

2.6 Deputy G.C.L. Baudains of St. Clement of the Minister for Home Affairs regarding further investigations into the fatal crash on St. Clement's Coast Road:

With regard to the crash on St. Clement's Coast Road, which claimed the life of the Latvian lady passenger, would the Minister advise whether the States of Jersey Police consider that the case is now closed and, if so, will he be requesting an outside police force to review the case following the removal of the death by dangerous driving charge and, if not, why not?

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

This is of course a very tragic case involving the loss of life of a young woman. The role of the States Jersey Police is to investigate crime and to provide reports to prosecutors, who make the decision in relation to charges. The initial charge in this case was one of causing death by dangerous driving, but on 10th July 2012, there was a hearing in the Royal Court in relation to the admissibility of 3 pieces of evidence; 2 of those pieces of evidence were held to be inadmissible, and as a result of that evidence no longer being available, the prosecution decided to reduce the charge to one of careless driving. The criminal case is completed but an inquest will follow, and of course there is also the possibility of a civil claim. I am unaware of any failure in this case on the part of the States of Jersey Police and therefore any basis for either a review of the case or for a disciplinary investigation.

2.6.1 Deputy G.C.L. Baudains:

I appreciate that this question really falls between 2 areas of accountability, but I want to focus on those the Minister is accountable for or responsible for. As he so rightly said, many people are expressing concern at the leniency of the penalty, and presumably that includes the family of the Latvian lady as well. So my first question is this: the Minister, I presume, confirms the reason that the charge of death by dangerous driving failed is because insufficient evidence was available. Given the level of public concern and the appalling message sent out, in my view, by the lenient sentence would the Minister agree that a review by an outside force is not uncommon in such cases, where they would be able to confirm that our States Police did in fact gain all the information and evidence that they possibly could in order to allay public concern?

Senator B.I. Le Marquand:

I do not agree with that because, frankly, the police conducted the work which they did under the supervision of prosecutors and additional reports were obtained from the U.K. on various technical aspects. I think that a real issue here is the lack of a charge of causing death by careless driving. My own view is that that is a charge which we should have. We do have a charge of causing death by dangerous driving but the test in relation to dangerous driving is quite a high test. I could quote if Members so wish. We have a charge of causing death through careless driving while under the influence of alcohol, but we do not have a charge of causing death through careless driving. Now, the real problem lies exactly in this sort of case where there was evidence which got close to dangerous driving but not sufficient evidence once the admissibility issue was dealt with, and it is for exactly those sort of cases, which are very close to dangerous driving, that I believe we need to have this charge. My understanding is that the Law Officers are well aware of this. I also will seek to pursue this, although it does not strictly lie in my area, it lies in the area of the Minister for Transport and Technical Services, but I am firmly of the opinion that we do now need to have this additional charge.

2.6.2 Deputy R.G. Le Hérissier:

One of the issues, aside from the major one raised by Deputy Baudains, was the apparent inordinate amount of time. Has the Minister examined the whole timetable and all the various delays that occurred and is he satisfied that this proceeded at the greatest speed possible?

Senator B.I. Le Marquand:

I have not examined the timetable but I have received communication from the prosecutor, who very helpfully told me what happened. In addition to the initial expert collision report prepared by an officer of the States of Jersey Police, there was a need to obtain other expert reports from the U.K., one a general one and one on tyres. Subsequently, of course, there were issues that arose in relation to the obtaining of contrary reports by the defence, and my understanding is that the obtaining of the technical reports was a significant issue and caused significant delays. I have not of course looked at the precise timescales in relation to that, but clearly this was a matter of which the prosecutors were apprised and were overseeing.

2.6.3 Deputy T.M. Pitman:

I am obviously not an expert in this area, however, I would like to echo that it has been a grave concern to many, many people who have contacted me. I think it was 18 months that this took, and we have a very senior police officer feeling the need to go to the media and say that there was going to be no cover-up.

[10:30]

What I would like the Minister for Home Affairs to tell us is, given the concern that is in the Island, has he had any feedback from that poor young lady's family, because that is the centre of this, that someone has lost a daughter. Are the family happy with the way Jersey has handled this, and does the Minister know if that is going to be proceeding in any way?

Senator B.I. Le Marquand:

I have no knowledge of that. I do not get involved at that sort of level. This is a police operational matter. Producing the report again becomes a matter for prosecutors. It is simply not a matter that I would ever get involved with at that sort of level, at that sort of stage. I would comment that although people have talked about inordinate delays, I have before me the relevant documents. The incident occurred on 12th February 2011. Charges were first laid in the Magistrates' Court on 24th August 2011. That is a period of just over 6 months, which I would not view as being inordinate if it was necessary, as I have said, to obtain outside expert reports on this.

2.6.4 The Connétable of St. John:

Historically, accidents involving death *et cetera*, the Motor Traffic Office would be called in as the experts in relation to conditions of vehicles *et cetera*. Were they used on this occasion, because I understand you are referring to outside reports from off-Island; were the States of Jersey Motor Traffic Department called in on this? As I say, historically they would have been.

Senator B.I. Le Marquand:

I do not know the answer to that because I do not have that level of detail. I have the level of detail from the prosecutor in relation to matters concerning outside reports, but I can speak from my general knowledge of such matters. The area of investigation of accidents is a specialist area for which the police have their own local experts, and a specialist report was produced by the local expert on that. But of course issues may well arise during the course of investigation as to issues like the condition of the car, brakes *et cetera*. Now, clearly if such issues arose, those are issues that normally reports would be produced locally, initially also by the Motor Traffic Office. But as I say, in this particular case, the prosecutor has told me that there was a need to get expert reports on tyres from the U.K. That is all the knowledge I have on that.

The Bailiff:

Deputy Tadier, then a final question from Deputy Baudains.

2.6.5 Deputy M. Tadier:

The Minister, in his answer, highlighted the fact that this is really a legislative problem rather than a police failing, and given that the Minister is in a position to close what he called the gap in legislation, how and when will the Minister be bringing this legislation forward so that this kind of unfortunate thing cannot happen again?

Senator B.I. Le Marquand:

As I said, it is not in my area. The position in relation to road traffic offences is that they lie within the area of the Minister for Transport and Technical Services, with the exception of matters in relation to drink-driving. What I will do, and I am aware that the Law Officers are aware of this issue, is seek to endeavour to encourage them to take this forward. I will seek to encourage the Minister for Transport and Technical Services. We are already setting up a working group to look at sentencing, maximum sentences in relation to road traffic offences, and I will seek to also ensure that this goes on to the agenda of that meeting so that it is taken forward. But it is not strictly within my direct province.

2.6.6 Deputy G.C.L. Baudains:

I suspect my first part of this question will be out of the remit of the Minister, but I am confused as to why - because the charge that was eventually brought was inadequate, where I believe the penalty is a maximum of about £1,000 - perhaps a charge of manslaughter had not been brought, but I presume that may be out of the Minister's territory. But building on Deputy Tadier's question, I am glad to hear that the Minister appreciates that there is a gap in our charging, where a death by careless driving would properly be appropriate. I believe the United Kingdom brought such a charge in about 4 years ago. Because this apparently lies with Transport and Technical Services, could I ask the Minister to ensure that, through the Council of Ministers, the 2 Ministers work to get this done as soon as possible?

Senator B.I. Le Marquand:

Yes. I mean, clearly things happen better sometimes bilaterally, and this is an issue I will continue to take up with my colleague, the Minister for Transport and Technical Services. I can answer the question in relation to manslaughter, and of course the test in relation to manslaughter would be an even higher test than the test in relation to dangerous driving.