Justice Committee

Inquiry into the role and purpose of the Crown Office and Procurator Fiscal Service

Written submission from the Jim Clark Motor Rally

I write as chairman of the Jim Clark Motor Rally, a rally is run entirely by volunteers. In June 2014 a fatal accident occurred during the rally resulting in the deaths of three members of the press. The attached letter to the Lord Advocate, which has still not been acknowledged, was the latest of many attempts since late 2014 to find out what was happening to the LA’s criminal inquiry into the incident. These included parliamentary questions, correspondence and meetings undertaken by our MSP, John Lamont, and a letter to the first minister. Following the accident, about 60 police officers were engaged in compiling information and the police submitted their report to the LA around April 2015. The whole incident was captured on video, with many witnesses and full sets of event documentation, planning and communications recording all delivered to the police.

We have never tried to influence the outcome of the LA’s inquiries but have consistently urged him to come to a conclusion. The attached letters will give you the necessary information. We believe the Crown Office is still awaiting crown counsel’s “opinion” concerning the accident and now believe this may be in his hands within the next two or three months. The consequences of the delay are that the future of the event is at risk, and volunteers are still living on their nerves, not knowing whether they might be subject to prosecution.

I believe the Crown Office has singularly failed to give the inquiry the priority it warrants, has failed to meet a reasonable timescale in coming to a conclusion concerning this incident, has failed to keep those affected informed, and consequently has not served the public as it should. Despite our requests to solicit information, Scottish ministers seem not to be prepared to scrutinise the Crown Office in its delivery of service. To be blunt, they seem to hide behind the legal independence of the Crown Office regarding the specifics of cases (which is as it should be) to avoid confronting failure to perform its duties as the citizens have a right to expect. No-one seems prepared to criticise the Crown Office. I wonder why? The Crown Office must be accountable to parliament for the effective delivery of its service and this does not appear to be the case.

Your committee would do the country a great service if it would put such a mechanism in place and somehow to get the Crown Office to realise that elapsed time has a serious effect on peoples’ lives and the delivery of justice. I am happy to provide you with more correspondence or to meet you if that would be of use.

To put in context, in less time than the Crown Office has failed to come to a conclusion on a well recorded incident in the Scottish Borders, the Dutch authorities investigated the terrorist shooting down of the Malaysian airliner in the Ukraine, in a war zone, recovered the bodies and the wreckage of the airliner and rebuilt it in the Netherlands, determined what happened, who shot it down, the causes of death of
all those killed, those most likely to have carried out the act and is seeking to arrest them! The full Dutch report has been published.

Professor Dan Wright MBE
Chairman, Jim Clark Rally
Letter to the First Minister, 30 June 2016

I write in my capacity as chairman of the Jim Clark Rally. The rally is the only one to run on closed public roads on mainland Britain through our own special Act of parliament. In June 2014, three members of the press were killed in an incident during the rally. Since then, the Crown Office has been conducting an enquiry into the circumstances of the incident and, because of that, the rally has been unable to run in its normal format on closed public roads as it had for the previous 14 years. This letter is not an attempt to influence the outcome of, or comment on the circumstances of the incident. It is a plea to you to ask the Lord Advocate to come to a conclusion quickly so the organisers can attempt to rescue the event. We have now been waiting over two years and our team is descending into despair of ever running this world famous event again.

The rally is one of the biggest in the UK, by far the biggest in Scotland, and brings major economic benefit and community involvement to the Borders. It has overwhelming support of the public, local communities and businesses, local and national politicians and officials. Scottish Borders Council (SBC) estimates it generates over £3m of its annual £21m tourist income and our development plans aim to raise this to around £7m over the next few years. We were well on track to take it forward as a major international event and showcase for Scotland. However the current position of SBC is that it will not allow council officials to engage with us in planning until the Crown Office investigation is complete. Police Scotland also refuses to co-operate for the same reason. Both these organisations are normally extremely supportive.

Our MSP, John Lamont, has been an enormous help and support. Through John, we understood that the previous Lord Advocate was about to announce findings that would allow us to proceed. However we still have no decision. Volunteers have been living on their nerves for over two years wondering whether they are going to be subject to criminal charges. In contrast, the Glasgow “bin lorry” enquiry was completed in six months.

My plea to you is to help us by asking the Lord Advocate to give us the highest priority in coming to a conclusion so we can run the event again in 2017. I do hope you can help us.

Professor Dan Wright MBE
Chairman, Jim Clark Rally
Letter to the Lord Advocate, 6 September 2016

I write in my capacity as chairman of the Jim Clark Rally. The rally is the only one to run on closed public roads on mainland Britain through our own special Act of Parliament. In June 2014, three members of the press were killed in an incident during the rally. Since then, the Crown Office has been conducting an enquiry into the circumstances of the incident and, because of that, the rally has been unable to run in its normal format on closed public roads as it had for the previous 15 years. We have now been waiting over two years and our team is descending into despair. Volunteers – law abiding citizens - have been living on their nerves wondering whether they are going to be subject to criminal charges. In contrast, the Glasgow “bin lorry” enquiry was completed in six months.

The rally is one of the biggest in the UK, by far the biggest in Scotland, and brings major economic benefit and community involvement to the Borders. It has overwhelming support of the public, local communities and businesses, local and national politicians and officials. Scottish Borders Council (SBC) estimates it generates over £3.5m of its annual £21m tourist income and our development plans aim to raise this to around £7m over the next few years. We were well on track to take it forward as a major international event and showcase for Scotland. The delay has now excluded us from two major championships.

The current position of SBC is that it will not allow council officials to engage with us in planning until the Crown Office investigation is complete. Police Scotland also refuses to co-operate for the same reason. Both are normally extremely supportive. Our MSP, John Lamont, has been an enormous help and support. Through John, we understood that last April the previous Lord Advocate was about to come to a conclusion concerning his criminal enquiry. However we still have no decision.

My plea to you is that you give the highest priority to coming to a conclusion. Please do not tell me the decision whether or not to allow the rally to take place is not yours. SBC, the authoriser, will not move without your conclusions and so, regardless of legal theory, the event cannot take place until you come to a conclusion. I do hope you can help us.

Professor Dan Wright MBE
Chairman, Jim Clark Rally