

**ACPOS PRESIDENTIAL REVIEW OF**

**S.C.R.O.**

**INTERIM REPORT**

## **INTRODUCTION**

This report is provided to advise of the measures taken by the Association of Chief Police Officers in Scotland (ACPOS) following the publication of the interim findings of the Inspection of the Fingerprint Bureau of the Scottish Criminal Record Office by Her Majesty's Inspectorate of Constabulary on 22<sup>nd</sup> June 2000.

ACPOS consider that the swift and positive action taken, firstly in seeking the assistance of HMCIC to review the Fingerprint Bureau and the issues surrounding the acquittal of Miss Shirley McKie, and immediately upon being made aware of the interim findings of that inspection, demonstrate a commitment to ensuring that the integrity and public confidence in fingerprint evidence in Scotland is maintained.

Moreover, the detailed scrutiny procedures described in this report build on a pre-existing process, which over a number of years has considered the most appropriate framework for the delivery of fingerprint services to the criminal justice system in Scotland. This has to be set in the context of emerging changes to fingerprint examination worldwide and national developments in technology designed to assist the process of mark identification.

This interim report gives an indication of the considerable work already undertaken in advance of the publication of the Inspection Report of HMIC, which will crystallize into developments that require to be made to ensure the Fingerprint Bureau can provide an efficient and effective service.

It is anticipated that a detailed report, addressing all the issues raised by HMIC, together with an implementation action plan will be complete by mid October 2000. This is likely to coincide with the timescale associated with the preparation of a report regarding the investigation of the circumstances surrounding fingerprint evidence relating to the Marion Ross murder. In view of the public interest in this matter, a copy of this report will be available on the ACPOS website [www.scottish.police.uk](http://www.scottish.police.uk)

## **OVERVIEW AND CHRONOLOGY OF EVENTS**

### **SCRO**

The Scottish Criminal Records Office (SCRO), which was established in 1960, is a common police service in terms of The Common Police Services (Scotland) Order 1997. Such services are funded and managed jointly by the eight Scottish police forces and the Scottish Executive on behalf of the First Minister. In the case of SCRO, the Executive Committee, which comprises the eight chief constables, a senior representative of the Scottish Executive Justice Department, and a representative of COSLA, fulfils this function. A representative of HMIC also attends meetings of the Executive Committee in the role of assessor.

Fifty per cent of the funding is recovered from the eight police authorities on a pro rata basis which reflects relative crime levels with the balance being made up from the Scottish Executive direct.

The senior Scottish Executive Justice Department representative also chairs the Management Committee, which has a responsibility for operational strategy and the objectives of the organisation. Membership consists of the Director of SCRO and senior representation from each force.

SCRO provides a central repository of criminal records, fingerprints and other information, which is accessible by all Scottish police forces and the wider criminal justice system. The primary functions of the fingerprint bureau of SCRO is to maintain the national fingerprint collection, provide a national scene of crime mark searching facility, and provide independent and impartial evidence through qualified fingerprint experts. Some fingerprint services in Scotland are provided by fingerprint experts employed by individual force bureaux.

Currently located within Strathclyde Police Headquarters, SCRO will move in the autumn to new premises at Pacific Quay, Glasgow. The Office has a complement of 18 seconded police officers and 98 support staff, of which 4 police officers and 59 support staff attached to the Fingerprint Bureau. Of the 72 fingerprint experts working within the Scottish Police Service 30 are employed by SCRO.

### **Background**

On 14 May 1999 the trial of HMA v Shirley McKie concluded with a finding of her being "Not Guilty" of the charge of perjury. The case proceeded on the basis that Miss McKie had allegedly lied to the High Court of Justiciary in the earlier trial of David Asbury for the murder of Marion Ross to the effect that she had not entered the murder locus, which was the deceased's home.

The crucial element of evidence was a latent fingerprint impression, which was recovered from within the deceased's house. Examination of this print by experts of the Fingerprint Bureau of SCRO concluded that it matched that of Shirley McKie, then a Detective Constable of Strathclyde Police involved in the investigation and who had been listed among those submitted for fingerprint elimination purposes to SCRO. Miss McKie consistently denied she had been in the house and therefore the fingerprint could not have been hers, and she articulated this stance in her testimony in the Asbury trial.

