

JUSTICE 1 COMMITTEE

Thursday 4 May 2006

Session 2

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JUSTICE 1 COMMITTEE 14th Meeting 2006, Session 2

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Stewart Stevenson (Banff and Buchan) (SNP)

COMMITTEE MEMBERS

*Marlyn Glen (North East Scotland) (Lab)
*Mr Bruce McFee (West of Scotland) (SNP)
*Margaret Mitchell (Central Scotland) (Con)
*Mrs Mary Mulligan (Linlithgow) (Lab)
*Mike Pringle (Edinburgh South) (LD)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)
Bill Aitken (Glasgow) (Con)
Karen Gillon (Clydesdale) (Lab)
Mr Jim Wallace (Orkney) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr Kenneth Macintosh (Eastwood) (Lab)
Des McNulty (Clydebank and Milngavie) (Lab)
Alex Neil (Central Scotland) (SNP)

CLERK TO THE COMMITTEE

Callum Thomson

SENIOR ASSISTANT CLERKS

Euan Donald
Douglas Wands

ASSISTANT CLERK

Lewis McNaughton

LOCATION

Committee Room 4

Scottish Parliament

Justice 1 Committee

Thursday 4 May 2006

[THE CONVENER *opened the meeting at 13:27*]

Scottish Criminal Record Office

The Convener (Pauline McNeill): Good afternoon. I open the Justice 1 Committee's 14th meeting in 2006, which has been specially convened to allow the committee to agree several matters in relation to our Scottish Criminal Record Office inquiry. We have full attendance for the meeting.

I welcome Catriona Hardman and Rob Marr from the Scottish Parliament's directorate of legal services. Thank you for coming to the meeting. Members are aware that some legal issues may arise, for which we will need to have advice on hand.

In the short time that is available, I want us to agree an initial set of witnesses, so that we can try to manage them into the various slots that I will ask the committee to agree. I will read out a list of potential witnesses that the committee has discussed and ask whether members have additions or anything to say.

It is important that we constantly refer back to our remit. We receive so much evidence that we can forget what the primary focus is. It is worth considering the framework when calling witnesses. At some point, I would like us to debate that further, but I will make a first attempt now.

It is important to focus on the processes that the Scottish Criminal Record Office had in 1997. In particular, we need to understand what happened in the McKie identification. We need to understand whether that identification differed from the normal processes that the SCRO used in 1997; what training was in place in 1997; and how the system in Scotland compared to systems in other countries at the time. We must examine the present processes and compare them to processes in other countries to find out whether we are out of step or in step. Finally, we must consider whether the processes for the future, such as the use of the non-numeric standard, will be in step with other countries and whether they take the right approach. That is probably the issue on which we will want to make recommendations. I have made a first attempt to focus on what the inquiry framework should be, but I will allow members to debate the matter.

I emphasise that the list of potential witnesses is not exhaustive and that, time permitting, members may want to change their minds or add witnesses as the inquiry unfolds. I will read out the list and then ask members to comment.

13:30

First on the list are the four SCRO fingerprint experts who were involved in the McKie case. Next, we have Shirley McKie—we need to hear from her or her representatives and whomever she feels is necessary to assist her. We should hear from the independent fingerprint expert Peter Swann. Mr Swann is represented legally by David Russell, who should be allowed to assist, although our primary interest would be in Peter Swann. The list also contains Jim Wallace MSP, the former Minister for Justice; Colin Boyd QC, the Lord Advocate, who cannot speak about the decisions involving the prosecution but who may speak to other issues; Cathy Jamieson MSP, the Minister for Justice; William Taylor, who commissioned the 2000 inspection report on the SCRO; James Mackay, former deputy chief constable of Tayside police, and his assistant, Scott Robertson, former detective chief superintendent; and William Gilchrist, who was the regional procurator fiscal at the time of the fingerprint issue.

