

STATES OF JERSEY

Education and Home Affairs Panel

MONDAY, 26th JANUARY 2009

Panel:

Deputy R.G. Le Hérissier of St. Saviour (Chairman)

Deputy T.M. Pitman of St. Helier

Deputy M. Tadier of St. Brelade

Witnesses:

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

Deputy J.A. Hilton of St. Helier (Assistant Minister for Home Affairs)

Mr. Steven Austin-Vautier (Chief Officer for Home Affairs)

Present:

Ms. S. Power (Scrutiny Officer)

Ms. E. Liddiard (Scrutiny Officer)

Deputy R.G. Le Hérissier of St. Saviour (Chairman):

I would like to welcome you to the first formal hearing of the Education and Home Affairs Scrutiny Panel. My name is Deputy Roy Le Hérissier of St. Saviour.

Deputy T.M. Pitman of St. Helier:

Deputy Trevor Pitman of St. Helier.

Deputy M. Tadier of St. Brelade:

Deputy Montfort Tadier of St. Brelade.

Ms. S. Power:

Sam Power, Scrutiny Officer.

Ms. E. Liddiard:

Elizabeth Liddiard, Scrutiny Officer.

Deputy R.G. Le Hérissier:

I would like to welcome our 3 guests, if they would be kind enough to introduce themselves.

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

I am Ian Le Marquand, I am currently the Minister for Home Affairs.

Deputy J.A. Hilton of St. Helier (Assistant Minister for Home Affairs):

Deputy Jackie Hilton, Assistant Minister for Home Affairs.

Mr. S. Austin-Vautier (Chief Officer for Home Affairs):

Steven Austin-Vautier, Chief Officer for Home Affairs.

Deputy R.G. Le Hérissier:

Now, I would also like to welcome members of the public; very gratifying to see this interest in the Scrutiny process. I sincerely hope we live up to your expectations. **[Laughter]** There will be a slight interruption later in the meeting because we are very pleased to have Channel Television with us but there have been a few hiccups with the equipment so there will be a second coming, so to speak, of Channel Television in about 15 to 20 minutes. The first thing I ought to explain to our guests, which I think they are familiar with, is that, of course, when you come to a panel here you are under oath and, of course, you are protected also under the rules of privilege. So, on that basis, we will conduct the questioning. It is going to be a fairly broad ranging set of questions because this is, obviously, our first time with the Minister and the Assistant Minister and the Chief Officer so we will cover quite a bit of ground. First of all, I will ask some scene-setting questions about draft legislation. As some of you may know, and I am sure the Minister and Assistant Minister and the Chief Officer will know, there was an enormous amount of draft legislation in the pipeline from Senator Kinnard's incumbency and I am going to ask a few questions about where that legislation is at because we have what is called in the States a

Strategic Initiatives Report which tells us how legislation is progressing. So, the first item I would like to ask the Minister, Senator Le Marquand, is where is the anti-discrimination legislation at, at the moment?

Senator B.I. Le Marquand:

It is currently in a draft stage. Unfortunately, I am not sure that it is going in the right direction.

Deputy R.G. Le Hérissier:

You could speak a little louder, Senator.

Senator B.I. Le Marquand:

I am sorry. Unfortunately, I am not sure that it is going in the right direction. I have to be realistic about whether or not it is going to be possible, in the future, to obtain the necessary funding to finance this and the matters which my predecessor but one chose would require a setting up of a separate tribunal which would be quite an expensive way of doing it because you would have to have separate secretariats and so on. There were various different options that were being looked at but Senator Kinnard's favourite option was the setting up of a separate tribunal. Now, this would be expensive and I am not sure whether it is going to be possible to obtain the funding to do it in that particular way so I am currently reviewing that and, indeed, we have had some assistance from Elena Moran, the Chairman of the Community Relations Trust, who has certain ideas as to a different way of doing this which would be much cheaper and, therefore, hopefully sustainable.

Deputy R.G. Le Hérissier:

Have you any idea, Senator, what kind of delay there is going to be to the process, because, obviously, this has been hanging around an awful lot of time?

Senator B.I. Le Marquand:

I do not, I am afraid, have the experience to give you an answer on that. I suspect if I look to my left to

Mr. Austin-Vautier he would give me a figure and I suspect I would think it would be longer than that. So, let us try that method.

Mr. S. Austin-Vautier:

The discrimination law is in draft and under the previous administration it was regarded as a fairly final draft so I think, if there is to be a delay, the main delay would come in reconsultation rather than in law drafting and I think that would probably be an essential process before anything is lodged.

Deputy R.G. Le Hérissier:

Okay.

Deputy J.A. Hilton:

I think it would also be fair to add, because Senator Le Marquand is the new Minister, it is only right and proper that we give an amount of time to review the draft legislation ourselves and investigate other ways of carrying out the functions of the Discrimination Panel or however it is decided to be set up. We are in the process at this very moment in time talking, as the Senator pointed out, to the chair of the Community Relations Trust and to various other people at J.A.C.S. (Jersey Advisory and Conciliation Services), and today we are going to speak with David Le Quesne of the Employment Tribunal, just to talk through some of the issues.

Deputy R.G. Le Hérissier:

Thank you, Deputy Hilton. Do you not think, though, the public are probably going to say: “We have been through years and years of consultation. Do we have to keep reopening it?” What is your view on that?

Senator B.I. Le Marquand:

Question to me, or question to ...?

Deputy R.G. Le Hérissier:

Well, Senator, yes, if you would like to answer.

Senator B.I. Le Marquand:

I have to be realistic about whether we are going to get the funding for the super-duper deluxe version of this and I do not think we are going to, and so I think I have to be realistic and try and go for the mini version of it, or the Morris Minor or whatever, for which I would be able to get the funding. I am just being realistic. If I can amplify things, what we are looking at is to see whether, in fact, it cannot be dealt with by broadening the terms of reference of the existing Employment Tribunal because many of the issues that arise will be employment issues, either during employment or in terms of people applying for jobs. If we can do it by widening the ambit of that and utilising the existing structure and secretariat that would be a much cheaper way of achieving the same result as compared with setting up a parallel structure. So, that is what we are looking at.

Deputy T.M. Pitman:

Can I just comment?

Deputy R.G. Le Hérissier:

Yes, sure.

Deputy T.M. Pitman:

During the senatorials it was decided, not by yourself, that social justice costs money. What you are saying about “not the deluxe version”, can you give assurances that while we might have to save money, the actual legislation will still be robust, the legislation that we finish up with, because that would be the key issue.

Senator B.I. Le Marquand:

Thank you for that question. If we can achieve what we are hoping to achieve, then exactly the same

principles of law would be being applied but it would be dealt with by a body that already exists as opposed to by a body that needs to be set up. I think I can add that I, personally, am very much against the creation of a multiplicity of agencies. It is very, very expensive and I worked as head of the Judicial Greffe for a number of years as the Judicial Greffier and we had all sorts of things under our remit and if you can place things under the remit of one organisation you get the management and the advice at the top without having to duplicate that and the skills base and so on. It is all there. So, my intention is to try to achieve the same results but in a cheaper way.

Deputy M. Tadier:

Mr. Chairman, if I could come in?

Deputy R.G. Le Hérissier:

Yes.

Deputy M. Tadier:

Minister, you started off by saying that the reason, ostensibly, that you are not going to support a separate tribunal was to do with the cost, so could I put it to you, if cost was not an issue, would you support the separate tribunal as the ideal way of going forward?

Senator B.I. Le Marquand:

That is not in a real world. Cost is always an issue in the States of Jersey. I do not personally see why we should not be able to achieve the same results with the existing tribunal; as good a result, if I can put it that way.

Deputy M. Tadier:

Then the next question, in that case, would be what steps could you take to make sure that the body and the procedures are seen to be independent?

Senator B.I. Le Marquand:

But if we were able to widen the terms of the existing Employment Tribunal it would be seen to be independent because that is independent. You also then have the advantage of utilising the J.A.C.S. machinery and particularly the arbitration and conciliation aspect. One of the issues here, in all these sorts of matters, is that you seek, if you can, to achieve an amicable solution. One of the ideas that was raised before was trying to run this through the petty debts court in order to use the ... I have lost the word.

Deputy M. Tadier:

Mediation?

Senator B.I. Le Marquand:

Mediation, thank you, the mediation facilities but that, I do not think works, because there is not the necessary skills base, with respect to the learned Magistrates, in order to deal, ultimately, with the cases. So, when I am talking about secretariat I am talking about using J.A.C.S. in an expanded way. Again, it is anticipated the majority of cases would be in the employment area. There could be cases in other areas and also, sometimes, people do not necessarily want a legal remedy. If a black person has been abused by somebody they may just want an apology, a recognition. The full weight of going through a tribunal to get a damages award, at the end of the day, is not necessarily what people want to achieve.

Deputy M. Tadier:

Surely that is up to the individual to decide, is it not?

Senator B.I. Le Marquand:

Yes, indeed, but if I can give an example, perhaps - which is in a parallel situation - of the case that took place not very long ago of the nightclub in Bath Street and of the ladies who were refused admittance on the basis of their size. Now, frankly, any damages awarded, assuming that there was appropriate permission to order damages for such a matter, would have been moderate. In fact, the embarrassment

which took place and the embarrassment which was suffered by the owner was far more massive and a far more effective method, I think, of sending out a message.

Deputy R.G. Le Hérissier:

Senator, we are focusing on this. Maybe we will have to move but just one wrap up question. First, I thought the law did allow a maximum amount of mediation and conciliation?

Senator B.I. Le Marquand:

Yes.

Deputy R.G. Le Hérissier:

The whole idea is very, very few people, as with the Employment Law, will end up at tribunal.

Senator B.I. Le Marquand:

Yes.

Deputy R.G. Le Hérissier:

The second thing is, there was an intention, and it is written into the consultation paper, that the officers would, in any case, be in the same place as J.A.C.S. to use the same rooms, and all that sort of stuff.

Senator B.I. Le Marquand:

Right.

Deputy R.G. Le Hérissier:

Thirdly, of course, as you know, it was an unfolding bit of legislation, in other words, different routes. They would deal with race issues and they would also, for example, deal with disabilities because they would be introduced at different times.

Senator B.I. Le Marquand:

Yes.

Deputy R.G. Le Hérissier:

Are you still holding to that principle?

Senator B.I. Le Marquand:

I think that is going to be the only practical way to deal with it because I think there is going to be a great deal of work required in relation to each stage unless we simply follow principles in the U.K. and, as it were, take on board wholesale whatever principles are being followed there. I think it is going to have to be looked at. Jersey tends to like to seek a Jersey solution to matters and I think that is what we are going to have to do, so it is going to take some time. I should have mentioned, in fact, I have asked my colleague, Deputy Hilton, to lead on this matter in this area.

Deputy R.G. Le Hérissier:

Okay. We will take that as that. Thank you, Senator. If we could move to the second bit of legislation. It is the Draft Police States Law, which, of course, includes the establishment of a police authority which, as we know, has been a major issue. I wonder, Senator, if you could tell us (a) will you be putting this forward in the near future, and (b) are you in general agreement with the proposal that has been put on the table by your predecessor?