In the course of her own trial, her Counsel cited two independent fingerprint experts from America who gave evidence in opposition to the SCRO experts. They concluded that the fingerprint recovered from the house of Marion Ross was not that of Shirley McKie.

Since the verdict on 14 May 1999 there has been considerable debate, both in the fingerprint world and generally through the media, newspaper, television and internet, as to the reliability of fingerprint identifications emanating from SCRO. The issue has been raised in the Scottish Parliament and in correspondence to Crown Office, the Justice Division of the Scottish Executive and HMIC.

The BBC documentary programme, 'Frontline Scotland', broadcast on 18 January 2000, gave significant public profile to the alleged misidentification of Shirley McKie's fingerprint by SCRO.

### **Initial ACPOS Action**

On 7 February 2000, ACPOS Council made the decision that it was in the best interests of the criminal justice system and the professional standing of SCRO, that an independent assessment be made of the fingerprint evidence prepared by SCRO and presented by the Crown in the Shirley McKie case. Later that day, the Executive Committee of SCRO agreed to approach HMCIC to commission this work.

On 23 February 2000, Mr William Taylor, HMCIC, in a letter to Mr Robertson, Chief Constable of Northern Constabulary and then Chairman SCRO Executive Committee, confirmed that HMIC would bring forward from its planned date of December 2000, the formal inspection of SCRO in respect of those aspects specifically raised by the Shirley McKie case.

The issues, which would be reviewed, included the training, skills and quality assurance process of the Fingerprint Bureau, together with a close examination of the Shirley McKie case as an example of the processes as a whole. As with all formal HMIC reports, the results would be published to demonstrate the public accountability of the inspection processes.

The inspection commenced in early March and was completed in May.

### **HMIC Emerging Findings**

On 21 June 2000 Mr Taylor held a briefing meeting with Office Bearers from ACPOS where he outlined his preliminary findings. In particular, he advised that the disputed fingerprint had been examined, at his request, by two independent European experts who had also concluded that the mark was definitely not made by Shirley McKie. Accordingly, due to the significant public interest in this finding, Mr Taylor intimated that it was his intention immediately to make this information public. In addition, he said that his concerns regarding the functioning of the SCRO Fingerprint Bureau were such that he would be unable to endorse the organisation as being efficient and effective. This too would be made public immediately, in advance of the formal report.

### **ACPOS Response**

In light of this information ACPOS immediately established a Presidential Review Group to co-ordinate the Scottish Police Service's response to HMIC's findings. The Group comprises:-

- Mr William Rae, Chief Constable, Dumfries & Galloway Constabulary and incoming President of ACPOS;
- Mr William Robertson, Chief Constable, Northern Constabulary and President of ACPOS;
- Sir Roy Cameron, Chief Constable, Lothian & Borders Police and Honorary Secretary of ACPOS; and
- Mr John Hamilton, Chief Constable, Fife Constabulary.

The agreed remit of the Review Group was:-

1. To review:-

- Personnel, training and competency;
- Structure;
- Resources;
- Procedures, processes; and
- Quality control

to accelerate the ongoing and future development of SCRO, in the light of HMCIC's Primary Inspection, the Leishman Reports\*, the SCRO Strategic Review and any recommendations arising from the Policing Review.

[\*An independent review of the SCRO fingerprint bureau was undertaken in two phases by Leishman Management Consultants between 1998 and 1999.]

2. To assess the findings of fingerprint experts engaged by HMCIC in his primary inspection in the light of their conclusion that the latent mark was not made by Shirley McKie.
3. To report to the SCRO Executive Committee on an implementation and action plan in relation to item 1 above and any management, staffing, resources, performance and quality control issues arising from item 2 above including any issues regarding standards of performance.
4. To liaise with the Crown Office, Scottish Executive, HMCIC, recognised experts and relevant consultants in taking forward substantive issues in which there is a shared interest.
5. To make available to HMCIC for public and ministerial information, through the SCRO Executive Committee the result and prepared response to HMCIC's final report, recommendations and suggestions.