It is important to call experts from the training centre in Durham—we just need to agree which should be called. We also need to call practitioners from the other bureaux in the service, not just those from the Glasgow bureau. We might want to hear from the head of the SCRO at the time, who I think was Mr Ferry, although we need that to be clarified. We need to hear from the fingerprint experts John MacLeod, Pat Wertheim and Allan Bayle. At some point, we should hear from the Law Society of Scotland and/or the criminal bar association of the Faculty of Advocates, because they are the main users of the service. Derek Ogg and Maggie Scott from the Faculty of Advocates have been vocal on the issue of a public inquiry, so we should consider calling them. John Scott, who is a member of the Law Society and the Glasgow Bar Association, has written to us, so we might want to call him to get a legal practitioner's point of view on the current system.

Arie Zeelenberg has offered to make a presentation on the identification of the fingerprint, which we should consider. If we take up the offer, it would be important to have an exchange between him and other fingerprint experts who have a different point of view, although it is for the committee to agree that in principle and then design the shape of such a presentation. Members may want Arie Zeelenberg to make the main presentation, but with the SCRO officers present.

Alternatively, it may be appropriate to have the officers from Glasgow and the other bureaux who carried out the blind testing to comment on the initial presentation. That might also be the appropriate point at which to call Pat Wertheim and Allan Bayle. That is a first attempt at a list of witnesses, which is quite large.

We have a suggested timetable and dates. I am sure that we will agree initially to attempt to hear as much of the evidence as possible before the summer recess, but we are flexible on the timetable.

I propose to go round the table and ask members to add to the list or to make comments, so that we can come to an agreement at the end of the meeting.

Stewart Stevenson (Banff and Buchan) (SNP): I agree that this is a useful and comprehensive initial list. However, at this stage we cannot discount the fact that, when we hear evidence from the people on the list, we may identify further people from whom we require to take evidence. Because we are not technical experts in this area, it is important that we have technical experts present to challenge Arie Zeelenberg when and if we hear from him. We can observe the interaction and come to a judgment about the credibility of the various arguments. It is clear that there are a variety of interpretations and viewpoints on the subject, and we, not being technicians, are unable to resolve the matter. We will come to the matter of the timetable in due course.

Mrs Mary Mulligan (Linlithgow) (Lab): We have already received written submissions, and it will be important to hear from those who have submitted evidence in order to pick up issues that have been raised within that. The oral evidence is crucial, as it will allow us to have the dialogue that will answer some of the questions that remain outstanding. I am happy with all the names that the convener has suggested.

I apologise to committee members, but when the convener was speaking I thought of somebody else to invite, who I would like to add to the list. As Stewart Stevenson said, it would be helpful to hear from the fingerprint experts together. By sharing their expertise, we can get a full understanding of where there might have been difficulties—and where there might still be difficulties—in how they operate. However, when we visited Glasgow for the presentation a few weeks back, the one part of the process of which we did not gain a full understanding was the involvement of the scene-of-crime officers—those who collect the fingerprint in the first place. I wonder whether we could take evidence from somebody who could explain the process that takes place at that stage and how

that links in with the work of the officers who analyse the fingerprint when it is presented.

Apart from that, I am happy with what has been suggested.

Marlyn Glen (North East Scotland) (Lab): I, too, am content with what seems to be a comprehensive list of potential witnesses. However, I am sure that, as we go round the table, other individuals will be added to it.

It is important that we hear at first hand from Shirley McKie and that she should be invited to bring along whoever she chooses to support her. It is also important that we take first-hand evidence from the four SCRO fingerprint experts. I wonder whether we should leave it open to them to bring someone with them to support them.

Margaret Mitchell (Central Scotland) (Con): This is a comprehensive and balanced list. Like Marlyn Glen, I would very much like to hear from Shirley McKie and any legal representative that, because she would be appearing on her own, she may be allowed to have with her. It would be better to hear first-hand evidence than second-hand evidence. We will also hear first-hand evidence, we hope, from the four fingerprint experts.

