ANATOMY OF A LIE: THE EVIDENCE OF LES BROWN

‘I now bring this to a close. In so doing, in respect of a man who has suffered a barrage of criticism, I take a moment to pay tribute to the dedication, determination, tenacity and integrity of Les Brown in conducting his investigation into these matters. We are very grateful to Mr Brown.’
(David Russell Oral Submission – 27 November 2009 – page 30 line 4)

Analysis of Les Brown Evidence

Les Brown’s written statement to the Inquiry is a remarkable document apparently full of lies, gossip and innuendo. As requested by Andrew Smith acting for Shirley McKie each of the witnesses identified by Mr Brown as having passed on evidence to him was called to give oral evidence. This analysis reveals just how inaccurate his statement and evidence was.

1. Spread of Sexual Innuendo. In his Inquiry statement Les Brown stated that journalist Marion Scott had told him about Shirley McKie being involved in sexual activity in the murder house but that he played no part in spreading these rumours.

3. On 5th March 2006 I was contacted by Marion Scott, who was at that time a crime reporter for the Sunday Mail. She asked if I was prepared to help some people from the Scottish Criminal Records Office. I met with Marion Scott, Fiona McBride, a fingerprint expert from SCRO and another SCRO fingerprint expert Alistair Geddes.

8. At that first meeting Marion Scott told me that it is well known in the media that Shirley McKie had a romantic liaison with a boyfriend, a police officer. A particular romantic liaison took place in the house where the murder took place. Marion Scott said this in front of Fiona McBride, my wife, Alistair Geddes and me.
10. Following that meeting I received a letter from Iain McKie’s lawyers, Digby Brown. It stated that it had come to their attention that I had been spreading these rumours. They said that they would take action against me unless I retracted the statement. I wrote back and said that I had not made any such allegations. Digby Brown claimed that they had a written statement that I had told two people about this alleged liaison. I suspect that Marion Scott must have turned round the conversation as I was not involved in spreading this rumour.

Witness Marion Scott however in her oral evidence gives a rather different account of events.

Pages 3 and 4
 ‘A. Les Brown contacted me and asked me if I would be interested in speaking to the fingerprint people and I said to him, yes, I would, of course. Before this, he had approached me and said that a friend of a friend, some retired police officer in his bowling club, had told him that in his opinion Shirley McKie had been let into the murder house, Marion Ross murder house, by a police officer who had fancied her and I said to Les at the time there had been a number of rumours going round for many, many years regarding this case and unless there’s any actual factual evidence or proof, that’s all it is, it’s rumours, gossip, talk, smears, whatever complexion you would like to put upon it.’

Pages 5 and 6
 ‘Q. Did you discuss with him in that conversation the content of any of the rumour or innuendo that you’re telling us about?’

‘A. Yes, I did say to him there’d been all kind of -- he said, "What kind of rumours", and I said, well, it ranges from, you know, Shirley was in the house, she wasn't in the house, somebody had planted her fingerprint in the house because they were jealous of her, right down to there's been some kind of sexual liaison in the house, also that she was a murder ghoul and that was why she was in the house. These stories have been circulating for a large number of years. They are well known in the media, not just in the media but also I think if you’d walked into any pub or in the back of a taxi you would hear stories like this. These were also issues that I myself and I know a number of other journalists had personally raised with Shirley McKie's father, Iain McKie, and nobody at any time had ever found any evidence or any fact to back up any of these stories. It wasn't a secret. It had been out there for quite some considerable time.’
Pages 9 and 10

'Some short time after that, Les Brown came on the phone to me and said, "Are you going to do the story about the fingerprint people"; and I explained to him, "No, Les, there's nothing new in anything that was raised so, therefore, unless there's nothing new there's, you know, there's no point in us going forward. The news desk aren't interested". He seemed quite put out by this and he said, "Well, what about the sexual innuendo stuff", and I said, "Les, I've told you before, this is nothing more than innuendo, gossip, stories. There's nothing factual to back it up". I think he put the phone down. I don't think he was very happy that we weren't going to be taking this up.'

'Q. When you speak about the sexual innuendo stuff, did you understand him to be referring to the information he said he had from somebody at the bowling club or to the rumours that there had been some form of sexual liaison at the house?'

'A. As far as I was concerned there was no factual evidence to show that any of these points were anything more than rumour and innuendo and gossip. There was no facts at any time so I'm not really sure what he was particularly meaning.'

'Iain McKie’s recollection of events is also different from Mr Brown’s and he states that he received witnessed phone calls from other journalists informing him that Mr Brown had contacted them with the sexual rumours.

