

12.2 The Deputy of St. Martin of the Minister for Home Affairs regarding an audit of the Criminal Justice Policy to ensure that the present prosecution arrangements in the Magistrate's Court and Parish Hall enquiries were Human Rights compliant:

As the States are being asked to agree to a policy statement in the section entitled, prosecution, on page 73 of the Criminal Justice Policy P.118/2007 will the Minister inform members whether an audit was undertaken to ensure that the present prosecution arrangements in the Magistrate's Court and Parish Hall enquiries are human rights compliant, and if so, when and by whom was this carried out?

Senator W. Kinnard (The Minister for Home Affairs):

I was disappointed that the Deputy of St. Martin did not attend the lunchtime briefing I gave on the Criminal Justice Policy today because I referred to him and his question. But anyway, the answer. The policy proposals under the prosecution section of the Criminal Justice Policy were first formulated in 2003 by the former Home Affairs Committee of which I was the president. At that time human rights considerations as they affect Parish Hall inquiries were discussed at a meeting with the Attorney General when he was present and no concerns were raised. The Deputy will be aware that human rights aspects of the role of the Centeniers in the Magistrate's Court and Parish Hall inquiries has been the subject of a recent legal opinion which is currently under consideration. The Education and Home Affairs Scrutiny Panel are shortly publishing their report on the prosecution arrangements in the Magistrate's Court which will clarify their findings on this point. I should make the point, however, Sir, that the Home Affairs Department is not responsible for implementing an audit of legislation relating to the Magistrate's Court.

12.2.1 The Deputy of St. Martin:

I accept what the Minister is saying about possibly an audit was carried out around 2003, but as the Minister said, she has recently received an opinion from Mr. Jonathon Cooper which questioned whether in fact the human rights aspect of the courts was really compliant. Will the Minister inform members, does she really feel comfortable going ahead with a policy knowing there is this query regarding the human right aspect of the Magistrate's Court?

Senator W. Kinnard:

I feel perfectly comfortable going ahead with the policy. The legal opinion is only an opinion and yet it is not for me to take the wind out of the sails of the Scrutiny Panel that is looking at this matter. But I made it quite clear in my presentation today that the Criminal Justice Policy is a dynamic policy and within the proposition members are only required to agree a general policy statement 7, so the debate on the Criminal Justice Policy will not be affected by the matters that are under discussion by the Scrutiny Panel.

12.2.2 The Deputy of St. Martin:

In the Criminal Justice Policy on page 23, subparagraph (3)(8) it talks about: "A rigorous compliance check was carried out on several laws by the human rights law coming into being in 2006." Could I ask whether in fact the Loi (1864) réglant la Procédure Criminelle, Criminal Procedure (Connétables and Centeniers) (Jersey) Law 1996 and the Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949 whether an order was carried out before this part of the policy was published?

Senator W. Kinnard:

As I said the Home Affairs Department is not responsible for implementing a human rights audit of any of those pieces of legislation. But I am aware that there is a new Criminal Procedure Law coming forward that has been worked on by a working group with the Attorney General. I do not consider that there is any conflict at all with the Criminal Justice Policy as drafted.