The order in which we take evidence will be important, and the minister—Cathy Jamieson—and Colin Boyd should be left to the very end of the process so that they will be able to comment on all the evidence that we will have heard. That would not apply to Jim Wallace, whose input would be that of a former minister. I would like to hear from him earlier in the process. Mr Zeelenberg's offer is helpful, but we should remember that he is only one expert. If we hear from him, we will need to hear contrasting views from other experts.

Mr Bruce McFee (West of Scotland) (SNP): We should put on record the fact that we are not here to retry cases that have been tried elsewhere or to try to overturn court verdicts. We are all agreed that those are not the objectives of the inquiry and that it would not be right for us to do those things.

Have we agreed to invite Allan Bayle?

The Convener: I have suggested him as a possible witness. You can agree or disagree with that.

Mr McFee: That is fine. I agree with that.

I have some concern about one area, given that we have a fair indication of how people will approach it. I am quite content that Arie Zeelenberg and the presentation that he will give should be open to challenge—that is only fair. The suggestion was that among the people who could

make that challenge might be those who were involved in the blind test of the fingerprints in 1997. I am also aware that other experts from other forces—Lothian and Borders police, for example—were asked to examine the same prints and came up with different conclusions. If we are going to open up the matter to that type of challenge, I suspect that we should also represent the other point of view. Perhaps we will get an indication about whether different systems were used at the time. I therefore ask that other individuals who were asked to look at the evidence and came to a different conclusion be included in the list.

Mike Pringle (Edinburgh South) (LD): I thought that we might add two names: William Rae, who was president of the Association of Chief Police Officers in Scotland and who was given a copy of the Mackay report; and John Duncan, the former deputy chief constable of Strathclyde, who was the third person to receive the report.

I will welcome Shirley McKie coming to the committee with, as the convener said, whoever she wants to bring with her. I hope to hear from her the hopes that she has for the future of the fingerprint service.

As far as Peter Swann is concerned, are we inviting him to bring Mr Russell to give him legal advice when we ask Mr Swann questions, or are we asking both Mr Swann and Mr Russell questions?

I think that we should call the people from the training centre in Durham who were involved at the time, if they still work there. They are Mr Shepherd, Mr Thompson and Mr Griggs. I disagree with Margaret Mitchell about Jim Wallace. Because he was minister at the time, he should come before the other ministers, but at the end of the process.

My only other question is about the timescale. A lot of people will want to say a lot of things during this inquiry. If we decide to have three panels consisting of three people on one particular day, it is possible that we will run out of time when we get to the third panel. That has happened before. I do not know how to manage such situations, but I raise it as a problem and throw it at the convener. We will probably meet on a Tuesday afternoon, and I am conscious that the convener will not be able to stay much after 5 o'clock. That gives us three hours to get through three panels. We might find ourselves spending so much time with the first two panels that we do not get to the third one. I am just raising that as an issue of timetabling.

Stewart Stevenson: One of the great conveniences of Tuesdays is that there is no procedural impediment to our continuing to meet

until 14.30 on the Wednesday. Indeed, I have found myself sitting in committee meetings until 8 o'clock at night. If that is what it takes—

The Convener: It always falls to Stewart Stevenson to point out that we could meet through the night; he is factually correct.

Mr McFee: Convener, can you confirm that you read out John Scott's name?

The Convener: Yes—he wrote to us. Because we are testing different aspects of the criminal justice system for the people who use it to see whether they can have confidence in it, we have to take a view from legal representatives at some point, although I do not see that as a priority.

I welcome the three members who have joined us: Alex Neil, Des McNulty and Ken Macintosh. I know that they have a strong interest in the subject. All the committee members have had their say and I guess that those members will want to say something too.

13:45

Des McNulty (Clydebank and Milngavie) (Lab): I am sorry that I have to leave for another meeting shortly, but I am pleased to have been able to come along.

I should start by placing on the record my concern—and I suspect the concern of several other people—about the behaviour of Mr Pringle yesterday. There is an issue about the civil rights of individuals that was not well served by his actions. I will leave that point sticking to the wall.