2. ‘Search for Justice’  

In his oral testimony Les Brown claimed that Iain McKie had been responsible for closing down a miscarriages of justice organisation called ‘Search for Justice’.

Marion Scott is questioned about this when giving her oral evidence.  

Pages 12 to 14

‘Q. Miss Scott, in his evidence to the Inquiry Mr Brown implied that as a result of a phone call from Iain McKie that the organisation you mentioned Search for Justice ceased to exist the next day……. What is your understanding or do you have any knowledge of that. ‘

‘A. I wasn't actually party to the phone calls between Mr McKie and Brian Davies, the founder of Search for Justice. It's only what I heard afterwards learned afterwards from Brian Davies and Iain McKie.’

‘Q. What was that?’
‘A. That, firstly, Iain -- it's my understanding that Iain McKie had received phone calls from a couple of other journalists, at least one, perhaps a couple I'm not really sure, and they had repeated the sexual allegations as being fact. It's my understanding that he asked who told him that and I understand that they had said Les Brown and as a result of that I believe that he had spoken to Brian Davies and Brian Davies was quite horrified that Search for Justice was being connected in any shape or form with what Les Brown had been saying because the organisation was set up to help ordinary people, not professional people who had a bevy of lawyers, professional people to help them, and I think in that instance for both reasons I think that Brian Davies put a disclaimer on the Search for Justice website distancing himself from what Les Brown had been saying. Before that Brian Davies had made it clear to Les Brown, I understand, that he was not in favour of him supporting the fingerprint people, but just for those reasons that it was there to help ordinary people and not professional people.’

‘Q. It may be evident from the evidence today Miss Scott but did you believe there was any truth in the import –‘

‘ A. If there had ever been any truth I never found any factual evidence to support any of those allegations or gossip or innuendo we would have done this story. I'm sure any other journalist would have done the story. To this day to my certain knowledge, my own personal knowledge, no-one in my office, certainly not myself has ever found anything factual to support any of those allegations and that's my belief at this point’.

The truth is that Bryan Davies, the co-founder of that organisation, closed ‘Search for Justice’ down because of Les Brown’s behaviour in supporting the SCRO experts and contributing to the spread of sexual innuendo about Shirley McKie. Mr Davies has confirmed this is writing to Mr McKie.

3. Shirley McKie’s Boyfriend. In his statement Les Brown refers to a ‘Constable Reece’ who ‘may have been Shirley McKie’s boyfriend at some point.’

11. As regards Constable Reece, I believe he may have been Shirley McKie’s boyfriend at some point. It may be for this reason that I was seeking to interview him. I cannot remember now. I did not interview him. I excluded him from my enquiries.
No officer of this name ever served in Strathclyde Police and she had no such boyfriends. This statement is typical of Brown’s use of innuendo which he purports not to believe but never the less puts in his statements.

4. Meeting with QC in Wakefield. Mr Brown claims that Shirley McKie met Herbert Kerrigan QC in Peter Swan’s office in Wakefield.

16. Herbert Kerrigan QC was also dismissed by Shirley McKie. I understand that Herbert Kerrigan QC met Iain and Shirley McKie in Peter Swann’s office in November 1998. I approached Herbert Kerrigan QC to ask him about the circumstances of his dismissal. However he did not return my calls and I never met with him.

No such meeting ever took place.

5. No Criminality by SCRO Experts. In his statement Les Brown claims that William Gilchrist, the Area PF for Paisley, ‘found that there was no criminality’.

17. One of the claims by Shirley McKie is that the police and fingerprint experts colluded together in a criminal way. William Gilchrist, (at that time a Procurator Fiscal at Paisley), was asked to investigate the matter. He found that there was no criminality. He did not give evidence at the Scottish Parliamentary Inquiry. I e-mailed him to express my disappointment. I understand he did offer to give evidence as a result, but was not called.

19. William Gilchrist reported to the Lord Advocate. He reported that there was no criminality. That should have been the end of the matter.

This is untrue. Mr Gilchrist’s finding and recommendation to the Lord Advocate was that because there wasn’t sufficient evidence at that point to prosecute the SCRO experts the case should be marked, ‘NO PRO Meantime’. Should further evidence be adduced criminal proceedings could be instituted. Throughout his report to the LA Mr Gilchrist referred to the SCRO ‘misidentifications’ and made it crystal clear that he believed the experts had made two erroneous identifications.


