

Crown Office and Procurator Fiscal Service

Crown Office, 25 Chambers Street, Edinburgh, EH1 1LA



Mr John A Dunn, Deputy Crown Agent

Janet Marsh
The Penrose Inquiry
44 Drumsheugh Gardens
Edinburgh
EH3 7SW

Tel: 0131 [REDACTED]
RNID Typetalk prefix: 18001

Fax: 0844 [REDACTED]

Your ref:

Our ref:

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Dear Ms Marsh

Death of Victor Tamburrini

Thank you for the letter of 25 November 2010 from your colleague Gemma Lovell to my former Legal Assistant, Andrew Shanks.

I can confirm that Mr Tamburrini's General Practitioner records were requested by the Procurator Fiscal at Glasgow from Practitioner Services, Clifton House, Glasgow on 11 January 2007. It appears from our file that they were requested following an approach by Thompsons solicitors to Strathclyde Police on behalf of Mr Tamburrini's widow, who wished sight of the records.

When the Procurator Fiscal no longer required the GP records in connection with his investigations they were returned to Practitioner Services. Unfortunately, I am unable to advise you of precisely when the records were returned. I understand, however, from discussions that my colleagues have had with Mrs Sharkey of Practitioner Services that it is likely that the records were returned in 2007. At that time, of course, there was no suggestion that Mr Tamburrini's death would be part of a public inquiry.

The subsequent investigations conducted into Mr Tamburrini's death by the Procurator Fiscal concentrated predominantly on records and copy records from SNBTS, Glasgow Royal Infirmary and Edinburgh Royal Infirmary. These records were retained by the Crown Office and Procurator Fiscal Service and provided to the Inquiry.

As you are aware, in January 2009 Crown Counsel instructed on behalf of the Lord Advocate that no fatal accident inquiry should be held into Mr Tamburrini's death. On 17 March 2009 briefing was provided to colleagues at the Scottish Government Health Directorate in which the circumstances surrounding Mr Tamburrini's death were brought to their attention, so that consideration could be given, on behalf of the Scottish Ministers, to including Mr Tamburrini's death in the Penrose Inquiry.

I understand that the GP records were then destroyed in June 2009.

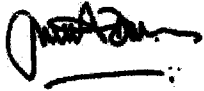
The situation is, of course, highly regrettable. That said I do not think it appropriate that the Crown Office and Procurator Fiscal Service should be thought to be responsible for the operation of the records retention policy of other agencies. At the time of destruction of the relevant records, the Scottish Government Health Directorate was aware of the Inquiry's potential interest in Mr Tamburrini's death.

As a matter of course, in the vast majority of deaths investigations in which the Crown Office and Procurator Fiscal Service is involved, the circumstances of the death are brought to the Procurator Fiscal's attention shortly after the death occurs. I therefore consider it very unlikely that the Procurator Fiscal at Glasgow would have been aware of the record retention policy of the NHS. I can confirm that it is not normal practice for Procurators Fiscal to provide advice or make requests to the NHS on retention of their own records.

I can confirm that my office, which was responsible for providing briefing to SGHD, was not aware of the NHS retention policies.

I am sorry that this response is not more helpful, and would be happy to provide any further information which you require.

Yours sincerely



John A Dunn
Deputy Crown Agent