

Mr Jim Wallace QC MSP.
Minister for Justice,
The Scottish Executive,
St Andrew's House,
Regent Road,
EDINBURGH. EH1 DG

27, Donnini Court,
South Beach Road.
AYR KA7 1JP

8 December 2002.

Dear Mr Wallace,

Shirley McKie V the Scottish Executive.

As you are aware the Petition's Committee of the Scottish Parliament is considering a Petition by fingerprint expert Allan Bayle and three other international experts alleging among other things:

'That the current position adopted by the Scottish Criminal Records Office (SCRO) to support their erroneous fingerprint identifications in the cases of Shirley McKie and David Asbury, that - "fingerprint evidence is a matter of opinion" – is unique in the world and isthreatening to the reputation and integrity of Scottish fingerprint and forensic evidence, damaging to the science of fingerprinting world-wide and has the potential to seriously and adversely impact on the administration and fair delivery of justice in Scotland.'

The Petition also seeks through enquiry:

'..... to outline what lessons can be learned regarding openness and accountability within the Scottish Criminal Records Office and how procedures for handling mistakes as outlined in recommendations of Her Majesty's Inspectorate of Constabulary enquiry can best be developed'.

The committee's recent decision to **'defer further consideration of the petition, until the civil action in the courts is concluded.'** was taken after receiving comment from the Scottish Executive.

The petitioners and I have consistently argued that the petition referred to matters not related to my daughter's case. From this decision it is clear that this is not the opinion of the Scottish Executive and now the Petitions Committee.

This leads me to wonder on the ethics and legitimacy of making a decision to defer consideration on information supplied by the very people being sued by my daughter.

Clearly if the issues are linked the Committee should not have asked the Executive for comment on the Petition and the Executive should not have responded.

Whatever the rationale it certainly a continuation of the blocking tactics used by the Executive when ever free speech threatens to break out in respect of SCRO.

This protective stance was previously seen in the Executive's efforts to undermine Michael Russell's application for a Parliamentary Debate.

The Petition issues are however much broader in scope referring as they do to the overall stance taken by SCRO that fingerprint identifications are a matter of opinion and not fact and their perceived failure to follow through the recommendations re accountability and openness made by the HMCI and the Change Management Review Committee established by ACPO(S).

In effect the petitioner's are arguing that SCRO's continued refusal to accept responsibility for their actions threatens anyone seeking justice in our courts where fingerprint evidence is involved.

We are currently in the ridiculous position where four highly paid experts at the SCRO have for two years been unable to carry out any fingerprint duties related to the criminal courts.

Equally importantly the 'Mark of Cain' lies over the SCRO and they are mistrusted at home and abroad.

It is apparent to me that the Executive is determined to deny free speech in the Scottish Parliament in respect of the actions of the SCRO, the Crown Office and the Executive.

This continued denial appears to have much in common with recent well publicised miscarriages of justice in Scotland.

Frankly I believe the Executive's behaviour is becoming a serious political issue in Scotland and I certainly intend to investigate the possibility of raising the injustice profile as election time approaches.

On a personal level I thought you might like to know that the evasive actions of yourself and the Executive continue to bear heavily on Shirley and our family.

Despite your repeated mantra that you cannot do anything I once again ask you to use all of your powers to bring my daughter's civil claim to a fair and equitable conclusion and stop the nearly six years of hell we have suffered.

It is clear that lawyers and insurance companies are controlling the compensation issue and they care little for my daughter or the reputation of SCRO, the Scottish Executive and Scottish Justice.

As we enter a 6th year some form of political initiative is desperately needed to heal this running sore.

You are the Minister for Justice have you the courage and integrity to take that initiative?

Yours sincerely,

Iain A J McKie

Copy: Mr Michael Russell.

**Mr John McAllion.MSP
Convener,
Public Petition's Committee,
Room 5.22
Parliamentary Headquarters
EDINBURGH
EH99 1SP**

**27 Donnini Court,
South Beach Road,
AYR KA7 1JP**

8 December 2002.

Dear Mr McAllion,

PE544 Petition by Mr Allan J. Bayle – Openness and Accountability in the SCRO

As you are aware I was in Edinburgh when the above petition was presented to you. and I left with high hopes that given your involvement we were guaranteed an independent process not influenced by the Scottish Executive.

Your committee's recent decision to **'defer further consideration of the petition, until the civil action in the courts is concluded'** comes as a shock and has prompted me to write.

I am sure that you will understand that this decision, apparently influenced by a reply from the Executive and delivered without any explanation, has been greeted with some cynicism.

The petitioners and I have consistently argued that the petition referred to matters not related to my daughter's case but ones that should be pursued urgently in the public interest.

From your decision it is clear that this is not the opinion of the Scottish Executive and now the Petitions Committee.

This leads me to wonder on the ethics and legitimacy of making a decision to defer consideration on information supplied by the very people being sued by my daughter.

Clearly if the issues are linked the Committee should not have asked the Executive for comment on the Petition and the Executive should not have responded.

Whatever the rationale it certainly a continuation of the blocking tactics used by the Executive when ever free speech threatens to break out in respect of SCRO.

