

THE FINGERPRINT INQUIRY SCOTLAND : WITNESS STATEMENT OF IAIN ARTHUR

JAMES MCKIE

PART 2

PERSONAL DETAILS

1. My name is Iain Arthur James McKie. I am 70 years old. I was formally a superintendent with Strathclyde Police and retired in 1992. Since then I have been self employed as a counsellor.

BACKGROUND TO GIVING THIS STATEMENT

2. At the time of giving this statement certain persons have been designated as 'Core Participants' under the Inquiries (Scotland) Rules 2007. It is envisaged that this statement may be disclosed in advance of public hearings to such Core Participants. Such disclosure is to be on a confidential basis and each Core Participant is to give a written confidentiality undertaking prior to disclosure.

3. I give this statement on condition that prior to disclosure to any Core Participant that such Core Participant:

- a. has given a written confidentiality undertaking or
- b. has been subject to an order by The Chairman of the Inquiry, the Right Hon. Sir Anthony Campbell, requiring such core participant to keep the contents of this statement confidential.

INTRODUCTION

4. Because of the length and complexity of my statement and Inquiry deadlines for its presentation I have divided it into two parts.

- a. **PART 1:** I will address the questions posed at 'Annex A' to the Inquiry Letter of 24 August 2009.

- b. **PART 2:** I will address issues that I wish to bring to the Inquiry's attention.

PART 2

5. In Part 1 of my statement I addressed issues put to me by the Inquiry. In this part of my statement I raise issues which I consider relevant to the Inquiry's deliberations. I have limited the number of appendices attached to this statement as most of the relevant documentary evidence has already been previously submitted to the Inquiry. This evidence can be produced if requested.

SCRO: Incompetence or Criminality

6. Throughout the campaign I have waged over 13 years to establish the truth about the false accusations made against my daughter Shirley I have tried to establish a motive for those making these accusations.

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9. We have already heard evidence that the Crown Office failed to have the SCRO identification independently checked before Shirley's trial as had been recommended and that doubts had been expressed about the 'public interest' being served in prosecuting her for perjury.

10. After her unanimous acquittal in 1999 and the failure of the SCRO experts to admit that they had been wrong the experts themselves became more and more the focus of my attention.
11. While the Crown Office, police and government accepted the verdict of the court they effectively tried to marginalise any controversy by stating that this was a 'one off' case that had no relevance to the overall credibility of fingerprint evidence in Scotland and that emanating from the SCRO.
12. As far as these authorities were concerned there were no long term problems and Lord Hardie refused to carry out any independent enquiry or release the results of the in house enquiry he said had been carried out. (See part 1 of my statement – FI_0181)
13. This Inquiry has shown that the actions of the Crown Office over this period do not bear close scrutiny and I make reference in Part 1 of my statement to some of its failings to efficiently implement the non-numeric system and face up to the issues that were emerging in respect of Scottish fingerprint evidence.
14. It soon became obvious that the SCRO experts were not going to admit to a mistake and in this they were going to be fully supported by these authorities.
15. As my analysis of the available evidence progressed and more evidence became available I became convinced that the failure of the 6 main experts Fiona McBride, Hugh Macpherson, Charles Stewart, Anthony McKenna, Robert Mackenzie and Alan Dunbar amounted to something more than innocent mistakes done in good faith.
16. As the evidence mounted I became convinced that only two possible explanations were possible;
 - These experts were incompetent
 - These experts had committed a criminal act or acts.

17. I have always been aware that these were serious allegations and believe that this Inquiry is entitled to be informed of the reasons for them. In this statement I would seek to support my allegations by reference to a number of factors.
18. There have been a large number of independent findings/enquiries/statements/reports and petitions related to the 'identification' of prints 'Y7' and 'Q12' by the SCRO experts that have concluded that the SCRO was wrong in these 'identifications'.
- 1) 1999: Shirley's unanimous acquittal in the High Court.
 - 2) 2000: Letter to the Minister for Justice by 13 experts from Lothian and Border's Police. (Database CO_1899)
 - 3) 2000: Parliamentary apology by the Minister for Justice.
 - 4) 2000: BBC Frontline Scotland enquiry with 4 independent English experts.
 - 5) 2000: HMCI Taylor's Report and conclusions by independent European experts.
 - 6) 2000: The criminal enquiry of James MacKay for the Lord Advocate. (CO_0005)
 - 7) 2000: The Danish expert's Report for behalf of Scottish Ministers. (CO_0030)
 - 8) 2001: Statement from Durham National Training Centre for the Crown Office. (CO_2003)
 - 9) 2002: David Asbury's conviction quashed.
 - 10) 2002: Statement by 129 World experts to the Minister for Justice.
 - 11) 2002: Petition to the Scottish Parliament by 4 leading World experts. (AZ_0011)
 - 12) 2004: The McLeod report(s) commissioned by the Scottish Ministers. (SG_0635,SG_0704 and SG_0705)
 - 13) 2004: The LumenIQ Report
 - 14) 2005: The 'Aberdeen' reports submitted by three Scottish Fingerprint Service experts from Grampian. (CO_0002 and DB_0651)
 - 15) 2006: Shirley awarded £750,000 in the Court of Session
 - 16) 2006: The First Minister admits an 'honest mistake' was made by the experts.
 - 17) 2006. SFS 'Action Plan for Excellence'.
 - 18) 2009: IAI 'Y7' Report.
 - 19) 2009: PSNI Report on the 'Asbury Q marks'. (NI_0001)

1) 1999: Shirley's unanimous acquittal in the High Court.

