Evidence that my experience has proven that the current Police and COPFS services are not working

I was involved with the Police and COPFS after reporting to the police on 4th February 2014 that my late Aunt had her savings stolen from her by her carer. She died on 28th January, 2014.

Having never dealt with the Police or the COPFS prior to the above, I always believed that we had a fair and good justice system in place. However, the service I have received, as a law abiding citizen and tax payer from both the Police and the COPFS has proven otherwise. I believe the evidence I provide below, should assist your inquiry in helping to make improvements to a service that is, from my personal experience, failing the public.

I appreciate that this inquiry is relating to the service of COPFS and therefore I will not go in to any real detail of the shortcomings of the service from the Police, but have touched on it within my summary, as believe both services are linked. It also shows the length of time that victims of crime are having to wait to seek justice – i.e. in this case from 4th February, 2014 to 28 October, 2016, when the accused was found guilty, following a 10 day trial. She was sentenced on 25th November, 2016 to 2 years in prison.

I will, as much as possible, try to steer away from the emotional impact these failings have caused me and my family and stick to what I believe may assist in this inquiry. I am aware that the Committee will not consider any “defamatory material”. It will, however, not be possible to make the points, without highlighting the facts surrounding my personal involvement with COPFS.

I have summarised below my experience with dealing with COPFS and, where, possible, highlighted areas where I believe the system is truly failing.

My experience with COPFS has shown me, without a question of doubt, that the current judicial system is far more weighted towards protecting the accused than seeking justice for the victim. Whilst I totally understand and respect that the accused is innocent until proven guilty and entitled to a fair defence, I do not understand or respect, why there is not a more balanced playing field between the prosecution and the defence.

From my experience, the Police have to strongly believe there is a case to answer before submitting a report to the Procurator Fiscal and the Crown also have to believe there is a strong case to be answered before taking it to a trial. Therefore, it is likely that there is strong evidence that the accused has committed a crime and yet, the emphasis is much more on the prosecution proving without any doubt
whatevsoever that the accused committed the crime, than the accused having to convince a jury they didn’t.

As I understand it, an accused person, does not have to take the stand to defend their innocence and I question why this is not made compulsory, if the Police and the COPFS, following their detailed investigations, believe the accused has committed a crime. When a person is telling the truth, then no lawyer should be able to “trip them up”, as the truth comes naturally, whereas lies do not. There is no need to defend the truth, set it free and it will defend itself.

<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
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<tbody>
<tr>
<td>4th February 2014</td>
<td>Reported the crime against my Aunt to the Police.</td>
</tr>
<tr>
<td>February 2014 to January 2015</td>
<td>Continually chased the Police for progress – with constant fob-offs</td>
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<tr>
<td>January 2015</td>
<td>Formally complained to the Police re. how this investigation was being handled</td>
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<tr>
<td>September, 2015</td>
<td>Went to my MP to ask for his intervention with the Police and COPFS.</td>
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<tr>
<td>February, 2016 (2 years after I first reported the crime)</td>
<td>A trial date had been set and at the First Diet, the Defence lawyer attempted to make a valuable piece of evidence inadmissible. The Judge declined this request. The Defence then asked for a continuation to the First Diet and this was granted. The following week, the continuation to the First Diet took place. This time with a new Judge and a different person representing the Prosecution. The only consistency was with the Defence lawyer. The Defence Lawyer again attempted to make this vital piece of evidence inadmissible and this time, the Judge agreed. I cannot understand why the Defence was allowed to go over the same ground and raise a matter that the Judge the previous week had refused to make inadmissible. I emailed my concerns to COPFS. COPFS then appealed this decision. Consideration for the Inquiry Committee: Why does one Judge’s decision over rule another? Perhaps a change to the system should be that the Defence are not allowed to go over the same ground at these First Diets?</td>
</tr>
<tr>
<td>April, 2016</td>
<td>An appeal against the Judge’s decision is taken to the High Court. The evidence was ruled back into the trial.</td>
</tr>
<tr>
<td>July, 2016</td>
<td>A new date for the trial is set and a First Diet takes place. Defence states that they now need “clean” copies of all the bank statements that were provided to the police by me. I had originally marked up these with some comments.</td>
</tr>
</tbody>
</table>
Had this request had to go to the Bank, it could have taken some considerable time to get this information and may have caused a delay to the trial and even ended up in the trial being thrown out, due to the length of time it was taking.

I was still able to access my Aunt’s Bank account online and personally printed out years of statements and hand delivered them to the Court the next day.

Consideration for the Inquiry Committee: Why was the Defence allowed to come up with this new request, when they didn’t ask for it in the original First Diet in February. My experience shows that the Defence will do everything in their power to stall proceedings. I believe this needs to change. The delays for victims and victim’s families is painful, not to mention, the amount of tax payers money that is being wasted with these stalling tactics.

