

Urgent oral question
20th April 2010

4.1 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding comments made during the BBC Talkback programme about a senior ACPO officer:

Will the Minister inform Members whether he broke a confidentiality clause by claiming on the B.B.C. (British Broadcasting Corporation) Talkback programme that the Wiltshire Police had identified what the Minister claimed to be a “scandal” involving a senior A.C.P.O. (Association of Chief Police Officers) officer, and if so, why? Would he further state what the conflict of interest was and with whom the person involved agreed to intentionally omit certain matters in A.C.P.O. reports? Has the Minister made an official complaint to A.C.P.O.?

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

I want to first of all explain to Members why I was not here on the last occasion. Both myself and my wife were struck down on the evening of the Monday at about 9.30 p.m. with a Norwalk-type virus which was not very pleasant and it would not have been very pleasant either for me or for other Members if I had attended on the next day. In answer to the question, there are 2 assertions contained in the question which I do not think are factually correct. In addition to that I will try and answer as briefly as I can but, as is the habit of the Deputy of St. Martin, it is a multi-part question. Firstly, I do not believe that I have broken a confidentiality clause and that is for the reason set out in some detail in my written answer to 5302 to which I would refer Members. Secondly, I do not think that I mentioned the Wiltshire Police in this context. I am not sure of that, and I have not had a chance to check any transcript, but I do not think that I did. My intention on the Talkback programme was to attempt to achieve a better and fairer factual balance in relation to the situation. In particular, my intention was to deal with issues which had been put into the public domain, some by the Deputy of St. Martin himself, presumably on behalf of the Chief Officer of Police, and also by others. Those issues included an assertion that the first and second reports of the A.C.P.O. Homicide Working Group provided a complete defence to the Chief Officer of Police. Now, I have not made any factual decisions on these matters and cannot do so because of the fact that I am involved in a disciplinary matter but when matters were asserted in this way which were not, in my view, in any way balanced, I believe it to be a public duty of mine, as the Minister involved, to correct and to seek to balance the situation where there are clear imbalances in what has been put to the public. There are a number of issues in relation to the A.C.P.O. reports. There are various issues and, of course, it all depends upon what their status was. Were they just a friendly policeman coming alongside to give friendly advice or were they in some sense intended to be independent advice? If they were intended to be the latter and it was my understanding at that time that that was the intention, then there are a number of issues that arise. In particular ...

The Bailiff:

Minister, I appreciate this is quite a lengthy question but this is turning into an extremely lengthy answer.

Senator B.I. Le Marquand:

I cannot avoid that. [Laughter]

The Bailiff:

How much longer do you have?

Senator B.I. Le Marquand:

About a third of a page, Sir. It was, after all, given the status of being an urgent oral question. I think it is not improper for me to respond in some detail to a matter which has been deemed to be urgent [Laughter] if I may put it that way. I shall try and be as brief as I can. The issue to which I alluded was an issue as to whether there was a conflict of interest on the part of the senior officer involved. That conflict of interest would be in the area of the fact that that officer was about to apply in Jersey for a senior post in the Jersey police force. Now in my view there was an obvious potential conflict of interest in that sort of situation and the conflict is between the person's desire to be objective, if it was going to be an objective report, and the temptation to say and to do things to please the senior officers already in the force. That is the issue. I do not believe that I have at any time said that this officer agreed to intentionally omit certain matters in reports. I have, however, said I believe that certain recommendations which were made by the officers were not contained in reports. Finally, I do not believe it would be appropriate for me to make an official complaint at this stage.

4.1.1 The Deputy of St. Martin:

I know my question was lengthy but I have difficulty finding out where the answers were. I think most people were looking really at the "scandal" and I really feel it hardly could be said it was a scandal. Could I ask the Minister whether in actual fact he has seen any of the 4 A.C.P.O. reports and, if so, will he agree then that the senior applicant from A.C.P.O. who was applying for the job had? Two of the reports were published before the actual interview and 2 were published after the interview; would he agree with that also?

Senator B.I. Le Marquand:

The 2 reports which are particularly being relied upon were before the interview. I am not sure of the timing of the other 2; they may well have been after.

The Deputy of St. Martin:

Could I ask the Minister again, has he seen any of the 4 reports?

Senator B.I. Le Marquand:

Yes, I have indeed.

The Deputy of St. Martin:

I did ask, would the Minister then agree that the 4 reports were consistent in the way in which they reported favourably about the way in which the States of Jersey Police were conducting the investigation? Therefore, if there was any scandal surely it would be the fact that there was no scandal because the reports were consistent in the way they

reported favourably from before the interviews for the job and then after the interviews for the job.

