

The Fingerprint Inquiry | Scotland

TEXT OF LETTER SENT TO THE CORE PARTICIPANTS IN THE INQUIRY ON 3 FEBRUARY 2009

THE FINGERPRINT INQUIRY FUTURE PROGRESS IN THE INQUIRY

Sir Anthony has asked me to intimate the following matters to you.

Chairman's Decision

Sir Anthony has issued a decision in the following terms:-

"This Decision deals with the issue of specialist assistance for the Inquiry.

At the Procedural Hearing on 21 November Mr Moynihan, Senior Counsel to the Inquiry, indicated that consideration was being given to instructing Professor Christophe Champod of the University of Lausanne as the Inquiry's expert witness, and the role that he might fulfil if instructed.

In the light of the reaction to this proposal at the Hearing, I asked Counsel to the Inquiry to reconsider the proposed approach: namely, the use of a single individual, Professor Champod, as the Inquiry's expert witness undertaking all the tasks Mr Moynihan had outlined.

In the intervening period, with the Inquiry team, I have been addressing this matter most carefully, taking into account the views expressed by core participants both at the hearing and subsequently. This has inevitably taken some time.

Fingerprint procedures, in the broadest sense, lie at the heart of this Inquiry. I recognise that various individuals connected with the Inquiry, whether as core participants or potential witnesses, are themselves experts. However, having regard to the specialised subject matter of the Inquiry and my statutory duties, I have decided that it is essential that the Inquiry has, in addition, expert input from elsewhere.

P.O. Box 23902, 44 Drumsheugh Gardens, Edinburgh, EH3 1AB Tel: 0131 528 5260

E-mail: ann.nelson@thefingerprintinquiryscotland.org.uk Website: www.thefingerprintinquiryscotland.org.uk

The Fingerprint Inquiry is an independent public inquiry under the Inquiries Act 2005, chaired by the Rt Hon Sir Anthony Campbell. All correspondence should be addressed to the Secretary to the Inquiry at the above address.

I am not persuaded that there is any substantive reason to rule out Professor Champod. In a specialised area like this it is inevitable that persons may have some sort of association with those involved, or a general interest in the subject matter, but I am satisfied that Professor Champod is sufficiently independent for the Inquiry's purposes.

However I am persuaded that the Inquiry ought not to adopt Mr Moynihan's proposal to use Professor Champod alone. Instead, in order to ensure balance, the Inquiry will proceed with a modified approach, which is to obtain expert assistance from more than one source.

At this stage in the Inquiry's development, I have decided that the tasks identified so far should be distributed in the following way.

Dr Stephen Bleay of the Home Office Scientific Development Branch will be asked to work on various technical tasks – developing negatives, producing high resolution copies of photographs, and examining such of the relevant original exhibits as still exist. The latter is the task outlined by Mr Moynihan on 21 November, “to examine the original material (that is the door frame, the gift tag, the tin and the bank note) to see if any current method could assist in retrieving any better or new image of the marks.” Depending on the outcome of this work, Dr Bleay may be asked to do further work on the original material.

On 21 November Mr Moynihan outlined a review which he proposed that Professor Champod should undertake: “Using the existing reports and also witness statements, Professor Champod will be asked to assist the Inquiry team to identify the specific areas in dispute and to facilitate focused questioning on disputed details at the hearings of the Inquiry.” He went on: “Should there be any experimental work that may help to elucidate matters, then Professor Champod would be asked to carry this out and the results of any such work would form part of his evidence.”

Again in the interests of balance, and recognising that Professor Champod does not claim to be a fingerprint practitioner, I have decided that this review ought to be done by more than one person. Professor Champod will be asked to do the review, but, in addition, my intention is that one or more others, who are fingerprint examiners or practitioners, will also be instructed. That will allow Counsel to have the benefit of a range of views. I am not yet in a position to indicate who the other individual or individuals will be. The Inquiry team are pursuing some leads, but I would welcome suggestions from core participants. If there is not consensus, I will decide upon how many and who should be instructed.

On 21 November, Mr Moynihan indicated that the Inquiry team and I had had a preliminary meeting with Professor Champod. Two points arise from that meeting.

Firstly, Professor Champod presented a layman's guide to fingerprints. I found that helpful and I consider that such a presentation might be helpful at an early stage of the hearings for the benefit of members of the public. I currently consider that Professor Champod should give that presentation.

However, as we go forward, it may emerge that it would more appropriately be given by another, and I therefore reserve my decision on this.

Secondly, I am aware that Professor Champod's research interests include the application of statistics in the analysis of fingerprints. On that topic it will also be my intention to seek evidence from more than one source.