July 2016

The trial is due to commence and unbelievably, the Prosecution phone me the day before to say that they were not ready to go to trial after all, as needed the Police to provide more information.

Consideration for the Inquiry Committee: How could the Crown be ready for trial in February, 2016 and not in July 2016. This alarms me that they were ill prepared had the trial gone ahead in February, 2016. Surely, the public need to have confidence in the COPFS being as well prepared as possible when going to trial.

4th October, 2016

The judge at this diet was the same one who had made a valuable piece of information inadmissible and had his decision overturned by 3 High Court judges. He was clearly angry at the prosecution for challenging his decision and made this clear by saying things like "if this was up to him, it would be thrown out due to the time it has taken and that there would be no extension to the time bar" if anything else arose. This judge also made mockery of Mr Scott’s statement being inadmissible, as Mr Scott has since passed away. At the end of this hearing this judge looked straight at the prosecution and said "I won't be the judge on this trial - just as well". That, in my opinion was him stating that the prosecution would lose.

Consideration for the Inquiry: I appreciate that the above is very personal and may not be considered within this Inquiry, however, the Committee should perhaps consider whether a Judge, who had a decision he made on a case overruled, should be allowed to take part in any element of the same case thereafter. Perhaps the system should change to make sure that doesn’t happen again.

13th October, 2016

My Aunt’s trial is due to commence. I receive a call on the morning of the 14th from COPFS to advise that they cannot start that day as there was not enough jurors.
I expressed my distress at yet another delay and re-emphasised the strain this was putting on my 86 year old Mum and I (who were witnesses). I was assured it was due to commence the next day.

14<sup>th</sup> October, 2016

Unbelievably, I receive a call from COPFS to advise the trial couldn’t start until Monday, 17<sup>th</sup> October as the trial judge that had been appointed to this trial would be on holiday from w/c 24<sup>th</sup> October and as they thought the trial would go on beyond a week, they needed a new Judge.

I was distraught, angry and extremely vocal that this was totally unacceptable.

COPFS advised that this was not their fault as they were well prepared to go to trial and it was up to Scottish Courts to deal with Jurors and Judges.

I therefore phoned Scottish Courts and it transpired that there was a breakdown in communication between COPFS and Scottish Courts. When the trial should have commenced in February, 2016, COPFS had advised it would be a 2-3 day trial and they didn’t realise that the trial now could last up to 2 weeks. This resulted in them not having enough jurors and appointing a judge that would not be available for the entire length of the trial.

The stress this put on me and my family was immense.

Suggestion: There must be more joined-up thinking between COPFS and the Scottish Courts to ensure this type of error does not happen again.

Also, what is alarming is if the trial had gone ahead in February over only 2-3 days, when it in actual fact needed 10 days, it is unlikely the Prosecution would have been successful and a woman, who was clearly a threat to vulnerable, elderly people in society would have been free to continue with her crimes.

17<sup>th</sup> to 28<sup>th</sup> October

A 10 day trial took place and the accused was found Guilty on the 28<sup>th</sup> October, 2016. 2 years, 8 months and 24 days after I reported the crime.

During that time, I had to fight tireously to get the matter dealt with properly. The stress and strain this put on m and my family was immense. My brother (who was not a witness) attended the Court on this matter on 22 occasions, due to First Diets, continuations to Diets, an Appeal, cancelled trial dates and a 10 day trial!

That said, the Depute Fiscal on this case throughout the trial was excellent and in some way helped restore a little faith in the judicial system.
However, during this 10 day trial, as victims we experienced further preferential treatment being given to the accused:-

- During the accused’s time on the stand, she stated a few lies about my Aunt, which hurt me. I shook my head and had tears in my eyes. I was reprimanded by the Police Officer in the Court and was advised that I need to realise that the Jury could see me reacting like this and this could sway their opinion. So, basically despite how emotional I was feeling, it was made clear to me that I wasn’t allowed to show it.
- Whilst waiting on the verdict – me, my family and friends waited in a corridor outside the Court. This included my Aunt’s best friend, who is nearly 80 years old. She had taken a bus from her home to come to the Court to hear the verdict. The accused and her family were escorted in to a room at this time, whilst we had to stand in a corridor. Whilst I appreciate the accused was still innocent at this point and entitled to a level of respect. Should there not have at least been the same level of respect shown to the victims and their family/friends.
- Prior to the announcement of the verdict, we as a family were told by the Court Police Officer, despite the outcome, to show respect in the Court – “after all it wasn’t a Jeremy Kyle show”. When the Guilty verdict was made, we were all elated, but did not shout out etc. I did, however, lean forward and wrap my arms around my brother and was reprimanded for this action. On the other hand, the accused’s daughters cried and were being comforted by family members. They didn’t appear to be reprimanded. Whilst I have compassion for the accused’s daughters, we must not forget that the reason her daughters were crying was down to their Mother’s despicable crime. It had taken exactly 2 years, 8 months and 24 days to get justice for my Aunt, many sleepless nights and many tears and therefore as a family our emotions were high, but were not allowed to display this. Totally unfair.