Senator B.I. Le Marquand:

I do not want to go into detail and expressing a view in relation to the contents of the reports because this is part of the disciplinary process that I am part of. It was the first and second reports which were particularly relied upon and put into the public domain and it is in relation to those that I was seeking to achieve a greater balance.

4.1.2 Deputy T.M. Pitman of St. Helier:

Given that the Minister is, as he says, so essential to the eventual decision on the Chief Police Officer's suspension, in terms of talking about providing a fairer picture does the Minister not believe that using terms like "scandal" and "scoop" for the *J.E.P.* (*Jersey Evening Post*) as he used to the Home Affairs Scrutiny Panel can only paint the exact opposite picture, intentional or otherwise?

Senator B.I. Le Marquand:

The term "scandal" as I understand it from having looked it up in a dictionary is wide enough to cover improper conduct. If a senior officer puts himself into a position where there is a conflict of interest, or potential conflicts of interest, that is, in my view, improper. The term "scoop" was used by me rather light-heartedly in a particular context and that particular context which I checked from the transcript of the hearing was the context that I had given an interview with the *J.E.P.* specifically in relation to the timescales in relation to the different reports. I do not want to start talking to the Scrutiny Panel about that detail. I do not find that was being reported before the main Article. That was the meaning of the word "scoop" in that context.

4.1.3 Deputy D.J.A. Wimberley of St. Mary:

I just want to ask the Minister about the review hearing into the suspension. He has talked in his answer at length about balance and I just would like him to comment on the impression given by the transcript which is that the letter from the acting Chief Officer of Police, which is then rebutted by Dr. Brain, seems to be the only evidence that he took serious cognisance of. He said that he could not look at other things like A.C.P.O. reports and so on which gave the other side of the picture and found reasons for not doing so, and I just would like his comments on that.

Senator B.I. Le Marquand:

The factual matters that I had before me in relation to the suspension hearings which I conducted in February and March 2008 were indeed the letter from the now acting Chief Officer setting out concerns in relation to various issues and an extract - I think it was the outline - of the press conference, for want of a better word, which took place in November 2008 which stated certain specific matters. I excluded certain other matters from what I was considering. The decision I had to make was as to whether I should start looking at any of the evidence in relation to the matter. The problem with this, if you start looking at partial evidence, where do you end: you end up in a sort of mini-trial. I am very experienced in the parallel situation which is bail applications where exactly the same situation arises. You make a decision based upon the allegations and the broad

sweep of things. You do not allow yourself to be drawn into looking into detailed evidence. The specific issue which is raised by the Deputy of St. Mary was challenged, of course, as part of judicial review proceedings before the Royal Court and the Royal Court upheld the approach which I had taken.

4.1.4 The Deputy of St. Mary:

Can I ask a supplementary on that? The Minister said that in the review hearing he excluded certain other matters and that is the point, I put it to him, why people are uneasy about this process.

The Bailiff:

Sorry, Deputy, how does this arise out of this question? This question is related to the A.C.P.O. report.

[10:00]

The Deputy of St. Mary:

Well that is exactly it, that those reports do not seem to have been taken into account in the review hearing, so only one side of the story, if you like, and then that is treated and assessed but not the other side and excluded certain other matters and I do not understand why.

Senator B.I. Le Marquand:

Well that is exactly what I have just explained, that the A.C.P.O. reports would have been part of the evidence in relation to the matter. Even if I had looked at the A.C.P.O. reports, and I have subsequently, it would have made no difference to my decision because I do not know the circumstances in which they were obtained. I do not know whether they were followed out properly; I do not know whether they even make sense. Now all these are issues which have to be looked at in a wider context.

4.1.5 Deputy M. Tadier of St. Brelade:

I was obviously there during the scrutiny review. I would like to ask the Minister if he thinks that using terms like “scoop”, which may be appropriate for an ice cream salesman but not necessarily for a statesman, and sensationalising issues by talking of “scandal” on the radio and then not giving evidence on the radio, is partaking in the exact kind of behaviour for which the Deputy Chief of Police ...

The Bailiff:

Deputy, that is an exact repetition of the question that Deputy Trevor Pitman just asked.

Deputy M. Tadier:

Well, in that case I will leave it.

4.1.6 The Deputy of St. Martin:

I will just ask the Minister would he not really agree that the real scandal is the Chief Executive Officer’s role? He was the person who appointed the Deputy Police Chief. He was then involved directly again with the suspension of the Police Chief with the Deputy Chief Police Officer and now has come forward with recommending that the Deputy

Chief Officer should have the suspended police officer's job. Would he not really think that is the real scandal of what is going on at the moment?

Senator B.I. Le Marquand:

No.