6. Use of Innuendo. As has been noted above Mr Brown is liberal in the use of innuendo to colour his allegations.
23. I took a statement from DS Willie Shields in December 2006. During the investigation Shirley McKie was teamed up with DS Shields. Both of them got on well together. I do not think they were romantically involved in any way. He told me that there had been no romantic liaison. I thought that DS Shields was being truthful with me.

25. DS Shields and Shirley McKie were teamed up for three days and were then split up. I cannot get to the bottom of the story as to why this was. This does not normally happen. This happened before the fingerprint Y7 controversy and when I have interviewed Shields he could offer no explanation. Teams such as this do not get ‘split up’ whilst the investigation is ongoing. The explanation that she had simply been returned to normal duties does not ring true – Stephen Heath should hold the answer.

There was of course no ‘romantic liaison’ but Brown sows the seed never the less. In terms of the mystery of her ‘return to normal duties’ DCI Heath the officer in charge of the murder investigation clears this matter up in his Inquiry statement.

133. As I explained above, DC McKie was due to return to other duties. To my recollection there would have been a discussion regarding resources. We needed resources at other places as well. The area I was responsible for included Saltcoats and Irvine, both of which are areas with relatively high crime rates. The divisional teams needed help.

134. At this stage the Marion Ross investigation looked like it could last for a significant period of time. DC McKie was with us only for a short period of time. It is very disruptive to change staff during an investigation, as you lose a great deal of knowledge. I knew that DC McKie would be returning to her seconded role. It was logical to take her from the investigation, as I knew her time was limited in any event.

135. To the best of my recollection I would have taken this decision in discussion with D1 McAllister.
136. It may well be that OS Shields or someone else came to me to ask if she could remain on the investigation. I cannot remember. It would not surprise me if DC McKie was disappointed at the decision, officers prefer to work on cases such as the Marion Ross murder, as they provide opportunities to learn and develop.

7. **DI McAllister’s Father.** In his statement Mr Brown claims that DI McAllister’s father stated that his son, ‘knew that Shirley McKie had been inside Marion Ross’s house.’

28. A year ago I was in East Kilbride at a shopping centre. Ex Detective Superintendent McAllister (DI McAllister’s father) approached me. He is also a former police officer. He said that DI McAllister (his son, the Deputy SIO of the Marion Ross murder) knew that Shirley McKie had been inside Marion Ross’ house.


Page 32 and 33
‘Q. Mr Brown has alleged that your father approached him, perhaps just over a year ago, and told him that you knew that Shirley McKie had been inside the house at Irvine Road, Kilmarnock. Do you know whether that allegation is true.

**THE CHAIRMAN:** There are really two questions there: one, his father approached Mr Brown, which the witness may or may not be able to answer.

**MISS CARMICHAEL:** I am sorry, that was the intention, sir. Do you know whether your father spoke to Leslie Brown in the terms that Leslie Brown alleges?

**A.** I know, having spoken to my father relatively recently, within a few days, that no such -- his position is that no such conversation took place.

**Q.** Can we be quite clear about this: you asked your father about this because the Inquiry has raised the matter with you?

**A.** Yes.

**Q.** Did you ever yourself tell your father that you knew that Shirley McKie had been inside the house?
A. No.

Q. Do you know whether Shirley McKie was ever inside the house?

15 A. I don't, no.

8. The Car Park Argument. In his statement Les Brown claims that Shirley McKie and PC Lees, one of the cordon officers at the time of the murder, ‘were seen arguing ferociously in the car park.’ (This is believed to have been during her 1999 trial) ‘The car park argument was ‘common knowledge’.

PC Lees however in his oral evidence contradicts the Brown version.

Page 48
Q. Is that something you remember? Did you at any point during that trial have an argument or a heated discussion or anything of that sort with Ms McKie in a car park?

A. No.

Q. Did you talk to her at all during the trial?

A. No.

In her Inquiry statement Shirley McKie confirms that she had no contact with Mark Lees as do Iain McKie and family members present at the trial. As with the rest of his allegations Mr Brown has been unable to supply and supportive evidence.

In his oral evidence however Constable Kerr completely denies Brown’s claims.

Pages 40 and 41

Q......What is recorded here as Mr Brown’s evidence is: "I did speak to a SOCO officer, Officer Kerr, who confirmed that he heard PC Lees and Shirley McKie having a heated discussion in the porch of the locus. The SOCO said that Shirley McKie used the word “contamination”. The SOCO was dismantling door handles at the time and this was around 13/01/97. I understand Shirley McKie was examined on this topic in court and denied that she used the word “contamination” in conversation with PC Lees."

