

**'There's Nane Ever fear'd that the Truth Should be Heard
But They Whom the Truth Would Indite'**

I 'd like to **open** by **thanking** the **Fingerprint Society** for inviting me here and for helping ensure, **'that the truth will be heard'**.

I **applaud** you for giving me this **platform**.

I **applaud** people like **Dave Charlton** who have **encouraged** my attendance.

I **applaud** those amongst you who have **supported Shirley** in her fight for justice.

I **applaud** all of you attending today who **believe** that **openness and accountability** is the only way forward for the UK fingerprint profession.

I will never forget that in our hour of need experts like **Alan Bayle, Ron Cook, Pat Wertheim, David Grieve, Ed German and the 14 experts from Lothian and Border's Police** had the courage and integrity to speak out.

What happened to **Allan Bayle, pressurised** from his job by the Metropolitan Police and to the **Lothian and Border's experts, criticised** for embarrassing **their Chief Constable**, only serves to show how little regard is paid to the principle of **openness and accountability** is in some of our **major fingerprinting organisations**.

Does the **subsequent vilification** of many of the **others** prove how much there is to hide?

In reality as a **profession** you have **little to fear** from your **critics**. You have **everything to fear** from those among you like **SCRO** who by their denials are more effective in **destroying** your **credibility** than a thousand critics.

My comments and criticisms are not directed at the **vast majority** of experts who I know carry out their duties with **honesty and integrity**.

They are directed at the **systems** under which they operate and the **few** who seek to **turn** that **system** to their own **advantage**.

I **trust** my **presentation** will be a **challenge** to each and every one of you and I **look forward** to debating with you when I hope you **will return that challenge**.

Had fingerprinting been **challenged** in the UK then perhaps **Shirley's trauma** would **never** have **happened**.

Please remember this is **one mans view** I am not a **fingerprint expert** but a **father** whose daughter was brought to the **edge of suicide** by a system that was shown to **be incestuous, secretive and ineffective, inefficient** at best.

I will speak for about **45 minutes** leaving **plenty of time** for **questions and debate**.

When I was searching for a title for this presentation I was presented with a few alternatives.

'I come to bury Caesar not to praise him.'

But thought it a bit contentious.

I dismissed **'Even when all experts agree they may be mistaken'** as too profound.

In the end I turned to Robert Burns :

There's Nane Ever fear'd that the Truth Should be Heard But They Whom the Truth Would Indite'

The only people **afraid** of the truth are those who that **truth exposes**.

In my presentation **I will lay out the truth** as I see it.

I **hope** you will be equally **passionate** in expressing your **beliefs and feelings** in the debate that follows.

On a **dark winter's afternoon in December 1998** my daughter **Shirley** stood quietly at the edge of the sea **near her home in Troon**.

A **bitterly cold wind** blew off the **snow-covered** peaks on the **Island of Arran** a few miles out to sea but **Shirley felt nothing** as she **contemplated her future**.

Once a **highly rated Detective** she was **facing the ultimate nightmare** for a Police officer – **prison**.

Shunned by her former boy friend and Police colleagues, **bullied** by senior police officers - the might of the **Scottish Prosecution System** lined **against her**.

Six months away from trial for **perjury** at **Glasgow High Court**.

No defence other than **'the silly little girl' defence** suggested by her lawyers. **"Just say you were there and must have forgotten. It is your only chance."**

Years of fighting for the truth to end in a lie,

All because of a fingerprint!

Shirley contemplated the **water** lapping at her feet and for the **first time** in her life **saw oblivion** as an **option – the only escape from a living nightmare**.

God knows what **lights our way** at times like this but **Shirley turned from the raging sea** and left the windswept beach to **continue her search for the truth.**

A **few days** later via the **internet** she made her first contact with **‘Pat Wertheim’**

Little did **she know** then that her prayers and those of her family had been **answered** and that **through** the **Internet** so many experts from across the world. would **support her** search for the truth

Shirley’s troubles had started in **February 1997** when a **mark at** the scene of a **particularly brutal murder** had been identified as hers. Although she had been working on the investigation **she denied** ever having been **in the house.**

Four experts from the **Scottish Criminal Records Office known as SCRO** made the identification.