On evidence taking and the presentation in particular, I believe that the committee should be looking to call people who saw the original print. I understand that the people who are best qualified to judge a print are those whose judgments are based on the original print. In that context, it seems particularly appropriate that Peter Swann, who was asked to look at the print on behalf of Shirley McKie's solicitors, and Malcolm Graham, who was asked to look at it on behalf of a defendant in another, related, case, should be asked to make a presentation. Clearly, they are key witnesses who could make presentations on the subject. Together with the fingerprint experts, Peter Swann and Malcolm Graham were the first people to see the prints. It would be inappropriate for them not to be given an opportunity to make a presentation on the basis of their identification.

There is a second major deficiency in the list of witnesses before the committee. Jim Black, who carried out the disciplinary investigation on behalf of Strathclyde joint police board, should be included on the list, as should Doris Littlejohn, who chaired the committee to which Jim Black reported. His report is probably the most

systematic and comprehensive investigation of what happened—hour by hour, minute by minute—in all of this. Jim Black and Doris Littlejohn are important witnesses with significant documentary information: they interviewed everybody involved.

Bearing in mind the overall employment issues that are central to all of this, my final suggestion is that Kathleen Ryall should be involved. She is the Unison officer who is particularly involved in representing the interests of the four fingerprint experts. A number of individuals, including members of this committee, have made entirely inappropriate statements about those people. Their trade union representative should be given an opportunity to respond to some of those points.

The Convener: Thank you. Is the related case that you mentioned in connection with Malcolm Graham the David Asbury case?

Des McNulty: It is.

The Convener: I am sure that we are allowed to mention that.

Mr Kenneth Macintosh (Eastwood) (Lab): I echo some of the points that Des McNulty made. The convener's suggestion of a presentation is excellent. The experts should be allowed to discuss their conflicting views on the interpretation of the prints and their findings in a public forum. That will be informative for all of us. Obviously, we are not experts, but it would be useful to have a greater insight into the matter.

If Arie Zeelenberg is to make a presentation, one of the other independent experts should also do so. Peter Swann is the most obvious person to call in that regard, given that Shirley McKie initially invited him to participate in the case. It would be useful to have a number of experts—independent and otherwise—at the session.

I have a slight concern about the current list of witnesses. Some of the names that have been mentioned are associated with the McKie campaign; they may therefore have a view or a set opinion on the matter.

Mr McFee: And others do not?

Mr Macintosh: Some people's opinions may be less set. We use the term "independent expert" a lot. Clearly, some people have made their views known publicly, in a way that I believe the fingerprint experts at SCRO would be concerned about.

I agree that Malcolm Graham should be represented at a public session. He was the independent expert who was employed to question the evidence against David Asbury. He has been widely quoted, but it would be good to hear from him in person.

There are two other independent experts that I think we should add to the list: Martin Leadbetter and John Berry. I think that both of them have given us written submissions; if not, they certainly have some knowledge of the case. I am sure that, as independent experts of good standing, they would be happy to come along.

The Convener: Can you clarify who they are?

Mr Macintosh: I do not have their titles on me. They are both independent experts who have given evidence in cases in the same way as some of the people on the list have done. They are both former employees of various services—although not in Scotland—and they have a lot of fingerprint experience. I will send you more information. I was of the opinion that they had given us written submissions, but it seems that they have not.

The Convener: Today is the deadline. I guess that there might be a few submissions to come in, but we have not received submissions from those two individuals so far. It would be helpful if you could clarify who they are.

Mr Macintosh: The final people whom I want to mention are four other employees, or ex-employees, of the SCRO who have been involved in the case—although not as directly as the four fingerprint officers—and whose views are worth hearing. Alister Geddes and Terry Foley have been quoted as disagreeing with the SCRO four, although they did not. It would be worth hearing their evidence. Robert McKenzie and Alan Dunbar were also involved in the meeting that took place at Tulliallan, to which the SCRO officers were not invited. They may be able to shed some light on that. All those officers have had some involvement—partial or otherwise—in the case, and their views and evidence would be valuable.