A. When was this?

Q. I don't think we have been told that, in fairness to you, Mr Kerr.

A. Well, I thought if he'd spoken to me he would at least have got my rank right. I'm not a Scene of Crime Officer and never have been. I've not spoken to Les Brown. I remember getting a phone call once from someone purporting to be Les Brown wanting to speak to me about the McKie case and I referred him to our Legal Services Department.

Q. Just to be quite clear about it, did you say any of the things to Mr Brown that he records you here as having said about hearing Constable Lees and Ms McKie in a discussion?

A. Absolutely not. I couldn’t even have told you that Constable Lees was in the porch. You know, I knew Constable Lees was a log keeper but I couldn’t have told you Constable Lees was in the porch at the same time Shirley McKie was in the porch. The 13th of January’s the wrong date as well and contamination is utterly absurd.

10. The Kerr Reid Connection. Mr Brown claims in his statement that a police officer Reid Kerr told him that while on dock duty a, ‘Police Officer from Kilmarnock ‘ with reference to Shirley McKie had told him, “that b***h will get us done, it was me that let her into the house.”’
33. I also spoke to Kerr Reid in 2006. He got in touch and said that he might be able to help. He told me that he had been on dock duty at Paisley High Court. He told me that he was on dock duty with a Police Officer from Kilmarnock. That officer said to Kerr Reid that “that b***h will get us done, it was me that let her into the house.” Kerr Reid asked him why he had let her into the house and he said it was because he fancied her.

However Mr Reid in his oral evidence to the Inquiry, while admitting that in the Kitchen area at court he had heard a male officer from Kilmarnock tell a group of police officers that his colleague had said he let Shirley McKie into the house, denied Brown’s claims.


Page 46

‘Q. Mr Reid, Mr Brown's position is that what you told him when you spoke to him about the matter was that the officer who spoke to you told you that he, that officer, was the individual who had let Ms McKie into the house?

A. I have never said that.

Q. In fact, what you reported to him was, "That bitch will get us done; it was me that let her into the house"?

A. No, not at all. It has always been the person's colleague or work colleague that I have said, a neighbour, a neighbour in the context of the police as a work colleague.’

11. PC Morgan’s knowledge. In his search for the person he believed had let Shirley McKie into the murder house Mr Brown discovered that SCRO expert Collette McKay had alleged that a PC Alistair Morgan while on secondment to SCRO had told her that "I work with a guy at Stewarton who let her into the house and he now feels really bad for what happened to the four experts. “ In his statement Les Brown comments.

43. I got in touch with Detective Superintendent Mitchell six weeks after the meeting. He explained that they had interviewed PC Morgan, who had confirmed my account, but they did not interview PC Lees due to lack of corroboration.
However in his oral evidence to the Inquiry Alistair Morgan’s gives a somewhat different account.

Pages 47, 48, 49 and 50
Q. It is after this that you say in paragraph 8 you were interviewed about the matter by Les Brown?

A. That's correct. He contacted me at Kilmarnock office and asked if I would meet him for an interview and provide a statement or certainly answer some questions that he had for me.

Q. What happened when you met Mr Brown? What did he ask you?

A. He asked me, just regarding this, that there had been a statement received saying that a female member of staff from SCRO had had a conversation with someone from U Division who'd suggested that he knew someone who'd allegedly let Shirley McKie into 43 Irvine Road.

Q. What did you say to him?

A. I confirmed that I had been there, that I had been to the SCRO but I'd never take part in any conversation like that.
Q. Les Brown has given a statement to this Inquiry and I'll read you out a passage from paragraph 48 of that. I am not sure there are copies available on the system. I believe there may be some technical difficulty with having this on the system just at the moment........

........This is paragraph 48 of Mr Brown's statement to the Inquiry. He says: "I applied to interview PC Morgan. On 6th May 2007 I met him. He said that he had been trying to impress Collette McKay and was making out that he knew more than he did. He was not a friend of the person in question. That person was PC Lees. He said that he had obtained the information by rumour and that PC Lees had not said anything to him about the matter." If we can perhaps break that down into parts, Mr Morgan, the first part of Mr Brown's account is that he met you on 6th May 2007. Is that correct?

A. That could be correct. I said in my statement it was 2007 but I didn't know the exact date.

Q. What Mr Brown is reporting here was that you told him that you had been trying to impress Collette McKay when you met her and that you had been letting on that you knew more about Shirley McKie affair than you actually did?

A. That's incorrect........

Q. If that is Mr Brown's position in evidence, can you think of any reason why he might be saying that if you didn't say it to him?