During my 30 years Police service I had never doubted their **integrity or efficiency.** I well remember as a **detective** having a **fingerprint identified** was cause for **celebration** and a **speedy arrest.**

Shirley’s battle against the **Scottish Criminal Records Office** was vividly **documented** on two BBC **Frontline Scotland** TV Specials and most recently on **‘Panorama’** the BBC’s most prestigious current affairs programme enjoying a **world-wide audience.**

VIDEO

The Campaign

Our **campaign** to have the truth heard **started** when Shirley’s print was first identified in **1997** and continues to this day. It has been **five frightening and frustrating years.**

Two incidents are **etched** on my memory.

I was on a **Ferry returning** from holiday in **Ireland** Shirley **phoned** to say she had been **arrested in a dawn raid.** Two female Police officers had watched her doing the **toilet** and **showering** She was **taken** to a **police office** where I had been the **commanding officer** and where friends worked, was **strip searched and thrown in a cell.**

I felt helpless I had let my daughter down.

Even with the **testimony of Pat Wertheim and David Grieve** Shirley’s **three-week trial** for perjury was a **nightmare.** Although I knew she was innocent the **fear of losing my daughter** was overwhelming.

The **unanimous ‘Not Guilty’** verdict came on my **birthday** 14, May, 1999 a day I will never forget.

Foolishly we thought that the ordeal was over.

Apologies would follow, the **problems at SCRO** would be sorted out and **Shirley would get on with her Police career.**

Soon after the trial I wrote to **Lord Hardie**, who as **the Lord Advocate** was responsible for criminal **prosecution in Scotland** and who was in charge of the **Lockerbie Pan Am** investigation, **asking him to review Shirley’s case** and take **action** against the **Scottish Criminal Records Office.**

He replied,

‘I can confirm that the Lord Advocate does not propose to prevent the citation as prosecution witnesses.....officers from the SCRO who gave evidence for the crown in this case. The Lord Advocate does not propose to instruct the review of the findings of those officers in relation to other cases.....The Lord Advocate does not intend to publish details of his investigations.’

Such is the **power of a fingerprint** and the **arrogance of the Scottish Justice System.**

I wrote **letter after letter** to the **Police**, the **prosecution authorities**, the **Scottish Minister for Justice**– all received the same **arrogant uncaring** replies.

The **Scottish Justice Minister** was inundated **with letters** from all over the **world.**

Mike Russell our member of the Scottish Parliament **lobbied** on our behalf.

The **BBC** broadcast **two ‘Frontline’** programmes demanding an **enquiry** into the **McKie and Asbury cases.** We gave **dozens of TV and radio interviews.**

There were literally **hundreds of articles in the papers** and we held **three press conferences** at critical times.

The **Internet site at onin. com** grew as **hundreds** of you contributed your opinions.

With the **threat of legal action** hanging over us the **Internet** gave us the **voice denied by the system.**

We **conducted** our **campaign** in the full **glare** of the **media spotlight** and had it **not been** for the **media** I doubt if the **truth** would ever have been **heard** and the **guilty revealed.**

Others hid from that glare and then **complained** that they were not fairly represented.

I believe the **Society** was wrong to stop BBC '**Panorama**' from attending this conference. It will **not stop** their **investigations** and will only give **more space** to the growing band **critics** of your profession to make their case.

Finally in **February 2000** following **three years** of campaigning the authorities were **forced to act**. **Her Majesty's Inspector of Constabulary (HMIC)** conducted an **inspection** of SCRO on **22 and 23 May 2000**.

In an **August report** the HMIC concluded that:

'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.'

