Shirley McKie remained absolutely determined to silence me, or through intimidation to force me to recant my evidence and to declare that Mark Y7 was a misidentification.

22. Notwithstanding dismissal of the professional misconduct allegations against me by the Fingerprint Society, Shirley McKie and Iain McKie thereupon pursued serial Complaints against me, this time with the Council for the Registration of Forensic Practitioners (CRFP). I will come back to the matter of the ensuing CRFP Disciplinary Proceedings. It is, however, important to understand the relevance of Shirley McKie's actions, both in respect of the Fingerprint Society and CRFP. Shirley McKie and her father, Iain McKie attempted to use both the Fingerprint Society and CRFP to force me to withdraw my Identification of Mark Y7 and effectively, to gag me from making any public disclosure, whether within the confines of the fingerprint community or otherwise. At the same time, Shirley McKie and her father were orchestrating a media Campaign, alleging that she had been subject to a criminal Conspiracy by SCRO Fingerprint Experts and others. Eventually, in signed Witness Statements submitted by Shirley McKie and Iain McKie to the CRFP, they alleged that disclosure of my Expert Findings "was potentially harmful to her (Shirley McKie's) reputation and Civil Case for

Damages against Strathclyde Police and the Scottish Criminal Record Office”
(Witness Statement of 29 May, 2004).

23. I had been aware that four of the SCRO Fingerprint Experts had been suspended from their duties, with effect from early August, 2000. I also became aware of the ongoing Criminal Investigation. On 13 June 2001, in connection with the Criminal Investigation of the SCRO Officers, I received a letter from William Gilchrist, Regional Procurator Fiscal of the Regional Procurator Fiscal’s Office in Paisley. He notified me that he had been asked to investigate the Fingerprint Evidence in the Cases of *HMA v. Shirley McKie and HMA v. David Asbury*. He referred to an Analysis prepared by the National Training Centre at Durham. Mr. Gilchrist stated that he wished to interview me and to show me the Analysis prepared by Durham. He declared that he was anxious to know whether that Analysis would alter my own position, as regards the Identifications which I had made in relation to the Cases of Shirley McKie and David Asbury.
24. I subsequently met with Mr. Gilchrist at the Academy of Experts in London on 16 June, 2001. Whilst Mr. Gilchrist and I showed each other extensive material, to include Fingerprint Charts, he informed me that there was a restriction upon his providing me with copies. Mr. Gilchrist told me that he had been charged with investigating the conduct and Evidence of the four Experts in SCRO who had given Evidence in Shirley McKie’s Trial, to see what further action was necessary. Mr. Gilchrist showed me Reports prepared by Fingerprint Experts from Holland and Norway. Mr. Gilchrist appeared to be struggling with those Reports and went on to show me the material prepared by Durham Training School. They had produced a Chart, with characteristics Marked. It was evident, however, that they had followed the same approach as the McKie “Experts” and had tried to mark detail in disagreement. The Evidence prepared by Durham Training School was totally flawed. I also examined the “Court Production” prepared by Pat Wertheim. Again, Mr. Wertheim’s Evidence was completely flawed and, indeed, demonstrably so. I then showed to Mr. Gilchrist my prepared Chart of the same characteristics which had been marked by Mr. Wertheim. I demonstrated that they were in sequence and agreement with the characteristics on Shirley McKie’s left thumb. I explained to Mr. Gilchrist that Mr. Wertheim had

failed to understand what had happened due to latent print distortion and in this Case, the fact that the Mark had moved through 66 degrees. I spent some time explaining that to Mr. Gilchrist and I was satisfied that he understood my Findings. Upon conclusion of our meeting, I distinctly recall Mr. Gilchrist telling me that he could not, upon his return to Scotland, put in an adverse Report upon the four SCRO Fingerprint Officers.

