

**WRITTEN QUESTION TO H.M. ACTING GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 14th APRIL 2015**

Question

Will H.M. Acting Attorney General advise members what the duty of H.M. Attorney or lawyers in his department is if it is discovered that a States department has provided the Court with reports that contain inaccurate and/or misleading information which may have led to the Court taking a particular action or reaching a particular judgment, which may or may not have prejudiced one of the parties?

Answer

The prosecution lawyer in a criminal case has an ongoing duty of disclosure during the course of criminal proceedings. In summary, it is the Crown's duty to disclose to the defendant anything which had become known to it and which might reasonably be considered capable either of undermining the prosecution case or of assisting the defence. If the prosecution becomes aware that information put before the Court was inaccurate, then the prosecution lawyer would disclose that information to the defence and, depending on the precise circumstances, raise the matter with the court.

In the event of a conviction, then there is an ongoing duty of disclosure during any appeal. If the information only comes to light after the criminal trial, then the prosecution may well disclose the information to the defence for the purposes of any appeal. After the conclusion of an appeal, and assuming the conviction is upheld, then the duty of disclosure becomes more limited to material which comes to light and that might cast doubt on the safety of the conviction. Decisions on disclosure would turn on the facts of the particular case.

In the event of an acquittal, then there is no ongoing duty of disclosure.