

CROWN OFFICE AND PROCURATOR FISCAL SERVICE

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Mr Iain McKie 27 Donnini Court South Beach Road Ayr KA7 1JP

Our ref: 2004/03/G/RJw

4 July 2003

Dear Mr McKie

I refer to your letters of 7 April 2003 and 18 June to the Lord Advocate in connection with the findings of Professor Espie relative to your daughter, Shirley. I have been asked to reply.

I am sorry for the delay in responding but you will appreciate that enquiries required to be carried out into the issues which you raised.

You ask whether Professor Espie was interviewed in relation to this matter. I can advise that he was not interviewed by Strathclyde Police during the course of the original murder investigation or in relation to the perjury allegations, or by Tayside Police during their enquiry. Although Dr McLay received a report from Professor Espie, he did not forward it to Strathclyde Police and it would not therefore have come to the knowledge of the Procurator Fiscal or, for that matter, Crown Office.

I am advised that Dr McLay referred Shirley to the Director of Consulting and Clinical Psychological Services for assistance. It was the Director who subsequently informed Dr McLay of Professor Espie's involvement. I understand that Professor Espie's report was made available to Dr McLay in an occupational health context and that there is nothing to suggest that Professor Espie saw Shirley either on behalf of Strathclyde Police or at Dr McLay's request. I am advised that Dr McLay considered his role to be therapeutic rather than investigative in nature and accordingly treated Professor Espie's report as being a clinical report. As a result, he considered that he was not entitled to pass the report to Strathclyde Police, although he took account of it in compiling reports to the Police in the context of managing Shirley's return to work. I understand that, even now, Professor Espie's report is retained by the Occupational Health and Welfare Unit, it being treated as confidential.

You also ask about the handling of Professor Espie's letter to the Minister for Justice. This letter was not copied to Crown Office or Strathclyde Police. I understand that the letter was one of a number received at that time expressing support for Shirley in her legal action for damages and that as its contents did not appear to have any significant bearing on that action, it received an official acknowledgement. The letter disclosed that Professor Espie was of the opinion that Shirley was telling the truth. However,

there was nothing in the letter which would have had a bearing on the Crown Office's investigations into the allegations against SCRO.

From the information provided to me there appears to be nothing to support a suggestion that the existence of Professor Espie's statement was covered up but rather that it was considered to be and treated as a confidential document, given that it was obtained in relation to Shirley's occupational health and not an investigatory or disciplinary context.

The Lord Advocate has noted your suggestion that you and Professor Espie should be interviewed. However, he does not see what would be achieved by doing so. The issue is not whether Professor Espie believed what Shirley told him but whether his belief was evidence which was suppressed.

In your letter of 18 June you also ask about the re-opening of the Marion Ross murder enquiry and about steps taken to identify the fingerprint impression identified as being made by Shirley. In connection with the latter, I can confirm that as part of the inquiry by Tayside Police, this mark was checked against the list of officers and others with access to the house but that it remains unidentified. The mark on the Marks & Spencer tin found within the Asbury home was also the subject of further checks but also remains unidentified. With regard to the murder of Marion Ross, Strathclyde Police do not at present have any lines of enquiry which they are pursuing.

Yours sincerely

A Department of the Scottish Executive

Rachel J Weir

Procurator Fiscal Depute