

**Scottish Parliament
Official Report**

Thursday 22 June 2000

[THE PRESIDING OFFICER *opened the meeting at 09:30*]

Scottish Criminal Record Office

The Presiding Officer (Sir David Steel): I am afraid that we are running a bit behind time. I call the Deputy First Minister to make the emergency statement that has been requested.

12:23

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): On 24 February, the First Minister, in response to a question from Allan Wilson, informed the Parliament that in response to public concern about the case of Shirley McKie, Her Majesty's chief inspector of constabulary, William Taylor, was to commence an inspection of the fingerprint bureau of the Scottish Criminal Record Office, which would include an examination of the circumstances of the McKie case. I provided more detail in a reply to a question from Mike Russell on 22 March.

Members may recall that the McKie case concerned the acquittal of Shirley McKie who, as a constable of Strathclyde police, had been charged with perjury. The charge related to an allegation that Shirley McKie had visited a crime scene to which she had been refused entry. An important element in the case against her was evidence provided by the Scottish Criminal Record Office that the mark of a fingerprint found at the crime scene matched her fingerprints. During the trial, expert witnesses called by her defence testified that the crime scene mark and the fingerprints of Shirley McKie did not match and that the crime scene mark was not made by her. She was acquitted. That raised doubts about the accuracy of the SCRO's identification. In response to those concerns, the Executive asked Mr Taylor to bring the inspection forward.

The time scale for the inspection was three months. I was informed yesterday by Mr Taylor that the inspectorate's work is now complete and that he expects the report on his inspection to be published in six to eight weeks' time. However, the inspection included findings in relation to the Shirley McKie case and, having regard to the position of Shirley McKie and her family, who have pressed for an independent inquiry, and to the public interest in this case, Mr Taylor felt that he should announce the findings that were emerging from the inspection as soon as he was in a position to do so. They were announced earlier this morning.

Arrangements were made to brief the McKie family and staff at the SCRO as part of this process. I know that a number of members are concerned about the McKie case for constituency reasons, and of course it is of wider interest

to us because of the importance of the SCRO in detecting crime. It is for that reason that I felt that we should inform members of the findings at the earliest opportunity, although what I am able to say is necessarily constrained by the fact that we do not have the full report.

Her Majesty's inspectorate of constabulary was assisted in its work by fingerprint experts from jurisdictions outwith Scotland. Three were asked to provide independent advice on fingerprint methodology and processes. Two of them were asked to give an expert opinion on the McKie case. The opinion of those experts was that there was sufficient detail in the crime scene mark involved in the McKie case to make a fingerprint identification, but that that mark had not been made by Shirley McKie.

In addition to announcing this finding, Mr Taylor indicated that the inspection has led to a number of other findings. They include the need for improvements in training, testing and quality assurance measures at the SCRO; consideration of a centralised fingerprint service for Scotland, which would assert the corporate identity and independence of the SCRO; a planned move towards the introduction of a different evidential standard for fingerprints in Scotland; strengthened administrative support for the fingerprint service; and the need to set up a task force to take forward the changes that the inspectorate recommends. In summary, Mr Taylor concludes that at present the SCRO fingerprint bureau

"is not fully effective and efficient."

Members will appreciate the seriousness of these findings. Fingerprint evidence is a vital tool in detecting and prosecuting crime and Scottish forces must be able to rely on fingerprint services that meet the highest standards. Following a briefing from Mr Taylor, I was able to discuss his findings with Sir Roy Cameron, secretary of the Association of Chief Police Officers in Scotland, yesterday evening. Sir Roy told me that ACPOS has decided to set up a review group under its incoming president Mr William Rae, the chief constable of Dumfries and Galloway constabulary. That review group is to take forward work on all the findings. It will discuss its work with the SCRO executive committee, which is responsible for overseeing the work of the office. A special meeting of that committee is being arranged to consider the findings. We in the Scottish Executive will do what we can to assist, although all of us will wish to have the opportunity to study the full report when it is published in deciding what more may need to be done.

Clearly, the findings may be felt to raise issues in relation to other cases. I have discussed the matter with the Lord Advocate, who is here today. Presiding Officer, with your permission he will be willing, at the end of questions, to respond to questions that fall within his responsibilities.

I am sure that all members will share our concern that the SCRO fingerprint bureau should, in the terms the inspectorate uses, be "fully effective and efficient". In his findings, Mr Taylor emphasises the dedication and commitment of SCRO staff working under high demand, but clearly that is not

enough in itself. We will play our part in providing the essential elements that police forces must have in the fight against crime.

Michael Russell (South of Scotland) (SNP): I thank the Minister for Justice for making the statement and having the courtesy to discuss it earlier in the day. Shirley McKie and her father are in the gallery today to hear this statement. I hope that it is the end of an appalling period. The only person who has apologised to Shirley McKie in this whole saga over the past three and a half years is the judge who tried her. He said at the end of her trial:

"I would like to extend to you my respect for the obvious courage and dignity which you've shown throughout this nightmare. I very much hope you can put it behind you. I wish you all the best."