25th November, 2016

The accused was sentenced to 2 years in prison. The Defence Lawyer stated that the accused’s daughters had suffered immense stress over this ordeal and the accused’s elderly mother’s health was deteriorating because of it. The defence also highlighted that the accused and her family had to endure abuse in the street since the trial.

Whilst I fully appreciate that the Defence have every right to put forward mitigating circumstances. All of the above, was due to the accused’s actions, not the victims and their families.

On the other hand, I was not allowed to provide an impact statement on how this whole ordeal had affected me and my family.
The stress was immense and my 86 year old mother had to take to the stand.

Suggestion – victims should be allowed to provide an impact statement to make it a more level playing field between the accused and the victim.

From my experience, what I would like to see changing with the current COPFS system is:

- A much more level playing field between defending an accused and seeking justice for a victim. At least allow COPFS to speak face to face with the witnesses reporting a crime. I truly sympathise with the job COPFS have to do with dealing with so many cases, with no real personal involvement with the victims.

- Consistency of the same Prosecution team looking after a case from start to finish, providing continuity.

- Consistency of Judges at First Diets and trials. Different Judges can have different opinions and as I personally experienced one Judge’s decision, overruled another and this resulted in an appeal and an extra period of 9 months before a trial took place. This is distressing for both the accused and the victim.

- Any decision by a Judge at a First Diet should be final and the Defence should not be allowed to raise the same issue at any continuation to a First Diet.

- Defence should be stopped from constantly stalling proceedings. I believe this is in an effort to potentially get the case thrown out, should it extend the time bar. This is also extremely unfair to victims of crime and their families.

- Victims of crime should be treated with the same level of respect and courtesy as the accused – my findings during this trial proved otherwise.

As can be seen from the detailed fiasco that has happened between the Police, COPFS and Scottish Courts, I have spent numerous hours, days, weeks over the last nearly 3 years of my life fighting for a fair trial. I am a strong individual that has no fear in fighting for what I believe is right, I would question how many other members of the public would have been driven to do the same and why should they.

Despite my strength in character, this whole experience has taken its toll on me and caused me numerous sleepless nights, worry and stress, so ultimately been detrimental to my health. Also, imagine what all of this has been doing to an 86 year old woman, who was a witness on this trial.

I was a witness at my Aunt’s trial, something that made me feel nervous, so having the added burden of dealing with the obstacles that have continually been put in my way, made me more stressed and upset.
What I and my family have gone through to simply ensure that this crime was investigated properly and that the accused faced trial was horrific and I would not wish it on any other law abiding citizen.

Members of the public, who report a serious crime to the Police should not have to fight continually for the matter to be taken seriously and dealt with in a professional manner and, in my opinion, the whole judicial system needs reformed, to allow COPFS to be able to do their job properly and have a higher success rate for convicting crime.

I would therefore urge the Inquiry Committee and any other powers of be, to reform the current judicial system and make it a more level playing field between the accused and the victim.

If the judicial system tightened up and created a bigger deterrent to criminals committing crime, perhaps this would reduce the level of crime. If it did, this would perhaps free up some police time in investigating crime and resulting in an improvement to police resource.

I am confident that criminals are aware of the failing judicial system and are therefore “running rings” round the Police and the judicial system, which is not working effectively, at great expense to law abiding, tax payers.

From my experience, there is no real deterrent to criminals committing crime and unless the system changes, tax payers will be continuing to pay tax for a system that is completely failing them.

It's nearly 3 years since I reported the crime against my Aunt and I can only imagine the amount of tax payer’s money that will have gone on this one case alone, especially as the accused claimed for Legal Aid.

I will be taking my experience to the press, as I believe the public should know what is going on and also maybe by doing so, some action may be taken to change.

Everything I have stated over what has happened can fully back up with communications in writing.

I have no legal or police background, but my experience has shown me, that there is a clear lack of common sense when it comes to our Police and judicial system. It's surely time for it to change.

I would welcome the opportunity to meet with the committee dealing with this investigation and express face to face why I believe the system needs to change to make it a more even playing field for receiving justice for the victim.

Lynn Harrison
1 December 2016