

SCRO and Peter Swann Debate

The response to the publication of the letter from Peter Swann's solicitor to the Lord Advocate in Scotland has been swift.

USA postings link: <http://www.clpex.com/> (Detail Chat Board - 'Peter Swann and SCRO')

Latest postings at shilreymckie.com

From Michael Russell:

"Mr Swann's hysterical and self serving letter merely underlines the key fact of his involvement in the case - the fact that he got the identification wrong. However as this intemperate and wildly inaccurate letter is now being privately circulated by senior figures in Scottish fingerprinting as some sort of pathetic justification for SCRO's wrong doing it is clear that there is unacceptable collusion between the Crown Office and the SCRO. It also demonstrates a continuing culture of arrogance, whitewash and cover up within that organisation and proves that the present management of the SCRO will never accept their responsibility for the suffering they have caused and the damage they have done to the Scottish criminal justice system. A full, independent, enquiry is now required for the situation is nothing short of a public scandal."

From David Grieve

Mr. Peter Swann is to be commended for exposing a pandemic of incompetence in the area of fingerprint identification that has swept the world. This pre-eminent fingerprint examiner, and if one is to accept the pronouncements of his solicitor, perhaps the foremost examiner in all of history, has revealed that nearly two hundred charlatans representing Australia, Belgium, Canada, Denmark, Finland, Hungary, Latvia, Macedonia, The Netherlands, New Zealand, Poland, Portugal, Sweden, Trinidad and Tobago, Kosovo and the United States who signed a petition that avowed the mark in question was not made by Shirley McKie have suspect ability. Mr. Swann's humanitarian gesture gives these countries fair warning and the emptying of prisons should begin soon. I am sure fourteen examiners in Borders and Lothian will be immediately suspended, and a review of their cases should keep Mr. Swann busy for years. How such gross failure has gone undetected for years is a puzzle, but the citizens of Scotland may finally sleep better knowing these unqualified people will soon be prevented from further harm.

I do have several concerns, however. Since Mr. Swann is endowed with such extraordinary ability, I cannot understand why the prosecution failed to call Mr. Swann to the stand in Shirley's trial or in the Asbury matter. Not only has Mr. Swann enlightened the public about global ineptness in forensic identification, he has revealed the inadequacy of those prosecutors serving the public. Surely someone of such high ideals and pursuit of truth would have contacted QC Murphy and offered his support to the interest of justice. The fact that Mr. Swann was not called as a witness represents malfeasance of the highest order. While failure to properly prosecute a mere perjury charge might be overlooked, the omission of Mr. Swann from the witness list in the Asbury case is unforgivable. To think that a murder case was quashed due to such prosecutorial misconduct is shocking. I am confused what held back Mr. Swann from providing the court with the crucial information that SCRO got it right, that the vital link between Mr. Asbury and the victim was valid after all. The weight of such evidence from an examiner so gifted and so unblemished would have surely swayed the court into proper action. My God, the level of incompetence occurring in criminal prosecution in Scotland is a disgrace. Thanks to Mr. Swann, I am sure an immediate inquiry will be conducted. Heads must certainly roll on this one.

I also empathize with the mental torment Mr. Swann has suffered these past six years. I sit in awe of a man who possessed such vital information about Shirley's and David's guilt, yet was forced to be silent due to his lofty principles. I doubt I would have found such fortitude to adhere to this elegant moral code when justice was being trampled. How the man must have suffered to know that the US, Holland and Sweden were subjected to shabby service by those that gave evidence in Shirley's trial, or reviewed the matter during the formal inquiry. How Mr. Swann must have wailed within the confines of his home when no examiner taking courses in the UK, Canada and the US managed to identify Shirley's fingerprint in blind tests. It is almost an unbearable burden to be aware of such examples of ineptness and be unable to do anything about it. I hope

Mr. Swann has taken appropriate action against Mr. Bayle, Mr. Broadstock, Mr. Cook and any other UK examiner who was so easily duped.

I, for one, deeply regret Mr. Swann's prolonged silence, for an earlier disclosure of my incompetence would have prevented my further contamination of those I have trained since 1999. However, since I have reviewed the marks on a regular basis since then, and still cannot find the agreement required, I am contacting the nearly 80 people I have trained that they were improperly instructed. I shall even proffer charges against myself with the International Association for Identification to revoke my certification, and will include those other certified examiners who fail to see what Mr. Swann sees. But I do vow to continue comparing the mark to Shirley's left thumb print until I can see they are identical. Senility should help. And I am extremely grateful Mr. Swann found justification to end his silence and go public with his conclusions. I am in admiration of Mr. Swann for shunning his obvious humility and revealing to all of us just how qualified he is.

