

19th November 2013

3.3 Deputy T.M. Pitman of St. Helier of the Minister for Home Affairs regarding the “binding over” of convicted persons from Jersey to the U.K and the removal of the woman known as H.G. from the Island:

Would the Minister inform Members whether there is a set procedure in place for when courts “bind over” convicted persons from Jersey to the U.K. (United Kingdom) and, if so, was the lady known as H.G.’s removal from the Island within the set procedure?

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

As this question has been addressed to me, I am assuming that it relates to the action of the police in carrying out the order of the court rather than to the procedures of the court itself. The normal procedures where a criminal court binds a person over to be of good behaviour for 3 years on condition that they leave the Island and do not return are as follows. Firstly, the court normally directs the person be kept in police custody until they leave the Island. Secondly, the States of Jersey Police make travel arrangements at public expense as soon as possible. These may be either by boat or by air. Thirdly, they will normally consult with the defendant as to where they want to travel to. Fourthly, they will seek to collect personal property and possessions, as far as possible, so that the person can travel with them. There will be limits on this, of course, because if a person is travelling on foot, as they normally would be, there is a limit to what they can take. Fifthly, they will ensure that the person then leaves the Island. In general terms that was followed in this case.

3.3.1 Deputy T.M. Pitman:

Perhaps the Minister could enlarge on “in general terms” when he replies, because it does concern me that it offers rather a large area for diversity. Nevertheless, given that the former Deputy of St. Martin, who has been very commendably trying to assist this young woman in this case, appears to have evidence of a rather different perspective.

[10:00]

If it could be arranged, would the Minister be willing to meet with the former Deputy to discuss some of these matters to try and move this issue forward for the victim?

Senator B.I. Le Marquand:

No.

3.3.2 Deputy M.R. Higgins:

In the Minister’s written answer to question 7, I was referring to the H.G. case, which was concerned with binding over. He states in the final paragraph: “At H.G.’s request, post-sentence, and on route to the airport, the escorting officers called at a St. Brelade address in order to collect some of H.G.’s personal property, including clothing. H.G. remained in the car while the property was collected for the purposes of police security. In accord with the court decision she stayed in custody until she left the Island.” Surely it is strange? She was being accompanied by 2 police officers, why could she not have gone into the property and got her own clothing rather than being kept in the car outside with another officer while an officer goes in and picks up 2 bags which were going off to a charity shop and takes that as her clothing. Is that in accordance with the guidance he has just given us?

Senator B.I. Le Marquand:

In my view, the officers could have done that, except that they were aware that the person who occupied the premises did not want H.G. to return to live there and they may have taken that as being an indication they did not want her to return to the premises. In general terms, apart from that consideration, I would tend to agree with the Deputy. It is more practical to take a person into premises to identify their things to help remove them.

3.3.3 Deputy M.R. Higgins:

Supplementary? I thank the Minister for the last comment, because it would be far more appropriate if the person went in. I have to address this question though of the landlord not wanting the person in. I ask the question: did the police officers ask the landlord? Besides, the landlord has stated, and it is on record, that she would have had the lady back had the police told her what she had been arrested for in the first place, and she would not have had to spend 2 weeks at La Moye before trial. Officers did not tell her what she had been charged with. As I say, as far as the landlord was concerned, she could have been arrested for murder or something else. She had no idea what was going on. Can the Minister tell us whether the officers did ask if she could go into the property? Will he confirm again that they did not tell her what it was all about?

Senator B.I. Le Marquand:

The Deputy has indicated this information to me before. It is not to the knowledge of the police. What is to the knowledge of the police is that a police officer made contact at the behest of the court, which was requesting information. As part of the bail application on 27th September a police officer spoke to the lady concerned and then conveyed back to the court their understanding of the situation, which was that the lady did not want H.G. to return. Now, whether there was some misunderstanding on that information with the owner or not, I cannot say. All I have to go on is what is on the court record and what the police have told me.

3.3.4 Deputy M.R. Higgins:

Is it not correct though that the police did not tell the landlady the nature of the offence she had been charged with, why she had been arrested and taken away from the home?

Senator B.I. Le Marquand:

I simply do not know that. That is the version that Deputy Higgins has put to me in the past and is putting to me now. I simply do not know that. It is not within the knowledge of the police.

3.3.5 Deputy R.G. Le Hérissier of St. Saviour:

I wonder if the Minister could define the areas in which there was a departure in general terms and where there has been a departure what steps he has taken to ensure that behaviour returns to the general terms?

Senator B.I. Le Marquand:

I used the term “in general terms”, because I was aware there was a dispute as to whether all her property had been picked up or not. That was simply why I used the term “in general terms”. So, it is wide enough to deal with the possibility of there being a dispute on that. This is a procedure in general terms, because there are variations to the procedure. A person may want to go to a different place. They may not like to fly. So it is a procedure which has a degree of flexibility built within it.

3.3.6 Deputy R.G. Le Hérissier:

If I can have a supplementary? Could the Minister, therefore, confirm that he is absolutely satisfied in all respects with the procedures that were followed in general terms?

Senator B.I. Le Marquand:

Based on the information provided to me by the police, I would be satisfied. I am aware that there are those who seek to dispute that information.

3.3.7 Deputy M. Tadier:

The Minister is on the one hand saying that he is entirely happy with the police order of events that have been recounted, but there are those who dispute that. What steps would the Minister take to find out what the real truth is, to find out whether there has been any abuse or departure from usual practice in this particular case, especially given the very sensitive nature and vulnerable nature of the individual in question?

Senator B.I. Le Marquand:

It is simply not the right procedure in such a case. It is not right for the Minister to be delving down in the details of matters which may involve a potential complaint against the police. The correct procedure if people have a complaint against officers in relation to the handling of particular matter is they make a complaint in relation to that. That is then overseen by the Independent Police Complaints Authority. It would be completely wrong for the Minister to allow himself to be drawn into dealing with investigating such matters.

3.3.8 Deputy T.M. Pitman:

I have to say I do not know how a male officer going to rifle through a young woman's underwear drawer can be seen as a generally acceptable procedure.

Senator B.I. Le Marquand:

I did not hear that, Sir.

Deputy T.M. Pitman:

Sorry, I will repeat. I was saying to the Minister I fail to see how a male officer going into a building and rifling through a vulnerable young woman's underwear drawer is part of generally accepted procedure. Nevertheless, this issue raised by Deputy Higgins of whether H.G. had nowhere to live is of key importance in this, in the fact that she is bound over. Deputy Higgins has raised the issue that were the police to have pursued this properly, she would have had somewhere to live and maybe the binding-over would have been unnecessary. Is the Minister happy with that? Will he try and verify that that is in fact correct?

Senator B.I. Le Marquand:

There are a whole number of different questions and bits of information being put there which I do not agree with. Firstly, the Deputy is assuming that an officer has been rifling through underwear, but for all that we know, the items which belonged to the lady had been put in bags for collection or in a suitcase or something of that nature. I do not know in relation to that. In relation to the issue of binding over, I repeat that it was the lawyer acting for H.G. which invited the court to bind her over on these terms. That was her lawyer who asked for that. The court agreed to that course of action, having considered a psychiatric report which it had before it and having heard the facts.

3.3.9 Deputy T.M. Pitman:

Sorry, a final supplementary. Part of that included the fact she allegedly had nowhere to return to. That did not need to be the case, as we have heard from Deputy Higgins. Is the Minister satisfied with that element of this?

Senator B.I. Le Marquand:

If she had wished to remain in the Island then she would not have instructed her lawyer to invite the court to bind her over in this way.