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**MEMBERS OF THE NATIONAL
FINGERPRINT BOARD.**

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**4 April 2006
Agenda Item:**

Subject: - Erroneous and Disputed Identifications:

Learning from experience elsewhere

1. Purpose

- 1.1 The purpose of this paper is to provide colleagues with the background and an update on current discussion relating to a civil case recently resolved in Scotland.

The paper outlines what activity and action was undertaken in Scotland by ACPO(S) and Her Majesty's Chief Inspector of Constabulary Scotland as consequence of the circumstances of that case

Also set out is the policy position taken by the newly formed NFB in July 2003 in relation to media requests for its comment and engagement.

The recent settlement of the case has led to renewed enquiries to police forces in England, Wales and Northern Ireland, and also to the NFB, from media interests seeking information and comment relating to that Scottish case and its settlement.

The paper concludes with a recommendation that maintains the policy position of the NFB in relation to that particular Scottish case but also a recommendation that the findings of the HMCIC Scotland Primary Inspection in 2000 be reviewed against current fingerprint strategy and policy taking into account the work already commissioned and being undertaken by the NFB. The findings of that review to be reported back to the NFB for further consideration.

2. Background

2.1 On 16 January 1997 a latent print was found at the scene of a homicide in the Strathclyde Police area and was later identified by fingerprint experts at SCRO as that of a serving police officer who denied in Court being at the place in the crime scene where the mark had been found.

The officer was subsequently charged with perjury based on the denial that they were in the house beyond the front porch and could therefore not have left the fingerprint where it was said to have been found.

At the trial three fingerprint experts from SCRO gave evidence that the crime scene mark in question had been made by the officer. Two defence fingerprint experts then gave evidence that challenged the SCRO findings and said that, in their opinion, the mark had not been made by the officer.

The Officer was acquitted. The reasons for the jury's verdict can never be fully ascertained. Whether the disputed fingerprint evidence was the sole reason for the not guilty verdict will never be known. The unequivocal result of the trial was that the officer was found not guilty of the crime charged.

2.2 In January 2000 the Chief Constable of Strathclyde Police took steps to have the circumstances of the case discussed at the February 2000 meeting of ACPO(S) Chief Constables Council.

In May 2000 following discussions with the SCRO Executive Committee, the Crown and Scottish Executive it was agreed that Her Majesty's Chief Inspector of Constabulary for Scotland would bring forward a scheduled primary inspection of the Scottish Criminal Record Office (SCRO) Fingerprint Bureau.

The resulting HMCIC, Scotland, Primary Inspection Report made 25 Recommendations and 20 Suggestions for improvement activity. HMCIC indicated that newly formed ACPO(S) Presidential Review Team (APRT) was the appropriate mechanism to take those recommendations and suggestions forward.

2.3 In 2003 HMCIC Scotland 'signed off' 17 of those recommendations and in 2004 HMCIC Scotland 'signed off' the remaining 8 recommendations.

2.4 In the meantime the officer had instigated a civil action seeking redress for being wrongfully prosecuted. The case attracted high media attention and promoted significant attention in the fingerprint community, both UK and internationally.

The newly formed ACPO National Fingerprint Board was canvassed for an opinion and on 14 July 2003 agreed a policy position based primarily upon jurisdiction but also the sub-judice rule: -

“that the matter was currently an issue for the Scottish Fingerprint Service and

this issue”.

- 2.5 The civil action against the Scottish Executive meanwhile continued and the matter was sub-judice notwithstanding the high profile activity on the part of some parties and the media.

- 2.6 On 7 February 2006 the Scottish Executive settled the civil action out of court without any admission of liability. Since then there has been intense media and political interest in the case.

3. Human Rights Audit *(if recommendations for change are being made)*

- 3.1 Human Rights issues have been considered in the formulation of this paper and there are no issues to be presently addressed,

4. Conclusions

- 4.1 Forces and the NFB are again being canvassed for information and an opinion on this Scottish case and it is timely to review the NFB policy and advice agreed on 14 July 2003.

The recommendation is that the ACPO NFB should not comment on cases unless invited to do so by either the force concerned or ACPO Chief Constables Council, or ACPO Cabinet, this should particularly be the case when the matter is either outside ACPO jurisdiction or the matter is sub-judice.

A collateral recommendation is that forces should note the ACPO NFB policy and act in accord with it in such circumstances.

- 4.2 That the findings of the HMCIC Scotland Primary Inspection in 2000 be reviewed against current fingerprint strategy and policy taking into account the work already commissioned and being undertaken by the NFB.

The findings of that review to be reported back to the NFB for further consideration.

5. Decision[s] Required

- 5.1 That the NFB notes the contents of this paper and agree the following recommendations: -

1. That the ACPO NFB should not comment on cases unless invited to do so by either the force concerned or ACPO Chief Constables Council, or ACPO Cabinet, this should particularly be the case when the matter is either outside ACPO jurisdiction or the matter is sub-judice.
2. That forces should note the ACPO NFB policy and act in accord with it in such circumstances.
3. That the findings of the HMCIC, Scotland, Primary Inspection in 2000 be reviewed against current NFB fingerprint strategy and policy taking into account the work already commissioned and being undertaken by the

NFB.

4. The findings of that review to be reported back to the NFB for further consideration.