The Convener: Are Robert McKenzie and Alan Dunbar part of the SCRO team?

Mr Macintosh: Yes.

Alex Neil (Central Scotland) (SNP): It is a good idea to organise the Arie Zeelenberg presentation as you have suggested, convener.

I have two or three comments to make on the witnesses. First, I have no objection to Unison being able to attend with the four SCRO officers but, in fairness, you should also offer the same facility to the fingerprint experts from the other three bureaux. They, too, have issues and I think that Unison is their union as well. They should have the same facility for representation as any officers from the Glasgow bureau, for exactly the reasons that Des McNulty outlined.

I do not know the name of the other expert, but I am waiting for the Minister for Justice to reply to me. She made clear to me about a month ago that, in addition to the two reports that the

Executive commissioned from Mr MacLeod, it commissioned another report after the MacLeod reports. If we are calling MacLeod and others who prepared reports to give evidence, it would be appropriate to call the other expert, once we know the name of that person. The report was on the McKie case, although I am not sure what its exact remit was. The person who wrote that report should be added to the list of potential witnesses if we are to get a complete picture.

The committee is trying to be balanced in its approach, and that is the right way to proceed. The only concern that I have is about inviting Mr Russell, in the light of the serious and wild allegations that he has made—in writing and widely circulated—about the First Minister, the Lord Advocate, the Minister for Justice and many other people. We need to ensure that if Mr Russell comes here in his capacity as the legal adviser to Mr Swann—and it is right for Mr Swann to come here as a witness—it is made clear to him that he is here only to give advice to Mr Swann, not to abuse the immunity of the Parliament to repeat his wild allegations.

The Convener: I should make it clear that we are talking about David Russell, not Mike Russell.

Alex Neil: I was referring to David Russell. I have never heard Mike Russell make wild allegations about anything.

Mrs Mulligan: You have not listened to him.

The Convener: I am sure that I speak for the committee in saying that, once we have agreed our final list of witnesses, we will make it clear that we want to speak directly to the people who are of interest to us. If we are interested in speaking to Mr Swann, we will speak to him. However, that does not preclude us from ensuring that those witnesses for whom giving evidence will be a difficult experience are assisted—that will apply to any of our witnesses—whether by a trade union official or a legal adviser. We will be clear that we want to speak directly to the people of interest. We will not speak to any witness through a medium. I hope that I can reassure Alex Neil on that point.

Alex Neil: On that point, I anticipate that Shirley McKie would want her father to come along. Obviously, he is a witness in his own right, so I presume that he will be allowed to speak and that such a rule would not apply to him. He has direct experience.

The Convener: Okay, I think that members have had a fair round of suggesting names of additional witnesses. We have only 10 minutes left, so I ask members to get to the point.

Mr McFee: There is some virtue in Des McNulty's suggestion that Jim Black should give evidence. That is a reasonable suggestion.

Frankly, I am not sure what the trade union representatives will add in helping the inquiry to get to the bottom of the issue. If we open up the inquiry to considering evidence from trade union representatives on, presumably, the human effects that individuals have experienced, we would need to open it up to hearing evidence on what I suspect is the considerable degree of trauma that other individuals have suffered.

I take some issue with Ken Macintosh's assessment of the situation. I do not see how the A to Z list of the SCRO that he read out represents a list of independent witnesses. He suggested another four ex-employees from the SCRO, including Mr Geddes, but it is hard to find people on that list who are not totally tied in with the SCRO. As we have already decided to take evidence from four SCRO officers, we should avoid anything that might unintentionally result in our taking evidence from 15 witnesses from the SCRO, all of whom might say the same thing. However, I certainly think that we should take evidence from the four SCRO officers.

Mrs Mulligan: I am concerned that we might get into a situation in which the committee is asked to repeat previous inquiries and, as Bruce McFee said earlier, retry cases that have already taken place. As the convener advised at the beginning of today's meeting, it is important that we focus on the inquiry's remit, which is to examine the fingerprint service as a whole on the basis not only of past events but of the changes that have been made and of where we expect the service to be in the future.

