



Derbyshire Constabulary

Telephone: 0845 123 3333
 Fax: 01773 - 572817
 Tel Ext: 2500
 Direct Line: 01773 - 572500
 Ask For: Mr A J Thornley OBE
 Our Ref. CO/232/07/HQK/AJT/ab
 Your Ref.

18 February 2008

Mr M Glasgow
 3 Tansley Court
 Highfield Lane
 Newbold
 Chesterfield
 Derbyshire
 S41 7AW

PRIVATE

Dear Mr Glasgow

Complaint Against Police

I refer to Inspector Goddard's letter to you dated 30 November 2007 concerning your complaint against police.

I note your initial letter of complaint dated 13 August 2007 was made via the Independent Police Complaints Commission. This related to an incident that occurred on 5 June 2006 and was to the effect that officers had failed to properly investigate the matter and had allowed the Crown Prosecution Service (CPS) to proceed to trial at the Crown Court despite knowing you were innocent.

In view of the delay in making your complaint known you were requested by the Investigating Officer to provide an explanation for such a delay. In your response of 18 September 2007 you state the delay in making your complaint known was due to facts beyond your control having been convicted of a crime and that having dismissed your legal team your new legal team 'must have forgotten about it or had no intention of doing so on your behalf'.

I do not accept this to be a good reason for you not making your complaint known to us at a much earlier point. However, in view of the circumstances and nature of your complaints a limited and proportionate investigation has been conducted into your complaints as listed below.

I would point out to you that the thrust of your complaints appear to be that of dissatisfaction with the legal system and its process rather than complaints of misconduct of individual officers. I note you were found guilty of affray and not of assault. The latter is relevant to your complaint inasmuch that evidence put before the court was to support that of a charge of 'Affray' rather than assault.



Your complaints:

1. *That officers failed to properly investigate the incident of 5 June 2006 and allowed the CPS to proceed to Crown Court Trial despite knowing you were innocent.*

The limited investigation has taken into account your concerns expressed to the CPS and the response that the Head of Trials Unit has provided you with dated 2 August 2007. I note you were provided with a satisfactory explanation in respect of your concerns over the CCTV evidence and that the majority of issues you raised at that time were of a nature that you were advised to raise them with your own solicitors as part of your defence case.

I note you consider you have been a victim of abuse of the judicial process, and misrepresented by your defence team which has led to a miscarriage of justice. The officers involved in the investigation of your case were: Constable 2866 McGrogan, Constable 2883 Toole, Constable 2828 Gilburn and Constable 3037 Swan. The prosecution file has been carefully reviewed in the light of your concerns. However, there are no grounds on which to warrant any further investigation either in respect of criminal enquiries into other parties involved or against individual officers for misconduct. There is no evidence to support your allegation that the officers failed to properly investigate the matter or allowed the CPS to proceed to trial knowing you were innocent.

This element of your complaint is, therefore, unsubstantiated.

The case has been rightly adjudicated upon by the Courts and the decision of guilt made on the basis of the evidence heard. The standard of proof being beyond reasonable doubt. It is not unusual for witnesses to give conflicting accounts of the circumstances of a particular incident or indeed give inconsistent evidence at Court. This is the nature of such cases which in many instances reveal irreconcilable differences of opinion as to the facts of what took place. No direction or concern has been brought to my attention by HM Judge in respect of the investigation or the conduct of individual officers or the evidence given and therefore for the reasons I have outlined I do not intend to take any further action in respect of this element of your complaint.

2. *That the uncle of the co-defendant was not seen who you consider was a vital witness.*

There is no evidence that this person was a 'vital witness' or that he could have offered evidence that would have assisted the case. He would not have been independent and the investigation appears to have gathered sufficient evidence from witnesses at the scene sufficient for the CPS to decide there was a case to answer and proceed to trial. I note your own defence team did not call him to give evidence.

This element of your complaint is not substantiated.

3. *That officers failed to secure evidence at the scene ie blood and glass samples for forensic examination.*

The nature of investigation in this particular case would not have warranted the taking of such samples and therefore the officers involved have not failed in their duty. Officers are given discretion in these type of circumstances as to what should or should not be seized based on

the availability of other evidence and seriousness of the incident. Your complaint in this respect is therefore unsubstantiated.

4. *That the Custody Record entry at 1935 hours on 5 June 2006 indicates no apparent injuries on your arrival at the Police Station. However, your custody photograph clearly shows that you had visible injuries.*

A copy of the relevant Custody Record ref: 30/CH/2619/06 has been obtained and examined together with your custody photograph. It is clear from your photograph that you were visibly injured. The Custody Record entry created at 1923 hours on 5 June 2006 by Sergeant Bungay indicates 'No' in respect of injuries/ailments. In view of this anomaly Sergeant Bungay has been asked for an explanation. He has stated that with hindsight he should have ticked the 'Yes' box and accepts that in not doing so it is misleading.

Further enquiries reveal he was aware of your hospital treatment prior to arrival at the Police Station and it is clear he has acknowledged your obvious injuries in the subsequent risk assessment documented within the Custody Record and completed at 1926 hours. In view of these circumstances it is more probable than not that the officer has made either a genuine mistake or considered the matter correctly recorded (3 minutes later within the risk assessment).

I therefore consider this matter unsubstantiated in terms of any misconduct by Sergeant Bungay. However, I do acknowledge your concerns over this apparent misleading entry and intend to advise the officer in this respect to prevent this re-occurring.

5. *That the co-defendant fabricated evidence.*

This is not an allegation of misconduct of an individual officer. There is no substantive evidence to warrant further action based on the reasons I have outlined above in respect of the broader elements of your complaint at (1.).

6. *That the co-defendant's initial statement was too neat with no corrected initialled mistakes and appeared re-written.*

The original, handwritten statement taken on 5 June 2006 at 2000 hours by Constable 2574 Greatorex has been obtained and examined. This was written by the officer and consists of six pages each correctly signed. The statement is commensurate of the officer's professional approach to statement taking and also the background of the co-defendant's own profession. There are no evidential grounds to substantiate any improper practice by the officer involved and your complaint in this respect is unsubstantiated.

7. *That the witness, Susan LEES, had spoken in her statement of your mother in the past tense. Her statement was taken on 5 June 2006, prior to your mother's death.*

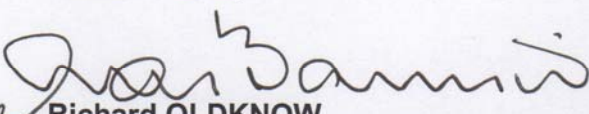
This statement has been examined and was taken on 5 June 2006. It does not reveal any evidence of the witness referring to your mother in the past tense and therefore this element of your complaint is unsubstantiated. I assume reference to the past tense was in respect of oral evidence given in Court and would be accepted in these circumstances.

Conclusion

I have taken account of your numerous further complaints concerning the investigation and subsequent Crown Court Trial. However, as I have explained earlier these relate to the legal process rather than allegations of misconduct by individual officers. Within this process account is taken of conflicting evidential matters, many of which you have concerns over. These are rightly matters for the Courts to adjudicate upon; the decisions of such for which you have had a right of appeal.

I do not intend to take any further action over this matter. If you are not satisfied with the information provided here and outcome of the investigation into your complaints you may appeal to the IPCC within the next 28 days. A leaflet is enclosed in this respect for your information.

Yours sincerely


For **Richard OLDKNOW**
Superintendent
Head of Professional Standards Department

Enc.