

#### **4. Questions to Ministers Without Notice - The Minister for Home Affairs**

##### **The Bailiff:**

Very well. We now come to questions without notice and the first question period is for the Minister of Home Affairs and I ask Senator Ferguson to speak.

##### **4.1 Senator S.C. Ferguson:**

In his written answer this morning the Minister for Home Affairs confirmed that we are members of A.C.P.O. (Association of Chief Police Officers). He will recall that A.C.P.O. have recently come in for some stick in the U.K. because of their attitude to taking D.N.A. (Deoxyribonucleic Acid) samples of people who were not charged and there was no charge against them, no case, nothing. They were deemed innocent and allowed to go free. Would the Minister tell us what the position is with regard to D.N.A. samples taken from people in Jersey who are then not charged and deemed to be innocent and are the samples destroyed immediately?

##### **Senator B.I. Le Marquand (The Minister for Home Affairs):**

If the Senator would care to read one of the answers to the questions posed by Deputy Higgins, she will find a complete answer there. This is governed by statute and the position is that D.N.A. samples are destroyed if a person is not charged. That also includes if they are dealt with at a Parish Hall Inquiry, but there is quite a full answer on that precise point. Indeed, if they were acquitted, the same would apply.

##### **4.2 Deputy M.R. Higgins:**

The question for the Minister is could he update us please on the Wiltshire Inquiry into possible data protection breaches by the Chief Officer and others? Can he give us an update as to how that review is progressing and when we are likely to get a result?

##### **Senator B.I. Le Marquand:**

I think the question relates to what I call Wiltshire 2 and I am afraid I am not able to update because I cannot be directly involved in relating to the people involved in relation to that so I simply have no information. I do not anticipate I will get any information other than general information as to progress, which I also do not have at this stage until I get a final report on that.

##### **4.2.1 Deputy M.R. Higgins:**

Sorry, just following up on that; it is the progress that I am interested in, not the actual findings because we will wait for that when they come. Can you tell us when it started and when they have indicated it is likely to finish?

##### **Senator B.I. Le Marquand:**

It took a little time to get set up because this is quite a complex investigation which is not purely for potential disciplinary matters, it is also looking at potential criminal offences. It took a month or 2 to get set up in order to get the terms of reference right and things of that nature. It has been continuing. I, in fact, had asked exactly the question I am now being asked by an email within the last week or so, but I have not had an answer to tell me exactly where they are so I am afraid I am not able to confirm that.

##### **4.3 The Deputy of St. Martin:**

Maybe I could just follow up that before I ask my question. If the Minister felt that he may well be conflicted because he will have 2 roles to play, would the Minister not consider it might be appropriate maybe to delegate that responsibility to an Assistant Minister? Really to get down to the real question I want to ask also, 2 or 3 weeks ago the Minister indicated that the cost for the Wiltshire Inquiry was £530,000-odd and rising and he was going to look into the cost

particularly of the hotel and travel fees which, I think, were well over £170,000. Is the Minister able to give us an update on whether those fees or those costs were justified?

**Senator B.I. Le Marquand:**

As usual the Deputy has posed a number of questions together and I am afraid I cannot remember the first one because I was so focusing on the last one. In relation to the costs of Wiltshire 1, as I like to call it, I have received detailed figures. I was particularly interested in the issue of the costs of transportation. What the Members of this Assembly must understand is that for many months there were 7 Wiltshire police officers working full-time in relation to this very complex matter. They were coming over on a Monday morning where air fares are very high, normally from Southampton, sometimes from Bristol and then returning on a Friday evening. So, there were considerable costs there. I am satisfied, in general terms, that there has been proper monitoring of costs and expenditure by officers of my department.

**The Bailiff:**

The first question was whether if there is a conflict, you should not appoint your Assistant Minister.

**Senator B.I. Le Marquand:**

I am not sure what the conflict is that has been referred to. Perhaps the Deputy could clarify what conflict he sees.

**4.3.1 The Deputy of St. Martin:**

In answer to Deputy Higgins, the Minister implied that he could not involve himself because he would have to be the final judge. I was just asking really if that is the case would it not be more appropriate maybe to delegate some of those responsibilities, where he may well find himself conflicted, to the Assistant Minister? It would go back really to what we had when Senator Kinnard was the Minister. She felt she was conflicted, so she passed on her responsibilities on to her Deputy.

**Senator B.I. Le Marquand:**

I understand the question and of course I am able to utilise the services of my excellent Assistant Minister in ways like this, although in reality when it is simply a question of asking for an update as to where we are, I do not perceive any conflict with that at all. What I am more cautious about is getting too close to issues of any potential criminal investigation nature, but the Deputy is quite right. I could utilise my Assistant Minister for these purposes although she might have a similar conflict of course in relation to criminal investigations.

**4.4 The Deputy of St. John:**

Given that crime has no boundaries and the Jersey Police have to operate outside of the law in France, Holland and Belgium in the Warren Gang Inquiry, what action is the Minister taking to put in place reciprocal agreements on crime with the European Union so our police do not fall foul of the law in other E.U. (European Union) states. If none, please explain why none has been put in place and if he is, would he please give us an update of where he is on putting something in place?