Senator B.I. Le Marquand:

The answer is no and no to the questions. No, I am not intending to put this forward in the near future. The reason for that, frankly, is the police force is going through a period of instability, at the moment, for a whole number of reasons and I do not consider this is the right time to be seeking to determine the long-term constitution. We have an existing structure. I have authority given to me under the Police Force Law. I also have a statutory duty to ensure that - I cannot quote the exact words - but to ensure that we have an efficient and effective force and at the moment I consider that, in this period of

instability, it is better for the States of Jersey Police to have one person to deal with rather than the complexities of having a Minister who has certain functions and a police authority which has others. Even the process of trying to agree exactly where the boundary line should lie for the future, I think, is going to be difficult until the dust has settled and so I do not envisage taking any positive action this year. I want to see the dust settle and then we can start considering. So that is the first part of my reasons. In relation to the second part, no, I did see the draft. I did not consider it had the correct balance at all. It was not, in my opinion, strong enough in terms of the political oversight of the police and the role of the police authority I can only describe as wishy-washy, in the draft that I saw. I did not make comments on that because I ceased to be Magistrate too soon after I had seen it and I had other priorities, pressures, particularly in my last month, but I was not happy with it. It is going to require a wider review. There are different models in different places and one of the problems we have is this, that if we simply try to take the U.K. (United Kingdom) model, for instance, it is quite a different situation because there you have the Home Secretary providing policy on various things, at a national level, but the conditions on the ground in a particular police authority may differ entirely, which is why you need to have the local police authority with its own flavour. Now, in Jersey, one of the problems we are going to get is the Minister is going to be much closer to the ground. He is going to be aware of the details and the local variations, so we have to be careful we do not end up with the situation with a Minister and the authority end up tripping over each other. I was just going to go on to say this is, constitutionally, a very complicated area because the role and functions of the Minister and the precise boundaries as to what is policy and what is operational are quite difficult to determine, in some situations. The general public's view is that the Minister has far greater responsibilities and far greater authority than he should have. I think a lot of people think I should be managing the police force which, constitutionally, would be entirely wrong and quite improper. My role is to ensure that the systems in operation within the police force are proper and to give some guidance in relation to policy.

Deputy R.G. Le Hérissier:

I thought if you were ...

Senator B.I. Le Marquand:

So, it is a long answer but can you see the difficulties in terms of where we look to in order to get an appropriate model?

Deputy R.G. Le Hérissier:

It was our understanding, we were informed, that the model came from Gibraltar. It did not come from the U.K.

Senator B.I. Le Marquand:

I think that is right, yes. Is that right?

Mr. S. Austin-Vautier:

That is right.

Deputy R.G. Le Hérissier:

The one major omission, as you have probably been informed is, of course, while the model covered the States Police, of course, it did not cover the Honorary Police. It left the Honorary Police out.

Senator B.I. Le Marquand:

Well, that is correct because the previous model was going to cover both but I think it was decided that was just too difficult. Again, that could be a controversial issue. At the moment, of course, the Honorary Police remain under the oversight of the Attorney General as their titular head and there was an attempt made to set up a police authority in the past but it ran into difficulties. No one seemed to want to be its chairman; no one seemed to understand what it was there to do, if I could put it that way.

Deputy R.G. Le Hérissier:

Just following your reason, I mean, we have, obviously, this very controversial matter going on at the moment. Did you not think it might be a very useful role of a police authority to create a sense of

distance and that a Minister would not be involved in a highly political issue of deciding whether or not, for example, a Chief Officer of Police was competent or not?

Senator B.I. Le Marquand:

Are you talking about a disciplinary matter?

Deputy R.G. Le Hérissier:

Well, just general comments on the competence of the person?

Senator B.I. Le Marquand:

There are all sorts of different models. My understanding, from conversations with Mr. Austin-Vautier is that in the U.K., in practice, the police authority become almost the employer of the Chief Constable and he becomes accountable to them and there is also a secretariat set up in terms of - this is another issue I should have mentioned of course - costs, again, I am afraid. There is a cost to setting this up because, in theory, there should be a separate secretariat to service the police authority to that of the Department of Home Affairs. The fundamental difficulty, as I said, is we are in a different situation because people, frankly, will expect a Minister to have more input into policy. Also further potential difficulties; what happens if the Minister does not agree with the policy suggested by the ... it is complicated. Okay?

Deputy R.G. Le Hérissier:

Okay. Thank you, Senator. I will ask my 2 colleagues if they have any follow up on that issue?

Deputy M. Tadier:

No. I will just say, with due respect, that it is up to the House, I think, to decide whether they are happy, not simply the Minister.

Senator B.I. Le Marquand:

Yes, of course, that is right that the House, ultimately, decides almost everything but as this would come from myself, as I would be the sponsoring Minister, I have to be happy with what I am putting to the House. If I stalled and people thought I was stalling or my approach was wrong then there could be some form of debate on that, I suspect, as to whether my approach is right that we should be waiting and seeing and letting the dust settle before we ... I worry there could be a knee-jerk reaction. Depending on how things go there could be a knee-jerk reaction and particularly there could be a knee-jerk reaction into the Minister having far more control.

Deputy T.M. Pitman:

Sorry, Mr. Chairman, you talk about letting the dust settle but what sort of time scale is in your mind when you say that?

Senator B.I. Le Marquand:

I am starting to look seriously at this next year. I have pencilled this in as a 2010 project, rather than a 2009 project.

Deputy T.M. Pitman:

Okay.

Deputy R.G. Le Hérissier:

Okay, thank you, Senator. I have to ask you to speak slightly louder.

Senator B.I. Le Marquand:

I am sorry.

Deputy R.G. Le Hérissier:

The audience are at your back and they are not getting it amplified.

Senator B.I. Le Marquand:

This is not amplified?

Deputy R.G. Le Hérissier:

Yes, it is amplified but not for the room. It is amplified more for the transcription recording.

Senator B.I. Le Marquand:

Thank you. Shall I move physically, because if I was over there ...?

Deputy R.G. Le Hérissier:

Yes, that might be a better idea, so we will have a short break. Okay, we will recommence.

Mr. S. Austin-Vautier:

Mr. Chairman, may I ask, because it is relevant, because you asked about the Honorary Police?

Deputy R.G. Le Hérissier:

Yes, if you would like to finish, thank you.

Mr. S. Austin-Vautier:

Virtually the last thing that Senator Kinnard did before she left office was to have a meeting with the whole Comité des Connétables and that was specifically to ask them about the issue of whether they felt they should be included within the police authority provisions and they were content that this was going ahead as a separate law, just involving the uniformed police.

Deputy R.G. Le Hérissier:

So, they were content with that?

Mr. S. Austin-Vautier:

They were content, yes.

Deputy R.G. Le Hérissier:

So, there was no discussion about the fact that a major part of the policing service of Jersey was not going to be supervised by the proposed police authority?

Mr. S. Austin-Vautier:

No, they were content with that but on the basis always that it would be revisited after a period of time in operation in case it needed to be reviewed.

Deputy R.G. Le Hérissier:

Okay. Thank you. We will put a line under that for the moment. We will move to the third item of legislation, the introductory discretionary supervisory release of prisoners, sometimes known colloquially as parole, but we know it as discretionary supervisory release. I wonder, Mr. Minster, if you could tell us where this law is at, at the moment, and what your views are?

Senator B.I. Le Marquand:

Okay. Can I just test volumes? Can people hear me at this volume? Is that okay? Yes? Okay. In relation to that, that is currently with the Law Officers Department for a human rights compliance check. It is likely to be found that the current proposals are not human rights compliant. I certainly think they are not and I am not happy with them. In any eventuality, the core of the proposals would mean that there would be a board set up which would advise the Governor and the Governor would make the decisions on parole. Now, the Governor is too close to the executive, as a civil servant, to do that and I think that we will have to have an independent parole board set up which will need to have some sort of separate area. I have not spoken to the Judicial Greffe yet but I suspect that that would be the natural source of a secretariat and that is a route we are going to have to go down. There are other issues. I looked at the draft law for the first time in detail at lunchtime today and I had not realised until last Friday that, in practice, a person who breached the licence could be recalled to serve the rest of their

sentence, which means the whole of the rest of their sentence. I had assumed that if they are recalled they would only serve up to the current two-thirds point. I have to say I am not happy with that either because that could mean that people spent longer in prison, rather than shorter, so that will need to be reviewed. I had expected that they would get the normal credit of one-third for good behaviour and account of that would be taken. I am looking at Mr. Austin-Vautier but I think my understanding is correct and we had a meeting on Friday with the prison Governor in which I learned that for the first time. My instincts were that this would operate, in practice, mainly between the one half and the two-thirds, not between the one half and the end of the sentence and I find it a considerable potential responsibility also for probation. So, I am afraid I am going to have to review this

Deputy R.G. Le Hérissier:

Okay, thank you. Mr. Austin-Vautier?

Mr. S. Austin-Vautier:

It is an August 2007 draft so it is a fairly old draft. It has been a long time in human rights checking. That probably puts some context around the thinking in that it was quite early thinking but the Minister is obviously picking up things which he will want to take forward.

Senator B.I. Le Marquand:

I am amazed it has been there so long. It only took me 5 minutes to decide this was not human rights compliant and I am no expert.

Deputy R.G. Le Hérissier:

We have looked at 3 items now and we have a fourth one as well. It looks like your views are such that they are going to be a substantial departure from proposals that have been in the system for several years. What do you think this says about the way we check things and the way we review things?

Senator B.I. Le Marquand:

Well, I think, to be fair to my predecessors that, inevitably, a new Minister for Home Affairs is going to, perhaps, have a different view in relation to things than the predecessor. I think also it is one of the blessings that the department has but also one of the curses that it has acquired, as the Minister, a person who is very familiar with reviewing statute law and coming up with ideas and piloting laws through. I, therefore, think it was inevitable that I would find mistakes, if there were mistakes, which a layman would not find. I say it is a blessing, hopefully, in terms of what we get eventually, but it is a curse in terms that I am likely to delay things by that very process.

Deputy R.G. Le Hérissier:

Although, of course, they have been checked by lawyers within the system and you, yourself, were a consultee in regard to some of these proposals.

Senator B.I. Le Marquand:

Well, I was not happy with the Police Force Law and I did not have time to respond before I left. I do not think I was consulted on the Anti-discrimination Law. I do not remember being consulted on the Criminal Justice Supervised Release of Offenders but I may have been.

Deputy R.G. Le Hérissier:

Yes. Okay.

Senator B.I. Le Marquand:

That is quite a long time ago.

Deputy R.G. Le Hérissier:

Okay. Thank you, Minister. I will ask my colleagues; any questions on parole?

Deputy T.M. Pitman:

Yes, Senator, the fact that you say you almost expect to find flaws and you have found flaws, is that not

a criticism of what has gone before, in a way, and perhaps quite a valid criticism but ... could you share your thoughts on that?

Senator B.I. Le Marquand:

[Laughter] Yes. I am good at this area. This is where my strengths lie and because I was not just a Magistrate, I was a Greffier before, I do not think I have ever known any piece of legislation I have been consulted on that I have not found some areas that improvement could be made. I think it is inevitable. Talk about matters being dealt with within the Law Officers Department but some of the lawyers are better than others in that department and the Attorney General has been struggling to retain sufficient lawyers of high calibre. Some of these issues are very complicated and ... at least, they are technically complicated but also sometimes you get an interplay of law and practicality. You may get a lawyer who is very good at the theory but is wholly impractical in terms of the way it is carried out. So, it is a complex combination. That is my personal view. I do not want to knock the Law Officers Department too much. Anyway, if they do not always get it right ...

Deputy T.M. Pitman:

I have nothing further, Mr. Chairman.

Deputy R.G. Le Hérissier:

Okay, thank you, Mr. Minister. We will come to the fourth item of possible legislation, the introduction of measures that will have the effect of deterring criminal elements, as they are called, entering Jersey. I notice a member of your team has been very keen on this matter. Could you tell us where this matter is at?

Senator B.I. Le Marquand:

I do not think we can do it, if I put it bluntly and, obviously, in relation to people who are not E.U. (European Union) nationals, there are immigration controls and people can be turned away but with E.U. nationals I do not think we can do it. I think we are stuck with a situation where they have a right to

come here even if they have a terrible previous criminal record. That is my understanding and it has been my understanding for a very long time. What we are seeking to do, however, is there are systems like e-Borders which provides better quality information to immigration people so that if people do come into the Island who have a bad record for something we are then aware of them being here, of the potential risks that they may pose. I have a whole amount of technical detail down here, which I do not fully understand, but I am prepared to go through it, if you like. There are things happening which should provide better quality information. There has also been an issue for a long time in terms of the lack of availability of criminal records on people in Jersey and this is a particular bane of the life of the courts, particularly the lower courts, that were sentencing people as first time offenders very often who are, in their own minds, jolly sure that they are not first time offenders but, of course, we must treat them as first time offenders because we have not got access to records. So, there are issues like that.