Two working groups were formed to give a detailed examination of the issues emerging from HMCIC's advance statement.

Mr James Mackay, Deputy Chief Constable of Tayside Police was appointed to lead the investigation of the circumstances surrounding the fingerprint identification, while Mr Kenneth McInnes, Deputy Chief Constable, Fife Constabulary, was appointed to lead a Change Management Review Team in undertaking a 90 day scrutiny of SCRO.

ACPOS Council and the Executive Committee of SCRO ratified the establishment of the Presidential Review Group and the two inquiry teams at meetings held on 3 July 2000. An obligation was placed on both groups to prepare initial reports to allow the Review Group to produce an interim report to coincide with the publication of the full inspection report of HMCIC.

On 22nd August 2000 David Asbury was granted interim liberation by the Court of Criminal Appeal pending a full appeal hearing in respect of his conviction of the murder of Marion Ross. Included in the grounds of appeal is a contention of fingerprint identification. At the time of publication of this report, ACPOS await the direction of Crown Office on this development and, if so directed, will associate any enquiry with that now being undertaken by Mr Mackay.

## **THE INVESTIGATIVE INQUIRY**

On 6<sup>th</sup> July 2000, The Lord Advocate instructed Mr William Gilchrist, Regional Procurator Fiscal for North Strathclyde, to enquire into allegations of criminal conduct made by Mr McKie to the Minister for Justice. Mr Gilchrist is being assisted in this enquiry by Mr Mackay.

### **Remit**

The remit given to the Inquiry Team led by Mr Mackay is:-

**'To conduct an investigation into all of the circumstances which resulted in the identifications by the Fingerprint Bureau of SCRO in the murder of Marion Ross in Kilmarnock in January 1997. In particular, the difference in opinions of SCRO fingerprint experts and the experts recently consulted by Mr William Taylor, HMCIC for Scotland.'**

A full Inquiry Team was set up on Monday, 3 July 2000 working from Auchterarder Police Station. A Tasking Team was established to carry out specific actions.

### **Progress of the Enquiry**

The Enquiry is of three phases which are:

- (a) Collation of all relevant documentation, productions and the taking of statements;
- (b) The analysis of all available material and information;
- (c) Reporting of same.

Considerable progress has been made in respect of Phase 1 and the Inquiry continues to gather statements and productions as a matter of priority.

In Phase 2, the analysis phase now runs in parallel with Phase 1 and it is anticipated that Phases 1 and 2 will be completed by the end of September 2000.

With regard to Phase 3, it is expected that the timescale for reporting in full will be by 15 October 2000.

This investigation is being conducted as a major enquiry and Holmes 2 has been utilised to provide an audit trail and a facility to interrogate all data accumulated.

Use of HOLMES 2 computer system, with its research and analysis capabilities will allow the Inquiry Team to provide a comprehensive report on the investigation.

The full report will be submitted to Mr William Gilchrist, the Regional Procurator Fiscal appointed by Crown Office.

The Inquiry Team are in contact with the McKie family and are maintaining a close liaison to ensure that they receive regular updates on the progress of the enquiry.

### **Status of the Inquiry**

In relation to the enquiry itself there has been discussion with the Regional Procurator Fiscal and as this is an active and ongoing criminal enquiry it would not be appropriate to make any further comment at this stage.

## **BUSINESS CONTINUITY**

### **Background**

On 22 June 2000, following the announcement of HMCIC's interim findings, the Lord Advocate instructed that for all current and future cases where fingerprint evidence provided by SCRO is submitted to the Procurator Fiscal, an independent and external check of this evidence should be carried out, either by another police fingerprint bureau or independent expert, prior to the commencement of proceedings or, for those cases in the system, prior to trial.

Notwithstanding the foregoing, the statutory process for appeals is considered sufficiently developed to allow an individual to pursue any perceived shortcoming in fingerprint evidence which has contributed to a conviction.

Other than in the related case of David Asbury, it is understood that no appeal challenging fingerprint evidence has been lodged with the Crown Office since the decision in the Shirley McKie case.

