

Colin Espie Letter to The Minister for Justice

22nd March 2002

THINKING THE UNTHINKABLE

I have permission from Shirley McKie, the former Police Constable from Kilmarnock at the centre of the fingerprints row, to write this letter, revealing as it does a small, but nevertheless important, fragment of the early history of this sorry affair. My instinct had been to write to the press after hearing in the news that no further action against other parties was being pursued. However, having contacted Ms. McKie, it has been suggested that I write to you as Minister of Justice at the Scottish Executive, in the first instance. I would stress, nevertheless, that this initiative is entirely my own, and that Ms. McKie has never once contacted me during the past five years.

In July 1997, I was asked by Dr. McLay, Chief Medical Officer of Strathclyde Police and by Dr. McHattie (her GP) to assess Ms. McKie. There was concern that she might be psychologically unwell because she maintained that she had not been at the scene of a murder crime, yet, apparently, her fingerprints were discovered on items found at the scene. I was told that she was at risk of being prosecuted for perjury by the Crown Office. Also implicit in the request for assessment, was concern that she did not appreciate the seriousness of that charge or that, in some perverse way, she was unwilling to tell the truth. After seeing Ms. McKie on 30th July 1997, I was convinced of two things. First, that she was psychologically normal; and second, that she was telling the truth. I quote, briefly, from my report to Dr. McLay, dated 19th August, 1997.

“Ms. Cardwell (since McKie) does not have any history of mental disorder. In my view she is not suffering from any current psychiatric or psychological disorder. She presents with symptoms of stress which are, in my view, a consequence of events of the past few months. There is no evidence of personality disorder, nor any history of pathological lying. I can presume, therefore, that she maintains her convictions as a matter of principle. This may have been at the expense of self-preservation so, if anything, she has an air of naiveté rather than guile. I would regard her as a reliable historian and her story has a ring of truth about it rather than any psychiatric basis”

After interviewing Ms. McKie and writing the report, I was so concerned about the situation that I telephoned Dr. McLay. I stressed that Ms. McKie’s behaviour and attitude could not be explained by mental disorder or characterological traits. I suggested that the most straightforward scenario was that she was telling the truth, and that there must have been some mistake in the fingerprint

evidence. I was told that this was regarded as an “unthinkable” explanation, because of its implications.

I cannot and do not believe that I was only person who thought Shirley McKie was a credible witness to the facts of this case. However, it does appear that the truth was simply unthinkable to the various authorities involved. No doubt the assumption was made that the fingerprint data were objective and incontrovertible. As it turns out such assumption is the enemy both of justice and of science. Should that really come as any surprise? Over the years I wondered how seriously, if at all, her statements were taken; how diligently they were pursued. I think we know the answer to that – not very, on both counts. More recently, I hoped that ‘the system’ might face up to its mistakes and the consequences of its mistakes. My disappointment must be trifling compared to hers.

Shirley McKie has done nothing wrong except tell the truth. She has maintained, scrupulously, that honesty throughout the 5 years (so far) of this whole affair. She emerges as the respectable, decent, courageous and, I think, exceptional person she was at the outset. It is now time for society to make amends, and I look to you as Minister for Justice in Scotland to pursue the truth with no less tenacity, and despite whatever unthinkable consequences that pursuit may entail. I make no assumption that there is blame or fault on any individual or body, but I do assume, if there is, that it will be found and dealt with in the public interest. For Ms. McKie it would be good for her if someone representing the authority of this good country had the courage to say ‘sorry’.

Yours faithfully

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