

## **2.11 Deputy M.R. Higgins of the Minister for Home Affairs regarding the oversight of the States of Jersey Police:**

Would the Minister inform Members who, if anyone, has the power to ensure that the States of Jersey Police carry out investigations into alleged wrongdoing when the police decide not to do so and who has oversight of this aspect of police operations?

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

The oversight of the States Police is the responsibility of the Minister for Home Affairs. The police have a statutory duty to take all such lawful measures as may be necessary for the purpose of bringing offenders, with all due speed, to justice. When an allegation of an offence is made, they are duty bound to make an assessment and to give proper consideration to the allegation to establish if an offence has been committed. They will normally make a preliminary assessment to determine that there is some substance to the allegation and some evidence of an offence having been committed. In some cases, they will conclude that the matter is a civil matter and not a criminal matter. In some cases, they will conclude that the allegation is spurious and not based upon evidence. Sometimes claimants even fail to attend at police headquarters to make a formal complaint. Where matters are referred to me, it is my role to ensure that proper consideration has been given and a proper process followed in relation to the investigation. I must not, for important constitutional reasons, override the principle of the operational independence of the police. Therefore, the ultimate decision remains with the police. In addition, the Attorney General has the power in some cases to institute investigations and will also sometimes request the police to do so where he finds this appropriate.

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

Is the Minister aware that in the George Burrows case, the Jersey Financial Crimes Unit and the J.F.S.C. are playing ping pong as to who should be dealing with the alleged fraud by Standard Bank to the detriment of Mr. Burrows?

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

I do not believe that to be so. This was yet another example of a general question being asked of me which was going to be followed up by a specific question. With respect to the Deputy, that process is not helpful. I did, however, correctly guess what this was about and indeed have a copy of a letter written recently by the police to Mr. Burrows explaining that this matter. The criminal investigation has been looked at and reviewed by 3 different officers at different levels. Each of those 3 officers looking at it concluded that there was insufficient evidence to warrant a prosecution. So I do not agree with the assessment of the Deputy. The police have looked at this independently as a criminal matter. Three different officers on different occasions have assessed it. They have all come to the same conclusion.

### **2.11.2 Deputy C.F. Labey of Grouville:**

Would the Minister also confirm who has the power to investigate when the allegation is of the Jersey Police wrongdoing?

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

Well, the main issue in relation to wrongdoing with regards to individual police officers of course is a matter for the Independent Police Complaints Authority to oversee an investigation which may or may not subsequently lead to a disciplinary hearing. If the Deputy's question relates to a complaint against individual officers, that is the appropriate process. If the Deputy is asking me a question in relation to my role in relation to overseeing such matters, I certainly can inquire into matters and do so on appropriate occasions but I normally will not do so until the matter ceases to be an operational matter. I will normally, if I think it is appropriate to do so,

make inquiries to find out what happened, to draw conclusions and to see whether there is a need for change in terms of processes and procedures.

**2.11.3 The Deputy of Grouville:**

I would like to take the Minister up because I am not entirely sure he answered my question. Who should an individual go to if there is an allegation against the Jersey Police Force, not an individual, and what if the Police Complaints Authority fails to respond?

**The Deputy Bailiff:**

I am sorry, Deputy. Do you mean an allegation of criminality or an allegation of some civil wrongdoing?

**The Deputy of Grouville:**

Criminality, Sir.

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

Well, inevitably, an allegation of criminality would be an allegation against individual officers and not against the force as a whole. Therefore a person should make a complaint in the normal way to the States of Jersey Police and then officers not connected with the matter will become involved in the investigation. If necessary, officers will be brought in from outside the Island to conduct an independent investigation in relation to the matter. I have tried earnestly to answer the Deputy's question but I am not sure I understand what the question is.

**The Deputy Bailiff:**

Deputy, do you wish to press it any further?

**The Deputy of Grouville:**

Yes, Sir. If an external police force is brought in, who is responsible for drawing up the terms of reference?

