

**From:** [PS/Lord Advocate](#)  
**To:** [REDACTED]  
**Cc:** [PS/Lord Advocate](#)  
**Subject:** FW: Simon San  
**Date:** 25 August 2011 13:10:00

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Elish

As discussed.

[REDACTED]  
[REDACTED]  
Assistant Private Secretary to the Lord Advocate  
[REDACTED]

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**From:** [REDACTED]  
**Sent:** Thursday, August 25, 2011 1:07 PM  
**To:** PS/Lord Advocate  
**Subject:** Simon San

**The first statement issued by the Crown Office on Mon 23/08/2011:**

"CROWN OFFICE & PROCURATOR FISCAL SERVICE

23 August 2011

DEATH OF MR SIMON SAN (HMA v John Reid)

Statement attributable to a Crown Office spokesperson:

Lothian and Borders police have today apologised for mistakes they have made in this case. In light of this apology the Area Procurator Fiscal has offered to meet Mr San's family again to discuss any questions which they might now have.

The Crown was alert to the question of racial motivation from the beginning of the investigation and raised the issue with the police at an early stage. After careful consideration of all the available evidence provided to the Crown by the police, Crown Counsel concluded that there was no evidence to show that the attack on Mr San was racially motivated.

For a racial aggravation to be proved there must be evidence to demonstrate the motivation for the commission of the crime. There was no evidence in law to support this and this remains the case.

There was evidence of a racial term used by the accused sometime after the crime but this was not evidence of motivation for the crime.

Notwithstanding this the Advocate Depute advised the High Court when John Reid pled guilty to culpable homicide in October 2010 that it was the strongly held view of Mr San's family that the offence was racially motivated. In addition a victim impact statement was provided to the court which conveyed the family's views on the motivation for the crime.

The Solicitor representing the family thanked the Advocate Depute prior to the accused pleading guilty for the sensitive way in which the family had been treated and the way the case was presented".

**There was a further part to the earlier statement issued regarding Simon San, also attributed to a Crown Office spokesperson:**

"We can confirm the Lord Advocate will not be instructing an inquiry and is satisfied with the Crown's prosecution of the case. Mr John Logue, the Area Procurator Fiscal for Lothian & Borders, has offered to meet with Mr San's family to discuss any questions which they might now have."

**The Crown Office then made a further statement on Wed 24/08/2011 in response to the statement by Mr Anwar comments which can be attributed to a Crown Office spokesperson:**

"Our thoughts remain with Simon San's family who have conducted themselves with great dignity throughout these tragic circumstances.

However the subsequent statement issued by their solicitor does not accurately reflect the position regarding the evidence available to the Crown.

After careful consideration of all the available evidence provided to the Crown by the police in this case, Crown Counsel concluded that there was no evidence in law to show that the attack on Mr San was racially motivated.

While there was evidence of a racial term used by the accused some time later that night, and in a different place, after the crime was committed. It was not made 'seconds after the incident' as the statement issued by Mr Anwar states.

The available evidence does not amount to sufficient evidence in law of racial motivation for the crime, or to a racially aggravated breach of the peace. If it had done so then the Crown would have proceeded with a charge reflecting that.

When John Reid pled guilty to culpable homicide in October 2010, the Advocate Depute advised the High Court that it was the strongly held view of Mr San's family that the offence was racially motivated. In addition victim impact statements were provided to the court which conveyed the family's views on the motivation for the crime.

The Area Procurator Fiscal has invited the family to meet with him in order to answer any questions they may have. Alex Prentice QC, Principal Crown Counsel, who prosecuted the case will also be available to meet the family again to answer any further questions they may have".

