

**THE FINGERPRINT INQUIRY SCOTLAND
WITNESS STATEMENT OF GARY DEMPSTER**

(i) PERSONAL DETAILS

1. My name is Gary Dempster. I was born in 1967. I am a fingerprint officer.

2. At some time after some of the events I discuss in this statement I made a request, (the DPA Request) for documents from Grampian Police held in respect of me under Data Protection and Freedom of Information Legislation. I refer to certain documents provided to me as a result of that request in this statement.

(ii) CAREER HISTORY

3. I joined Grampian Police in September 1990 as a trainee fingerprint / scenes of crime officer.

4. I trained as a fingerprint officer from September 1990 to September 1995. I was trained in all aspects of fingerprint identification including the comparison and identification of fingerprints. I was also trained in scene of crime examination in relation to fingerprints, such as the processes involved, the use of powders, how marks were developed and so forth.

5. I found my training as a scene of crime examiner invaluable in my work and gave me a better understanding when actually analysing and comparing fingerprints. For example in determining how fingerprints had been deposited, the surfaces they had been left on and the processes relating to their development.

6. There was no formal training at Grampian Police in 1990. Training was "on the job". I worked closely with all the experts in the Bureau. I covered all aspects of the Bureau's work. Even though I was a trainee I found each and every member of staff very approachable and there was a very good working environment in the Aberdeen Bureau
7. In 1995 I attended a three-week Advanced Fingerprint Course at the National Training Centre at Durham. We were examined on various aspects of fingerprint work including comparisons, preparing charted enlargements and court presentation skills. As part of the course we had to sit final assessments, which I successfully passed.
8. On completion of this Advanced Fingerprint Course my name was included on the National Register of Fingerprint Experts. I was subsequently authorised to give evidence in court by the Secretary of State.
9. After I qualified as a fingerprint expert, I returned to work at the Aberdeen Fingerprint Bureau as a fingerprint / scene of crime officer. At that time the practice in Aberdeen was that fingerprint officers worked: (i) as fingerprint officers carrying out comparison work; and (ii) scene of crime examiners. We would be rotated between these two roles on an annual basis. This applied to the majority of fingerprint officers although the most senior fingerprint officers were not subject to rotation, to ensure a continuity of management and operation in the Aberdeen Bureau.
10. Accordingly in one year I would work as a fingerprint officer and in the next year I would work as a scene of crime examiner. At some point it was decided that officers would work as scene of crimes examiners or fingerprint officers but not both and this practice ceased. I chose to work only as a fingerprint officer after that point.

11. In 2002 I applied for and obtained accreditation with the Council of Registered Forensic Practitioners in relation to Scenes of Crime examination.
12. In April 2007 I was transferred under TUPE from the employment of Grampian Police to the employment of the Scottish Police Services Authority. I continued in my role as a fingerprint officer.

(iii) AWARENESS OF McKIE CASE BEFORE JULY 2000

13. I am shown document Copy briefing note by Detective Inspector Rolph, Grampian Police dated 23 November (SG_0548). This is a "Subject Report" from Detective Inspector Rolph to the then Chief Constable of Grampian Police, Andrew Brown, dated 23rd November 1999. This document discusses the case HMA v McKie and states:

"Our officers at Grampian have also examined the fingerprints in this case and are also of the opinion that they are not identical".

14. I am shown document Copy briefing note by Detective Inspector Rolph, Grampian Police dated 31 January 2000 (SG_0549). This is a further Subject Report from Detective Inspector Rolph to the Chief Constable. This also relates to the case of HMA v McKie.
15. I only became aware of these documents in 2005. I cannot remember who brought these documents to my attention or in what context. I was unaware until 2005 that anyone from the Aberdeen Bureau had looked at the fingerprint Y7 in 1999.
16. I do not know who carried out any analysis related to these documents. I do not know the background to this exercise. I do not know why the documents were prepared. You would need to ask the then Chief

Constable, Andrew Brown, or Detective Inspector Rolph about these matters.

(iv) AWARENESS OF Y7 ISSUES BEFORE MEETING WITH EWAN INNES

17. On 10th May 2005 Ewan Innes who was the Head of the Scottish Fingerprint Service visited the Aberdeen Fingerprint Bureau. Before describing this meeting I shall explain my awareness of the case of HMA v McKie at that time.
18. I was aware of the case HMA v McKie. It had received extensive press coverage. I had also attended a Fingerprint Society Conference in Cardiff at which Iain McKie had spoken.
19. I was close to one of the Senior Officers at the Aberdeen Bureau, Terry Major. He was formerly the Chief Fingerprint Officer at Grampian Police. At some point prior to the meeting with Ewan Innes, Terry Major told me that he had attended various meetings over the years and had asked SCRO for images of Y7 and Miss McKie's fingerprint forms. He told me that SCRO had refused to provide him with such images.
20. Terry Major also explained to me that Martin Leadbetter had provided him with an image of Y7 and Miss McKie's left thumb. Terry Major and Martin Leadbetter had previously worked together at New Scotland Yard and had kept in contact.
21. I cannot remember Terry Major ever telling me he had personally compared the images. At this point in time Terry Major was terminally ill and was to succumb to his illness a short time later.