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

If an external police force was brought in to investigate a matter, then clearly the nature of the matter that they would investigate would be set out by leadership of the police force. The leadership of the police force is the answer to that unless, somehow, the Attorney General had got involved in the process.

[11:00]

**2.11.4 The Deputy of Grouville:**

So the terms of reference are drawn up by the police force that is being investigated? Is that what the Minister is saying?

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

The Deputy keeps on referring to a police force being investigated in the context of criminality. There cannot be a possibility of a police force being investigated quite in the way that she means. It is individual officers. If it were very, very senior officers, then, obviously, there would be a need to ensure a sufficient degree of independence but processes also exist in relation to that.

**2.11.5 Deputy M. Tadier:**

It is at times like this I wish I had gone to a posh school and then my Latin would have been better but I know there is a saying about who polices the police - obviously, Deputy Le Hérissier is more well-versed in that - and I think that is what the Deputy of Grouville was getting at. If I can ask this question, it may be helpful. I think what one is trying to ascertain is that the Minister has quite clearly reminded the Assembly that it is inappropriate for the Minister to get

involved in operational matters. However if there has been a suggestion - and it is hypothetical it seems at this point - that a lack of confidence in the institution of the States of Jersey Police were to be a problem for an individual or a group of individuals, would it then be appropriate for a complaint to be made to the Minister, because it becomes a political issue, and for the Minister to then take action?

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

The structure of authority in relation to matters concerning the police flows down via the public who elect the Members of the States; the Members of the States who elect the Minister for Home Affairs; the Minister for Home Affairs whose job is, among other things, to hold to account the Chief Officer of Police; the Chief Officer of Police whose job is to ensure that matters are operating properly within his own police force. So there is a structure which flows down. Ultimately, the Minister for Home Affairs holds to account the police force by holding to account the Chief Officer of Police in relation to ensuring that he is conducting matters properly and overseeing matters properly.

**2.11.6 Deputy M.R. Higgins:**

The Minister is wrong. It was not just the George Burrows case that I was going to raise. There are a number of cases. Members are contacted by members of the public in fact far too frequently on matters concerning the police force including further reports of police officers entering property without lawful cause. In other words, entering without a warrant and so on or taking property from premises and then losing the property. We have incidents reported where the cases have involved former police officers and all of a sudden the inquiry has come to an end. Those types of matters, who should we take those to? Is it you or is to whichever?

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

I think it is a matter of choice. I would always suggest that matters be taken initially to senior police officers. But if people are dissatisfied with the outcome of that, they should come to me, because I have the wider role of oversight. In such cases, I will pass on information and request a brief report in relation to the matter, so that I can assess what is going on and whether it is being dealt with properly. As I say, I would always, in relation to any of the Home Affairs departments, urge people to go first of all to the senior officers of the department and only if that fails then to come to me and I will then intervene.

**The Deputy Bailiff:**

Minister, I hesitate to intervene, but public confidence in the police is very important. Is it worth adding something about the Police Complaints Authority? You have mentioned it briefly, but Members perhaps have not focused on that.

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

I thought I did mention that. That is precisely why we have an independent Police Complaints Authority. The Police Complaints Authority has the role of overseeing the investigation of complaints against individual police officers and can, at the end of the day, require a disciplinary charge to be brought, even if senior officers are declining so to do. But that process is not a criminal process. That is a process in relation to disciplinary action against individual officers. That is precisely why it has been set up as an independent body.

**Deputy M.R. Higgins:**

Just a comment on that, complaints have been made to the Police Complaints Authority, who do not inform people what the incident was about and also have not got back to people who have made complaints.

**2.11.7 Senator L.J. Farnham:**

Not a question, just an attempt to be of assistance, the rules relating to the Police Complaints Authority are clearly set out on the States of Jersey website indicating the process to follow in the course of a complaint.

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

I am grateful to my Assistant Minister. I also have responsibility under the law for oversight of the Police Complaints Authority. So, if people have problems with the way in which the Police Complaints Authority is operating, they should ultimately refer those matters to me, because I also have an oversight responsibility there.