

Sunday Herald 5.10.03.

New concerns over fingerprinting

Demands for Lord Advocate's resignation after independent expert insists fingerprint evidence is clearly 'unsafe'

By **Neil Mackay**, Home Affairs Editor

THE Scottish Criminal Records Office has been savaged over the validity of its fingerprints evidence leading to calls for the head of the Lord Advocate, an inquiry into Scottish forensics and the suspension of leading fingerprint experts.

The furore follows the case of Mark Sinclair, who was found guilty on Friday at the High Court in Ayr of carrying out a series of armed bank robberies across southwest Scotland.

Two experts from the Scottish Criminal Records Office (SCRO) analysed a fingerprint lifted from the scene of one of the robberies and concluded that they had "no doubt" that the print belonged to Sinclair.

However, Sinclair's defence team then sought independent analysis of the print from Allan Bayle. He is a forensic scientist, a fellow of the Fingerprint Society, a member of the International Association of Identification and the Society of Expert Witnesses.

He is also a former fingerprint officer with New Scotland Yard and lecturer in fingerprints at the Metropolitan Police training school. In his report for the defence team, he wrote: "I conclude this identification to be unsafe."

After Bayle gave his report, the Crown sought a second opinion on the print from the Police Service of Northern Ireland. Two fingerprint officers from the PSNI's fingerprint bureau wrote in their report: "It is our joint opinion that there is insufficient detail in the finger mark to make a positive identification."

The controversy follows the case of Shirley McKie, a Scottish police officer, who was charged with perjury after claiming she did not leave a fingerprint behind at a murder scene. She was acquitted after American experts said the print did not belong to her. The case led to an overhaul of the SCRO's fingerprinting system.

After the Northern Ireland police fingerprint experts concluded their report, Sinclair's QC, Ian Hamilton, wrote to the Lord Advocate, Colin Boyd, reminding him of the McKie case.

Hamilton wrote: "After the failure of the SCRO in that case, assurances were given. Despite such assurances the SCRO is again under challenge." He added that although fingerprint evidence was not led in the case "there must be past, present and future cases where the opinion of the SCRO is in issue".

Hamilton told Boyd that it was his "duty to make public this matter" and warned that he would take the issue to the press unless Boyd took action. Boyd has not replied to Hamilton's letter which was dated September 19.

Last night, Hamilton told the Sunday Herald: "If the Lord Advocate cannot make a statement on a case as important as this then I am dismayed. Yet again, the SCRO has shown that it cannot be relied upon.

"I am disappointed that the Lord Advocate has neither replied to my letter nor apparently taken any heed of this further failure of our fingerprint division."

SNP MSP Alex Neil has seen all the reports in connection with the Sinclair fingerprint case. He says he privately briefed the deputy justice minister Hugh Henry about the controversy 10 days ago, but no action has been taken.

"We need urgent action to find out why the SCRO are making blunders," he said. "Heads need to roll. What has happened begs the question 'how many Shirley McKies are there banged up in prison due to inaccurate information from the SCRO'.

"In every court in the land where SCRO evidence is given, it will now be questioned. All their evidence is being brought into disrepute.

"This can only end in legal anarchy in the courts. I will be raising this issue at First Minister's Questions on Thursday, but in the meantime, those responsible should be suspended pending an urgent inquiry into this alleged level of incompetence.

"We have to remember that we are dealing with people's lives. Have we learned no lessons from the Shirley McKie case?

"The Lord Advocate must carry his share of the responsibility and deliver answers or his own position must be questioned.

"If Crown Office has not taken appropriate action after the McKie case then the Lord Advocate should be forced to resign. This has happened on his watch and it is he who has to carry the can."

The Scottish Executive said the issue was not a matter upon which it could comment, adding it was for the Crown Office to deal with.

Strathclyde Police also said it was not an issue on which the force could comment.

SCRO's director, Harry Bell, said: "Fingerprint evidence in this case was given to the Crown for consideration. It is entirely up to the Crown what evidence they present in court."

A Crown Office spokesperson said: "There was a difference of opinion between fingerprint experts in this case and the Crown decided that as it did not need this evidence it would not be used.

"It does not follow from that decision that the Crown thought that SCRO experts had made a mistake. It is not unknown for experts to disagree."

The Crown Office added that following a review of the SCRO in the wake of the McKie case "a number of improvements were made to procedures. The Lord Advocate instructed a quality check of all SCRO evidence by independent experts. This process demonstrated that evidence provided by SCRO was of the highest quality".

05 October 2003