Deputy R.G. Le Hérissier:

What is the nature of the problem that you cannot get access to these records?

Senator B.I. Le Marquand:

Well, you can, but it takes a long time and sometimes it is difficult. They are not routinely available.

Can you expand on that, Mr. Vautier?

Mr. S. Austin-Vautier:

Not from a policing point of view but e-Borders is supposed to come in at the end of 2010 and that is a fancy way of saying there will be more information available electronically on who is transiting on public transport and it will be for the operator to complete that information that is available to important agencies. I can see the H.R. (human rights) lights lighting, but it will be information that has been declared by individuals. It will just make it more accessible.

Deputy R.G. Le Hérissier:

Okay, thank you, Mr. Minister. I will ask my colleagues.

Deputy M. Tadier:

Just the one point to come in on. I apologise if it is too broad. It is to do with monitoring people who come in, and I know they are supposed to be discussing the Sexual Offences Law in the next coming weeks, in theory, what is there to stop us monitoring people who have committed other offences, with a similar aim to stop them re-offending?

Senator B.I. Le Marquand:

Right, I am going to spend the whole of tomorrow, hopefully, looking at the Sexual Offenders Law. That is the law to do with people who have a criminal record for sexual offences and where there are powers given to courts to control them or to place conditions upon them once they have come in. That is where the e-Borders thing would come in very useful. Sorry, I have now lost your question.

Deputy M. Tadier:

To put it in a nutshell, why do we discriminate between the types of offences?

Senator B.I. Le Marquand:

Okay. Because when I come to take this piece of legislation to the States I am going to have to tell people that what is proposed significantly impinges upon people's freedom of movement and behaviour and so on in a way that would normally not be acceptable from a human rights point of view but that it is acceptable in the case of people with previous records for sexual offences, particularly serious sexual offences, and of offences against children, in particular, because the human rights and the need for protection of the vulnerable groups justifies it. There is a question of what is called proportionality. In other words, is the evil which we are seeking to remedy sufficiently great to warrant the use of this power which otherwise would be viewed as being incompatible with human rights. So that is why it is narrowed down. There are other issues as well in relation to sexual offenders, and particularly paedophiles, because it is recognised, generally, that there is no ultimate treatment for them which would cease them to have the propensity to commit such offences. There are measures, there are

treatments available which may help them to learn to get themselves out of a present intention or whatever, but this is the fundamental difficulty. Now, when you are dealing with other types of offences, of course, people grow out of them, or they stop drinking as heavily or, as they get older, things change but that is a particular difficulty, I think. So, it is a balance, it is a balance.

Deputy M. Tadier:

You certainly would not recommend they be employed in the Honorary Police Force?

Senator B.I. Le Marquand:

I am sorry?

Deputy T.M. Pitman:

I hope not. I was going to go in.

Senator B.I. Le Marquand:

So, could you say that ...

Deputy M. Tadier:

Are you saying you would not recommend people of that nature who have the propensity to re-offend?

Senator B.I. Le Marquand:

No. Can I mention, of course, that we have working in parallel the vetting and barring work, which I am going to come to later on, which is about ensuring that people with such records or such propensities, or a wider range, are not employed. That is a very complex issue but I will come to that later. That is vetting and barring.

Deputy M. Tadier:

But not employed in any honorary position either.

Senator B.I. Le Marquand:

Sorry?

Deputy M. Tadier:

I am saying they should not be employed in any honorary position either.

Senator B.I. Le Marquand:

No, of course not.

Deputy T.M. Pitman:

All I can add to that is, I think, the point that he ...

Senator B.I. Le Marquand:

Well, it is so with any honorary position and I am not sure about roads inspector. But if you are talking about Centenier, Honorary Police, certainly not.

Deputy T.M. Pitman:

So, just to take up that point, whatever it is you mentioned, you are quite confident that, in the future, the situation we saw some years ago with a convicted paedophile being accepted into the Honorary Police could not happen again?

Senator B.I. Le Marquand:

It should not happen.

Deputy T.M. Pitman:

It certainly should not.

Senator B.I. Le Marquand:

I understand that there are procedures in place now but errors can be made. It certainly should not happen.

Deputy R.G. Le Hérissier:

Okay, thank you. You have raised the issue, Mr. Minister, that the whole issue that arose from the Soham case where you had people who had not been formally convicted and for that reason the police did not put them on their radar, so to speak.

Senator B.I. Le Marquand:

Yes.

Deputy R.G. Le Hérissier:

But yet, of course, it raises this very sensitive issue, what do you do about people who have been brought into the police net but have not been convicted, but I think we will discuss that later under social ...

Senator B.I. Le Marquand:

That is absolutely right. That is the difficulty. That is exactly the problem with the vetting and barring because there, there was information which police unfortunately took the view that they should not keep because there had never been a conviction.

Deputy R.G. Le Hérissier:

Yes.

Senator B.I. Le Marquand:

It is very a sensitive balance here between the rights of individuals and the protection of vulnerable groups. It is a very sensitive area.

Deputy R.G. Le Hérissier:

Okay. Well, thank you, Mr. Minster. I think we have dealt with the draft legislation. I am not sure we have ...

Senator B.I. Le Marquand:

I have more. Do you want me to come to that later?

Deputy R.G. Le Hérissier:

We will come to that later because we have a fairly extensive timetable and the next topic which, in a way you have dealt with, but I asked Deputy Pitman to deal with it; criminal justice, the policy as a whole.

Deputy T.M. Pitman:

Indeed, during your election speech to the States you stated that very few matters contained within the Criminal Justice Policy have been put into practice since its approval by the States. Could you advise the panel of your intentions for moving this forward and, possibly, some time scales?

Senator B.I. Le Marquand:

Well, firstly, I want to confess that I was wrong. In fact, far more has been done than I had realised and apologise to my predecessors and to the department for that. I spoke as some of the really big issues like parole and other matters like that which are still not completed. I do have - hello, have you got the right list? This is the right list, is it not?

Deputy T.M. Pitman:

You should have those. They are all different ones.

Senator B.I. Le Marquand:

I see.

Deputy T.M. Pitman:

Those are the ones that ...

Senator B.I. Le Marquand:

I am sorry. This is the right list. I have lists of the following actions which are deemed to have been completed. I have not checked this. It was deemed by the department to be completed. I am not sure whether they have been completed or not, in some cases. Items which are in progress and items which are yet to commence, so there are 35. Those which the department says are completed are 17 ... completed? That is really not completed.

Mr. S. Austin-Vautier:

Well, it is completed as far as we are concerned compared to the cases which are not completed.

Senator B.I. Le Marquand:

Oh, okay. This is the department's view, not mine. I have not had time to vet this. The numbers in progress are 9 and the ones which have not yet been started are 10. Are copies available?

Mr. S. Austin-Vautier:

Well, they can be handed over.

Senator B.I. Le Marquand:

If you want to see copies ... they do take a long time to read out each one.

Mr. S. Austin-Vautier:

You could email them to their clerks.

Deputy T.M. Pitman:

Could you just highlight the 10 that are in progress and perhaps you could tell us a little more about where those are?

Senator B.I. Le Marquand:?

In progress, continue to produce co-ordinated criminal justice statistics annually using current systems through joint working between criminal justice agencies. If you want to know more about that I will defer to Mr. Austin-Vautier. (2) Implement the recommendation to the integrated criminal justice scoping study through the Criminal Justice Information Strategy Group. I have no idea what that means, so if you want to know more I will defer to Mr. Austin-Vautier. **[Laughter]** Plan to anticipated changes in crime levels according to predicted population profile and the effects of migration policy. Do you understand why I did not think these things had happened because they are sort of very much behind the scene sort of things as opposed to things that the Magistrate will see up front and should be really having an effect of what is happening in his court. (4) In consultation with the Honorary Police, Probation Aftercare Service and others continue to support the Parish Hall Inquiry system and consider further ways in which it can be strengthened. There are proposals about to come back to the States. I have just received the paperwork in the last week or so expanding the powers of centeniers. I know that has been worked on for a long time because I commented on that and assisted the working party which, I think, the former Connétable of St. Lawrence had in relation to that. So, this is giving greater powers to centeniers to deal with matters at Parish Hall level. Effectively, that is very close to ... unless the States throw it all out, of course.

Deputy T.M. Pitman:

When you say “close”, how close, do you think?

Senator B.I. Le Marquand:

I do not know what date has been set but it has just been lodged, I think. So, a date should be being set within the next couple of months, I would have thought, for debate of that. Not sure there is not a date set. Investigate greater use of the electronic monitoring scheme as part of the proposal for post-custodial

supervision. That has got to be tagging.

Mr. S. Austin-Vautier:

That is tagging.

Senator B.I. Le Marquand:

That is tagging, investigate why the use of tagging. In 2007, seek approval for new post-custodial supervision legislation, so that is the parole staff we have spoken about. As a member of the corporate parent, continued policy discussions with the Royal Court and Youth Court particularly with regard to court options and residential/secure care. Well, of course, the Williamson implementation plan is coming up with major changes in relation to the way in which all that would operate. That is currently under discussion. Corporate parent is 3 Ministers, namely Health and Social Services, Education and Home Affairs, who at the moment have oversights in relation to the Children's Executive and the Williamson Implementation Report has major, major changes. I know that my colleague, Senator Perchard, is very, very keen to take that to the States at an early date so that is ...

Deputy R.G. Le Hérissier:

Are you in agreement with his position on that?

Senator B.I. Le Marquand:

Generally, yes. There are going to be issues with funding in relation to that but, generally, I am supportive. Okay. Lead a Cross-departmental Working Group reviewing the arrangements for vetting and barring, so that is what we will discuss in more detail later on. Consult on a new Criminal Procedure Law during 2008. Well, I was involved with what is generally called the 1864 Group, which is the Attorney General and 3 other lawyers. I sat on that. We did masses of work. I have just received the latest draft summary of this particular Bail Act and that is ongoing but how long it will take I do not know. I have not even had a chance to read the draft. I am afraid I have been preparing for other things. That group is called the 1864 Group, not because we started work in that year, although it

sometimes feels that way. **[Laughter]**

Deputy R.G. Le Hérissier:

Yes.

Senator B.I. Le Marquand:

But because the main Criminal Procedure Law is dated 1864 and that has been amended from time to time but is very, very bitty. So, those are the matters currently in progress. Do you want to know the matters we have not started or the matters we have finished?

Deputy T.M. Pitman:

I think we will take that as just for the record. No, that is fine.

Senator B.I. Le Marquand:

Okay. Thank you. This is not my view of what is happening, this is the fun ... **[Laughter]**

Deputy R.G. Le Hérissier:

Okay, well, thank you, Minister. We now come to another interesting area of your responsibilities, H.M. Prison La Moye, and I shall ask Deputy Tadier if he wishes to lead.

Deputy M. Tadier:

Thank you. I realise it is quite a broad remit here and I am going to try and fly through these as efficiently as possible. The Business Plan acknowledges that the Prison Improvement Plan, or the P.I.P, is around 75 per cent complete and requires additional investment in order to complete it to the point of considering a third inspection from the H.M.S. Inspector of Prisons. We just wanted to know about whether any further steps will be taken to progress this in 2009?