From an Australian Expert

It appears that the SCRO 'house guests' are starting to expose themselves and cry foul about the treatment received due to their position on the issue of being professional witnesses. It is very interesting that the author represents himself as a 'fellow of the fingerprint society' and in so doing taints membership of that society by association. If the society cannot self regulate by imposing standards of professionalism which are acceptable to the British courts then the same society has a long way to go to develop a professional society. The author and his SCRO group are 'risk takers' who have abused the privilege of being qualified in the science of fingerprints. They have been exposed in the courts of Britain by their truly professional peers, the verdict is in, and the battle is lost by the SCRO and by Swann. Defiance in the face of defeat is only honourable if there is a thread of integrity and credibility left, to insult without reason only irritates the victor.

I wish you, Shirley and your supporters good health and spirit in the coming weeks.

From Pat Wertheim

For sake of discussion, let us say you have one child, a boy age 10 years. We will call him "Bobby." Bobby had several friends over for a visit after school. Now, after all the children have gone outside to play, you find a dirty fingerprint on the door of the fridge. You had cleaned the door earlier in the day and are piqued to see a dirty fingerprint there now. Is it Bobby's fingerprint?

Other than a confession from Bobby, the only way to determine if Bobby left the fingerprint is to compare the unknown fingerprint on the fridge to Bobby's fingerprints. In doing that, there are only two real possibilities: YES, it is Bobby's fingerprint, or NO, it is not Bobby's. Those are the ONLY two possibilities – there cannot be any other. However, there is a third answer you might give to the question, and that is "I cannot tell." That third answer could be because the fingerprint on the fridge is too smeared to see any detail, because the fingerprints you have of Bobby for comparison are not taken properly, or because you lack the ability to make the determination.

Now, if you identify the fingerprint as Bobby's, you need look no further. It cannot be the fingerprint of any of the other children. But if you determine the answer is NO, it is not Bobby's fingerprint, then you look at the friends' fingerprints, one at a time. Let's say you look at Shirley's fingerprints. Again, there are only two possibilities, YES it is hers or NO it is not. The same for David, or Marion, or any of the others you might wish to consider. But the fingerprint can ONLY be identified to one person – it could not have been made by more than one person. That is just plain common sense.

Fingerprint experts do this all day long. The reliability of a fingerprint expert is measured by two things: How often does he say, "I cannot tell" and how often does he identify the wrong person? It is not considered a serious problem to miss one on rare occasion, that is, to say "I cannot tell" when you actually should have been able to make an identification. However, if an expert misses too many that should have been identified, he cannot be considered a true "expert."

But in the forensic science of fingerprint identification, that second measure of accuracy is far more important. It is considered a major fault to identify the wrong person. If you identify the

fingerprint as Shirley's and punish her when the person who really left the fingerprint was Bobby, you have not been fair to Shirley or to Bobby. But a dirty fingerprint on a fridge is a minor thing. If the fingerprint is at the scene of a murder and prison is the consequence to the person you identify, an erroneous identification can have tragic results. Many experts have lost their careers for a single such mistake. Ask the innocent person who was sent wrongly to prison if loss of the job is too severe a consequence for the expert.

If an "expert" makes an erroneous identification once, might he not do it again? If he does it twice, should he continue in his job? If a number of "experts" all make the same mistake, should you not take a hard look at the whole operation and ask if there aren't serious problems? And if you find serious problems, as the Police Enquiry did, is the correct way to handle the situation to promote the "experts" who have made multiple erroneous identifications? And if the identifications are truly erroneous and another person is found to have concurred in the erroneous identification, should that additional person now be believed and honored?

In the case of the murder of Marion Ross, two erroneous identifications were made. That is a fact. It has been accepted as fact by the official Police Enquiry that looked into the affair in great detail and by the courts. One of these erroneous identifications was used against David Asbury, who spent years in prison as a result. His conviction was quashed and there is insufficient evidence to try him again for the murder. The other erroneous identification was used against Shirley McKie, who was found "Not Guilty" of perjury by a unanimous verdict of the jury who heard the case against her. Following that unanimous verdict, the judge commended Ms McKie for her courage and strength in maintaining her innocence.

That was six years ago, and now the additional person who originally concurred in the erroneous identifications has come forward to complain that he has been grievously mistreated by those who proved the identification was wrong, and by Shirley McKie, Iain McKie, and David Asbury for seeking damages for the harm done to them – harm that he could have prevented if he had got it right, rather than perpetuating the erroneous identification.

Is there no justice in Scotland? Is there no fairness?

From a Netherlands's Expert

A civilized society gives voice to people of all kind; from hardworking laborers to respected scientists and from clerks to MP's, but it distinguishes itself by giving voice to the less fortunate and even to those who behave foolishly and criminally.

A civilized society distinguishes itself by nominating the respectable and the sensible to their reign, at the same time dismissing liars, criminals and fools.

So the flat earth society may prosper but will not prevent ships and airplanes traveling around the globe.

Developments in Fingerprints in Scotland in recent years have been tragic. Let us watch the response of the Scottish people and the British fingerprint community. Will they finally embark and set sail for professionalism and the truth?