



Embassy of the United States of America

Immigrant Visa Branch 5
Upper Grosvenor Street
London W1A 2JB

December 15, 2003

Shona Gibson
Tayside Police
Police Headquarters
P.O. Box 59 West
Bell Street Dundee,
DD1 9JU

Dear Ms. Gibson,

Thank you for the information on Disclosure Scotland and your letter requesting Embassy comments.

In our opinion, Disclosure Scotland would create serious problems in determining the eligibility of current and former Scottish residents applying for immigrant visas to the United States. Secondly, it would also create problems for nonimmigrant visa applicants applying for waivers of ineligibility based on criminal convictions.

At issue here is the treatment of spent convictions under Disclosure Scotland. Basic Disclosure certificates would show only unspent convictions. Under U.S. law, convictions are never spent. Therefore, older convictions that would render applicants ineligible under U.S. law would not appear on the Basic Disclosure certificate. The result would be the issuance of immigrant visas to ineligible applicants.

One possible solution would be to allow our applicants to request either Standard Disclosure or Enhanced Disclosure. Either of these documents would detail all convictions on record and therefore would be sufficient to make an accurate determination of an applicant's eligibility.

I would appreciate it if you could bring our concerns to the attention of the other Scottish Forces as well as our request for either Standard or Enhanced Disclosure.

I look forward to hearing from you.

Sincerely

A handwritten signature in black ink that reads "Joel R. Malkin". The signature is written in a cursive style.

Joel R. Malkin
Chief, Immigrant Visa Branch