The Petition issues are clearly much broader in scope than the specifics of my daughter's case and refer to the overall stance taken by SCRO that fingerprint identifications are a matter of opinion and not fact. Also at issue is the perceived failure to follow through the recommendations re accountability and openness at the SCRO made by the HMCI and supported in subsequent Police and other enquiries.

In effect the petitioner's are arguing that SCRO's continued refusal to accept responsibility for their actions threatens anyone seeking justice in our courts where fingerprint evidence is involved.

Shirley's case has absolutely nothing to do with these matters and as we enter a 6th year of seeking justice my very real fear is that this matter will continue to drag on and that other innocent people will be subjected to the trauma suffered by Shirley and our family through the incompetence or dishonesty of the SCRO.

I would be extremely grateful if in a spirit of transparency you would answer the following questions.

1. What information did you receive from the Scottish Executive that influenced your decision to defer?
2. What is the evidence you have that my daughter's civil action could in any way threaten an independent enquiry along the lines suggested in the petition or vice versa?
3. Do you consider your decision to be in the public interest given the threat to justice represented by the continued refusal of SCRO, in the face of massive contrary evidence, to admit making mistakes in the Shirley McKie and David Asbury cases?

I would also appreciate it if this letter is brought to the attention of all your committee members.

Yours sincerely

Iain A J McKie

Copy: Mr Mike Russell.

Sir Roy Cameron, QPM BA M.Phil.,
HM Chief Inspector of Constabulary,
2, Greenside Lane,
EDINBURGH EH1 3AH

27, Donnini Court,
South Beach Road,
AYR KA7 1JP

7 December 2002.

Dear Sir Roy,

Inspection of the Scottish Criminal Records office

In response to two recent written Parliamentary Questions from Michael Russell MSP Mr Jim Wallace the Minister for Justice made the following replies.

- 1. HM Inspector of Constabulary will carry out a Review Inspection of the Scottish Criminal Record Office (SCRO) in January 2003. This Review Inspection will address any issues that are outstanding from the SCRO Primary Inspection Report published in May 2001 and the Review Inspection of December 2001.***
- 2. HM Inspectorate of Constabulary (HMIC) will be reporting on its Review Inspection of the Scottish Criminal Record Office (SCRO) in March 2003. SCRO will also be included in the HMIC Race Relations Inspection Report that is due to be published in February 2003.***

I am writing to you to highlight a number of issues that I believe are relevant to your coming inspection.

As you are aware your predecessor Mr William Taylor and the Change Management Review Team (CMRT), established by ACPO(S), in their reports into the Scottish Criminal Records Office laid great stress on openness and accountability, integrity, and culture.

In this respect some important statements were made in the CMRT Report:

13.11.1 A main thread of HMIC's Primary Inspection Report is the need for SCRO Fingerprint Bureau to move away from a historically introspective culture. In doing so it must become more open and engender the principles of transparency and accountability.

13.11.4 At Suggestion 19 HMIC suggests that the adoption of a code of ethics should be an integral part of the change proposed for SCRO.....the introduction of a code of ethics would outwardly demonstrate a willingness and intention, on the part of SCRO Fingerprint Bureau, to aspire to the highest standards of integrity and independence required of a fingerprint bureau.

13.11.6 The CMRT is fully supportive of HMIC's direction towards a more open and accountable service

13.12.1 The fundamental importance of the principles of integrity and independence are highlighted throughout this report and HMIC's Primary Inspection Report.

13.12.18 Erroneous Identifications - The essential element in dealing with erroneous identifications is transparency. When mistakes do occur, for whatever reason, it is imperative that they are dealt with in a rigorous fashion, which can withstand external scrutiny.

13.12.25 While the importance of independent scrutiny is recognised, it is essential that an open culture be encouraged where mistakes of whatever nature are immediately identified and highlighted.

15.5.1 The culture of SCRO has been criticised as being introspective, internalised and elitist and although this may be more perception than fact, the assessment of how an organisation is regarded is critical to its progress and development....

15.5.2 The goal must be to create an organisational culture that has integrity at its heart, is professional, transparent, open to innovation and able to adapt to change.

SCRO's current stance is clear:

1. Fingerprint identification is a matter of opinion and not of fact.
2. No mistakes were made by SCRO fingerprint experts in the Shirley McKie and David Asbury cases
3. No mistakes were made by SCRO personnel in relation to these cases.

Not only does this fly in the face of overwhelming evidence to the contrary but it also provides clear evidence that important lessons have not been learned and that few if any of the recommendations aimed at bringing about openness and accountability have been implemented.

The SCRO's continued failure to admit to mistakes is perverse and is a threat to every person seeking justice in the Scottish Courts where fingerprint evidence is involved.

Could I please have your assurance that the concerns I have raised about the continued failure of the SCRO to implement the HMCI's recommendations in respect of openness, accountability, integrity and honesty will be addressed during your coming inspection and will be referred to in your subsequent report.

Yours sincerely,

Iain A J McKie

Copy: Mr Michael Russell MSP