Senator B.I. Le Marquand:

Well, the 3 of us had a presentation at the prison on Friday afternoon in relation to what has happened there in the past and what is still to happen. I am afraid that the amount of detail is massive so I am going to do my best to remember what we are still trying to do for the future and then I am going to pass over to **[Laughter]** my Assistant Minister for whom I have effectively delegated responsibility. So, see if she can remember more than I can **[Laughter]** and then we will probably cross to Mr. Austin-Vautier. The main thing that stuck in both our minds was the induction process. That is when people are taken into prison for the first time and there have been major improvements made in relation to what happens there because we understand that you need to assess very quickly whether people are potentially suicidal or they have a drug addiction problem or other issues like that, to avoid future difficulties. Now that is happening but it is not happening in the part of the building that we want it to happen in. We want to have a dedicated part of the buildings and once the new, large 140-person unit is completed, hopefully in September of this year, we will then have the space and the accommodation to be able to do that. There are other more technical issues as well, which I am afraid I have not grasped the detail of, in terms of policies in relation to different things. There is also, I believe, an issue in relation to the visitors' accommodation. Now, that is not very good. It is okay, but it is not very good and was certainly criticised and there were security issues there as well. We have some money in 2010 to build something up there but we are not quite sure if we have enough to fulfil the 2 things we want to do because there is now a moral obligation to staff, as part of the deal which was brokered last year ...

Deputy M. Tadier:

Yes, last May.

Senator B.I. Le Marquand:

... to head off a potential strike at the prison to provide the staff with dining facilities. Now, we also want to be doing something in relation to the visitors' accommodation and we are hoping that we can do both within the money that has been allocated. So, that is an area of improvement. What has been happening up there is that there has been a construction, gradually, of various different training units and accommodation. We have a portacabin working as a library, we now have areas where people can learn

block-laying and paint spraying skills and a carpentry area and we have a large area which produces plants and vegetables and so on, so people can work there as well and there is also a peculiar area where ladies were taking apart old computers.

Deputy J.A. Hilton:

Old computers, yes.

Senator B.I. Le Marquand:

Is that right? Thank you.

Deputy J.A. Hilton:

And recycling the particular ...

Senator B.I. Le Marquand:

To recycle them. But, also, we want to improve on that and part of the master plan for the future is gradual redevelopment of different areas to improve the training facilities and so on. Money is going to be the problem, again, in terms of additional facilities but those are the things for the future that are locked in my brain. I am looking at ...

Deputy J.A. Hilton:

There were a few others. They wanted to extend the facilities available for dental work, because it is a very, very small room, so there is a suggestion that that should be done and also to extend the health care facilities available because, again, when we visited, the area is extremely small. These are part of ongoing capital works and the bids are going to have to be submitted but it is part and parcel of a bigger plan that the prison are currently working on. In fact, I think, we will have the figures by the end of the month, will we not, and have some idea we are going to put the bid in for these additional funds.

Deputy M. Tadier:

Okay. Just a point of clarification, the Prison Improvement Plan, was that primarily to do with the physical building itself and building wings, was it?

Senator B.I. Le Marquand:

No, we have had quite large staffing increases in terms of people who are involved with training. From memory, if we turn the clock back 2 years, there were ...

Mr. S. Austin-Vautier:

130.

Senator B.I. Le Marquand:

No, I am thinking about how many people were doing training. Was it one person or 2?

Mr. S. Austin-Vautier:

Yes, 2.

Senator B.I. Le Marquand:

There were 2 people. We also have specialist drugs counsellors working there and psychologists and a whole lot of different people working with the people. I have not mentioned that because that has already happened. So, there have been massive, massive improvements.

Deputy J.A. Hilton:

There has been a massive investment in education

Senator B.I. Le Marquand:

And a massive investment, which I am very pleased to see. I did not realise how much work had been done until ...

Deputy J.A. Hilton:

The library a couple of years ago was literally, I was told, a cardboard box with a few books in it. It now has thousands of books and on average each prisoner has taken out 25 books a year compared to what they were doing 2 years ago, so there has been a huge investment in education, you know, the teaching staff as well.

Deputy M. Tadler:

That is good to hear. We will move on to the next 2 items, I think, if everyone is happy. It is interesting you had already spoken about special needs and the induction period. The next point really relates to 16 and 18 year-olds and it makes note of the Williamson Report and the Howard League Report. I would just like to hear what you have to say about what was found in those 2 reports?

Senator B.I. Le Marquand:

The Williamson Report is a good report and contains a lot of very good recommendations. The Howard League Report contains some good things but, in my opinion, is not a good report and it has a lot of errors and things which were decided on the hoof. I am afraid I am not a fan of it. Particularly, I am not a fan of, typically, decriminalisation I guess, but anyway, that is not the substance of this question but we need, at least, to talk about that, and I will. It has been a huge frustration to myself for a long time and to the youth panel members. Do you understand that Youth Court has 12 panel members who are lay people chosen by the Royal Court who sit as 2 of them with the Magistrate on each occasion that the Youth Court sits with a magistrate. Huge, huge frustration that we have the situation, that everybody recognises, that youngsters up to school leaving age should not be serving their sentences at the Young Offenders Institution but, indeed, should be in Greenfields which is the more suitable place and has the educational facilities, et cetera, et cetera. Now, a huge frustration that I think has been done in terms of this although there are some technical problems and, frankly, the 3 Ministers, the corporate parent, need to get together and see if we cannot cut our way through the technical difficulties in order to make sure that youngsters are not just serving periods on remand in Greenfields, if they need to be remanded in custody, but also serving their sentence. If you want to know what the technical problems are, they

relate to the interplay of human rights and the International Convention on the Rights of the Child and, in very simple terms, the problem that we have is that if Greenfields were to function in a way that I believe it should function, you would have a mixture of 3 categories of young persons there. You would have those who were there on remand from the court, in other words, remanded in custody pending their case being determined. You would have those who would be there serving a sentence which, at the moment, they have served their sentence if they are sentenced to custody, to youth custody at a young offenders institution. We are talking about 15 year-olds and over in relation to that. In relation to remands, potentially 10 year-olds upwards and, thirdly you have got those who are placed then on to a civil order, on to a welfare order by the Royal Court because of safety issues and so on. Now, the difficulty is that the combination of the 3 together is not in accordance, strictly, with the international convention of the rights of the child.

Deputy M. Tadier:

Could I just bring you back to one point?

Senator B.I. Le Marquand:

So we have to overcome those difficulties.

Deputy M. Tadier:

I think the Howard League Report, the underlying view of it, in the conclusion, they said that, ideally we should not have any 16 to 18 year-olds on remand at all. What is your view on that?

Senator B.I. Le Marquand:

Pie in the sky. Absolute pie in the sky. They came over here, they do not understand the sort of system and the sort of difficulties. You see, in the U.K. you have got secure children's homes running in parallel with the criminal justice system and so you can just about cope with a system provided you use the secure children's homes. But, in fact, what they are suggesting does not exist anywhere in the U.K. either. It is idealistic and it is not realistic. Do you want more detail?

Deputy T.M. Pitman:

Would it be fair to say you are quite dismissive of the findings of the report?

Senator B.I. Le Marquand:

Yes, I am. Of those findings, yes.

Deputy M. Tadier:

Is that because it does not propose a Jersey solution? That it imposes a U.K. solution?

Senator B.I. Le Marquand:

Because, okay, in very simple terms let us say a youngster is part of a gang of youngsters who have beaten up someone on the streets of St. Helier. Now, if it is not a criminal offence, unless they are 14, let us say it is not a criminal offence for them because they are below the age of criminal responsibility then you cannot go out and arrest them because they have not committed a criminal offence and so you then have to go through some protective civil procedure in order to be able to take them into care into a secure children's home of some kind. It is just not satisfactory. It just does not work in practice.

Deputy M. Tadier:

So you do not agree with the recommendation to increase the age of criminality from is it 10 at the moment, to 14?

Senator B.I. Le Marquand:

No, I do not. I live in the real world. As a Magistrate I have to deal with the problems of real children who are persistently re-offending and their solution is pie in the sky.

Deputy R.G. Le Hérissier:

What, Mr. Minister, then, is the solution? Is Greenfields capable of being divided, for example, along

the lines?

Senator B.I. Le Marquand:

No, it is not. We have to get some sort of understanding that we have to have a derogation from terms of the International Convention of the Rights of Children to make it work. The problem is we are getting locked into a situation where either we technically breach these things. Derogation basically means an understanding and acceptance that there are specific local circumstances, which mean that you have to operate outside the normal law because at the moment we are in a ridiculous situation where we either have some technical breach in that way or we carry on with our 15 year-olds and over at the Y.O.I. (Youth Offenders Institute), which just is not the right place for them because they are mixing together with up to 20 year-olds and 21 year-olds. Sometimes you have got to take a pragmatic view and cut your way through in order to achieve the best possible result.

Deputy T.M. Pitman:

Can I just come in there? We have heard a lot that seems like funding is going to be a big problem already and, from what you were just saying, there seem to be significant potential funding implications there, if you are going to take this forward the way that you would probably wish?

Senator B.I. Le Marquand:

No, I do not think so, no, because you have got the 2 institutions; the Young Offenders Institution on the one hand and Greenfields on the other and all that will happen in practice will be that youngsters who are currently in the Y.O.I., Young Offenders Institution would be in Greenfields, so I do not see any changes in costs. There may be a slight saving, a very slight saving, if I may say a very, very slight saving to Home Affairs but there will be corresponding costs elsewhere but it should balance because you have got to run the 2 institutions anyway.

Deputy T.M. Pitman:

Yes.

Deputy R.G. Le Hérissier:

Do you think it is right, Mr. Minister, that the 3 groups, you are saying necessity requires you to mix the 3 groups? The second point, if I may, I thought that Williamson had said that the corporate parent idea simply was not working; the idea of 3 Ministers having to agree on everything, it has not worked. What is your view on that? Do you think we ought to abandon that?

Senator B.I. Le Marquand:

I agree. I agree that it has to come under one ministry and the most practical one is going to be Health and Social Services. That is part of the Williamson implementation. I agree with that, it is just not practical to get us together, to agree on things.

Deputy R.G. Le Hérissier:

But do you not think Health and Social Services, they would want a more social service model as opposed to the criminal justice model, which you quite clearly would prefer, is that correct?

Senator B.I. Le Marquand:

I want both. I want both but what I am saying is, regrettably you need the criminal justice part as well and I hoped that the new structure would create a balanced structure in which the right balance would be gained between the criminal justice elements and the social elements. This is what the debate is about in relation to this and I happen to hold the view that it is not in the interests of children to allow them to carry on committing offences and to get into a habit of criminality. I do not think that is in their best interests and I think you have to cut across that for their good as well as the good of society. That is very much what the debates are about in relation to that area.

Deputy M. Tadier:

So the Business Plan acknowledges that there is growing concern regarding individuals that present as being mentally unwell being committed to the prison and what is being done to overcome the problem

that Jersey does not have an appropriate secure facility for the care of mentally disordered offenders?

Senator B.I. Le Marquand:

The responsibility here really rests with us in Social Services. The complaint, I suppose, of Home Affairs is that we are the ...

Deputy J.A. Hilton:

Dumping ground.

Senator B.I. Le Marquand:

Yes, dumping ground. I was going to say "dustbin" but dumping ground is more appropriate. There are difficulties. You heard me in my speech in the House, sorry, in response to the questions, I point out that there are difficulties here because it is difficult in a small jurisdiction to have the variety of secure units which would exist in a larger jurisdiction or, you know, all the way down from a Rampton where you have got the seriously dangerous mentally ill prisoners down to a much lower level. This is the difficulty. Unfortunately the situation is exacerbated by my understanding of the current Mental Health Law inasmuch that a view seems to have been taken by psychiatrists and is maybe correct in accordance with the law that if a condition is treatable, that they should not be taken into mental health care. The difficulty is that there are conditions; there are people who may not be untreatable but where they represent a substantial danger to the public and there are also people who at times are ill and very dangerous and at other times are not quite so ill and their condition fluctuates. So, they are taken to prison at a time when they are not ill and then they become ill. It is quite a difficult area. We have got a meeting on Friday with Senator Perchard to discuss this but it is ultimately a mental health issue rather than a criminal justice issue. We are complaining because we are unhappy. I do not want to mention individual cases but there are individual cases of people who we feel should not be in a prison but should be in psychiatric institutions.

