

2.17 The Deputy of St. Martin of the Minister for Home Affairs regarding the recent police investigation into the activities of the Customs Service:

As there will be no criminal proceedings following the police investigation into the activities of a number of customs officers will the Minister advise Members whether the officers concerned have received written notification of the decision, with a suitable apology, and explain why it was considered necessary for the matter to be the subject of an internal inquiry by the head of the Customs Service?

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

Sir, with your permission my Assistant Minister is dealing with this matter.

Deputy A.D. Lewis of St. John (Assistant Minister for Home Affairs - rapporteur):

In answer to the Deputy's question, Sir, on the evening of 5th November the Head of Customs and Immigration Service received an email from the Solicitor General in which he said that advice to the police has been that there is no evidence for court proceedings against any named customs officers for any criminal proceedings. The Head of Service made arrangements for the officers who were under investigation to be immediately notified of this. The usual police procedure in criminal investigations is to ensure that persons are notified when they are no longer under investigation. The police judged this as having been done in this case because the Solicitor General notified the Head of the Customs and Immigration Service and he informed his officers. It would not be appropriate for an apology to be made in respect of criminal investigations into matters that fully warranted such investigations. The head of the Customs and Immigration Service is to conduct an internal inquiry. The Head of Service has a duty to establish whether any customs and immigration procedures have not been followed either deliberately or through negligence. The only way he can do this is to ensure that he is apprised of all the facts relating to the allegations and subsequent investigation. At the end of the internal inquiry the Head of Service will decide if any further action is necessary and submit a report to myself and the Minister. No further comments can, should or will be made on the internal inquiry until it is completed and the report is received from the Head of Service. To do otherwise or to discuss any future decisions relating to the report can be nothing more than speculation and would be in nobody's interests.

2.17.1 The Deputy of St. Martin:

I would like to press the Assistant Minister, if I could, on the question of apologies. I understand that no charge has been made against these officers. Their families and themselves have been put through a lot of distress and yet no apology has been rendered. Can I ask the Assistant Minister why does he not think such an apology is warranted on this occasion?

The Deputy of St. John:

The States of Jersey Police have no reason to apologise for the actions which they have undertaken as part of their normal policing duties. When presented with certain evidence or suspicions the police are duty bound to investigate. I did however question as to whether in this instance a criminal investigation was proportionate as it had been suggested that an internal inquiry would have sufficed. I am however assured by the Attorney General that such actions were entirely appropriate and indeed necessary if a subsequent internal inquiry was to be instigated.

2.17.2 The Deputy of St. Martin:

I have to press this again with the Assistant Minister. There has been no evidence to substantiate any claim. These families have been put through a tremendous amount of distress. Why cannot an apology be given?

The Deputy of St. John:

I think I have answered that question. The police were undertaking their normal duties to investigate some evidence and suspicions that had been given to them. Just because they are public

servants in the capacity of customs officers does not exonerate them from investigation if suspicions and evidence is presented. That is precisely what the police undertook, in as sympathetic a manner as possible. I admit and accept that these were difficult circumstances and that families were put under undue strain, as indeed anybody would if they were investigated about anything. I know it is unfortunate and I would have preferred another way of doing it, Sir, but I am assured by the legal authorities that that was the correct and proper way to deal with this and it is the only way that we could have dealt with it, Sir. Had we not we could have severely ended up with egg on our face should it have been a criminal investigation that was not conducted in such a way. We would have had to do all the investigations again before going on with an internal inquiry, Sir.

2.17.3 Deputy R.G. Le Hérisssier:

Will the Assistant Minister concede upon mature reflection that given the operational links between the 2 bodies and all the issues that emanate from that it might have been better had an independent body, e.g. an outside force, investigated the matter from the very beginning?

The Deputy of St. John:

The police were perfectly within their remit to investigate this case. However, I do accept what the Deputy is suggesting and because it has been made public that there are certain strains between those 2 departments at the moment, and that evidence has come to light in recent discussions with the 2 departments, that perhaps in a perfect world an independent police force should have investigated those particular accusations. However, those accusations that were made about the relationship issues did not come to light fully until the investigation was well under way.