25. A short while after my meeting with the Procurator Fiscal, I was asked to make a Presentation to a group of Fingerprint Experts. The request arose from an Expert who had been asked about the *McKie* Case in Court and who had been unable to deal with the enquiry, having no direct knowledge of the Case. Some 25 to 30 Experts were present and I took them through the Fingerprint Charts in the *McKie* Case. I produced various Fingerprint Charts which I made available to all those present, who were at liberty to consider them privately and in their own time. I invited critical comment upon my Identification of Exhibit Y7 as being the left thumb print of Shirley McKie. After extensive review, not one of the Fingerprint Experts who were present challenged the Identification of Exhibit Y7.

26. I remained so concerned by the allegations being made by Shirley McKie and her father and their continuing control of a Media Campaign, attacking the SCRO Fingerprint Experts, that on 4 April, 2002 I wrote to Andrew Brown, who was the then Chief Constable of Grampian Police and Chairman of the SCRO Executive Committee. I referred to the Expert Fingerprint Work undertaken by John Berry and myself. I also confirmed that such Evidence had been reviewed by not less than 50 Fingerprint Experts, none of whom had raised any doubts as to the positivity of the Identification. I referred Mr. Brown to the allegations made by Iain McKie during the Fingerprint Society's Annual Conference in Cardiff in March, 2002. I referred to my attempts to communicate with the Office of H.M. Chief Inspector of Constabulary in Glasgow and to set the record correct, as to my involvement as an Independent Fingerprint Expert in the Case of *Her Majesty's Advocate v. Shirley Jane McKie*. It had been alleged in that Report that "an Independent Fingerprint Expert was called by the Defence and confirmed the Findings of the SCRO Experts". However, I had not been called by the Defence and the Report of H.M. Chief Inspector of Constabulary was inaccurate.

27. In my letter to the Chief Constable, I referred to my meeting in London with the Procurator Fiscal, telling him that I had been shocked by the incompetence of those Experts who had denied the match between Exhibit Y7 and the left thumb print of Shirley McKie. Not one of the foreign Experts, let alone those at Durham Training School, had grasped the fact that it was a very complex Mark and that the established anti-clockwise movement had immediately disposed of the so called ridge characteristics in disagreement. I pointed out to the Chief Constable that some of the Procurator Fiscal's Exhibits evidenced the fact that Experts such as Mr. Wertheim had alleged "points of disagreement", whilst at the same time ignoring in excess of 20 ridge characteristics in sequence and agreement, in the remaining Crime Scene Mark. I expressed my grave concern that Ms. McKie's Lead Experts had publicly declared that it had only taken them 90 seconds to establish the Misidentification of Exhibit Y7. I had already satisfied the Procurator Fiscal that my Comparison Charts entirely corroborated the SCRO Fingerprint Experts' Evidence of Identification. Subsequently, the Chief Constable responded, duly noting my Submission, but pointing out that since the Case of David Asbury was *sub judice*, he could not comment. Subsequently, on 7 May, 2002 I sent to Jim Wallace QC, the then Minister for Justice two Comparison Charts. The first showed the alleged characteristics "in disagreement", produced in Court by the Defence, during the *McKie* Trial. The second Comparison Chart had been prepared by Mr. Berry and demonstrated the movement of the impression when deposited, resulting in characteristics appearing out of position. Again, the formal response was that the matter remained *sub judice*.

28. I remained deeply concerned. I was aware that on 14 May, 1999 two American Experts, Pat Wertheim and David Grieve had given Evidence for the Defence in the Trial, *Her Majesty's Advocate v. Shirley Jane McKie*. As stated, Mr. Wertheim claimed to have made his Expert Findings on Exhibit Y7 within 90 seconds. Subsequently, he claimed to have performed that Expert Assessment in 60 seconds. I am aware that the Media used Mr. Wertheim's false claims to support headlines attacking the reliability of Fingerprint Evidence. Indeed, one headline read "90 Seconds to Destroy 100 Years of Forensics". However, and as