Deputy M. Tadier:

I think that leads on to the next question; what procedures are there and basically are you satisfied that there is enough for the flagging up process for people who may have mental illnesses or in fact any special needs before they go to the prison? Is there enough communication there in the various departments?

Senator B.I. Le Marquand:

The courts are sometimes dissatisfied with not the verdicts but the diagnosis. It has not been uncommon in my experience for the magistrate to be sitting in court and having someone coming in who looks mentally ill and is behaving strangely and to say: "Well, have they been assessed?" and to be told: "Yes, they have been assessed by a psychiatric nurse" or whatever and to say: "We have to adjourn the case to get somebody to come and assess them again" because from a layman's perspective the person clearly appeared ill and yet we have been told that they were not. So, there are difficulties in relation to that. I am not a psychiatrist but sometimes I certainly was questioning the diagnoses that were happening. That is part of the difficulty and, as I say, there is also this issue about you have got this whole area of personality disorder in psychiatry where a person is not suffering from a condition which responds to tablets but nevertheless they behave very strangely and sometimes this may be because of past experiences in childhood or whatever become, what a layman would call, damaged personalities and therefore they are insensitive and they do not respond. They do not understand other people's pain or the effects and consequences of their own behaviour and so on. Now, if this could lead into criminality, there is a grey area; are they mentally ill or is there something in their personality by virtue of them having been damaged by previous experiences? It is a difficult area. But I say more difficult is the area of people who at times are mentally ill but at other times are not mentally ill and so, you know, at a particular time they are assessed as not mentally ill and yet a week later they are. There is a fluctuation. It is a difficult area.

Deputy M. Tadier:

Thank you. The next area is really to do with rehabilitation of prisoners. During your speech when you were going for Minister you stated that, as Minister for Home Affairs, you were trying to move the

balance of the emphasis away from punishment and more towards rehabilitation. Could you expand on this and what initiatives would you want to introduce to be a part of that programme?

Senator B.I. Le Marquand:

Well, I want it mentioned in a context of the prison implementation, sorry, Prison Improvement Plan that we are doing quite a lot there. Obviously if we eventually do get the parole system working, it means that when people are released they will be subject to licence which is a type of probation for a proportion of their sentence. So, when they go out they will be supported. At the moment, when they go out, if they want assistance from Probation, Probation will give them assistance but they do not have to receive that. Now, in addition to that, we have, for the Building a Safer Society Project, we have a number of different projects which are working into this area of rehabilitation. For instance, we are employing a lady who is working with drug education in the prison. We have an arrest referral worker; someone who, when people are arrested, gets involved at an early stage to see if they could be diverted away from the criminal justice system. We finance the methadone programme of the Alcohol and Drugs Service. We finance the court liaison officer who is the person who liaises between Probation and the Drug Service and the courts and provides very often reports for sentencing purposes.

Mr. S. Austin-Vautier:

And the probation through care policy and the sentence planning for the prison; they are all linked.

Senator B.I. Le Marquand:

Yes, sentence planning. Sentence planning, as I understand it is when they are coming to the end of the first sentence, working out what you are going to do to try and rehabilitate them into the community and, potentially, up to 12 months before the end of the sentence. Depending on the length of sentence, people can start to be released from prison if they are deemed not to represent a danger to society, to be getting back into a work situation. My understanding is that after 6 months, starting 12 months before the end, that they may be going out to get work experience, et cetera, et cetera but then coming back to the prison at night time. Then, in the final 6 months of potentially up to a 12 month period, they could

be out working and being tagged. So, there is an early release programme and a getting people back into work programme. I view these as absolutely essential because the issue in terms of rehabilitation is very often people getting into a work situation and so all that is happening now. There is a lot more happening than I realised was happening in that area and I am delighted to see it already there. I spoke about this, as you know, during the senatorial campaign but much was happening that I had wanted to have happen already.

Deputy M. Tadier:

So, I think it is generally considered that many people who end up in the custodial system, because they do not feel like they have a stake in society, ultimately, what processes would you be taking during their time in prison to try and open that? Would you consider something like a citizenship programme? I mean, is that already in place?

Senator B.I. Le Marquand:

Citizenship?

Deputy M. Tadier:

Yes, similar to what they have in schools for people. Presuming we are not shipping them off when they come out of prison but when we are re-introducing people back into Jersey society it is not simply a case of making sure they have a job, for example but making sure that they have the same values that non-criminals will have.

Senator B.I. Le Marquand:

If they were being released on licence, of course, then I would expect the Probation Department to be doing work in those specific areas but they do not normally do things like citizenship. They normally target their work to specific areas like anger management or substance abuse or whatever. I do not think Probation would view that as a good use of their time. They are much more focused; it is not a general education programme. I mean, there are things going on in terms of reading skills and writing skills as

well because you must understand that many of the prisoners have very, very low levels of reading and writing skills so, we are talking about education at a lower level; more basic to provide the sort of skills that are needed.

Deputy R.G. Le Hérissier:

An interesting question, Mr. Minister, because obviously a lot of the people at the prison, in a sense, are there through your good officers but have you ever sort of woken up in the morning, so to speak, and said, you know: “We have got a very full prison. We have got a lot of people doing long sentences”? If you had other alternatives, do you think you could or the criminal justice system could lessen the number of people going to prison? It is an awfully expensive process. As we know, it is quite problematical in a lot of its outcomes. Is there any way we could reduce the population without excessively upsetting the public?

Senator B.I. Le Marquand:

Well, unless my successors are much more hawkish than I was, I think that the regime of 2 Ians as Magistrate and Assistant Magistrate did attempt to keep people out of prison, as far as possible, and that was borne out by figures and studies. Even the first Howard League Report had to concede that the numbers had gone way, way down. If there are difficulties, they would lie with the long sentences, the drug sentencing policy and so on. If there are difficulties, that is where they are and, of course, it is my difficult task perhaps to sit, to persuade the judiciary that there will be an appropriate time to review the current sentencing guidelines. It is a delicate matter because sentencing is a matter for the courts and not for the politicians but that is part of the policy document. It is put more delicately in that document than perhaps the way I have expressed it but, as I say, there are issues. You must understand courts also get bound by their own decisions. I mean, the major guidelines cases or the one which we have on possession is about 12 years old now and there may be an issue as to whether the time will not be right shortly for the courts to seek to review that. It is a Court of Appeal decision so if you are going to do a major review of assessing policy matter, you have to convene a large number of Court of Appeal especially to come and sit and hear argument and decide whether there has been a change in

circumstances to warrant that. It is not just a question of the Bailiff waking up one day and saying: “I think I want to be softer on this or on that.” Yes, the Court of Appeal sets the guidelines and the Royal Court really carries those things out.

Deputy T.M. Pitman:

Can we take it that you are saying that your opinion is that the time has arrived to examine sentencing?

Senator B.I. Le Marquand:

It could arrive shortly.

Deputy T.M. Pitman:

That is a very good politician’s answer.

Senator B.I. Le Marquand:

It could arrive shortly.

Deputy R.G. Le Hérissier:

Just one final question, we had a member of the public write to us. In fact, he has written conscientiously to various people and Scrutiny Panels. Basically, he feels it is fundamentally wrong to have a board of visitors at the prison and I have raised this in the States, a board of visitors at the prison composed of the Jurats and wants to see a totally independent board. What is your view on that?

Senator B.I. Le Marquand:

We met with the board of visitors recently to explore that with them and they do not find a difficulty because they do distance themselves from dealing with people who they might have been involved in sentencing. I suspect, theoretically it is wrong and we have looked at it in great depth but I suspect theoretically it is wrong if parents ... The difficulty is working out who would do it otherwise in practice because there is a different function; there is a disciplinary function in terms of people who

have breached prison rules and therefore who may lose part of their remission but there is a separate function of being a contact point for people who are dissatisfied with the way they have been treated, particularly the slowness of their lawyers, in that sort of function. There are 2 different functions. I suspect it is a disciplinary function that the people have difficulty with. Who is going to do it otherwise? I mean at one stage it was noted that the Magistrates do it but we said no, we would most certainly not because we would then become privy to information in relation to people who we might have to sentence later on. Do you understand that, at the Royal Court level, the Jurats are seeing a much slower turnover of seeing people, therefore it is unlikely they are going to see somebody again and if they had some knowledge they should not have, they can distance themselves? So, in a very long winded way I think what I am saying is, theoretically it is probably wrong but in practice it seems to work.

Deputy R.G. Le Hérissier:

Okay, thank you, that is it.

Deputy M. Tadier:

Just the last one which is perhaps the most controversial. It relates to the ability of prisoners to be able to vote, which is currently not the case and it may well be in contravention of the European Court for Human Rights, Protocol 1. Have you got anything? What is your opinion on that?

Senator B.I. Le Marquand:

Well, if it is in contravention of that then something must be done about it but it is not my problem. It is part of the Election Law and therefore it is probably a problem for P.P.C. (Privileges and Procedures Committee) to consider and then if it is wrong, then we can do something about it. It is not a Home Affairs ministry's issue; it is an election issue.

Deputy M. Tadier:

I guess what follows on, and I think I was driving at this before with my point about citizenship and

perhaps it seemed to be fairly random at the time, presuming that they were given the right to vote, obviously those people who are qualified under Jersey Law to be able to vote while in prison and it seems logical to have to provide some kind of political education while in prison. You are giving people the ... from a rehabilitation point of view it seems also desirable that if they were allowed to vote, it would stand to reason that they should be taught about the system. Would you agree with that?

Senator B.I. Le Marquand:

It would be dangerous, would it not? I mean we cannot be telling people how they should vote.

Deputy M. Tadier:

I am not saying to tell. I mean, just like we would do in school.

Senator B.I. Le Marquand:

It is up to them to read about it or to find out for themselves as any citizen would do. I do not think that is something the prison would want to be putting special courses on. You might have to have a prison hustings. [Laughter]

Deputy M. Tadier:

At least people would turn up. [Laughter]

Senator B.I. Le Marquand:

We might get better turnout than we did at the education one.

Deputy M. Tadier:

The reason I bring it up, you yourself mentioned there were problems with literacy in prison so you cannot expect people to necessarily be informed in the same conventional way.

Senator B.I. Le Marquand:

You cannot deprive people of the vote because they cannot read. That would not be right at all. As long as they could put their cross. I suspect in fact that may be the origin of the cross, you know, that people who could not sign their name could do it, historically, a long time ago could make a cross.

Deputy M. Tadier:

How did they read the name? That is another question but that is probably something we should leave for P.P.C. for another day.

Deputy R.G. Le Hérissier:

Okay, thank you, Mr. Minister. Just a couple of, well, hopefully quick questions on customs and immigration. When will your department or your good self be giving the reply to the recent Scrutiny Report on the Customs and Immigration Service?

Senator B.I. Le Marquand:

I do not know the answer to that because it had not occurred that it was something I had to do. I need to take advice as to whether I should be responding. I thought it was a very helpful report in terms of establishing that there are pressures and so on and we certainly welcome that but I am not sure I could reply to it. I would be saying: "Well, thank you very much and hopefully the Members of the States will support me getting more resources." I mean, there do remain resourcing issues in relation to that. We have been able to employ 3 new staff this year. The report was effectively asking for 6. This was so that each, I will call it "shift" - that is probably not the right word - frontier team; each frontier team would have 2 more officers. In fact, each frontier team has one more officer. I think I am right in saying that we think we can find the money for those 3 this year but we have no guarantees of funding beyond this year so there are issues even for those 3 and ideally we would have had 6. There are issues in relation to the volume of work. I mean, if we get more boats and more planes coming in from overseas, obviously there is more work to do. So, I am going to have to go out and do battle to get whatever I can but the future is not looking good.

