

The Chief Executive,  
The Law Society of Scotland,  
26 Drumsheugh Gardens,  
Edinburgh, EH3 7YR

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

16 May 2003

Dear Sir or Madam,

**Scottish Criminal Records Office: Credibility of Fingerprint Expert Witnesses**

You will be aware of the ongoing controversy regarding fingerprint evidence in Scotland.

In February 1997 Marion Ross was brutally murdered in her home in Kilmarnock.

David Asbury was arrested and convicted of her murder on the basis of fingerprint evidence.

Following his trial one of the witnesses Shirley McKie, a Police Officer, was arrested and charged with perjury for stating that she had not been inside the murder house at any time. The evidence against her was a fingerprint verified by four experts at SCRO.

In May 1999 Shirley McKie was unanimously found 'Not Guilty' of perjury in the High Court in Glasgow and commended by the trial judge Lord Johnston.

During her trial four experts from the SCRO testified that they had identified a fingerprint found within a murder victim's house as hers.

Their testimony was rejected by the jury after two American defence experts testified that their identifications were erroneous.

In addition forensic and eyewitness evidence proved that Miss McKie could not have been in the house as alleged by the prosecution.

As part of 'BBC Frontline Scotland' investigations 6 further independent experts testified that the SCRO experts were wrong.

In March 2000 the Association of Chief Police Officers Scotland (ACPOS) asked Her Majesty's Chief Inspector of Constabulary (HMCIC) Mr William Taylor to carry out an inspection of SCRO. Mr Taylor called in two further international experts, including Arie Zeelenberg the Head of the Netherlands Fingerprint Unit experts, and asked them to examine the disputed fingerprint. They ruled that SCRO identification was wrong.

The HMCI's report published in June contained the conclusion, **'that the mark was not made by Shirley McKie. It is (the independent experts) view that decision could have been reached at an early point in the comparison process'**. 28 recommendations and 20 suggestions were contained in the report including, **'that all fingerprint experts within the SCRO Fingerprint Bureau should undergo**

**competency testing provided and managed by an external provider as soon as possible.'**

Following publication an apology was issued to Miss McKie in the Scottish Parliament by the Justice Minister and a major overhaul of the fingerprint services at SCRO followed.

In March 2002 164 experts from across the world wrote to the Justice Minister stating that, *'It can be easily demonstrated and proven that the SCRO experts were clearly wrong in identifying the mark as Shirley McKie's and this makes the SCRO defence that it is a matter of opinion false and untenable.'* They concluded, *'If not admitted it will further undermine fingerprint evidence, the Scottish judicial system and the position and credibility of the SCRO.'*

In September 2002 4 international experts petitioned the Scottish parliament to carry out, *'a review of openness, transparency and the admission of mistakes at the Scottish Criminal Records Office.'* This is still being considered.

On 14 August 2002 David Asbury's conviction for murder was quashed after 4 independent experts stated that the SCRO experts had incorrectly identified a fingerprint from Asbury's home as the murder victims. The Crown stated that they could not rely on the body of fingerprint evidence led by SCRO at the trial.

The current position is that the SCRO management state that the experts did not make a mistake in either of these cases and an internal procedural enquiry cleared them of any blame. It is also important to note that all experts within SCRO despite having seen the alleged identifications support their colleague's identifications.

This leaves us in the unprecedented position where we have upwards of 30 experts at SCRO saying that the McKie and Asbury identifications are correct and over 160 others worldwide saying they are wrong.

The reality is that while this position remains and no matter what happens in the current civil actions being brought by Ms McKie and David Asbury, all fingerprint evidence is totally discredited, is clearly unreliable, unsafe and should not be admissible in the Scottish Courts.

I would appreciate your undertaking that you will bring this position to the notice of your members and issue a memorandum giving guidance on action to be taken when fingerprint evidence is offered by the prosecution or defence in Scottish Courts.

I would also request that you contact the relevant authorities to highlight your concern and that of your members that the continued refusal of SCRO to resolve this position in line with world opinion only serves to threaten those seeking justice in our courts and deny society of a valuable forensic identification tool.

Yours faithfully,

**Iain A J McKie**