

30 January 2006

- **One week to go before Shirley’s civil hearing against 6 experts from the SCRO starts on Tuesday 7 February.**

Now 9 years after Marion Ross was brutally murdered in her home in Kilmarnock Shirley will finally face her former accusers across the floor of the **Court of Session** in Edinburgh.

While there is understandably a deep regret that the trauma of a 5 week hearing could not be avoided there is a sense of satisfaction that at least an end is in sight and those involved in this case will, hopefully, at last be free to get on with their lives.

- Following last week’s revelations by **Liam McDougall in the ‘Sunday Herald’** of a third mistake and with only one week to go we thought that no more twists and turns were possible in the case but we were wrong.

<http://www.shirleymckie.com/documents/SundayHerald22.1.06.pdf>

This week it was revealed that **DNA tests** carried out earlier this month on a tin found in accused David Asbury’s home and alleged by the Crown Office to belong to the victim Marion Ross had failed to reveal any trace of her DNA when examined by England’s **Forensic Science Service**.

As an **American expert** commented in last week’s update, “*It just gets crazier and crazier, doesn't it.*” It seems clear that such tests should have been carried out years ago. Why wait until now when there is such a mass of overwhelming evidence against the original Police case? This said we stopped being surprised years ago at decisions made on behalf of the Executive, Police and SCRO.

- Even before Iain has a meeting tomorrow with a representative of the **Scottish Information Commissioner Kevin Dunion** yet more Freedom of Information refusals have been received from the **Scottish Executive**. In their latest letter the Executive explain their assessment of the ‘**public interest test**’.

‘This exemption is subject to a public interest test. Accordingly I have weighed up both the public interest in disclosure and in withholding and found that it falls in favour of withholding the papers. Whilst it is acknowledged that there is a public interest in information and discussions on topics being accessible, in this case that interest is outweighed by the interest in ensuring there is a forum in which frank discussion and exchange of views can be undertaken.’

Such bureaucratic thinking does not allow for a **case to case** look at the facts and circumstances. Absolutely no account is taken of the **Executive’s culpability** in bringing about the situation that made it necessary to make Freedom of Information requests. Allowing papers to be released on a case to case basis - where there is Executive culpability – does not of course destroy any forums but hopefully results in more **openness and accountability**. Given that the decisions whether documents are released are made by employees of the Executive it comes as little surprise so many refusals are made.

In the final analysis it is clear that many answers to the question, ‘*why has Shirley been treated the way she has for over 9 years?*’, are contained **in the 1000+ documents** so far refused by the Scottish Executive, SCRO and the police. Will we ever know the answers?

- As we did last week we end with an extract from one of the many letters of support Shirley receives:

As the windows are opened and light finally shines into the abyss that is the Scottish Government offices, they will be forced by legal action to disclose fully for all to hear.

The record of the impending proceedings will speak volumes to what damage can be brought by the few. Let justice be the remedy.

- Iain will be resident in Edinburgh for the next few weeks and hopes to provide a **daily update** from the Court of Session. As always we look forward to hearing from you at : justiceforshirley@btinternet.com