Deputy R.G. Le Hérissier:

Okay, well I will leave that for the moment because obviously we will await your official reply.

Senator B.I. Le Marquand:

Whether there is one or not.

Deputy R.G. Le Hérissier:

It does not have to be long. It could be sort of fairly brief.

Senator B.I. Le Marquand:

Thank you very much. [Laughter]

Deputy R.G. Le Hérissier:

We will move to the next topic, which Deputy Pitman will take, which is the Police Service.

Deputy T.M. Pitman:

I am sure you could speak for that now on this one alone.

Deputy J.A. Hilton:

Can I just say, excuse me, I have to leave now? I have to go up to the hospital for an appointment so I give my apologies for my departure but I have to go, okay? Thank you.

Deputy T.M. Pitman:

The Business Plan states that the Police Service is facing significant resourcing problems. Where, in your opinion, do those resource problems lie? The next question will be; are they surmountable?

Senator B.I. Le Marquand:

Well, I have got 6 pages of briefing notes in relation to this that I am going to try to summarise. They

lie in various different areas. There are issues in relation to long term resource capacity and apparently we have a low ratio of police officers as compared with the population. The number of police officers per 1,000 of population is below just about everywhere else where you can get comparable figures. We also have the classic problem in many of the Home Affairs areas, including here, that although we have an approved complement, we do not have enough money to pay for the staff of that approved complement.

Deputy T.M. Pitman:

Sorry to interrupt you but does that include the Honoraries?

Senator B.I. Le Marquand:

No, it does not and you are quite right; that is one of the potential difficulties in comparing like with like but Jersey has 2.74 police officers per 1,000 population. Guernsey has 2.95 and the Isle of Man has 2.99 but of course we have a much better, well, we have an Honorary Service as well so that is part of the difficulty. There is a short term resource capacity. Jersey was 5 per cent below authorised strength at the start of 2009. We just got 17 new recruits but we have been losing, on average, about 10 people a year unexpectedly, in other words, who were not due to retire, or whatever and, for instance, because I have got in the last 2 years, 37 have left, 20 of them unexpectedly in that sense. So, even if we are getting 17 a year, that would be 34 and we lost 37, so there are issues of retaining. I am hoping that one of the consequences of the financial downturn may be that it may be easier to retain people because you understand that when you are talking about police officers, it is competitive. The financial industry is growing and it may be looking for people with the exact sort of skills and it may offer better pay deals or better hours or whatever so there are issues like that.

Deputy T.M. Pitman:

I am sure you are going to come on to it but have you got any explanations at this early stage in your tenure for why those people are leaving unexpectedly?

Senator B.I. Le Marquand:

No, I do not have. I have asked my personnel staff who conducted exit interviews as to whether there were specific issues, particularly the one that was raised in the in camera debate the other day in the House and they said no, they had not come across evidence of that. So, that just needs to be looked at in greater detail. I think demand for services is increasing in a number of different areas and there are issues of complexity of work, particularly areas like disclosure where the Attorney General's guidelines in relation to disclosure. Let me explain it to you, if somebody is charged and they do not plead guilty then they have to get disclosure of the police case against them and that is an increasingly complicated area of work. Lawyers ask for more and more paperwork and more and more detail and so on and the Attorney General's guidelines which came in and correctly redefined the areas of that have led to an increase in workload in terms of that. Financial crime investigation is a growing area and, indeed, we are anticipating that the I.M.F. (International Monetary Fund) review will show up areas where we will need extra resourcing in order to investigate things. I mean, in fact, one of the questions that was asked was in relation to the proceeds of crime subsidy from schedule 2 and there we were unable to obtain resourcings to put that into practice. This said, risk financial crime for Jersey through intelligence submissions alone because, remember there are duties now on people to tip off the authorities of anything suspicious and that has increased by in excess of 300 per cent during the last 8 years so this is a major area of growth. Public protection, this is basically referrals in relation to possible neglect, physical or sexual abuse of children, a combination of the historic abuse inquiry and the Baby P case meant that there was an overall increase of 159 per cent, in other words, from 158 to 472. It has gone up 2.5 times in 2008. Now, we are hoping this is a temporary phenomena but, nevertheless that has required a massive transfer of resources in relation to the child protection and the public protection area. Sex offenders, interestingly enough, of course, if new laws are brought in to give protection, it will increase the workload of the police in terms of whatever orders are made. The Bichard inquiry, that is the Soham murders, that is the vetting and barring inquiry, that also will have a workload implication. I am running through this very rapidly, trying to be sensible. I am not sure about the next one. So, that is a whole number of things. There are recruitment issues, there are retaining of staff issues, there are increasing workload issues in a number of different areas. There is going to be continued pressure upon

the States of Jersey police. One of the difficulties I am afraid I face, I am realistic about this, is that the large expenditure in recent years in relation to the child abuse matters is going to make my task more difficult. People are going to say: "Well, you spent a lot of money on this last year and now you are asking for even more resources", and I am coming into a situation. The other difficulty I face is that the political perception of people like politicians I have been speaking to is that the police over-resourced and the prison under-resourced when, in fact, I think we are going over in the opposite direction now. We have caught up with the prison but we have issues in relation to the police. So, I have summarised that as quickly as I could.

Deputy T.M. Pitman:

So, the easy part; what initiatives do you think you are going to be putting forward in 2009 and can all those issues be overcome? It sounds like the answer would be no.

Senator B.I. Le Marquand:

It is not going to be easy. I think it will be easier in terms of retaining staff because of an economic downturn and recruiting staff. I think we will have improvements there. We have to look at which of the workload areas are permanent and which ones are temporary, for instance the child protection we hope is a temporary blimp but also we are going to have to fight for resources in terms of if there are I.M.F. recommendations and so on to make sure that we have got. I do not think there has been a sufficient understanding of the effects that the legislation which required people to tip the police off if they were suspicious about transactions would have in terms of workloads. So, there we are.

Deputy T.M. Pitman:

Do you see the possibility of increased use of the honorary system as having some positive impact?

Senator B.I. Le Marquand:

Not in these technical areas. Again, I have got some briefing on that and, in terms of obviously the police are trying to use the honorary services in areas they can. I mean, for instance, in areas like speed

detection, my understanding is a vast majority of speed detection work that has been done has been done by the honorary service now and that is the sort of area where, with proper training, operation of the laser equipment and so on, there is no reason why a lot of work cannot be done now. But there are obviously other areas which you cannot use honoraries in at all. It is far too technical.

Deputy T.M. Pitman:

With the need to refocus the police in certain areas, especially over the last year, community policing is probably something that has suffered. Would you conclude?

Senator B.I. Le Marquand:

It has. You are absolutely right. My colleague, when we were visiting police headquarters asked a question of one of the staff and I think that, whereas theoretically there should be 9 or 10 community police officers, I think there were 3. You are absolutely right. That is an area that has suffered. We also think that the Licensing Unit has suffered in terms of licensing laws and so on and the problem is that they have been drawn into other areas and without increases in overall manning, we cannot sustain the same level of service.

Deputy R.G. Le Hérissier:

Just building on that question, Mr. Minister, if you were losing, I think you said, what, 37 people you have lost unexpectedly?

Senator B.I. Le Marquand:

In 2 years. No, 20 of those were unexpectedly.

Deputy R.G. Le Hérissier:

Okay, what, from the reasons you have been given because presumably you do conduct exit interviews, have they been, so to speak, pushed or pulled? Have they been pulled by the attraction of finance, for example, or is there something about the police that has made them unhappy which, for some reason

was not picked up in the selection process? You did not convey to them, for example, the nature of the work?

Senator B.I. Le Marquand:

I do not know the answer to that question because my information came from one conversation because I was asking a question specifically about one area, so I did not and I probably need to get a report back from the personnel staff as to what the reasons given were.

Deputy R.G. Le Hérissier:

Because obviously training a police officer is an incredibly expensive process and a lengthy one and all that expertise is basically being lost.

Senator B.I. Le Marquand:

Yes, I have gone into the details of the problems we have because we have a high percentage of inexperienced officers at the moment, so there are issues in relation to that. There are major problems of levels of expertise in terms of experienced officers at the middle rankings and at the upper middle rankings.

Deputy R.G. Le Hérissier:

The other issue, building on Deputy Pitman's other question, community policing, you could argue of course that the real community police are the Honorary Police and surely, if you are using your officers, so to speak, to do community policing, is there no way this sort of role cannot be part of an expanded role for the Honorary Police who are out there in the community?

Senator B.I. Le Marquand:

Well, I think that historically you are right; that the Honorary Police were the community police officers but they are not there to investigate crime. You know, they are there to deal with other matters perhaps, to pass things over and so there is a difference of role in relation to that. Sorry, I have now forgotten the

last part of your question.

Deputy R.G. Le Hérissier:

Well, no, sorry Mr. Minister, it was simply given they are the original community officers, so to speak, could their role not be revamped so that they do the sort of jobs that your officers do?

Senator B.I. Le Marquand:

I think there is a major issue, generally, in relation to the honorary role and the use of the Parishes because, with things like welfare now that have been passed away from the Parishes, I think the thinking does need to be done, generally, as to what are the things that the Parishes are good at doing. What are the things where the honorary manpower can be engaged in? That may be policing, it may be other elected areas. It is a big issue. We have got a very positive resource there. Having said that, I mean, they are areas like St. Helier where the community does not work exactly in quite the same way as it does, say, in Trinity or St. Johns or the country Parishes. So, I suspect, in your own Parish at St. Saviours that it works better in number 3 than it does in No. 1 and No. 2 district, for example.

Deputy R.G. Le Hérissier:

Yes, good point. Okay, we will move on.

Deputy M. Tadier:

Deputy, very quickly, because we have talked about the honorary system, is it not now the time to centralise the Honorary Police Force as it seems there have been criticisms about having 12 police forces alongside the paid police, it is somewhat ridiculous and wasteful?

Senator B.I. Le Marquand:

I was always a proponent of there being specialist Centeniers who present cases on behalf of other Parishes. The difficulty of that, there are limitations on that because if you just have your specialist and how do your new people learn their trade in relation to that? So, in terms of the role of Centenier, I

think there could be more centralisation. The difficulty is though that if they are going to have local knowledge, then obviously it is the fact that they are a local force that helps and it is also the tying in with the local community that gives the sense of community, out of which their role comes. I think they have to do as many things together as they can but I am not sure, I mean, the idea of an Island-wide honorary force just would not work because there would be that loss of individual identity.

Deputy R.G. Le Hérissier:

Okay, thank you, Mr. Minister. Well, it is Deputy Tadier with the next question, which we may have covered.

Deputy M. Tadier:

Is it 7, sorry?

Deputy R.G. Le Hérissier:

Number 6.

Senator B.I. Le Marquand:

I think I have covered that in passing. We did not get the financial resources to do this.

Deputy R.G. Le Hérissier:

Number 7 is about the parole system which we also covered.

Senator B.I. Le Marquand:

I have covered that already, yes. I just called it something different.

Deputy R.G. Le Hérissier:

Yes, we were looking to progress there but apparently it is going to be delayed. Well, we come to another interesting one; binge drinking, Deputy Pitman.

Deputy T.M. Pitman:

Yes, could you explain to the panel please, what you will be doing during the coming year with regard to the Island's binge drinking culture? What initiatives have we got?

