

## A response to the Scottish Fingerprint Service 'Opinion' Paper

Dear Iain

The momentum is coming quick and full and it is very interesting stuff. I think your interpretation of the spirit of the Innes report was correct, it is not a discussion paper but more of a personal view using his positional authority; basically an edict to all who would question the SCRO understanding relating to the McKie case.

But there are a lot who are not under the control of Mr Innes and in our free world there are different views to his. Firstly he doesn't explain whether he has completed fingerprint training or is just speaking from the position of an informed person. The report is totally focussed on the overuse of the word opinion and as such is biased to the debate of whether fact and opinion share a branch in the science of fingerprint identification.

The author should be careful in referencing authors and interpreting their views, even spelling their names correctly would show some respect, Ashbaugh, not Ashbough, that could be like Innus not Innes, a totally different person. There are two points I would offer in reply one relates to the expression 'expert opinion'. The expert is a professional witness who assists the court in solving a difficult technical problem. The rules of evidence are formal arrangements as to how the expert can present their findings. The "Common Knowledge rule" and the "Ultimate Issue rule" define the boundaries for the expert who then must keep within the "Expertise rule".

From a forensic science view the expert is expected to have completed an examination and accurately applied the scientific principles of the science. To this end the situation where multiple views are expressed concerning the same technical problem this equates to either poor practice of the science or the science itself is less than reliable. The former rather than the latter is the case with the McKie examination. Innes shows no respect for the views of the international fingerprint community and the Scottish court outcome so he is particularly biased.

There is a definite result to the problem of whether the latent fingerprint belongs to Shirley and the answer is no. That is a fact, and Innes should accept it rather than play judge with words about opinions.

The second is about the McNamee case and the role of UK experts, firstly the quote from Innes is:

*'Another case which clearly exemplifies this 'different opinions' position is the appeal case against Gilbert McNamee (The Hyde Park Bombing).*

*In brief FP marks were found on a Duracell battery which was removed from an explosive device. McNamee was convicted and appealed but was turned down. After serving 12 years in prison McNamee's case was raised and heard by the Criminal Review Commission. At the end of November 1998, 13 different experts including Heads and Deputy heads of bureaux in England, Senior fingerprint experts and Independent experts gave opinions at the Royal Court of Justice in London as to their findings. Opinions ranged from "not identical", "identical" and "insufficient." Opinions also ranged as to whether the mark had any movement in it. McNamee's appeal was successful. Again a situation where experts gave their opinions ranging from identical to not identical. No one ever suggested that one side had to be wrong and must have therefore conspired to commit perjury.*

Another author is Simon Cole and his research about the same case goes as follows:

*'Danny McNamee was convicted in England in 1987 of conspiracy to cause explosions.' He was dubbed the "Hyde Park Bomber" for his alleged role in a 1982 Irish Republican Army bombing that killed four soldiers and seven horses. McNamee was implicated in the crime by three latent prints: two from tape found with explosive-making equipment, and one from a battery recovered from debris after a controlled explosion in London. The latent print from the*

*battery was the most incriminating. At McNamee's trial. Metropolitan Police latent print examiners offered evidence that McNamee was the source of the latent print on the battery. As McNamee appealed his conviction, controversy emerged over the battery print. At least fourteen different examiners analyzed the evidence. Two Glasgow examiners found eleven corresponding characteristics between the latent print and McNamee's inked prints, but they were not the same eleven characteristics. At least two Dorset examiners also attributed the print to McNamee, but did not agree with some of the corresponding ridge characteristics identified by the original examiners. Other experts, including Peter Swann and Martin Leadbetter, found the latent print insufficient for identification. The appeals court quashed the fingerprint evidence, the case collapsed, and McNamee was released in 1998 after serving eleven years in prison.'*

Just to avoid any confusion the man's name is Gilbert 'Danny' McNamee, I'll leave both of the authors to sort out the difference in the detail of their research. We can assume that Met. Police presented a chart of 16 points, the UK standard. The profusion of detail that would have been available to all these different experts means the latent must have had a sufficient quantity of information. The confusion this situation represents is not about the science but has a lot to do with competency. Unfortunately the case is complete and the latent will never see the light of day but it sends a message to Innes that the fingerprint identification system used in the UK was not regulated by a competency standard.

This same confusion is attributed to his explanation that the Marion Ross house fingerprint can be a single touch but with a 66 degree rotation in one area only. The finger that made this mark must have been more skilled than a ballerina to turn just the exact amount needed to make alignment fall into the hands of the SCRO.

I heard a similar presentation here in Australia and convinced the expert that this approach was not scientific. Henry Faulds threw away his credibility by not accepting that the science was bigger than the profile of the man. Innes would do well to realise the same.

**Regards,**

**LH Expert Australia**

**Dear LH,**

Thank you for taking the time to write.

I suspect that like you all reputable experts across the world have seen through the SCRO/SFS smokescreen. It is telling however that they are willing to allow attacks to be made on the very basis of your fingerprinting science rather than admit their errors.

The 'Danny' McNamee case is an interesting one and is still being debated today. Some the 'usual suspects' were involved in that case and as you suggest competency - to which I would add arrogance - had more to do with the debacle rather than any basic flaw in the science.

It will ever be thus until this insufferable arrogance by that small minority of UK experts with little cause to be arrogant is challenged and they are seen for what they are – spent forces feeding off self perceived past glories.

Fortunately I sense a new breed of expert, like the ones in Aberdeen, who have the courage of their convictions and independence of mind to challenge their science secure in the belief that by doing so they are ensuring that fingerprinting will endure as a forensic science fit and ready for the 21st century.

Thank you as ever for your contributions to an important debate.

**Iain**