At the Procedural Hearing, Mr Moynihan proposed that "The Inquiry team will review the witness statements, any report from Professor Champod and documented productions to identify ... the 'key issues'. ... The Inquiry team will determine which witnesses they would propose ... to call to give oral evidence and the lines of questioning they would propose to put to the witnesses. That analysis would be circulated to core participants for their consideration and comment."

It seems to me that that approach is appropriate subject to the variation, in the light of my decision above, that Professor Champod will not be the only source of such a report. The analysis will take into consideration the full range of contributions that the Inquiry team receives. Subject to any unexpected developments, I intend that the Inquiry proceed on this basis.

Some of the work that I have mentioned, such as the development of negatives, is technical assistance. However, where opinions are provided or reports prepared for the Inquiry I intend that these will be in writing and made available, and that the authors may be called as expert witnesses at Inquiry hearings. Within the context of law and practice in Scotland, it will be for me as Inquiry Chairman to accept or reject any expert evidence that I receive.

Sir Anthony Campbell
Inquiry Chairman
3 February 2009"

Other matters concerning specialist assistance

On 21 November Mr Moynihan, Senior Counsel to the Inquiry, mentioned various possible ways in which Professor Champod might assist the Inquiry. One possibility was to invite individuals to express their opinions by reference to one standard set of images.

No decision has yet been taken as to whether it will be appropriate to do this. The Inquiry team has received a number of negatives and developed photographic images. Before any decision is taken relating to the possibility of using a standard set of images it has been considered prudent to develop all of the negatives that have been received in order to ascertain the full range of images that is available. Dr Bleay of the Home Office Scientific Development Branch will be asked to undertake this task and produce copies of the available images. When those are available further consideration can be given to the range of images to be used in the Inquiry.

Mr Moynihan also indicated the possibility of using Professor Champod in connection with current procedures at the Scottish Police Services Authority. The Chairman considers that it would be premature to take any decision on this point as the Inquiry is not yet at the stage of ingathering evidence about developments at SPSA.

Update on core participants

Sir Anthony has designated Alan Dunbar as a core participant, and determined that he should be publicly funded by the Inquiry and represented by Mr Holmes of Turcan Connell along with Mr Foley, Mr Geddes, Mr Halliday, Ms McBride, Mr McKenna, Mr Mackenzie, Mr Macpherson and Mr Stewart.

Update on progress and indicative timings

In December 2008, the Inquiry team was supplemented by a number of dedicated statement takers and they are now engaged in the process of taking statements from witnesses. It is anticipated that this process will take some time due to the number of witnesses who have to be located and approached, and the importance of allowing sufficient time for witnesses to give their statements. Over the same period the team will be taking forward the work referred to in the Chairman's decision above.

It is hoped that these two strands of activity will come together around the end of March, and that, about that time, the Inquiry Hearing database that the Chairman mentioned at the last hearing and the analysis referred to in his decision above will be ready for core participants' representatives.

The Chairman's intention is to allow a number of weeks after that for both the Inquiry team and core participants to prepare for the hearings.

Therefore it will be mid-May at the earliest before hearings begin. The Chairman has in mind the week beginning 18th May. His intention is to hold hearings for a maximum of 4 days each week, normally Tuesday to Friday, and probably from 10.30 am to 4pm.

Hearings will be in Maryhill Community Central Hall, Maryhill Road, Glasgow. There will be no hearings on Friday 22nd or Monday 25th May as the Hall is closed for public holidays. Opportunities will be given for core participants and their representatives, and the media, to familiarise themselves with the venue before hearings begin.

Assuming that a start is made in mid-May, it will be possible to hold up to 8 weeks of hearings before the end of the Scottish courts' term on Friday 10 July. The Chairman hopes that that will be a sufficient period for the oral evidence sessions.

It is possible that further hearings will be held during the weeks beginning 17th and 24th August, and/or in the weeks beginning 21st and 28th September. These later hearings, if not accommodated by 10 July, are likely to deal with such matters as recommendations and final submissions.

After that there will be an interval while the Chairman prepares his report for publication and delivery to the Scottish Ministers.

The Chairman mentioned in November the possibility of holding further Procedural Hearings prior to the main hearings. He holds open that possibility should that be appropriate.

The Chairman is keen to make progress as quickly as possible commensurate with allowing adequate time for what needs to be done. He believes that the indicative timings mentioned above are achievable with the co-operation of all concerned to keep matters moving forward.

The information contained in this letter will be put on the Inquiry website on Wednesday 4 February.

Yours sincerely

Ann Nelson
Solicitor & Secretary to the Inquiry