

Justice Directorate
Criminal Law and Licensing Division

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John Ashton
By email: john@ashy.demon.co.uk

Your ref:
Our ref: FOI/12/01762
20 December 2012

Dear Mr Ashton

Thank you for your request dated 19 November under the Freedom of Information (Scotland) Act 2002 (FOISA) asking what contact the Justice Directorate had with Crown Office about the publication by the Sunday Herald of the Scottish Criminal Cases Review Commission's (SCCRC) Statement of Reasons for referring the case of Mr Al-Megrahi to the High Court.

Following a search of our paper and electronic records, I have established that the information you require is not held by the Scottish Government.

In your letter, you also ask why the Scottish Government expressed the view that it did not doubt the safety of Mr Al-Megrahi's conviction, rather than simply stating that it was for the court to determine the safety of the conviction. As you will be aware, it is not a role of the Scottish Government to investigate allegations that there has been a miscarriage of justice. Any person who alleges that they have been a victim of a miscarriage of justice may apply to the SCCRC, which was established in 1999 to review cases where it is alleged that a miscarriage of justice has occurred, either in respect of a conviction or sentence. Where, following investigation, the SCCRC concludes that a miscarriage of justice *may* have occurred and that it is in the interests of justice to do so, it will refer the case to the High Court for determination. Mr Al-Megrahi, as you know, chose to abandon his appeal before it was determined by the High Court.

In general terms, in the absence of any court decision quashing a person's conviction, it would not be appropriate for the Scottish Government to call into question the safety of any conviction which is why it was appropriate for the Scottish Government to state that it did not doubt Mr Al-Megrahi's conviction as the conviction was at the time of such statements (and indeed continues to be) a matter of court record. We have also made clear that a court remains the only appropriate forum for determining Mr Al-Megrahi's guilt or innocence and explained the process by which a further appeal could be heard by the court in this case.



Review

I am sorry we are unable to assist with your enquiry. If you are unhappy with this response to your request, you may ask us to carry out an internal review, by writing to Leslie Evans, Director General for Learning and Justice, St Andrew's House, Edinburgh EH1 3DG. Your request should explain why you wish a review to be carried out, and should be made within 40 working days of receipt of this letter, and we will reply within 20 working days of receipt. If you are not satisfied with the result of the review, you then have the right to make a formal complaint to the Scottish Information Commissioner.

Yours sincerely



PATRICK DOWN