We could not get away with holding the inquiry without inviting Mr Swann and Mr Zeelenberg, as we need a balance in hearing different views on the situation. However, I agree that there would be value in hearing from other fingerprint experts so as to give the committee a feel on whether the issue is a disagreement over the future of fingerprint practice; a disagreement between individuals; or just the result of mistakes.

We need to be clear about why we are calling witnesses. Our report should add value to the previous reports rather than just repeat what has gone before. Therefore, although all members might have their favourite fingerprint expert whom they want to invite, the practical reality is that the committee probably cannot deal with all of those. We need to strive for a balanced but limited range of fingerprint experts who can assist the committee to understand where we were, where we are and where we are headed. I hope that, by striking that balance in our consideration of the suggestions that have been made, we will satisfy perhaps not everyone but as many people as possible.

14:00

Margaret Mitchell: I want to take up Ken Macintosh's point, which had not occurred to me. If we are hearing from practitioners about the effect that the case has had on confidence in the criminal justice system and fingerprint experts, on balance it would be better if we heard from the head of the Faculty of Advocates rather than from someone who is involved actively in the campaign.

Mr McFee: It is suggested that Shirley McKie should bring along whomever she wishes. Clearly, one of those might be her father, given the amount of support that he has given her. However, it may be worth specifically calling her father to give evidence, as he clearly has the information at his fingertips, if you will pardon the expression. We might want to question him a bit harder on some matters.

The Convener: We are trying to shape a list of witnesses in whom we have a primary interest. The list is not exhaustive. We need to be flexible and consider the practicalities and the support that witnesses might need, which might be different in each case. The person whose name is mentioned all the time is Shirley McKie—she is fundamental to the inquiry. I want to hear her views on what lessons can be learned and what she expects the committee to do. It is for her, in the first instance, to determine how she wants to present her views. We can leave the matter open so that we are not precluded from calling Iain McKie or anyone else. The committee should express a primary interest in hearing from Shirley McKie, but that is not meant to be exclusive.

Mr McFee: I do not disagree with that, because it is essential that we invite Shirley McKie, but I am interested in how the situation will pan out. I am sure that she will ask her father to come anyway, but we may want to be able to question her father on some matters—I can think of some, anyway.

The Convener: I will try to summarise the situation. Ken Macintosh used the word "balance". As far as possible, we must try to achieve balance. The management may be for another day, but we must ensure that we move through the list of witnesses in an order that makes sense and that gives balance to the process, which is important for the committee. There was not a great deal of disagreement over the list that I read out initially, but I will read it out again, so that we are all clear. The only exception to that was the suggestion that we should call the dean of the Faculty of Advocates. If we decide to do that, I suppose that we should call the president of the Law Society of Scotland, too. Does any member disagree?

Mr McFee: I do not know how those people will respond. We might want to do that, but those organisations may be able to send somebody with

better knowledge of the matter. The dean and the president might not have had direct involvement in the issue, or other people might be better. Can we word the request so that it does not preclude those organisations from sending us more appropriate witnesses?

Mrs Mulligan: I want to be clear about what we will ask those organisations. I understand why we want to invite someone from the criminal bar association, because the members of that organisation work daily with fingerprint evidence and can tell us whether they now have confidence that the service that they work with is as good as it could be. However, I am not sure what we would ask members of the Law Society, whoever they might be.

The Convener: Those are only two of several organisations for people who work in the criminal justice system and rely on fingerprint evidence. I thought that it might be useful to get an official view from them at some point, although I do not suggest that that is a priority. The potential witnesses who have been suggested have been vocal on the issue. I suggest that we write to those organisations to say that we are interested in hearing their views at some point. We could also mention the specific individuals who have represented those organisations up until now as possible future representatives of those organisations and see what reply we get.