A. I've got no idea. I've got absolutely no idea. But that simply wasn't the case.

............

Q. Did you mention Constable Lees to Mr Brown?

A. As far as I remember, Mr Brown mentioned him to me........

Q. What was your response to that?

A. I said I knew him but I wasn't -- I knew of him as a police officer but I wasn't a friend of his.

Q. You didn't say to him that the person mentioned in the story was PC Lees?

A. Person mentioned in the story?
Q. I am sorry, that the person who was alleged to have let Ms McKie in was PC Lees?

A. I'd never discussed it at all so I wouldn't have said that.

Q. So it comes to this: your position is that you didn't discuss the McKie case at all with Miss McKay?

A. That's correct...........

Q. And if Mr Brown is saying that your account to him was that you did say something to Miss McKay about the McKie case but you were making out you knew more than you did in order to impress her, you say also that was something that didn't happen and you did not say that to Mr Brown?

A. I would find that rather strange after giving a statement to Complaints and Discipline saying that I didn't speak about it at all and then saying that to him and then after all he then provides that to yourself and I haven't seen anything to be able to contradict that.

Q. Again, you can't think of any reason why Mr Brown would say such a thing?

A. No. I don't know him well enough to understand why he'd say such a thing.

12. **The Golf Professional.** In his statement Les Brown refers to an ‘anonymous source’ telling him that a golf professional from Troon, Gordon McKinlay, ‘had been saying that he knew a police officer at Kilmarnock who had told him that he had all the answers.’

44. I was also informed by an anonymous source that a golf professional at Troon Golf Course, Gordon McKinlay, had been saying that he knew a police officer at Kilmarnock who had told him that he had all the answers.

45. I went to Troon Golf Course to see Gordon McKinlay. He took my phone number and undertook to call the officer. However he never called me and neither did the officer in question. I had said to McKinlay “if you do not know what I am talking about, say so and I am out of here”. He declined to do so.

Yet again however a witness contradicts Mr Brown. Mr McKinlay gave the following oral evidence to the Inquiry.
Q. Do you know a gentleman called Les Brown?

A. I met him once, yes.

Q. How did that come about?

A. He came into my shop, I forget now, some time ago and he said that he wanted to speak to me about the case involving Ms McKie and the fingerprints.

Q. Did he say why he wanted to speak to you?

A. He said that he thought I had information with regard to the case, with regard to the police officer being outside the building where Ms McKie was to go into -- she was to go into, yes.

Q. Could you tell the Chairman just to the best of your recollection just exactly what he did say to you?

A. He came into the shop when I was dealing with customers in the shop and he said that he would like to speak to me with regard that. I said at this moment in time it wasn’t a proper time to do this. I found, actually, the whole incident a bit unnerving. After that, he asked me if I knew a police officer who was involved in it and I said I didn't know any police officers involved in it and he reckoned or said to me that he knew of somebody that I had been talking to that I'd said I did.

Q. Did he say who he thought the police officer was that you might have known?

A. No.

Q. What did you say to him?

A. After a while I asked him to leave -- that's my recollection. As I say, this maybe was a year ago. He said if I knew a name of a police officer who was involved, would I phone him or get this police officer to phone him and he gave me a card.
Q. What was your response to that?
A. I didn't get back to him because I know of no police officer who was involved in the case of Ms McKie..........

Q. Had you spoken to any police officers about it at the golf club?
A. No.

Q. Do you know any police officers who work at Kilmarnock?
A. No.

Q. Did you know any at the time that Mr Brown spoke to you?
A. No.

Q. Do you personally know anything of substance about the Shirley McKie case and, in particular, about anybody who might have let her into the house?
A. I know nothing about the case as off the television and the newspapers at the time. It was a high profile case, obviously, and of local interest and at some juncture in the last ten years or whenever the case was -- I can't recall -- I've obviously been involved with chat. But as far as any officers involved in the case, I know none.

Q. Have you ever spoken to anyone who has claimed to have personal knowledge of the question of whether Shirley McKie was let into the house?
A. No, I've not spoken to anyone.’

Conclusion

This analysis is remarkable in its consistency. Time after time police and civilian witnesses deny the statements attributed to them by Les Brown and in the final analysis his evidence is shown to be totally unreliable.

Whether these are deliberate lies or the product of an over fertile imagination is up to the Inquiry to decide.

Should any readers wish further information on the above issues an e-mail request should be forwarded to iain.mckie2@btinternet.com A full name and the reasons for the enquiry should be provided.