Senator B.I. Le Marquand:

This is one of those interesting situations in which, you know, the press come and interview you about things and whereas we want to talk to them about boring things, they want to talk to you about the most controversial things. So, suddenly, to your amazement you find that you have got front page headlines that you are about to launch some major new initiative, whereas that is not on your mind at all. What is on your mind is to consolidate and see what is happening and then, if things are not working right, then you have certain ideas. So I feel a bit foist with my own pertard here. Having said that, I mean there are a number of things which are already going on and some of my staff object to the use of the term "binge drinking culture" and probably I should talk about a binge drinking sub-culture, to be technically more correct. It is only a group of people within a society and that group changes at any given time, who are going out on to the streets or into pubs with the intention of getting drunk because that is what we are talking about; that is how I would define the binge drinking culture. People would go out to get drunk in a public place. Things were improving. I have statistics to show that in 2008 we had a reduction in the number of instances of assaults taking place in St. Helier pubs, clubs and on the streets between 8.00 p.m. and 4.00 a.m. so things are moving forward in a positive direction. I anticipate if you get a financial downturn, then it will improve even more because my experience in the past was that in financial downturns that people had less money to spend on alcohol and, therefore, they drank less and so on. Now, in terms of practical things, obviously I am very keen to see a stronger enforcement of the licensing laws, the existing licensing laws. There are issues in relation to enforcement of laws on drunkenness on licensed premises, there are issues in relation to access of youngsters to alcohol, under-age and so on and that is a resourcing issue because they are now finding that the police are being distracted away by the need to deal with other areas. There is going to be thinking about new licensing laws this year and a review of the licensing laws. I am very much against the extension of hours but I

am in favour of a longer drinking up period. So, in other words, nightclubs could cease to serve alcohol at a certain time but people could remain on the premises for much longer, provided they were drinking soft drinks. I think that is a very good idea and would work and it is that sort of proposal which we have shown in other areas it does work. For instance, the way in which the taxi rank warden scheme which came out of the Building a Safer Society has led to a situation where the number of offences committed around an area has absolutely plummeted. I have got some figures on that, if you want to see them, although I do not understand the figures which were provided to me. There are other initiatives like a street based youth worker who is going out talking to young people about their alcohol consumption, which is financed by B.A.S.S. (Building a Safer Society). There is work going on at schools in terms of alcohol education. This is a complicated area because you have to tackle it from an education point of view, you have to tackle it from a health point of view and I was talking to the Chief Medical Officer the other day and we were talking about whether, perhaps it would be good to have some pictures of youngsters who are absolutely drunk out of their brains and being sick and so on so that youngsters could see that it is not pretty, as part of the education process. We have got to get over the message somehow to young people that getting drunk is not cool; it is irresponsible. So there is a medical aspect. The criminal justice area I think comes in the licensing enforcement area and also in the B.A.S.S. area primarily.

Deputy T.M. Pitman:

Could I just ask you for clarification on that because it was my understanding that the street based youth worker has left and has not been replaced, but I may be wrong?

Senator B.I. Le Marquand:

Oh my goodness. Let me read what my notes say. Yes, my notes say: "Street based youth worker B.A.S.S. funded project has been talking to young people about their alcohol consumption, reinforcing some of the information and messages the young people are getting. As they may well see them on the streets after they have been drinking, they are able to challenge them to think about the danger they are putting themselves and others in, either there and then or when they next see them sober. This ongoing

relationship with these vulnerable young people means that they are also able to refer them to other services or build projects around their needs.” That is all my notes say and, as far as I am aware, they are still funding it.

Deputy T.M. Pitman:

Okay, I think you might find he is gone.

Mr. S. Austin-Vautier:

Well, Deputy Pitman would know better than anybody.

Deputy T.M. Pitman:

Well, I do not know what the future plans are but I am just flagging that up because I believe it was a very positive initiative.

Mr. S. Austin-Vautier:

Well, we certainly provide the funding and it would be for Education to replace that person if that person has left.

Deputy M. Tadier:

I have got one clarification, if I may; it always seems to me that having a law which says that you cannot be drunk on licensed premises is a little bit like having a law that says that you cannot sweat in a sauna. It seems like people go to these places in order to get drunk, so I do not know whether you want to say anything about that?

Senator B.I. Le Marquand:

No, I do not agree with you. Drunkenness is a great debate. That is the problem with a binge drinking sub-culture; that people are going to the premises for that purpose and that is why we have to tackle it on a wider basis but, I mean, the alternative would be for people to shut down all the licensed premises and

go back to prohibition and I am not in favour of that.

Deputy M. Tadier:

It is not being drunk per se; it is drunken behaviour. Arguably there would be people who have imbibed in more alcohol who are perfectly fine, with some people who have maybe just ...

Senator B.I. Le Marquand:

But if a person is drunk they are far more liable to behave badly. That is a presupposition of the law.

Deputy M. Tadier:

But I think the question I would ask, what would your department do to tackle the underlying issues that lead people to drinking, because we know that the U.K. has a sub-culture of binge drinking but, Jersey, we were told recently in the 3Ds(?) presentation by the Health Service, are number one for drinking in the world.

Senator B.I. Le Marquand:

Yes, so I understand.

Deputy M. Tadier:

Do you think it is important to look at the underlying issues of why people drink in Jersey, whether there is any kind of alienation and what reasons they may be? What is your scope as a department to do that?

Senator B.I. Le Marquand:

That is not within my department, you know. There are issues; if people are living in poor accommodation, poor lodging accommodation in particular, they are more likely to go out socially in the evenings, just simply because they are living in one room at home and so there have always been issues; social issues, in relation to that, there is no doubt about that. I mean, we know that we have a very high level of drinking in Jersey. All the statistics have shown, and to a certain extent it could be learned

behaviour. If your parents drink heavily, you are probably more likely to copy them. If your parents drink heavily, you would be more likely as a youngster to think it is cool to drink heavily as well. You know, things pass on. It is not easy to change behaviour but we have seen, in the area of drink driving, the way in which a legislative change eventually came through in terms of the change of attitude because certainly most young people now frown on that, even though they may do it occasionally and it also changed the whole nature of the country pubs as well, which became restaurants. So, things can change but it does take a long time. I discovered 2 other projects that we are doing, if you would like to know about them? The alcohol liaison nurse at the hospital who delivers brief interventions to people coming in intoxicated or with alcohol related diseases, that is also B.A.S.S., so we are doing something medical there; financing something medical although they are Home Affairs and alcohol and drug education at the prison and Probation talked about the lady who is working there and obviously Probation do that as well. So, there we are.

Deputy R.G. Le Hérissier:

Okay, we move on. Thank you, Senator. We move on to the next question which partly repeats what we have covered; the whole issue of vetting people who work with vulnerable people.

Deputy M. Tadier:

Can you update the panel on the current situation regarding whether police checks are carried out on individuals working with the elderly and other potentially vulnerable groups?

Senator B.I. Le Marquand:

Well, they are. I have got some detailed notes in relation to that. I am not sure that you will want me to go through all the details but obviously there are checks on all Social Services staff who come into direct contact with clients, whether children or adults, also foster carers, adoptive parents and members of their households are checked, all staff in independent children's homes and there is checking taking place under the Nursing and Residential Homes (Jersey) Law, which would be nursing homes and residential homes. There is a matter of detail here which I do not fully understand. I could read it out if

you like, but I do not think it is going to shed much light. There are things happening but the key thing, really, is this safeguarding of vulnerable groups and the vetting and barring and this really came out of the Soham case which we discussed before; a very sad murder case of 2 girls, where the accused person, whose name escapes me, had previously been investigated ...

Deputy R.G. Le Hérissier:

Huntley.

Senator B.I. Le Marquand:

Ian Huntley, thank you, but did not have a record and the authorities had wrongly concluded that, from a human rights point of view, they should throw away the paperwork and so there was nothing on him and he was employed as the caretaker. The real question, a difficult question, is how we put this into practice in Jersey because what is going to happen U.K.-wide is there is going to be like a central authority in the U.K. which is going to presumably print a list of people who are barred. They will hold a list and the question is how we buy into that in Jersey. Do we seek a sort of parallel structure or do we somehow buy into that? There are various different ideas being floated. I mean, my own personal, preliminary view on that is that we should buy into the U.K. system so that, if you like, there could be a re-registration in Jersey of people who are in Jersey who have been barred in the U.K., some process by which it could be extended to apply in Jersey and then there would need to be some sort of appeal process in Jersey against that. The difficulty otherwise, if we entirely buy into the U.K. system is that local people could be subject to decisions made elsewhere without an appeal process here and so that is my preliminary thinking. I only thought about that yesterday or the day before because I sat down and started trying to think our way through this. So there are complicated issues as to how it is going to happen and advice is being sought and thinking is going on.

Deputy R.G. Le Hérissier:

Okay, thank you, Mr. Minister. We are aiming to finish at 4.00 p.m. We have got one overall question which we will come to last about what major issues which you wish to progress, which is obviously

going to be a lifetime's work, I suppose. We have added 3 other questions which have really arisen. They are not major, major broad policy, but they are questions that have arisen in the media recently just to sort of get a sense of completeness. One of them is about the powers for the police to bail a suspect, the other is about that chestnut of the Independent Citizens Group overseeing the historic abuse inquiry, and the third is the amendment to the Draft Gender Recognition (Jersey) Law, which is coming to the States soon and I know Deputy Tadier has, for example, some views on that. So, I will very quickly ask, and we will do these as fairly brief answers, if we may, just to get them on the record, so to speak, and they may well ...

Senator B.I. Le Marquand:

I am not sure the third one is a proper question, but there we are, because it is not policy issue for my department.

Deputy R.G. Le Hérissier:

This is ...?

Senator B.I. Le Marquand:

The third question.

Deputy R.G. Le Hérissier:

Okay, well we can deal with that.

Senator B.I. Le Marquand:

I have not even looked at it, so I do not even know what their views are.

Deputy R.G. Le Hérissier:

Well, maybe Deputy ...

Deputy M Tadier:

I am happy to defer that. Another time we can deal with that.

Senator B.I. Le Marquand:

I do not think that really lies within this Scrutiny Panel ...

Deputy R.G. Le Hérissier:

I think it is the Legislation Advisory Panel via the Chief Minister's office.

Senator B.I. Le Marquand:

Yes.

Deputy R.G. Le Hérissier:

The issue that was raised in the States recently, the powers for the police to bail a suspect; could you inform, Mr. Minister, the panel of the current situation regarding the release of suspects on bail and what measures are being progressed regarding this issue, including the moving of any amendments to legislation.

Senator B.I. Le Marquand:

The current position is there is no power to bail somebody prior to charge. I am looking at Mr. Austin-Vautier, but I am sure that is right. The only power to bail people is after charge and that power is firstly vested in a Centenier, after they have charged a person, and then subsequently of course in a court, once they have been presented before court. The proposals would enable the police, or a Centenier, to bail a person to return on a specific date, before the police or before the Centenier, for further investigation. So, in a situation in which there was not enough evidence to charge a person, but enough evidence to warrant bailing them to make sure they came back on another date; that is what that power is for. That is the explanation of what it is about and includes the right to impose conditions which would presumably be to ensure that either the person did not leave the Island or that they did not commit

further offences.

Deputy R.G. Le Hérissier:

Where is that at in the system at the moment?

Senator B.I. Le Marquand:

The same place it was last Tuesday.

Mr. S. Austin-Vautier:

Do you mean the amendment?

Senator B.I. Le Marquand:

Yes.

Mr. S. Austin-Vautier:

We are waiting for the Bailiff's reply on behalf of the ...

Senator B.I. Le Marquand:

Yes, we are waiting for a reply from the judges and the Bailiff in relation to this. It is exactly the same situation as I mentioned last week, which was that although there had been consultations initially with judges, including myself when I was Magistrate, all the personalities have now changed and so it is being looked at again. I did indicate to the Deputy of St. Martin, Bob Hill, that I would consider whether it is possible to bring forward this specific Article on its own because, if you remember, I raised that issue. I think I was the first person to think about it. The assumption had been made because there were issues in part 5 to deal with resourcing, staffing of courts and so on. In fact, the whole of part 5 had to wait and the complication I ran into then was I received a note from the Attorney General saying that he thinks that he has now moved this new provision into the new Draft Bail Act which, if he has done that, is going to slow it down even more. So, I need to look at that again. If you understand there

is now a Draft Bail Act floating about and I think the provision has been put in there. The trouble is a great deal of work will need to be done in consultation and everything else, so I do not think that is a good move and I probably need to go back and look and see whether we can go ahead with this Article on its own because it has already been passed. So, that is the way forward. I had not thought about that properly until just a few seconds ago, that that is what I should do. So, you have prompted me to come to a better way of doing it than leaving it in the Bail Act.