I would like to hear the Minister for Justice make a similar statement today and apologise to her and her family for three years of torment, so that she can start to put it behind her.

Will the Minister for Justice guarantee that when Her Majesty's inspectorate of constabulary's report is published, he will bring it to the chamber for a full discussion and debate? It will be published during the recess, but as soon as possible after the recess it should be debated in this chamber, because it goes to the heart of the Scottish criminal justice system.

What will happen today—and I mean today—to Charles Stewart, Hugh MacPherson and Fiona McBride? They are fingerprint officers in the Scottish Criminal Record Office who gave evidence under oath in the case of Shirley McKie—evidence that we now know turns out to be perjured. What will happen to them today?

Mr Wallace: It is the intention that the report should be published in full. I hear, with some sympathy, Mr Russell's call for a debate. The Minister for Parliament is in his place; indeed, Mr Russell too is a member of the Parliamentary Bureau. I am sure that when the Parliament returns after the recess, those matters can be progressed by the bureau.

With regard to the persons Mr Russell has named, on the basis of Mr Taylor's findings it would not be appropriate to do anything today. The executive committee of the Scottish Criminal Record Office and the employing authority will want to consider the full details of the report, and of the outcome of the APCOS presidential review—to which I have referred—which will be led by Chief Constable Rae. If any conduct issues are identified, they will be dealt with appropriately. the appropriate action, when they are in possession of the full facts and, indeed, in the light

Mr Russell asks about an apology. I am sure that everyone in the Parliament recognises that this case has caused great distress to Shirley McKie and her family. I very much regret that and hope that the action we have taken to set up the inspector's inquiry and to announce the key finding at the earliest possible moment will reassure Shirley McKie and her family of our good

intention to see that effective action is taken to remedy deficiencies in the present system.

Phil Gallie (South of Scotland) (Con): I identify with many of Mike Russell's comments and offer my congratulations—if that is in order—to Shirley McKie and her family, who have tenaciously pursued an issue that they considered to be a great injustice to Shirley. The verdict reached in the court, when the judge commended her tenacity and integrity, has shown that to be the case. I would like to think that the senior police officers might have recognised that.

This is a great loss to the police in Scotland of someone who showed such integrity—given the pressure she was put under—by denying that the fingerprint was hers. I believe that there is a place for her back in the police force, if that is her wish. I ask the minister to take that forward.

I condemn the actions of ministers and the former Lord Advocate, who dug their heads into the sand on this issue. The minister suggested that he initiated this inquiry, but in fact it was initiated after a considerable campaign by members. The Lord Advocate should have considered the facts long before this and determined that an inquiry was needed.

Mike Russell makes a fair point on the Scottish Criminal Record Office. There is either a level of dishonesty there or a total lack of training and ability. The latter would give me real concern, given the effects it could have on the justice system. Although Mr Taylor has not referred to the situation with respect to individuals compounding one another's mistakes, I ask the minister to consider that urgently and to ensure that that is made clear to the public, so that the justice system can regain its confidence.

Mr Wallace: I share Phil Gallie's view that the criminal justice system must have the confidence of the public. That is why it is important that the findings of Mr Taylor's inquiry, when they are fully published, will be given the utmost detailed and serious consideration—I assure Mr Gallie of that.

It is also important that, ahead of full publication of the report, the Association of Chief Police Officers in Scotland has instructed a presidential review to carry forward an inquiry into some of the specific points that Mr Taylor has mentioned. Mr Gallie will recognise that, notwithstanding the information Mr Taylor has reported, ACPOS and the Executive have responded as quickly as we can and are doing the things that are immediately within our power to do.

Allan Wilson (Cunninghame North) (Lab): I welcome the Deputy First Minister's statement and I await the publication of the study and the full report with considerable interest. Has the Lord Advocate considered the related case of my constituent, Mr David Asbury, in whose case the identification or misidentification of fingerprints played a crucial part? What implications will today's statement have for his case?

Mr Wallace: That is a matter for the Lord Advocate.

Michael Matheson (Central Scotland) (SNP): I am sure that the minister is aware that the interim report could have major, wide-ranging implications for the Scottish criminal justice system. Can the minister indicate how many cases may now be affected as a result of the interim report? Given that the McKie case happened three years ago, could it be that all court cases in which fingerprint evidence has been used in the past three years might have to be reviewed? There could also be implications for cases that predate the McKie case.

I understand that this may be a matter for the Scottish Criminal Cases Review Commission, but that body has heard only one case so far and there would be major implications for its resources if it were to be inundated with reviews. Will the minister clarify how the commission is expected to deal with an influx of such reviews?

