

# Scottish convictions based on fingerprint evidence called into question

Steve James  
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A question mark has been thrown over thousands of convictions following an admission by the police that the Scottish Criminal Records Office (SCRO) Fingerprint Bureau is “not fully effective and efficient”.

The admissions, made in an interim police inspector's report, followed the collapse of perjury charges against police detective Shirley McKie in May last year. The Scottish Chief Inspector of Constabulary, William Taylor, has since announced that a police review group will be set up to investigate the Fingerprint Bureau's operations.

The police report was produced after the background to McKie's acquittal was highlighted earlier this year in two BBC Scotland documentaries.

*Frontline Scotland*, broadcast in January, reported that Detective McKie had been involved in investigating the murder of Marion Ross in 1997, who was attacked and killed in her home. McKie, a police officer for 10 years, had interviewed building worker David Asbury, who had helped build an extension to Ross's house the previous year. During the interview, McKie had handled a biscuit tin filled with money, allegedly belonging to Ross, which had been found at Asbury's house.

The detective had also visited Ross's home, but had only entered the front porch. McKie informed her superiors that she had touched the tin and her prints should be eliminated when it was examined for fingerprints.

Shortly after, David Asbury was charged with the murder of Marion Ross, on the basis that one of the victim's fingerprints had been found on the biscuit tin found at Asbury's house. Another of Asbury's prints had also been found in Ross's home.

Detective McKie was also informed that one of her

fingerprints had been found at the murder scene, but during Asbury's trial, McKie insisted that she did not go inside the house and that the fingerprint found could not have been hers. McKie said later she had been pressured and threatened by other police officers to change her testimony, as it would undermine the prosecution's case, which she refused to do.

Asbury was found guilty of murder by a majority verdict solely on the basis of the biscuit tin fingerprint. He was sentenced to life imprisonment.

After the trial, Detective McKie was arrested, suspended from the police and charged with perjury. During her suspension she searched the Internet and found two American fingerprint experts who were willing to examine her contested prints. Both testified at the perjury trial that the prints did not belong to McKie, ensuring her acquittal. This is the first time in 100 years in which fingerprint evidence has been overturned at trial. McKie subsequently resigned from the police force.

The former detective's exoneration has raised the possibility of widespread manipulation of fingerprint evidence by the SCRO.

A second BBC report, broadcast in May, interviewed David Asbury's mother, who insisted that the cash tin had been in their house for years and was filled with Asbury's own money. Two fingerprint experts, Pat Wertheim who testified on McKie's behalf, and Allan Bayle examined the tin and concluded that there were no prints on it belonging to the murder victim Marion Ross. If this is confirmed in court, there is no evidence linking David Asbury to the killing.

Wertheim told the BBC, “In a free society a person has the right to be confronted in court only with valid evidence. If we allow the police to introduce bogus evidence in the court then we become a police state.... I

certainly think that a new trial would be warranted in order to allow a jury to hear all of the evidence without having bogus evidence thrown in front of them.”

John Scott of the Scottish Human Rights Centre told the same programme that manufacturing evidence to ensure conviction constituted criminal conspiracy. If that were proven, it raised the need for criminal prosecution against those giving false evidence.

In an effort to prevent such damaging revelations from further undermining the credibility of the judicial system, Scotland's Lord Advocate Colin Boyd has said that new and existing fingerprint cases will be subject to outside verification.

There are many people currently imprisoned, whose convictions relied solely on evidence supplied by the SCRO Fingerprint Bureau. However, there are no plans to review previous cases. In a letter to Scottish police forces, Harry Webb, head of the Fingerprint Bureau, insisted that the judicial Crown Office was “satisfied with the integrity of the experts from the SCRO”.



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