The witnesses who were not on the original list that I read out include Willie Rae, John Duncan and the individuals involved in the disciplinary investigation into the four SCRO officers—Jim Black and Doris Littlejohn, and Kathleen Ryall, from Unison. Ken Macintosh suggested that we invite two further independent fingerprint experts, Martin Leadbetter and John Berry, and four further SCRO officers—Alister Geddes, Terry Foley, Robert McKenzie and Alan Dunbar. That is the list that I have of witnesses whom the committee would like to invite to give evidence in addition to those who were on the original list.

Mr McFee: I am wondering where the balance is in that last lot.

The Convener: I think that we have to look at the list as a whole. It would be helpful if we could reach a consensus that those are the potential witnesses whom we may wish to call. We will probably have three evidence sessions before the summer, and there needs to be some discussion about the order in which the committee wants to hear from the panels and how much of that we can fit into those sessions. Realistically, we will still have to take evidence after the summer recess to allow us to hear all the initial evidence, but those three sessions are the important ones for taking evidence from the witnesses who are our priority. We need to decide the order in which we want to

hear from those witnesses and what method we want to adopt in following that through. I invite the committee to comment on how that should be done.

Margaret Mitchell: The four SCRO officers are a priority, given the fact that we have already heard from some of the other potential witnesses. William Taylor would come pretty high up the list as well, and then there is Shirley McKie herself. Those should be our initial witnesses. I would leave Jim Wallace until after we have heard from William Taylor, as it was with the publication of the Taylor report that Jim Wallace came into the sequence of events. I leave it to other members to decide where the inquiry should go next, but those are the priority witnesses from whom I would like the committee to hear early on.

Mrs Mulligan: I envisage five panels of witnesses. The first one would be Ms McKie and the four SCRO experts. Next, we should hear from the independent fingerprint experts, Mr Zeelenberg, Mr Swann and anybody else whom we want to give evidence on fingerprints. The third panel would be those who looked at the operation of the SCRO and made recommendations and suggested changes. Those would be the author of the Mackay report and the author of the report by Her Majesty's inspectorate of constabulary for Scotland, who I think is called MacLeod—it gets a bit confusing sometimes.

The fourth panel would be those who can tell us about the system at the moment. We have received representations from the SCRO as it is at present. Perhaps we could also hear from the criminal bar association. The final panel would be the politicians—the former Minister for Justice, the current Minister for Justice and the Lord Advocate. That would take us through the sequence of events. We would have to decide when to hear from the witnesses we have suggested today, but that gives a framework to our inquiry.

The Convener: Does anyone disagree with Mary Mulligan's suggested schedule?

Mr McFee: Slightly. Most folk agree that the SCRO should be up pretty soon, with Taylor next. That is not unreasonable. The next thing that we should do is look at the fingerprint experts and the method by which they came to decisions. That is key to understanding all of this, although I do not know how we would order that in terms of panels. We have to get to the bottom of it and then get into some of the personalities.

Margaret Mitchell: I agree with what Bruce McFee says and disagree with only one of Mary Mulligan's proposed slots, which is the placing of the former minister. We should hear from him after we have heard from William Taylor, as the publication of the Taylor report was a decisive

moment and it would be useful to hear how things were panning out at that time. We are going back now, and Jim Wallace has no input into the future.

Mike Pringle: I am not entirely sure that it is appropriate to call Shirley McKie on the same day that we call the four fingerprint experts; they should come on a different day. It will be difficult enough for Shirley McKie to come before the committee and that might make it even more difficult. I agree with Mary Mulligan that all the politicians, including Jim Wallace, should appear at the end. We might want to call Jim Wallace before the current minister and have Colin Boyd come last. With those two comments, I do not disagree with what has been said.

The Convener: I propose to read out the list of names and ask members to agree the list. I have taken on board the comments that members have made so far on the sensitivities of the case, the need for balance and the process that we want to undertake. I suggest that the best way forward is for the clerks and me to present the committee with options for the construction of panels. Members can look them over and give us their feedback. There is no time to agree that today. Is that suggestion agreed?