The report highlights fundamental failings in the management structure of the fingerprint bureau in the Scottish Criminal Record Office. It raises questions about training, quality assurance and other forms of testing. Given that Mr Taylor has taken the unusual step of publishing an interim report, will the minister confirm that he is willing to take interim measures to restore public confidence in the fingerprint bureau, if necessary by taking action against those at senior management level? I also remind the minister—

The Presiding Officer: In fairness to other members, Mr Matheson, I think that you have asked enough questions.

Michael Matheson: I have only one more point to make.

The Presiding Officer: Do so very quickly.

Michael Matheson: I would like to remind the minister that a memo from the head of the fingerprint bureau indicated that he was

"satisfied with the integrity of the experts . . . in this case".

On that basis, there is a need to act now, rather than waiting for the full report to be published.

Mr Wallace: I do not have figures for the number of cases that might be affected by the report, but I remind Michael Matheson that although it is advanced in many cases, fingerprint evidence is not always the turning point on which a prosecution hangs. The Lord Advocate may be able to add to that answer.

One of the first questions I asked was whether there is any action ministers should take immediately on the management structure of the fingerprint bureau in the light of Mr Taylor's report. As Michael Matheson knows, Mr Taylor is there to advise ministers. I was reassured that there is nothing ministers ought to do immediately, but we must consider the full report carefully when it is published. Many of the important points that Mr Taylor has

raised are being taken forward immediately by the ACPOS review. Mr Matheson will be aware that all eight chief constables are members of the SCRO's executive committee.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): What directions will be given to the chief constable of Strathclyde about the findings of Mr Taylor's report? What are the implications for all the police officers who were involved in the investigation of the Ross murder inquiry in Kilmarnock?

Mr Wallace: It would be wholly inappropriate for ministers to give directions to chief constables, as chief constables have authority over operational matters in their areas. The chief constable of Strathclyde, and all chief constables, will focus clearly on this issue. They have acted promptly in setting up a presidential review.

Lord James Douglas-Hamilton (Lothians) (Con): Does Mr Wallace accept that police officer Shirley McKie has been treated most unjustly and most unfairly in this matter? Can he give an assurance to the Parliament that, in the interests of justice and fairness, full restitution will be made to her?

Mr Wallace: That is not primarily a matter for ministers. I understand that there are some outstanding issues between Shirley McKie and Strathclyde police. Those matters will have to be pursued there. It will be for Shirley McKie and her legal advisers to consider how they would best wish to proceed in the circumstances, especially in the light of this report.

Mr John McAllion (Dundee East) (Lab): Many members have constituents who have serious concerns about how the Crown Office and other legal authorities have handled evidence in individual cases. If the finding is that the work of the SCRO fingerprint bureau is not trustworthy, can the minister say whether that serious and disturbing finding will influence the Lord Advocate's present policy of refusing to release files and forensic reports in cases where verdicts have been passed?

Mr Wallace: I hope that I have given a clear indication of the seriousness with which we take this matter. As Mr McAllion well knows, prosecution and preparation for prosecution are matters for the Lord Advocate. I am sure that he will deal with that point when he responds.

The Lord Advocate (Colin Boyd): I share the Deputy First Minister's concern about the implications of this report.

The prosecution service, for which I am responsible, must be able to rely on and have confidence in the fingerprint evidence that is presented to the Crown by the police.

I make it clear to members that the Crown acted in good faith in prosecuting Shirley McKie. It relied on the evidence that was presented to it by officers of the SCRO. Nevertheless, I very much regret that Shirley McKie and her family underwent this ordeal. I pay tribute to her tenacity and that of her family in

pursuing this matter. I recognise that the Crown may have lessons to learn from this episode. I am determined that we should do so. I listened to what John McAllion said about that.

I have instructed that in all current and future cases in which fingerprint evidence is provided by the SCRO and is submitted to the procurator fiscal, an independent external check of the evidence will be carried out by another fingerprint bureau—there are other fingerprint bureaux in Scotland—such as Lothian and Borders police and the police forces in Tayside, Central Scotland and Fife. That will be done prior to trial.

So far as the David Asbury case is concerned, I can tell Parliament that, in light of recent public concern, I asked officials to check how many outstanding appeals are based on allegations of fingerprint misidentification. No such cases were found. David Asbury was convicted of murder at Glasgow High Court on 3 June 1997; Shirley McKie was called as a witness. An appeal against conviction is pending, but no appeal ground has been lodged challenging the fingerprint evidence.

Nevertheless, in light of the concern, some time ago I instructed that independent experts examine the fingerprint evidence that was led at that trial. Arrangements were made recently to have the productions re-examined to check the fingerprint identifications, which were made by the SCRO, in that case. That identification will take place as soon as possible and the result will be communicated to Mr Asbury's solicitors.

Like the Deputy First Minister, I look forward to seeing the full report from Her Majesty's chief inspector of constabulary as soon as it is published. At that stage, I will consider what further action may be necessary.