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Jacqui Smith told to call in police watchdog over Eddie Gilfoyle case

 Dominic Kennedy, Investigations Editor

Jacqui Smith, the Home Secretary, has been urged to call in the police watchdog after the discovery of notes showing that a man may have been wrongly convicted of murdering his pregnant wife.

The Liberal Democrats expressed concern over the safety of the conviction of Eddie Gilfoyle, who was jailed for life in 1993.

The party also demanded an investigation into why Merseyside Police denied repeatedly that any record existed of interviews with officers who attended the scene of Paula Gilfoyle's death the previous year. Her husband was given a 25-year minimum sentence and has remained in jail ever since. He continues to protest his innocence. The Tory peer Lord Hunt of Wirral demanded Gilfoyle's release, saying that he had visited him when he was his constituency MP and remained convinced that he was innocent.

Last week *The Times* published long-missing notes that indicated that the police surgeon who examined Mrs Gilfoyle estimated that she had died six hours earlier. Since her husband was at work in a hospital at that time, he could have claimed an alibi, but the defence, judge and jury were not told about the estimate.

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Merseyside Police denied the existence of any notes. When the Police Complaints Authority looked into the murder investigation in 1994, officers claimed variously that there had been no such records or that they had been destroyed.

When *The Times* asked for the papers last year under the Freedom of Information Act, the force said no such notes had ever existed. Only when a leaked copy was faxed to Patricia Gallan, an Assistant Chief Constable, did she admit that a record had been taken.

Chris Huhne, the Lib Dems' home affairs spokesman, described the failure to disclose the notes as shocking. He demanded that the Home Secretary refer the force to the Independent Police Complaints Commission to find out what happened and why there had been a failure to provide the papers. The IPCC replaced the Police Complaints Authority in 2004.

He warned that if it emerged that evidence had been withheld from Gilfoyle's solicitors before his trial, other cases on Merseyside might have to be reopened.

"It is absolutely fundamental to fair trials that the defence should be able to get hold of documentation that the prosecution has gathered," Mr Huhne said. He added that there had now been three failures by police to disclose the notes – to the trial, to the PCA and to *The Times*.

"What is worrying is that a public body should deny knowledge of information which should be released," he said. "It's a total failure to disclose. It's very serious."

Lord Hunt, as David Hunt, the Wirral West MP, championed Gilfoyle and helped to get the PCA to look into the murder investigation. The authority was so disturbed by its findings that it referred doubts over the safety of the conviction to the Crown Prosecution Service. Three officers faced disciplinary charges but two were cleared by their Chief Constable while the other had retired.

Lord Hunt, who now serves as Shadow business minister, said: "I should think Eddie feels a little disillusioned that, although there were grave doubts aroused about the circumstances, nothing happened.

"It's a case that did trouble me. I was impressed with Eddie when I met him and thought, 'Here is an innocent man'. The only reason why there was ever any suspicion against Eddie was because of the circumstantial evidence introduced.

"I did continue to be involved even when I ceased to be an MP. I will go and see Eddie again.

"You have quite rightly exposed this, particularly these notes which I am appalled were withheld from the defence. There is no reason in my mind why he should still be in prison."

After *The Times* published the notes, Merseyside Police asked the Crown Prosecution Service to "ascertain the precise position in regard to the disclosure of material referred to". The CPS said yesterday: "We expect to complete this shortly."

The IPCC can investigate allegations of misconduct by police even if no complaints have been made by the public. The Merseyside force said: "There is a review ongoing and we are awaiting the outcome of the review."

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