In light of the Lord Advocate's instruction, a business continuity protocol was developed by the Director of SCRO in consultation with the Crown Office and Mr Rae.

### **Independent Experts**

As a short-term arrangement, fingerprint identifications made at SCRO were verified by independent experts from Central Scotland Police and Fife Constabulary. From 30 July 2000, this independent verification role has been carried out by two fingerprint experts from the Royal Ulster Constabulary. This is likely to extend beyond December 2000.

As of 1 September, 596 cases involving 2134 marks containing 3159 impressions have been independently verified. These include cases which were due to be heard at Court and also new identifications. In one isolated case, the independent expert from Central Scotland Police was unable to verify identification. Although the identity of the accused was confirmed by other forensic evidence, a re-examination of the fingerprint evidence by an independent expert from the RUC verified the original identification.

Since 23 June 2000 no challenges have been made to SCRO fingerprint experts giving evidence in Court.

### **Charting Computer**

In 1994 a 'Charting Computer' was introduced by SCRO to produce visual illustrations of identified fingerprints and marks for court purposes. It was

used by the SCRO fingerprint experts in the presentation of evidence in the Shirley McKie case. The quality and effectiveness of this technology was, however, questioned following the trial and its use was discontinued following the announcement of HMIC's interim findings in June 2000.

### **Staffing**

On 3 August 2000, the four SCRO fingerprint experts involved in the Shirley McKie case were precautionarily suspended by the Director following written direction from Mr Rae. An evaluation of the work required to re-examine historical cases involving these four experts has been undertaken. A validation strategy is being developed and will be taken forward at the earliest opportunity.

Throughout this period of scrutiny the work of the busy Fingerprint Bureau at SCRO goes on.

Staff morale has clearly been affected by these events and publication of HMIC's report. Continuing developments will continue to attract media speculation and public interest. However, staff have given a commitment to co-operate with the work of the Presidential Review Group and the criminal investigation being undertaken by Mr Mackay. The consistent independent verification of fingerprint evidence to date, the imminent relocation of SCRO to Pacific Quay and the potential for a clear strategic direction for SCRO Fingerprint Bureau emerging from the current Review are all positive factors which will be built upon to motivate staff in continuing to provide a professional service.

The loss of four fingerprint experts from SCRO staff is a major consideration which has been addressed on an interim basis by the Director. This involves the use of the Deputy Head of Bureau, the Quality Assurance/Training Officer and the Training Officer (all fingerprint experts) in day-to-day identification and verification duties. Quality Assurance, the subject of recommendations in HMIC's Inspection Report, is effectively now being addressed by the independent verification carried out by RUC staff.

The situation is being carefully managed by the Director and other senior management within SCRO and other options for fingerprint expert cover are being considered including the use of additional independent experts from other UK Bureaux.

## **THE CHANGE MANAGEMENT REVIEW TEAM**

### **Remit**

The remit given to the Review Team led by Mr McInnes was:-

**‘To undertake a 90 day scrutiny of the SCRO Fingerprint Bureau which will inform the ACPOS Presidential Review Group established to undertake a wide ranging review of SCRO.’**

This broad remit was subsequently developed in detail in consultation with Mr Rae.

### **Background**

HMIC’s inspection of SCRO Fingerprint Bureau was inextricably linked with the issues of the Shirley McKie case and, in particular, included an independent assessment of the fingerprint evidence presented in that case, carried out by HMIC at the invitation of the SCRO Executive Committee. While it could be regarded that an inspection of SCRO was overdue in respect of the normal 3 year timescale of primary inspections (the previous one being in 1995, followed up by a review in 1998), the findings of HMCIC must be viewed in the light of the Shirley McKie case.

To prepare for the publication of the inspection report, the Change Management Review Team liaised closely with HMIC to form an understanding of the anticipated recommendations.