22. I had no involvement in Y7 as a fingerprint officer at this stage. I had never examined Y7 on a professional or private basis.
23. I cannot remember any discussions in the Aberdeen Bureau about Y7. It may be that discussions were held at a more senior level, or that discussions occurred during periods when I was working as a scene of crime examiner, in which case I would not have been in the Fingerprint Office.
24. The first time I had any real involvement in matters related to HMA v McKie was as a direct result of Ewan Innes visit to the Aberdeen Bureau in May 2005. I now turn to discuss this.

(v) MEETING WITH EWAN INNES: MAY 2005

25. On 10th May 2005 Ewan Innes came to meet with the staff of the Fingerprint Bureau in Aberdeen. The meeting was attended by all the staff of the Aberdeen Bureau who were on duty that day. I attended the meeting.
26. The meeting was also attended by John McGregor and John Dingwall. At that time John McGregor was acting Chief Fingerprint Officer in the Aberdeen Bureau. At some point in time his appointment was made permanent. The then Head of Bureau, David Donaldson, also attended.
27. Ewan Innes raised the McKie case during this meeting and openly distributed a letter from David Russell and a report on Y7 by Peter Swann.
28. The letter was dated 28th April 2005. The letter, but not the report is contained in the document Aberdeen Bureau Report on Y7 entitled "*Fingerprint report by John McGregor, John Dingwall, Gary Dempster*"

(CO_0002), prepared by myself, John McGregor and John Dingwall in July 2005.

29. The Aberdeen Y7 Report describes the meeting and is an accurate summary of what occurred at the meeting.

30. The letter from Mr Russell was addressed to the then Lord Advocate, Lord Boyd. I thought it was an utter disgrace that such an intemperate and defamatory letter was being circulated by the Head of the Scottish Fingerprint Service, which included personal attacks on the Lord Advocate and against fellow experts, an example being on page 7 paragraph 1:

'You have thereby given an open platform to foreign Fingerprint Experts and, indeed, Internet Experts who repeatedly attack fingerprint standards in the UK in circumstances where they would not be offered employment, even to clean the toilets at SCRO.'

31. We were told that we could keep the letter and Peter Swann's report.

32. At the meeting Ewan Innes was questioned about the facts surrounding the identification of Y7. He stated that he did not know whether the identification of Y7 was correct or not. He stated however that, after the civil case called in 2006, *"the truth would come out."* He also informed us that a further five SCRO experts had confirmed the identification of Y7 during a 'Blind Test'.

33. I asked if images of Y7 and Miss McKie's ten print form could be provided to the Aberdeen Bureau so that we could review the identification ourselves. I was told that SCRO no longer had images of Miss McKie's left thumb, as these had to be destroyed for legal reasons after Miss McKie's acquittal. Ewan Innes stated that he would

like us to see the images, however Crown Office and the Justice Minister would not allow the release of the images.

34. It is correct to state that after an acquittal a person's ten print forms have to be destroyed. However I subsequently became aware that the Deputy Head of the Glasgow Bureau, Robert Mackenzie, had given presentations on Y7 after the trial. Those presentations used images of Y7 and Miss McKie's left thumb. It followed that SCRO must have had images of Miss McKie's left thumb after the trial and cannot have destroyed all of them. Accordingly I would suggest that Ewan Innes' statement was misleading.
35. Staff at the Aberdeen Bureau prepared a minute of the meeting however Ewan Innes later heavily revised this. I cannot remember what happened to the two minutes although copies may still exist in the Aberdeen Bureau.

(vi) REPORT INTO Y7

36. The Aberdeen Y7 Report was prompted by the meeting with Ewan Innes. After the meeting the Aberdeen Bureau fingerprint officers discussed what had happened. We were all of the view that the clear message from Ewan Innes was that the identification of Y7 by the Glasgow Bureau was correct and also that he was fully supportive of the Glasgow fingerprint officers involved.
37. During this discussion I told my colleagues that I had the images from the HMA v McKie case. I explained to them that I had received the images from Terry Major, in the circumstances I describe below.

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40. However John McGregor, John Dingwall and I felt strongly enough to prepare a report. We felt that the production of such a report was, in the circumstances, entirely appropriate, given Ewan Innes had seen fit to circulate Peter Swann's Report and accompanying letter.

41. Fingerprint work in Scotland was governed by a code of ethics. This code is contained in the document "*Scottish Fingerprint Service Code of Ethics*", (AN_0001). We were mindful of our overarching duties of fairness, truth and serving the interests of justice. We were all passionate about our work as fingerprint officers and wanted to ensure that we properly understood the position. I was concerned that we were not being told the full story about Y7. There was a real difference of opinion on Y7.

42. We realised that there could be adverse consequences to our actions. However these considerations were not foremost in our minds. We felt that it was our professional duty to report our findings.

