

Mr Colin Boyd QC.,
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WITHOUT PREJUDICE

6 September 2003.

Your Ref: 2004/03/G/RJW

Dear Mr Boyd,

Allegation of Criminal Conspiracy and/or Attempt to Pervert the Course of Justice

I refer to my letters of 7 April, 18 June and 13 August and yours of 4 July 2003 and 5 September received from Rachel J Weir.

Out of eleven requests or questions put forward you have responded to only two.

I have attached an analysis of this correspondence for your information and action.

In general terms I cannot understand why a simple question like, '*Could you please confirm who carried out this enquiry on your behalf and who 'advised' Ms Weir in respect of her reply?*', cannot be answered.

In your letter of 5 September you state that Professor Espie's opinion would have been inadmissible as evidence in the trial. To what trial are you referring? Obviously coming from an expert witness it would have been admissible at Shirley's trial as it had a direct bearing on her state of mind and truthfulness. I also suspect that it would have had a very great bearing on all the circumstances surrounding the death of Marion Ross. If Shirley was telling the truth then so much else was called into question.

I would appreciate it if you would provide answers to the questions and requests previously made (see attached) and the questions in this letter.

If you do not wish to respond please let me know as soon as possible along with your reasons for so deciding.

Yours sincerely,

Iain A J McKie

Copied: Professor Colin Espie; Ms Cathy Jamieson, Minister for Justice; Alasdair Morgan MSP; Michael Russell; John Scott; Andrew Smith QC; James Cassels; Dorothy Parker, Frontline Scotland; Shelley Jofre, Panorama

ANALYSIS OF CORRESPONDENCE BETWEEN IAIN McKIE AND THE LORD ADVOCATE: 14 APRIL TO 5 SEPTEMBER 2003.

Over this period I made the following requests and asked the following questions

1) Given that my letter of 4 April was an, '*Allegation of Criminal Conspiracy and/or Attempt to Pervert the Course of Justice*', the subsequent alleged enquiry was totally flawed and biased by the failure to interview myself and Professor Colin Espie.

I am now making a formal complaint in this respect and wish you to know that in my 30 years police experience I have never known of a complainer and the main witness not being interviewed being formal enquiry commenced.

NOT ANSWERED

2) In my letter of 7 April 2003 I requested that you:

'... mount an immediate independent enquiry into my allegations?'

Could you please confirm who carried out this enquiry on your behalf and who 'advised' Ms Weir in respect of her reply?

NOT ANSWERED

3) In my letter of 7 April I asked,

*'Who in Strathclyde Police did Doctor McLay pass this information to?
What discussion took place and what action was taken?'*

In her reply Ms Weir states that Dr McLay did not pass Professor Espie's report to Strathclyde Police. She does not reveal however if Dr McLay discussed these matters with anyone in Strathclyde Police even although the report was not passed on. Would you please confirm if the matters referred to in Professor Espie's report were communicated by any means to Strathclyde Police representatives by Dr McLay or his representatives or by any other person?

NOT ANSWERED

4) Ms Weir states:

'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.'

This is a disingenuous statement to say the least. The fact is that no matter who made the direct request to Professor Espie to examine Shirley the eventual recipient of his

report **and a subsequent telephone call** was Dr McLay. He only acts on behalf of Strathclyde Police in his capacity as Chief Medical Officer.

NOT ANSWERED

5) Ms Weir's reply ventures further into the realms of fantasy when she states:

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.'

If McLay was taking the purely **therapeutic** (contributing to general, especially mental, wellbeing.) approach as alleged then surely he had a duty to reveal the existence of evidence of possible innocence where severe emotional, psychological and physical damage was being caused to a 'patient'. The **'therapeutic'** approach for Shirley (as opposed to Strathclyde Police and SCRO et al) was for him to take action and reveal, or seek leave to reveal, the new information.

There is no escaping the fact that the contents of Professor Espie's report and his subsequent telephone conversation with Dr McLay were such that severe doubts would have been raised in the mind of any reasonable person about the treatment my daughter was receiving.

It is obvious had the approach been 'therapeutic', as claimed by Ms Weir, then every step would have been taken to ensure that information was made available to the prosecution authorities.

It is utterly ridiculous to suggest that because Dr McLay's intentions were therapeutic, i.e. for Shirley's benefit, that he should hide the very information that could well have brought her nightmare to an end.

NOT ANSWERED

6) To put forward **'confidentiality'** as a reason for not disclosing such information, as Ms Weir does, beggars belief. Had Dr McLay been so concerned about confidentiality and had my daughter's welfare at heart it would clearly have been a simple exercise to approach my daughter and request permission to pass the information on. There might even have been a case for breaching confidentiality 'in the public interest.'

Had your enquiry team carried out its duties properly and interviewed Professor Espie evidence would have been forthcoming that he had serious concerns about Shirley's welfare and expected his report and telephone conversation with Dr McLay to be acted on.

NOT ANSWERED

7) If McLay's approach was purely therapeutic, as alleged in Ms Weir's reply, why, when telephoned by Professor Espie (a fact that has not been disputed), and told of his concerns and also his suggestion the fingerprint evidence might be wrong, did McLay comment that this was regarded as an *"unthinkable" explanation, because of its implications.*'?

Hardly the comments of an uninvolved doctor whose only concern was the welfare of his 'patient'.

Why should he use such emotive language unless he was much more closely aligned to the Police and prosecution authorities position than Ms Weir's letter suggests?

NOT ANSWERED

8) It is also not clear if the PF or Crown Office knew of Professor Espie's report. Ms Weir states:

'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.'

Am I right to conclude from this legalistic language that not only did the PF and the Crown Office not receive a copy of Professor Espie's report but that they were totally unaware of it and had not been informed of its contents by anyone verbally or otherwise?

ANSWERED

9) In my letter of 4 April I ask:

'On receipt of Professor Espie's letter did Mr Wallace or any other person inform the police or Crown Office? If so who, what discussion took place and what action was taken?'

'Did Mr Wallace or any other person inform you as Lord Advocate of this correspondence? If so what action did you take?'

Ms Weir replies:

'This letter was not copied to Crown Office or Strathclyde Police.'

Again my question is not answered. I did not ask if the letter was copied. I asked whether the Police and/or the Crown office and/or the Lord Advocate was informed of the letter's content and what if any discussions took place. Could you please confirm that no information was received from any source, direct or indirect, and no discussions took place?

ANSWERED

10) Ms Weir goes on to state:

'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.'

This explanation is unbelievable and sinister in the extreme.

Professor Espie is not some random member of the public writing to express concern. He is one of Scotland's leading clinical psychologists with a unique insight into my daughter's psychological and emotional state. His statement that Shirley was speaking the truth was clearly crucial to the Crown Office investigations at the time and was later supported by other evidence produced at her trial.

If Shirley was telling the truth then the SCRO experts must have been wrong in their identification of her 'print' and doubt would have been cast on the other fingerprint identifications implicating David Asbury.

Who was aware of this letter? Who made the ridiculous decision that Professor Espie's findings were of no importance? So many questions and so few answers.

NOT ANSWERED

I am truly amazed at the continuing inability of the Crown Office to give straight answers to straight questions. Once again my concerns have been treated in a peremptory fashion yet again giving rise to the suspicion that a cover-up is being perpetrated. That my experience so mirrors the current revelations in the '**Kelly enquiry**' is of little comfort.

In one last effort to bring sanity to this whole sad affair I am willing to meet yourself and your representatives at an early date to discuss ways forward in dealing with my allegations of criminal activity and cover up.

NOT ANSWERED