### **Findings**

HMIC reports on a Bureau which it suggests, despite some evidence of positive change and staff commitment to improved service, has been impeded in its efforts by limited resources and a lack of direction and radicalism. It provides a number of recommendations and suggestions (Appendix B) to achieve the necessary level of improvement in the following focus areas:-

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

A number of recommendations relate to the day to day operation of the SCRO Fingerprint Bureau and can be addressed directly as with any other inspection report. Others, in relation to oversight, structure and the strategic position of the Bureau, will require commitment, co-operation and significant resources to address them. HMIC suggests that increased efficiency and effectiveness are only achievable if these strategic recommendations are accepted and acted upon. HMIC readily acknowledges that many of the issues covered in its report have already been raised by the Fingerprint Bureau and considered by the SCRO Executive Committee (or the Controlling Committee before it) and, particularly in respect of structure, have been the subject of considerable research, including the use of management consultants.

### **Integrity**

Many of the recommendations and suggestions focus on processes, their standardisation and publication.

Some focus on quality assurance, the need to separate the dual Quality Assurance/Training role within the SCRO Fingerprints Bureau and the implementation of QA processes nationally. Others address the need to move to a competency-based standard for expert qualification, the need for an office management system which provides an adequate audit trail of work passing through the Bureau, increased independence within the identification/verification process, training processes which benefit fully from external exposure and a national guidance manual for fingerprint experts.

In the light of questions arising from fingerprint identification associated with the Marion Ross murder inquiry all of these recommendations can be considered to be appropriate in broad terms.

Other recommendations, in respect of:

- adopting a (non-numeric) fingerprint evidence standard in line with that proposed for England and Wales;
- introducing externally provided competency testing as part of a fingerprint expert's conditions of service; and
- establishing a national policy which encapsulates an independent review process to deal with all erroneous and disputed fingerprint identifications

touch on the vulnerability of current SCRO Fingerprint Bureau working practices and indeed those of the whole fingerprint service in Scotland.

The recommendations and HMIC's support for the emerging Council for Registration of Forensic Practitioners are also considered to be appropriate in broad terms but will require close co-operation with other agencies to

influence or deliver change. As an example, the legitimate desire to address a non-numeric standard of evidence is also a consideration in a move towards a European standard where there are still varying opinions. Clearly, in the light of recent Scottish experience of the use of international experts, this cannot be ignored. However, the SCRO Executive Committee and ACPOS should be positive in its response to recommendations on processes, which correctly place an emphasis on integrity, following the failure of fingerprint evidence in the Shirley McKie case.

One other area of process, which attracts attention by HMIC, is the dual fingerprint expert/scenes of crime officer role, employed by some forces. HMIC accepts that there are arguments on both sides of the debate regarding its desirability. At a time when integrity is at the forefront of our considerations there is a strong case for its abolition. This would serve to add weight to arguments previously advanced by management consultants and broadly endorsed by HMIC in support of a single fingerprint service for Scotland.

### **Structure**

While HMIC recommends a review of processes to ensure integrity within the SCRO Fingerprint Bureau, it is the standardisation of these processes, which is aimed at the wider fingerprint service in Scotland. Standardisation would be easier if there was only one body responsible for its provision. In that respect HMIC calls for the fingerprint service in Scotland to be provided within a new common police services arrangement.

This view leans heavily on the valuable research already carried out by ACPOS and Leishman Management Consultants on its behalf. HMIC encourages the SCRO Executive Committee to use these studies as key sources of guidance.

HMIC supports a centralised model but accepts the benefits of a devolved delivery of service and asks for a review of the location of AFR equipment in Scotland to maximise the efficiency of the service.

This is a matter which will be considered carefully by the Change Management Review Team, following full consultation with all stakeholders, including staff within all bureaux in Scotland.

However, if HMIC's model of a single specialist service within a common police service is to be adopted and be fully effective and efficient, it must be a standalone service, unfettered by inherent weaknesses of accountability within the existing arrangements for common police services in Scotland.

This would require a change to the legislative basis for common police services and the Review Team recognise that this cannot be achieved overnight. They recommend that discussions between the Presidential Review Group and the Scottish Executive commence as a matter of urgency

to resolve this matter as it is a pivotal issue in providing an appropriate strategic framework for the Scottish fingerprint service.