Twenty-five recommendations and 20 suggestions were made focussing on:

- **Structure within the Bureau**
- **Corporate identity and independence**
- **Procedural Guidelines**
- **Administrative Support**
- **Supervision**
- **Training**
- **Competency Testing**
- **Quality Assurance**
- **Standards**
- **Audit**
- **Openness/Accountability**
- **Conflict Resolution**

Among the more **notable recommendations** were:

'that a centralised model for a national fingerprint service be considered.' (paragraph 2.15.11)

'that a national Guidance Manual on Fingerprint Standards and Procedures to be issued.' (paragraph 5.11.3)

'that an independent review process to deal with all erroneous and disputed fingerprint identifications be developed.' (paragraph 5.20.4)

'that all fingerprint experts within the SCRO Fingerprint Bureau should undergo competency testing provided and managed by an external provider as soon as possible.' (paragraph 8.8.3)

‘that managing the change to a non-numeric standard should be addressed at a very early point.’ (paragraph 6.9.3)

‘that the important area of court presentation skills be given a new impetus.’ (paragraph 6.9.3)

The **executive response**, though flawed, **worthy of recognition**.

www.scottish.police.uk/mainframe.htm (go to ‘ACPOS - News and Campaigns’ – ‘ACPOS Presidential Review of SCRO’) as providing the best overview to date.

When **Her Majesty’s Inspector re-examined** the Scottish Criminal Records Office (SCRO) **5 months** later in December 2000 he concluded:

‘The action since the HMIC Inspection has been positive and wide-ranging.’

‘HMIC is satisfied that a structured programme is in place to address the recommendations and suggestions, that the task is being approached enthusiastically and vigorously and that much has been done to make progress.’

While he **accepted** that **further improvement** was required in specified areas he **concluded**:

‘HMIC will re-visit the issues identified by the Inspection of the Fingerprint Bureau and this Inspection.....at the Review Inspection in December 2001.’

‘Taking into account the performance of SCRO as a whole HMIC considers that in terms of Section 33(3) of the Police (Scotland) Act 1967 SCRO is efficient and effective.’

Only **five months after** the most damning report into a British fingerprint unit had been delivered and while the **criminal enquiries** had not been **completed** and **SCRO** supervisors and experts were still **refusing to admit** they had made a **mistake SCRO** had suddenly become **effective and efficient**.

And so the story ends or does it?

Will the **Shirley McKie case**, the **Asbury case** and the ongoing **Alan McNamara** miscarriage of justice act as a **wake up call** to those of you who **value honesty, integrity and openness** in your profession.

There is little doubt that our campaign **opened up** the **British Fingerprint service** to **unprecedented analysis and examination** and it was **found** sadly **lacking**.

The fact that an **innocent man** is **languishing in jail** **underlines** all that is **wrong** with the **British Justice System** and **fingerprinting**.

Arrogance and complacency and a **blind belief** in the **infallibility** of the British Expert.

So what do we do about it?

I believe that there needs to be a **fundamental shift** in the **philosophy and culture of secrecy and arrogance**, which underpins the British prosecution system. It is an insular system with a strong survival instinct built up over many years. My **thesis is a simple one**:

Fingerprinting is in crisis in the UK and a number of factors are contributing:

1. **Lack of challenge has led to complacency and arrogance and to a lack of understanding about the science at every level. Standards have slipped and not been updated to accord with effective practice.**
2. **Fingerprinting has been accepted by the Police, the prosecution, defence lawyers, the courts and jury's as infallible – the myth of infallibility.**
3. **Challenge to institutions like the Royal Family, medicine and the law is becoming more the rule rather than the exception. Now fingerprinting is being opened up to scrutiny. This process cannot be reversed.**

In the UK if you have been indicted on the basis of a fingerprint the onus of proof shifts to being guilty until you can prove your innocence.

The **McNamara case** is tragic **proof** of this.

In my daughter's case I believe the system tried to isolate the **four experts**. **Many other individuals and organisations** have a responsibility.

SCRO supervisors

Association of Chief Police Officers Scotland (ACPOS)

The Chief Constable Strathclyde Police

Her Majesty's Inspector of Constabulary (HMCI)

The Lord Advocate and the Crown Office

The Scottish Executive.