stated, the Procurator Fiscal had made Mr. Wertheim's Court Chart available to me, during our meeting at the Academy of Experts. Mr. Wertheim, in attempting to prove that Mark Y7 was not the thumb print of Shirley McKie, had used an acetate sheet, overlaying an enlargement of Mark Y7. He had marked on that sheet a number of characteristics which appeared at 12 o'clock, declaring that those characteristics did not appear on Ms. McKie's thumb print. Mr. Wertheim was correct on only one issue and that was, indeed, that the characteristics did not appear at 12 o'clock on Ms. McKie's thumb print. Had Mr. Wertheim persevered and spent more than 90 seconds in his assessment, he would have found the "missing" characteristic detail at 2 o'clock. The Evidence, therefore, presented by the American Experts in the Perjury Trial had not only been flawed, but was based upon examinations conducted by so called Fingerprint Experts who had failed to grasp even the basic principles of Fingerprint Identification Work. Did those Fingerprint Experts restrict their comparisons to the tip of the thumb and thereby totally ignore the numerous characteristics in agreement around and below the centre of the ball of the thumb? I have illustrated those numerous characteristics in Comparison Charts and they prove beyond all doubt the positivity of the Identification. Together with other Comparison Charts, they show the alleged "missing" characteristics at the tip.

29. I am aware that advice was sought by H.M. Chief Inspector of Constabulary, Scotland from Fingerprint Experts, Arie Zeelenberg, Holland and Torga Rudrud, Norway regarding the evidential value of Exhibit Y7. When I met with the Procurator Fiscal in London in 2001, I had sight of their Reports. In considering their Reports, I came to the conclusion that those Experts had no understanding of the severe distortion that had occurred. The subsequent Comparison Charts they had produced, in an endeavour to prove Misidentification, demonstrated an inability to correctly "mark-up" ridge characteristics in agreement. Instead, they Marked characteristics "in disagreement" as being the same. That only emphasised to me a total lack of expertise and professional ability on their part. Their Report and Comparison Charts were, in my Expert Opinion, useless for the purpose requested, that is to say to satisfy HMCIC Scotland that the Mark Y7 was not that of Shirley McKie. The Evidence of the so called Experts brought in from America, Holland and Norway is demonstrably flawed. The available

Comparison Charts conclusively prove beyond any doubt that Exhibit Y7 is the left thumb print of Shirley McKie.

30. I subsequently became aware of claims on behalf of certain staff within Grampian Police Fingerprint Department that Exhibit Y7 was not the thumb print of Shirley McKie. It was claimed that after a visit to the Department by Ewan Innes, the then Head of the Scottish Fingerprint Service, in May 2005, some staff had “discovered” material connected with the McKie Case in the belongings of a retired member of staff. It was said that the material used had been validated by Mr. Wertheim, with approval from Mr. McKie. The employees concerned then produced a Report, claiming that there had been Misidentification. However, having studied their Findings, I would point out that the photograph of the Crime Scene Mark relied upon by them, was not the original used, as stated in the response of Mr. Wertheim. A scrape Mark can be seen quite clearly, just above the centre core. That is not on the original photographed Mark and may inhibit to some extent the comparisons made. Further, on all of the left thumb impressions reproduced by the employees concerned, not one single impression showed the right-hand side. Indeed, a quarter of the print is missing, with all the detail that such an area would contain.
31. The ensuing “Fingerprint Report” was both elementary and flawed. In particular, the material used by the three employees concerned should not have been relied upon. That was particularly so in respect of ten impressions of the left thumb, all of which omitted the area in question. Not one of those Marks was a rolled impression. Instead, each such Mark was a plain impression. Had those three employees of Grampian Police Fingerprint Department used a rolled impression, then they must inevitably have arrived at a different conclusion. Even then, they would have still been in difficulty, using the material, as presented. Those three employees apparently decided to undertake the Fingerprint Comparison Exercise some seven years after the event. However, it would have been reasonable to expect any competent Fingerprint Expert prepared to carry out work of such importance and sensitivity, to have used appropriate material. That is particularly so when they were dealing with a very complex Mark, which was distorted and with measured movement of 66 degrees at the tip. Had those Fingerprint Experts