**Senator B.I. Le Marquand:**

I am not under the impression that formal agreements are required in relation to such matters. It is always open to Jersey law enforcement agencies, which would include Customs and Immigration, to work in co-operation with their colleagues in other jurisdictions. That would be the normal route in my view, but no formal agreements are required for that to take place.

**The Bailiff:**

If I may assist you, Deputy, it is more a matter for the Law Officers who would pursue such a request on behalf of the police.

#### **4.4.1 The Deputy of St. John:**

Supplementary, if I may. As the judge was very critical of the States Police in the Warren trial and having worked outside the law in Europe, has any action been taken or is any action going to be taken against the senior officer in charge of the officers who operated off Island?

#### **Senator B.I. Le Marquand:**

I am not aware of any intention on the part of the acting leadership of the police force to take disciplinary action against anybody in relation to this matter. I explained in some interviews which I did in the last 2 weeks or so that although policy is that officers should operate within the law in whatever jurisdictions they are acting, there may be circumstances, and it will be exceptional circumstances, which would warrant operating outside the law, particularly if there were major public safety issues to do with terrorism or things of that nature. These would be wholly exceptional circumstances, but nevertheless they exist and matters of this nature must be judgments to be made by individual officers in particular cases. Those judgments should be made with extreme caution of course and the presumption is very much against acting unlawfully.

#### **4.5 Deputy M. Tadier:**

Will the Minister inform Members of progress with the Discrimination Law and whether it is proceeding to schedule?

#### **Senator B.I. Le Marquand:**

I had a meeting some months ago with the law drafting lady who is working on that and we looked at the current draft of the law. I am awaiting feedback and results back from her in terms of the improvements from that meeting. What I am saying in short is that the work has already begun in relation to that and will be continuing as rapidly as possible.

#### **4.5.1 Deputy M. Tadier:**

Just a supplementary then, when does the Minister think that will be coming back to the House, a rough ballpark date?

#### **Senator B.I. Le Marquand:**

I would hope to be bringing the law to the House some time in the autumn of next year. The intention is that it would be passed by this House some time in the autumn of next year, if that is possible.

#### **4.6 Deputy T.M. Pitman:**

Given that I have a proposition approved and ready to lodge on the issue of knife crime, would the Minister clarify whether he intends using the 2010 allocated law drafting time to bring forward his own proposals?

#### **Senator B.I. Le Marquand:**

I have recently been giving some thought to this, partly as a result of casual conversation with the Deputy in the street, because it is quite a difficult issue. The House, having rejected the equivalent legislation in the U.K. which has a burden shift in terms of evidence on to the accused person if they have a knife or a bladed instrument, I would need to come up with something which was designed for Jersey alone and I do have some preliminary thoughts in relation to this which will probably relate to the time of the day or night when something would be carried and might have a different definition, but my thoughts are extremely preliminary at this stage. It is one of many problems for me to solve during the next 12 months or so.

#### **4.6.1 Deputy T.M. Pitman:**

Would the Minister be willing to have another informal conversation, not in the street?

#### **Senator B.I. Le Marquand:**

The Minister is always willing to take on board helpful suggestions from colleagues from whichever part of the House they may come.

#### **4.7 Deputy R.G. Le Hérissier:**

Given the Minister's previous comments about the very high cost of police constables and the need to civilianise where possible, would he tell the House whether there are steps in train in order to release constables for front line work and to transfer their current work to civilian staff? In what areas is that now happening?

#### **Senator B.I. Le Marquand:**

I think I answered the question as to the possible areas before. Among my notes in preparation for the original question were some notes about work which had already been done by the acting leadership, which was put forward in terms of a possible project for the fiscal stimulus package. This, of course, was rejected because it did not meet the 3Ts but nevertheless work has already been done and I did have some figures on this which I did not want to trouble the House with.

#### **4.7.1 Deputy R.G. Le Hérissier:**

The Minister is again missing his customary exactness. Could he tell us in what areas that work has been or is being done?

#### **Senator B.I. Le Marquand:**

I could if I could find my notes [**Laughter**] which I think I have put away, but I did explain the areas before. It will take me a few seconds to find my previous notes but I am sure Deputy does not want to be troubled on that account.

#### **4.8 Deputy M.R. Higgins:**

Just following up on my earlier question about Wiltshire 2 which effectively is looking at possible breaches of the Data Protection Law, could the Minister tell the House whether the investigation that is going on was instigated by himself, by the Acting Chief of Police or was it by the Data Protection Commissioner? I would like to know exactly who is behind the police investigation into it.

#### **Senator B.I. Le Marquand:**

I think that the answer to that is that there were concerns obviously from a number of people in relation to this issue. The Deputy is right that if offences have been committed they would be in the data protection area, but I do not think anything was initiated from the Data Protection Commissioner. Therefore I think the primary instigation of matters came from myself in terms of investigation in relation to Operation Blast although it was realised at an early stage that we needed to take into account the possibility of there being criminal matters and that was one of the reasons why it took some time to set up the investigation along appropriate lines to ensure that there were proper safeguards built-in. I think the answer is that I was the primary instigator in relation to the investigation.

#### **The Bailiff:**

The 15 minute period has now expired.