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Secret report prompts claims of ‘massive cover-up’ in McKie fingerprints case

By Liam McDougall, Home Affairs Editor

A SECRET report commissioned by the Crown Office in 2000 into the case involving former detective Shirley McKie has revealed that a third fingerprint was wrongly identified by Scottish forensic experts.

The Sunday Herald can reveal that staff at the Scottish Criminal Records Office (SCRO) misidentified a print found on a £10 banknote that linked 21-year-old joiner David Asbury to the savage murder of Marion Ross, 51, a Kilmarnock woman, in 1997.

The revelation, which came to light during a hearing in the Court of Session in Edinburgh last week, now means that on three separate occasions in the case – which led to the jailing of Asbury for Ross’s murder and destroyed the career of the police officer – fingerprints were wrongly identified by experts still serving in the Scottish Fingerprint Service.

The finding throws into serious doubt the contention by the SCRO that no misidentifications were made by experts and on the position of the Scottish Executive that the Shirley McKie identification was an “honest mistake”.

Until now, it has only been known that two prints – one said to have been made by McKie on a door frame at the murder scene and a second found on a biscuit tin in Asbury’s house said by SCRO experts to belong to the victim Marion Ross – were in dispute.

In the murder case at Glasgow’s High Court in 1997, SCRO experts argued that the Strathclyde detective had been in the victim’s house. She denied this in evidence and was later charged with perjury – a charge she was cleared of after a trial.

However, the case led to McKie being ostracised by the force and facing continual claims that she had lied about not visiting the scene. She has undergone psychological treatment and medication for depression and anxiety. The SCRO maintains its identification of McKie’s print was accurate.

Also during the murder trial, the SCRO had claimed that a fingerprint belonging to Marion Ross was found on the lid of a biscuit tin that was discovered in Asbury’s house.

The prosecution alleged that the Marks & Spencer tin – which was filled with £1400 – belonged to the victim and provided a motive for the murder. Asbury

had claimed that the tin was his own, the money was his life savings, and was to have been spent on a new car.

In June 1997, Asbury was jailed for life, but was freed in 2000 after Danish fingerprint experts cast doubt on the SCRO's view that the mark on the tin belonged to Ross.

In a new twist, it has been revealed that the Danish forensic team also confirmed that another print said by the SCRO to belong to Asbury was not his.

The evidence now also raises serious questions about why the report, which has been known to Scottish ministers, the Crown Office and the SCRO since 2000, was never made public.

Last night, justice minister Cathy Jamieson, and Colin Boyd, the lord advocate, were under mounting pressure to make immediate statements to parliament about the findings.

Opposition politicians said the news of a third disputed fingerprint in the one murder case pointed to "one of the most massive cover-ups in Scottish criminal history".

According to the report, dated August 2000, two experts – Kristian Rokkjaer and Frank Rasmussen – from the Fingerprint Department of the Danish police travelled to Scotland to examine the SCRO evidence in the case.

Of the banknote print, their report states: "On the photograph marked QD2, at least four clear details were seen. These details cannot be found on David Asbury's right little finger, nor on his other fingers as indicated in the SCRO's report." It concludes: "The fingerprint marked QD2 does not originate from David Asbury."

On the Marion Ross print found on the biscuit tin, they say: "Some of the entered and numbered details cannot be seen on the fingerprint from the tin, and likewise there are details on the tin which are not entered and cannot be seen on the fingerprint taken from the deceased, Marion Ross."

The Danish experts also cast further doubt on the SCRO evidence by saying that other fingerprints identified as being made by Asbury "cannot be determined" as belonging to him.

The new evidence is set to be used by Asbury's lawyer, Cameron Fyfe, who is preparing a £150,000 case against the four SCRO fingerprint experts who provided the evidence in the case.

Fyfe said: "If this report provides evidence of a third alleged error, this would strengthen our case considerably."

The contents of the report are also set to be used by the lawyers of Shirley McKie, who are currently involved in a £750,000 legal action against the Scottish Executive. They allege that the prosecution brought against Shirley

McKie for perjury in 1999 resulted from malicious behaviour by six experts from the SCRO.

Although that case is due to begin at the Court of Session in Edinburgh next month, the Executive has begun talks with the family to settle out of court.

The revelation about a third wrongly identified print in the case will cast doubt on the argument being put forward by Scottish ministers that they believe the McKie misidentification was an "honest mistake".

Critics last night said it was clear that a "pattern" was emerging in the police investigation of Marion Ross's murder.

The latest news about the Marion Ross case follows a series of investigations by the Sunday Herald into fingerprint evidence.

In March last year, Allan Bayle, one of the UK's leading fingerprint experts, said that evidence that was currently being prepared by the SCRO for court was "falling short" of basic standards.

Neither Asbury, nor the family of Ross could be reached for comment.

Iain McKie, Shirley's father who is a former policeman, said: "How many more mistakes are going to be found before the SCRO admit that they were wrong and bring this saga to an end?"

Mike Russell, the former MSP who has been a supporter of the McKie family, said it was clear that something was "very, very badly wrong" in the SCRO.

He added: "This can no longer be explained by happenstance, there is a pattern to it now. Even those who a year ago were doubting Shirley must now see that she has been vindicated.

"It shows that with enough careful digging, the truth will always out in the end."

Alex Neil MSP called for the justice minister to order a top-level inquiry into Scottish fingerprint evidence.

"Given that this information has been available to the lord advocate and the minister for justice, as well as other members of the fingerprint establishment in Scotland since 2000, why was it not made public?" he asked.

"It's further proof that there is a massive cover-up going on. Unless the lord advocate and the minister for justice make parliamentary statements on all of these matters their own positions will come into question."

Last night, the Scottish Executive and the Scottish Criminal Records Office said they could not comment as a civil action involving Shirley McKie was ongoing.