2.17.4 Deputy S.C. Ferguson:

Given the history of over-reacting and suspensions with the police force, does the Assistant Minister not think that there was considerable over-reaction in this case and that as already mentioned it would have been a great deal better to have had an internal co-operative approach to this rather than this heavy-handed approach that they have taken? How much has it cost for a start?

The Deputy of St. John:

The cost of the inquiry was undertaken within normal police resources, part of the normal policing process. There was no additional cost to the public. I say again, when we are presented with evidence and suspicions it is absolutely essential that they are investigated. I have already said, Sir, that yes, an internal inquiry would have been desirable, but we were advised by the law officers that that is not the way to conduct such an investigation, Sir. It has to be that way first in order to make way for an internal inquiry. I regret that the families and those concerned have been upset by this. Anybody would be when they are investigated about anything, Sir. It is regrettable but entirely necessary.

2.17.5 Deputy S.C. Ferguson:

Is it not better for the Chief of Police to have spoken to the Chief of Customs and done it in a civilised manner?

The Bailiff:

I do not think that is parliamentary language, Deputy.

Deputy S.C. Ferguson:

Sorry, Sir. Would a more co-operative, co-ordinated approach between the heads of the 2 services involved been more efficient?

The Deputy of St. John:

There was full co-operation between the heads of service of both divisions of Home Affairs, absolutely, there had to be in order for the inquiry to be conducted, so there was full co-operation between both. What the Deputy is suggesting is that this should have been an internal inquiry and yes, that would have been wonderful to have an internal inquiry. It would have been perhaps a lot easier for both divisions of Home Affairs. However, the advice we received from the Solicitor General, and subsequently from the Attorney General, was that was not the way to proceed. Thank you, Sir.

2.17.6 Deputy C.H. Egré of St. Peter:

Would the Assistant Minister agree that the fact that it would appear it was the police that released the press statement to say that there was an investigation going on by the police into the customs, that that press release was released without the knowledge of the Assistant Minister or the Chief Minister, and that in itself caused major problems from the start?

The Deputy of St. John:

Not at all, Sir. The Minister and myself were well aware of the press release, in fact we helped draft it. What we were not aware of was the exact moment that it was going to be released. The instructions given to both services was should there be media inquiries about this particular incident this is the press release to be released as and when an inquiry was received from the media. The Minister and I were perfectly aware of the content of the press release and in fact endorsed it.

2.17.7 Deputy R.G. Le Hérissier:

Am I to infer from the Assistant Minister's answer to my question that he and his Minister had no real knowledge of the rivalry and therefore they were not able to put this matter into its proper context?

The Deputy of St. John:

No, Sir, we were aware of some difficulties between the 2 departments. No workplace is perfect and there were certain tensions as a result of various investigations going on that they were jointly working on. That happens in all areas of work whether it be public or private, Sir. It does not compromise the professionalism of our officers in either division and indeed it has not, Sir. What has been compromised for a short period is the full capability of the Joint Intelligence Bureau which is being rectified, but during this whole period lots of other evidence and investigation has been going on through other channels and the Island's borders and reputation has not been at risk.

2.17.8 The Deputy of St. Martin:

Would the Minister agree that given that the Head of the Customs Service is the officers' boss and ultimately is responsible for their actions, that he is conflicted? Therefore if the inquiry is deemed necessary it would be best carried out by the head of another department.

The Deputy of St. John:

That may well be a conclusion that the Minister comes to when the internal inquiry initially is conducted, but at this stage the internal inquiry is in order to establish whether any procedures currently adopted by the customs officers are indeed being followed and are appropriate and proportionate. That investigation will be done by the Head of Service. However, the Minister and I have agreed with the Chief Officer of Customs and Immigration that as indeed the police are inspected every so often by Her Majesty's Inspectorate that we do something very similar with customs, which we are not obliged to do currently. However, various elements of their activities such as those relating to R.I.P.L. (Regulation of Investigatory Powers (Jersey) Law 2005) and to the Joint Intelligence Bureau are investigated and reported on by Her Majesty's Inspectorate. We are however looking (and incidentally they have come out glowing as a result, both police and Customs) we are looking at a possibility of an independent review of Customs as indeed in the way currently the prison service and the police are periodically inspected. Thank you, Sir.