19. Shirley's unanimous acquittal of the perjury charge at Glasgow High Court on 14 May 1999 was the catalyst in a chain of events that stretched for over a decade and the consequences of which are now coming together at this Inquiry.
20. Her acquittal was the first time fingerprint evidence had never been successfully challenged in a Scottish Court and regardless of the evidence presented this alone should have guaranteed that it would act as a wake up call to the experts themselves, their managers, the prosecution services and the political masters.
21. That this did not occur or took over a decade to do so tells us a great deal about the culture of the Scottish justice System, the reverence in which experts had previously been held and the failure of our prosecution services to monitor and supervise expert evidence and ensure that the highest standards of personal and professional behaviour were exhibited.

2) 2000: Letter to the Minister for Justice by 13 experts from Lothian and Border's Police. (CO_1899)

22. Proof of the reluctance of the Lord Advocate, Minister for Justice and the Police to deal with the issues thrown up by the Shirley McKie case is to be found when their reaction to an open letter sent by 13 Lothian and Border's fingerprint experts to them on 26 January 2000 is analysed.
23. The L and B experts were reacting to the BBC 'Frontline Scotland' programme broadcast on 18 January and, as I discovered later, to years of dissatisfaction about the way the SCRO operated
24. Their conclusion was clear and to the point.

'We have, via the 'internet' examined the material provided by Mr Pat Wertheim....and reached the conclusion, along with experts throughout the world, that the crime scene mark in question was not made by Shirley McKie.

'Several approaches have been made to SCRO regarding the release of the evidence relating to the case but to date they have refused to comply with any of the requests. This stance has unfortunately brought the whole fingerprint system into disrepute.'.....

'At best the apparent 'misidentification' is a display of gross incompetence by not one but several experts within that bureau. At worst it bears all the hallmarks of a conspiracy of a nature unparalleled in the history of fingerprints.'

25. Here we had 14 (reduced to 13 when one expert who subsequently worked within the SCRO later withdrew her agreement) of Scotland's leading experts publicly stating that in their opinion print Y7 was an erroneous identification and that immediate enquiry was required.
26. This step must have taken considerable courage and they could fairly have expected their managers and the Scottish prosecution service to take heed and perhaps order further enquiry and have the contested identifications independently examined.
27. Unfortunately their integrity was not rewarded and in early February of 2000 the Lothian and Borders Chief Constable in a letter to members of the SCRO Executive Committee stated.

'As you are aware individual support staff members of Lothian and Borders Police have raised correspondence on this matter in the absence of full knowledge of the circumstances which is highly critical of SCRO staff.'

I wish to personally apologise for these comments and would emphasise that these views are shared neither by me nor Lothian and Borders Police.'

28. I was later informed that a number of the expert's careers had suffered and some even decided to leave the Lothian and Borders fingerprint service.
29. Objectively looking at these circumstances all these years later I have to wonder why a body of previously highly regarded experts should have been treated in this way.

Perhaps the answers supply further clues as to why so much effort appears to have been made to cover-up the SCRO errors even if it meant silencing these 'whistle blowers'.

30. The critical factor is however that instead of taking control the authorities procrastinated and vacillated and allowed the SCRO experts to escape the immediate consequences of their actions. The opportunity for them to face up to the reality of their situation was missed and as time passed this became harder and harder for them to do.

3) 2000: Parliamentary apology by the Minister for Justice.

31. On the 22nd June following the release of James Mackay's preliminary findings the Minister for Justice Jim Wallace made a statement to Parliament.

"HMIC were assisted in their work by fingerprint experts from jurisdictions outwith Scotland and three were asked to provide independent advice on fingerprint methodology and processes. Two of these were asked to give an expert opinion in relation to the McKie case. The opinion of these experts was that there was sufficient detail in the crime scene mark involved in the McKie case to make a fingerprint identification but that that mark had not been made by Shirley McKie."

32. In his parliamentary statement Mr Wallace went on.

'In addition to announcing this finding, Mr Taylor indicated that the inspection has led to a number of other findings. They include the need for improvements in training, testing and quality assurance measures at the SCRO; consideration of a centralised fingerprint service for Scotland, which would assert the corporate identity and independence of the SCRO; a planned move towards the introduction of a different evidential standard for fingerprints in Scotland; strengthened administrative support for the fingerprint service; and the need to set up a task force to take forward the changes that the inspectorate recommends. In summary, Mr Taylor concludes that at present the SCRO fingerprint bureau "is not fully effective and efficient."