Lawyers and the legal system.

Metropolitan Police – supervisors of the Fingerprint Branch.

Independent Fingerprint Experts.

The Fingerprint Society

Time only allows me to **comment on a few**.

SCRO Supervisors

To this day there are those within SCRO who **do not admit to mistakes** being made. **Many** of them are **still supervisors**.

I hold these supervisors responsible for the crisis at SCRO.

These are the people who **canvassed the world excusing their actions and hiding their culpability.**

There is evidence that their had been a **culture of bullying and cutting corners** for years.

Let us look at some of the evidence they are denying.

On 14, May, 1999, Shirley was unanimously cleared of charges of Perjury by her peers. The only evidence against her was a mark identified by SCRO as Shirley's.

Prosecution forensic evidence presented by a scenes of crime officer at Shirley's trial proved that the mark could not have been left by Shirley.

Experts throughout the world including Arie Zeelenburg, Torger Rudrud, Pat Wertheim. David Grieve, Allan Bayle, Ron Cook, Ed German et al have all testified that SCRO got it wrong in the cases of Shirley McKie and David Asbury.

Hundreds of other experts from across the world have joined in the condemnation of SCRO via the internet.

Three major TV programmes and hundreds of press articles have unanimously challenged SCRO.

The Independent Enquiry conducted by the HMCI concluded:

'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.'

Perhaps the most **damning comment** comes in a report to SCRO by a **world-renowned expert** who stated:

'The persistence of the SCRO staff that they have made no mistake and that the rest of the world is wrong has to be crushed in order to start the creation of another culture.'

Three weeks ago the **Lord Advocate Colin Boyd** stated,

'The BBC Frontline Scotland programme on the case of Shirley McKie.....changed public perceptions of her case. More importantly it helped uncover what where at best serious defects in the analysis of fingerprinting a the Scottish Criminal Records Office and forced the authorities, including myself, to act to ensure that such a case would not happen again.'

How much more evidence is required before **admissions** are made, the **guilty** are **punished**, **healing** is started and this whole **sordid mess** can be laid to rest?

I would **welcome** your **comments**.

The Fingerprint Society

I see the reluctance of the Fingerprint Society to act in the face of such overwhelming evidence as equally difficult to comprehend.

The **Society rules and codes** of conduct are clear

‘Members shall exercise all reasonable skill, care and diligence in the discharge of their duties, and, in so far as any of these duties are discretionary, shall act in good faith. (Rule 2)

‘Members knowingly condoning a breach of this code by fellow principles or employees shall be responsible as if they themselves had committed such a breach.’ (Rule 8)

As an organisation the **Society** has a **responsibility** to **ensure** that its **members have integrity and are trained and competent**. If they are **not** they must **implement these codes** to ensure that the public are protected.

If the **Fingerprint Society** or any other representative organisation **lacks the structure or the will** to effectively monitor the work of its members then I must **question its value and legitimacy**.

The Bristol Heart scandal report stated:

‘There was enough information from the late 1980s onwards to cause questions about mortality rates to be raised both in Bristol and elsewhere had the mindset to do so existed.

As I have indicated above more than enough **evidence has existed for over 3 years** to prove the culpability of the SCRO experts and their supervisors. **I must assume** that as in Bristol the **mindset does not exist** .

Lawyers and the Legal System

Michael Mansfield has stated that with a **few notable exceptions**, lawyers show **little** or any **interest in understanding or challenging fingerprinting**.

Unless challenge becomes the norm injustice like the Alan McNamara case will continue occur.

While Simon Cole's 'Suspect Identities' has been broadly criticised by the fingerprint community

and is **flawed and biased** it offers a **valuable challenge** to the 'science' of fingerprinting in the UK.

As Cole properly **points out:**

'The Shirley McKie case brought the Anglo-American divide over methodology into sharp relief.....Judge, juries and the general public , only dimly aware of these potential problems, continued to demonstrate boundless faith in fingerprint evidence and enormous trust in latent finger-print examiners.'