Members indicated agreement.

The Convener: Right. I will read out the list for the record. Let me see whether I can get it right. The list comprises the four fingerprint officers who were involved in the Shirley McKie case; Shirley McKie and/or her representatives and those whom she wants to assist her; Peter Swann, as the primary witness, but assisted by David Russell, if he so wishes; Jim Wallace MSP, the former Minister for Justice; Colin Boyd QC, the Lord Advocate; Cathy Jamieson MSP, the Minister for Justice; William Taylor, from HMIC; James Mackay; Scott Robertson; and William Gilchrist, the former regional procurator fiscal. Also on the list are the experts from the other three non-Glasgow bureaux and—we think—Mr Ferry, who was the head of the SCRO in 1997; and John MacLeod, fingerprint expert and adviser to the Executive.

Also on the list are the group of people who are involved in the training centre in Durham: Geoff Shepherd and Mr Griggs, whom Mike Pringle suggested; and any others who are relevant to that panel. We then have Pat Wertheim; Allan Bayle; and the Law Society of Scotland and the Faculty of Advocates—we said that we would write to them.

I will return to the issue of the presentation, but for now I will continue with the list of witnesses. As we heard, the additional witnesses are Willie Rae, John Duncan, Jim Black, Doris Littlejohn, Kath Ryall, Martin Leadbetter, John Berry, Robert

McKenzie, Alan Dunbar, Alister Geddes and Terry Foley. Most of that evidence will be covered by the four SCRO officers whom we intend to call.

That is the list. It includes every witness suggested by members.

Mr McFee: It does not.

The Convener: Tell me which names I have missed out.

Alex Neil: You have missed the anonymous person whom I mentioned; the one who knows—

The Convener: That is to do with the report. I will come to that.

Mr McFee: You missed Arie Zeelenberg, Derek Hogg, Maggie Scott, John Scott, Willie Rae, John Duncan—

The Convener: No, I did not.

Mr McFee: I am sorry, did I miss them?

The Convener: No. What we agreed in relation to Derek Ogg and so forth was that we would write to the Law Society and the Faculty of Advocates. We will say that we want a view from them and that we are aware that their members have put things on record—Derek Ogg, for example, said something. We will let the Law Society and the Faculty of Advocates decide who will represent them.

I will come to the question of Mr Zeelenberg.

Mr McFee: And John Scott?

The Convener: John Scott is a member of the Law Society and is therefore covered by the letter. We will mention him by name as someone who has submitted evidence.

Mr McFee: Okay.

Mrs Mulligan: I am concerned that we do not have one of the scene-of-crime officers. However, given the extent of the list, I may be persuaded that we should just ask them for written evidence. The scene of crime is part of the process and yet we have not had evidence on it as yet.

The Convener: I agree that we need to hear from them. Written evidence might be okay. We have only one minute remaining to us. The rules in the standing orders are strict, so we have to finish on time.

Right. That is the list of witnesses. The clerks and I will draw up the panels and members can comment on them and on the order in which we take them. I propose that the clerks and I put suggestions to the committee about the presentation by Arie Zeelenberg, how we will involve the other fingerprint experts on the list and how we will manage the session. We want to hear a variety of views from experts on the evidence.

We have only 50 seconds remaining to us, but I want to address the point that Alex Neil raised and also the one on the recovery of documents. We need to find the name of the report and the remit. If Alex Neil has information on that, I ask him to get back to us. I assume that he wants me to pursue on his behalf with the Executive and the Lord Advocate the recovery of all the relevant documents.

Alex Neil: Yes.

The Convener: Are we agreed on that?

Members indicated agreement.

The Convener: We have to finish. Before we do so, I seek members' agreement that the evidence that has been submitted to us is published as a report. The reason for publishing it in that way is that we will be covered by privilege. That is important, given what has been said around the table.

Members indicated agreement.

The Convener: Thank you for your patience.

Meeting closed at 14:15.

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