Deputy R.G. Le Hérissier:

Thank you, Minister. I will ask Deputy Pitman if he can raise the last specific question on the Independent Citizens Group.

Deputy T.M. Pitman:

Would the Minister confirm whether he is satisfied with the workings of the Independent Citizens Group, which was appointed to oversee the Haute de la Garenne investigation and, if so, will he be extending its role in the future?

Senator B.I. Le Marquand:

Okay. I am a little bit more relaxed about answering the question than I was last Tuesday. The reason why I am a bit more relaxed is that I received an email today from a member of that group, who explained to me what they were doing. My concern in relation to that was, and this is the reason why I did not feel I could answer the question fully, although I think I explained my problems in the in camera debate. My concern was lest I be drawn into expressing an opinion ... well, 2 concerns; one was that I was in danger of being drawn into express an opinion on a matter that I might have to judge in another context and therefore I should not express an opinion, or form an opinion. Secondly, was breach of the confidentiality provision in a particular disciplinary code. I am a bit more relaxed about that now because I think it is clear that this was set up originally for a limited purpose and I am going to assume that, so by breaching the confidentiality code, so be it; I am doing it in good faith. Such groups are set up in order to advise the police on the likely public reaction to events. They are not set up in order to

oversee the process of the investigation. That would not be proper. Indeed, it would be wrong for the Home Affairs Minister to attempt to do that. There was therefore a public misunderstanding in relation to the role of such a group. If I can give you an illustration of the correct role of such a group then I think it will help you to understand it and if, shall we say, in the U.K. the police had to search a mosque then on the group would be Muslim representatives to whom they could go and say: "We need to search this mosque, how do we do that sensitively?" They would probably say: "Well, make sure you take your shoes off and make sure you do not take any idolatrous symbols in", et cetera. Do you understand? Now, the difficulties I understand in relation to the setting up of this group did not relate to ... that it was functions of oversight of the Haut de la Garenne investigation, but that even in its own terms it did not have the right sort of people on it because the sort of people in Jersey you should have on such a group would be some people to represent the Portuguese community, some people to represent the Polish community, any other community that might have a specific take and the role of the group is the police go to them and say: "If we do this, if we take this action, how is that going to be perceived by the public, or by a particular grouping of the public?"

Deputy R.G. Le Hérissier:

Do you think it would be appropriate to have representatives of the victims' groups on it as well?

Senator B.I. Le Marquand:

I do not think that would be normal practice. I think its role is more general rather than in relation to a specific case. You set up this group to take advice in general. The group, as I understand it, is not currently functioning in relation to the historic abuse inquiry and may well need to be reconstituted in the way that I am talking about. In other words, you do not normally set up a group for a specific investigation; you have a group available as a response. That is my understanding.

Deputy T.M. Pitman:

Can you clarify why the group is not working? Is it possible to tell us that? Because it was certainly launched with quite a bit of publicity and if it is not fulfilling what it set out to ...

Senator B.I. Le Marquand:

Well, I am in danger of being drawn back into the danger area again there. I think it is not envisaged to have an effective function in relation to this particular investigation.

Deputy M. Tadier:

I just wanted to press you on Deputy Le Hérisier's point. You made a very good analogy I thought about the mosque issue and having Muslims on the panel. I mean, it seems to me that it would be logical in that case to have people who are either victims or part of the victim support groups present on the panel. It seems like the obvious parallel to me.

Senator B.I. Le Marquand:

I do not think that is a correct understanding of the functionality of it.

Deputy M. Tadier:

I presumed that was where you were going with the example of the mosque.

Senator B.I. Le Marquand:

No. No, because it is the reverse there because remember it was a mosque that was being searched with a view to criminal matters being found there. It is not victims we are talking about; it is potential accused persons. On that basis a better analogy, if I can put it this way, would be to have social workers on it.

Deputy M. Tadier:

Someone from the Youth Hostel Association?

Senator B.I. Le Marquand:

That would not be appropriate either.

Deputy R.G. Le Hérissier:

So, Mr. Minister, what discussions are taking place as to the future of this body?

Senator B.I. Le Marquand:

Well, this is a matter for the police.

Deputy R.G. Le Hérissier:

Sorry?

Senator B.I. Le Marquand:

It is a matter for the police. It is not a matter for me.

Deputy R.G. Le Hérissier:

They set up the body?

Senator B.I. Le Marquand:

They set up the body, yes. A matter for the police. I would get involved, I suppose ... my involvement would be in terms of checking that it was eventually set up properly because that would be part of the general oversight. As I said, my understanding is you do not normally set up such a body in relation to a specific case, you set it up in relation to a generality, as a resource.

Deputy T.M. Pitman:

I would just say with you taking all of that in mind what you said, would you see a potential for this group in the future, if it follows the ...

Senator B.I. Le Marquand:

Yes, I think so. There might be issues that might come up in the Portuguese community, or the Polish

community where there was a particular need for sensitivity. I tried to explain this and I did not explain it very well in the House because I read out the words I had been given, but such groups are not generally set up to contain the great and the good, i.e. general representatives of the community, but to represent communities. That is my understanding.

Deputy T.M. Pitman:

But you would agree that the responsibility for setting that group up, and how it was set up, is down to the police. Is that what you are saying?

Senator B.I. Le Marquand:

They set it up, yes.

Deputy T.M. Pitman:

But in future, if that was operated again, you still see that as the role of the police to set up such a group?

Senator B.I. Le Marquand:

Yes, but I would need to check that it was set up in accordance with normal principles.

Deputy T.M. Pitman:

Does that include vetting the people who are on it? Would that fall to you?

Senator B.I. Le Marquand:

No. No, that would be a matter for the police.

Deputy T.M. Pitman:

Thank you.

Deputy R.G. Le Hérissier:

Thank you, Mr. Minister. As I said, we have this very general rapport question which I do not think is basically one of the major issues that you see. Can you just sort of headline them for us?

Senator B.I. Le Marquand:

Yes, I can. I have a list of priorities here. Taking out the ones which we have already dealt with, I have mentioned in passing the building project in relation to the staff canteen, a visitors centre at the prison, new police headquarters project. We have a lot of money set aside for that and we have to drive that forward and make sure that we work out exactly what is needed within the new police headquarters and determine what is an appropriate site for that. That could become even higher priority if we have a downturn in the economy because of the need to spend money on capital projects to feed money into the economy during the downturn. So, that is very important. Repatriation of offenders law is a matter that I want to pursue. This is to do with prisoners who are sentenced but who are really nationals of other countries and who may wish to serve their sentence back in their home country. If we can get this right then it will reduce the prison population and also enable them to serve their sentence in more conducive surroundings in terms of visits from families. We get people who come over as drug couriers, mules, if you like, and they have very little connection with the Island and yet they end up serving their sentence here, so there are a lot of gains there. Cultural issues within the States of Jersey Police is an area that I want to address and I have touched upon one of them already, the matter that came up in the context of the in camera debate. There are other cultural issues as well. User pays policy, in relation to the police, needs to be reviewed because that was left last year up in the air in terms of a voluntary payment being made by Jersey Life and that needs to be a clear policy which we will have to be taken to the States because of a previous States policy decision in relation to that. So, I have been working on that and thinking about some ideas there. There is a law on possession of knives which was thrown out by the States and I do not know why. I need to look at it again and see what went wrong there, whether it was trouble with the law itself or a problem with the presentation of the law and simply the Minister not understanding what was being implemented. I do believe we do need to have change here because at the moment the burden of proof beyond reasonable doubt on the prosecution is too high a burden. We need to have a law where in certain circumstances people who have knives in their possession have to justify

it, hence I am in favour of the changes. In fact, I was one of the proponents of them and I do not know what went wrong in the States so I have to look at that again. Part 5 P.P.C.E. (Police Procedures and Criminal Evidence); we have talked about the specific provision but of course there are also the rest of the provisions in terms of limitations on the period during which people can be held in custody prior to being presented before court in a proper procedure. I explained, except I apparently made the mistake of trying to answer the question in the States, a mistake that I will not make in future, and impart information. I took too long. I will impart information but I will be a bit more selective. So, there is part 5 P.P.C.E. that needs to be dealt with and there is also the bail law. There is an interesting matter of an inter-governmental agreement with the Jersey Field Squadron where the Lieutenant Governor has come up with some new ideas of a new agreement which clarifies the position in relation to that. There is the explosives law, at some stage or other, and there is a fire service law, also very well advanced. So, there is much to do.

Mr. S. Austin-Vautier:

That was in addition to the points raised during the last 2 hours?

Senator B.I. Le Marquand:

Yes.

Deputy R.G. Le Hérissier:

Just one minor point, well serious point. You talked about issues in the police. Can you elaborate slightly? Because it is not our job really just to confirm an in camera debate. We should sort of confirm what an issue is. If you want to talk about it we would prefer that.

Senator B.I. Le Marquand:

There are 2 cultural issues that I am concerned about in relation to the police. The first is that there are allegations that exist within the police force, a culture of bullying. I treat that very seriously indeed and that is an issue that I wish to take steps on but I have so many investigations currently going on already

in relation to the police I do not think I should be starting another one at this stage, but if it does not improve I intend to commence an investigation in relation to that. Now is not the right time to do that. The second issue is that I am concerned about the working relationships of the police with other organisations. My impression in talking to people from many other organisations is that they all complain that the police do not work co-operatively with them and that is an issue that needs to be addressed. The Home Affairs Department is committed to co-operative working and the police force should also be committed to co-operative working. I am concerned with that. Those are the 2 issues.

Deputy M. Tadier:

Just very briefly, and I do not know if it is an appropriate time to mention it, but it is better to err on the side of caution. Do you have any reservations about the timing of these allegations of bullying in the police force, in the context of the Haut de la Garenne abuse inquiry?

Senator B.I. Le Marquand:

No, I do not. They have been current for some time and indeed if you spoke to almost any police officer and mentioned that to them you would get a confirmation of their concerns. So, there is nothing political about it.

Deputy M. Tadier:

It is not an attempt to discredit the officers who might have been leading the inquiry.

Senator B.I. Le Marquand:

No. It is a wider issue not an individual one.

Deputy M. Tadier:

I am certainly reassured to hear that. Thank you.

Senator B.I. Le Marquand:

It is not a political issue as far as the concern. It is an important management issue.

Deputy R.G. Le Hérissier:

Okay. I would like to thank the Minister, the Assistant Minister, who has left us, and the Chief Officer. We have covered, as they say, the waterfront, not the real waterfront of course. That could be embarrassing. You obviously have a vast remit and what we will do now, we will go away as a panel, and in fact we have a meeting in 5 minutes after we have had a break. We will go away now and try and sift through the material but I must thank the Minister and his supporting cast for their candour but there are a lot of things to get to grips with that we will need to follow up.

Senator B.I. Le Marquand:

There are. We are in catch-up mode.

Deputy R.G. Le Hérissier:

I would like to thank very much the public, and the media, for taking an interest. The next public meeting will probably be with the Minister for Education, Sport and Culture and there is no date fixed as yet for that.

Mr. M. Tadier:

The 6th, I think.

Deputy R.G. Le Hérissier:

That will be on 6th February, so again there will be a note put out about that and that meeting will be similar to this one; it will be a very broad-ranging meeting to try and get an idea of where the Minister stands on various issues, the kind of actions that his ministry is taking and where he may, or may not, depart from previous policy and all this sort of thing. It will be very broad-ranging in the way we have experienced with Senator Le Marquand. Thank you very much indeed. Thank you to you all for coming.

Senator B.I. Le Marquand:

Thank you very much for your very professional and amiable reception from the panel.

Deputy R.G. Le Hérissier:

Thank you very much indeed.