(vii) SOURCE OF IMAGES

43. I now explain how I obtained the images used in the report. I obtained the images of Y7 and Miss McKie's left thumb from Terry Major's desk.

Terry Major was the former Chief Fingerprint Officer at the Aberdeen Fingerprint Bureau. I cannot remember the exact date when I took possession of the images but it was sometime prior to Ewan Innes' visit. At the time Terry Major was terminally ill with cancer. I used to visit him regularly at his home. At one time when I visited him at his home he gave me the key to his desk at the Aberdeen Bureau. He asked me to clear out the drawers and bring him his personal belongings.

44. Within Terry Major's drawer I came across an envelope with two photographic images. One was of a latent crime scene mark, the other of an inked fingerprint. When I delivered Terry's personal belongings to his home he explained what they were and how he had been given them by Martin Leadbetter. At this time Terry gave me possession of the images.
45. When I was preparing the Aberdeen Y7 Report I wanted to confirm that these were the images of Y7 and Miss McKie's left thumb. Accordingly I scanned the two images and contacted Pat Wertheim by email. He confirmed that the mark was Y7 and the image of the left thumb was of Miss McKie's left thumb. Pat Wertheim also sent me other images by post. I refer to document Email from Pat Wertheim Headed "fingerprints" dated 23 May 2005 (AN_0002).

(viii) CONTACT WITH IAIN MCKIE

46. As I mention above, ten print forms should be destroyed after a person has been acquitted. I did not feel that it was appropriate to carry out the comparison using an image of Miss McKie's left thumb without permission from Miss McKie. Accordingly I contacted Iain McKie to seek consent. I had only spoken to Iain McKie once before, at a conference at which he had spoken in 2002.

47. Iain McKie stated that he was able to give permission on behalf of Miss McKie as he was mandated to act on her behalf. He stated that we could use the image of Miss McKie's left thumb provided that we provided him with a copy of any report when completed.

(ix) METHODOLOGY OF EXAMINATION

48. All three of us examined the mark independently. The process we followed is described in the report. Only once we had carried out our individual examinations did we disclose the results to each other. We all agreed that Y7 was not made by the left thumb of Miss McKie disclosed on the photograph and that Y7 was a misidentification.

(x) ISSUE OF REPORT

49. The report was issued by us on 27th June 2005. We issued it to the Lord Advocate, then Lord Boyd, the Chief Constable of Grampian Police, the Head of the Scottish Fingerprint service Ewan Innes, the Head of the Aberdeen Fingerprint Bureau David Donaldson and Iain McKie.

50. As a result of the publication it appears that Grampian Police prepared a media statement. I say this on the basis of document "If Asked Statement" dated 28th June 2005 Headed "Shirley McKie Report, (AN_0003). I recovered this as part of my DPA Request.

(xi) CONSEQUENCES OF THE REPORT

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(xii) REPORT ON Q12

76. The Report on Q12 was prompted by a further meeting with John McLean in 2006. At that meeting he admitted that various fingerprint matters needed to be resolved. I felt that at this stage John McLean

could see our point of view. He had previously given us guidance on how he believed we should have progressed our Report on print Y7.

77. In light of his managerial advice we carried out an examination of the print 'Q12' and progressed our report in accordance with the guidance we had been given.

78. We had obtained the images for Q12 directly from Pat Wertheim. We submitted the report to John McLean with an instruction to hand it to the Lord Advocate.

79. We never at any time received any acknowledgment to either of our Reports.

(xiii) FRONTLINE SCOTLAND

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(xiv) PETER SWANN COMMENTS ON ABERDEEN REPORT

107. Peter Swann's written evidence to the Justice 1 Committee of the Scottish Parliament contains various criticisms of the Aberdeen Y7 Report. He alleged that the Report we prepared and submitted was 'flawed'. I am also aware that Peter Swann has produced a similar chart to this Inquiry claiming once again our findings were 'flawed'. I attach at Appendix One a Report I have prepared which refutes the

allegations made by Peter Swann. This appendix should be treated as part of my statement.

(xv) TRANSFER TO SPSA

108. In April 2007 I was transferred to the employment of the Scottish Police Services Agency. There still has been no resolution to the issue. Fingerprint Officers who adhere to the view that Y7 was not a misidentification remain in the employment of the SPSA and continue to give evidence in court.

109. On my transfer to the SPSA I had several conversations with the then Chief Executive David Mulhern. I was greatly encouraged by the stance taken by the SPSA who were acknowledging that print Y7 was indeed a misidentification. This was further emphasised with the implementation of Scottish Fingerprint Service - Action Plan for Excellence in which it states on two occasions that Y7 was a misidentification.

(xvi) VIEWS ON THE "HONESTY OF THE MISTAKE"

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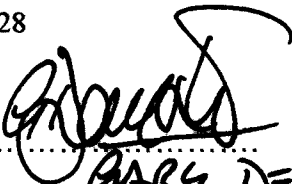
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121. I have no other information that would assist the Inquiry.

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

GARY DEMPSTER

Date

7 NOVEMBER 2009