Metropolitan Police

Allan Bayle then a senior fingerprint expert at Scotland Yard was the **first UK expert to speak out** in Shirley' support. For this he **was threatened with discipline. Complaints** about this oppressive treatment have been virtually **ignored**. Mr Bayle has **now resigned from the fingerprint service** specifically because of the disgraceful way he was treated.

Independent Experts

Two so called independent experts in the UK, agreed with SCRO's **mis-identification**.

One of them a **Fellow of the Fingerprint Society**, apparently maintains he was right to this day.

The other had the **integrity** eventually to **admit** he was wrong and wrote,

'When the First Minister in Parliament stated that the fingerprint in question did not belong to Ms McKie it clearly indicated that I had made a terrible mistake.

There is nothing I can say or do that can undo the wrong that you, your daughter and family have suffered other than my heartfelt sympathy and sincere regret.'

I await a similar letter from the Fellow of your society.

I suggest that **too many independent experts are resting on past glories, real or imagined and have failed to keep up to date with current developments and training.**

Often their **previous service** aligns them philosophically with the **Police** and they simply **cannot accept** that '**experts**' employed by major police organisations and supposedly subject to rigorous checks and supervision **can get it so wrong**.

Arrogance and complacency underpins the whole system and threatens every suspect seeking a defence.

Again I would welcome comment during the debate.

I believe the Alan McNamara case proves the truth of this statement.

OPENNESS, ACCOUNTABILITY and ETHICS

I have always placed a **change in culture** as a central plank of establishing a **British fingerprint service** that is **open, accountable and ethical**.

The **problem** for any organisation of course in trying to introduce ethics and a new culture is that to a great extent **organisational culture** is set by **the leading institutions** of that country.

Over 100years ago the English commentator **Walter Bagehot** speaking about our Royal Family said,

‘If you begin to poke about it, you cannot reverence it. Its mystery is its life. We must not let in daylight upon magic.’

This **aura of magic, this myth of infallibility**, has been bestowed on all of our main institutions like medicine the law but is now being challenged.

‘Your own profession must share much of the responsibility for this complacency and basking for so many years in the reflected glory of being almost above criticism.’

David Grieve has said:

‘Assumption of absolute certaintyhas achieved such a ritualistic sanctity that even mild suggestions that its premise should be re-examined are instantly regarded as acts of blasphemy. Whatever this may be, it is not science.

(David Grieve)

Fingerprinting maybe a **science** but it exists in a **culture and philosophy in which legitimate challenge and debate has been stifled and ‘absolute certainty’ is assumed.**

The mantle of infallibility has allowed arrogance, complacency and bad practice to develop.

I can do worse than quote again from the report into the **Bristol Heart scandal**:

‘The story of the paediatric cardiac surgical service in Bristol is not an account of bad people. Nor is it an account of people who did not care, nor of people who wilfully harmed patients. It is an account of people who cared greatly about human suffering, and were dedicated and well-motivated. Sadly, some lacked insight and their behaviour was flawed. Many failed to communicate with each other, and to work together effectively for the interests of their patients. There was a lack of leadership, and of teamwork.’

I believe this is also the story of the **UK fingerprint service**. I can only **hope** that as in Bristol the **lessons will be learned**.

When my daughter left the dock in the High

Court in Glasgow **Lord Johnston** took the unusual, step of saying:

"Shirley McKie.....personally I would like to extend to you my respect for the obvious courage and dignity which you have shown throughout this nightmareI very much hope you can put it behind you. I wish you all the best."

I believe that **thanks to Shirley's courage** and that of her **supporters** her **nightmare might be coming to an end**.

It is the experts – your responsibility - to ensure that such nightmares of Shirley McKie and Alan McNamara are not repeated.

Abraham Lincoln famously said,

"To sin by silence when they should protest makes cowards of men".

To those of you who did not 'sin by silence' my sincere and undying thanks.