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LB3/108/01

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D.SUPT. JAMES

7 August 2001

Dear Sir

GLADYS MABEL RICHARDS

I write as requested by Detective Chief Inspector Clarke during our telephone conversation last Friday, to confirm the advice given to the police in this matter.

At the meeting at Ludgate Hill on 20 July 2001, the police requested that the CPS took no action pending confirmation from the police as to the steps it proposed to take with regard to the other associated complaints.

I am not sure if the police have now reached conclusions about those matters. It is of course entirely for the police to decide what, if any, investigations are made.

I confirm that having considered this matter, I am not satisfied that there is sufficient evidence to provide a realistic prospect of a conviction, against anyone, in respect of any criminal offence alleged in the papers. I have, therefore, advised that criminal proceedings should not be instituted.

We have discussed this advice and the various issues arising from it, in some detail, following the conferences with David Perry of Counsel.

I do not propose to recite here the facts giving rise to the allegations or the relevant law which have been discussed and considered with you in great detail.

The decision that there is no reliable evidence that Mrs Richards was unlawfully killed was the only conclusion that could be reached following the further conference with Counsel, on 19 June, last, which was attended by Professor Livesley, Detective Superintendent James and Detective Chief Inspector Clarke.

During that conference the following matters emerged:

1. Although Professor Livesley had concluded in his initial medical report that Mrs Richards had been unlawfully killed, he was not entirely clear of the legal ingredients of gross negligence manslaughter.
2. That Dr Barton's decisions were entitled to be afforded some respect as she was involved in Mrs Richards' care as the "front line" clinician.
3. Dr Barton's decisions could find support among a responsible body of medical opinion.
4. Bronchopneumonia as a cause of death, could not be contradicted.
5. It is not possible, in the absence of any post-mortem finding, to exclude a heart attack as a possible cause of death.

It was quite clear from this conference Professor Livesley's conclusion that Mrs Richards was unlawfully killed is untenable.

The following views on the evidence obtained by the police, and which we have discussed in detail, may assist you:

1. According to Dr Barton it was clear by 18 August 1998 that Mrs Richards was near to death. She is supported on this point by Philip Beed and by the other nursing staff.
2. The decision not to transfer a frail, unwell, elderly lady to another hospital was reasonable and one not open to criticism.
3. The decision to administer drugs by way of a syringe driver was taken in order to keep Mrs Richards pain-free.
4. By 19 August 1998 Mrs Richards had developed a "rattly" chest.
5. The drugs administered, the dose used, and the method of administration are not criticised by Dr Lord or by Jean Dalton.
6. Thus, but for Professor Livesley's report, there would appear to be no basis for concluding that Mrs Richards had been unlawfully killed.
7. For the above reasons Professor Livesley's conclusions cannot now be supported.

I hope it is fair to say that the police were in total agreement with these findings and further, were in no doubt it was fortunate no criminal proceedings had been commenced.

I note the further request by the police, last Friday, for a copy of Counsel's advice. As I have mentioned to officers on previous occasions, it is not the policy of this office to supply copies of Counsel's advice to the police.

I note that following the meeting on 20 July last the police agreed to notify all interested parties, or all their representatives, of the agreed decision not to prosecute in this matter. I assume that such notification has now been given.

Yours faithfully

Code A

Paul Close
Casework Directorate