Other associated recommendations and suggestions seek:-

- a scoping study to determine required staff levels for current demands and those anticipated in the near future;
- a protocol between SCRO and forces regarding crime operations and initiatives; and
- policies on ethics, sickness absence and media relations

which may be more easily accommodated, indeed may only be able to be accommodated properly, within a standalone structure and not tagged on to the support structure of an individual force (Strathclyde Police) as at present, with the potential associated with that relationship to undermine the national/strategic importance of SCRO. In the absence of a separate structure these matters can still be addressed but without high expectation of a lasting solution.

In the light of prevailing professional police opinion that everyone who is arrested should have fingerprint impressions taken, HMIC emphasises the need for a properly resourced fingerprint service. While it is suggested that SCRO Fingerprint Bureau is unable to manage its current workload, HMIC makes it clear that the solution to many of its recommendations, involves a substantial injection of finance and a radical reorganisation of the provision of fingerprint services in Scotland. HMIC recognises that this clearly lies outwith the scope of SCRO staff. If this is not to impact adversely on police funding then the additional resources will fall to be provided by the Scottish Executive and Police Authorities.

### **Shirley McKie Case**

HMCIC uses his inspection report to announce formally the findings of the independent assessment of fingerprint evidence in the Shirley McKie case and this is likely to raise the public profile, once again, of the SCRO Fingerprint Bureau. However the report gives HMIC the opportunity to explain in more depth the issue of fingerprint evidence, the fact that it is based on expert opinion and that it is for the Court to determine the weight of that evidence.

Nonetheless this will draw attention to processes, already referred to in this interim report, which on the surface may raise further questions regarding the integrity of the SCRO Fingerprint Bureau.

### **Opportunity**

The report's recommendations point to processes which will help, both nationally and internationally, to enhance the standard of evidence given by

fingerprint experts and to maximise their standing within the criminal justice system and in the eyes of the general public.

While the Review Team acknowledge the current status of the Asbury appeal awaited, they are confident that they can provide a detailed action plan to take forward HMIC's recommendations and see their involvement as an opportunity to progress a great deal of good ground work which has already been done by SCRO staff, and previous examinations of the fingerprint service, including management consultants and others whose work are acknowledged in the inspection report. HMCIC has already announced that his inspection has found SCRO Fingerprint Bureau not to be fully efficient and effective at this time. He will carry out a review of progress on the Report's recommendations in December 2000. Accordingly, it is important that the work of the Review Team identifies as a priority those issues which need to be addressed without delay to alter that assessment.

Already SCRO staff are committed to progressing appropriate matters identified in consultation with the Review Team and a meeting of the 8 Force Fingerprint Standards Working Group under the direction of the Review Team has been scheduled for late September to make early progress on matters of national significance.

### **Conclusion**

The Change Management Review Team believe they have already obtained a firm grasp of the main issues which feature as recommendations and suggestions in HMIC's report. Views have been solicited from key members of all Scottish Fingerprint Bureaux to inform and reinforce findings from observation, enquiry and environmental scanning. The team have had the opportunity to visit the Greater Manchester Police Fingerprint Bureau and the National Police Training Centre, Durham, to explore different perspectives and gain an insight into UK developments in fingerprinting. A meeting with Crown Office has paved the way for progress to be made on evidential issues raised by HMIC. Having developed a clear awareness of the issues, the Team are already addressing the specific detailed recommendations and suggestions of HMIC as included in the final draft report.

HMIC acknowledges the value of setting up the Presidential Review Group and the Change Management Review Team, specifically identifying its role in ensuring that some of the recommendations and suggestions are implemented.

Following the Review Team's 90 day scrutiny, successful implementation of its action plan will demand sustained commitment under the strategic direction of the Presidential Review Group. This view is given further impetus by HMIC's suggestion that the ACPOS Presidential Review Group acts as a single reference point in responding to its report. A sustained commitment

will be difficult to maintain from within the stretched resources of the SCRO management team and it is anticipated that the early return to an efficient and effective fingerprint service for Scotland will require the appointment of a dedicated Project Management Team.

Some preliminary work has already been carried out to ensure that a Project Management Team working to PRINCE methodology and reporting to a Project Board chaired by a member of the Presidential Review Group will be available to ensure steady progress following the completion of the Review Team's action plan.