

**The Bailiff:**

The first question is from Deputy Tadier to the Attorney General. It relates in part to a matter when I was Attorney General so I think for convenience I will step down just for a moment while this question is dealt with and the Greffier will take the Chair.

**5.1 Deputy M. Tadier of H.M. Attorney General regarding the decision not to prosecute Mr. and Mrs. Maguire for historical child abuse:**

Given the renewed interest generated by Senator S. Syvret's web log surrounding the decision not to extradite Mr. and Mrs. Maguire, would the Attorney General undertake to reconsider the legal advice given not to prosecute and, failing that, take all measures possible to make the exact grounds known on which the prosecution was advised against?

**Mr. T.J. Le Cocq Q.C., H.M. Attorney General:**

My answer to written question 5294 lodged today deals with largely this subject matter. The previous Attorney General made a very full statement in his press release of June 2009. It is clear that he gave the most careful consideration as to whether or not he should re-open matters that were halted in 1998 and/or to start proceedings based on new material received in 2008. On the former point he took the written advice from both a private sector Crown Advocate and from leading Treasury counsel, a specialist London barrister who prosecutes the most serious cases. On the latter point he took advice from the same private sector Crown Advocate and from leading counsel in London. My predecessor and a senior lawyer in the Law Officers' Department then gave careful independent consideration to those opinions and concluded that there was no basis to prosecute. I am thus satisfied that the relevant evidence and the matter generally was robustly and thoroughly considered by a number of highly qualified lawyers both inside and outside the department and that their opinion was that, applying the correct test, there should be no prosecutions. Accordingly, I have no basis to reconsider that decision. As a general rule the Attorney General, as with other prosecution authorities, does not give details of the reasons for reaching any decision about a prosecution. My predecessor's statement went as far as it could in explaining the basis on which decisions had been taken and I do not propose to add to it.

**5.1.1 Deputy M. Tadier:**

I am well aware of the written answer given. I think it was Senator Le Marquand himself who said if you want a question and answer hidden then do it in the written questions and that is the exact reason I have asked the oral as well. Part of the answer given is that the maintenance of confidence in the criminal justice system is very important and that is why decisions should not generally be reconsidered. So I would ask, is confidence in the Attorney General and the legal system more important than matters of justice?

**The Attorney General:**

The simple answer to that is that confidence in the legal system, which includes confidence in the Attorney General and the process, is part of confidence of justice and part of what makes up justice in our society. I do not consider, however, that they are more important than justice, no.

**5.1.2 Deputy T.M. Pitman:**

If I could just quote from the police report from 2008. One paragraph says: "Should it become apparent that Mr. Maguire was not suffering from a terminal illness or his illness was not as serious as made out, then consideration should be given to an investigation into offences of perverting the course of justice." Mr. Maguire was clearly alive and by all accounts very well a decade later when tracked down. So could the Attorney General advise the Assembly as to why no investigation into possible perjury was ever initiated and would it not be the compassionate thing to at least have provided a death certificate to give some closure to the victims?

**The Attorney General:**

On the matter of the death certificate, once a decision not to prosecute has been taken it is not part of the Attorney General's responsibility to monitor the health or indeed the existence of any people who were previously the subject of suspicion. Consequently, I cannot make any comment on the existence or otherwise of a death certificate. I am sorry, I have lost the first point; if the Deputy could repeat it.

**Deputy T.M. Pitman:**

Given the recommendation in the police report and brief that there may be a case for perjury relating to Mr. Maguire's alleged illness which seemed to not manifest for another decade, could the Attorney General advise why no investigation into these possible offences of perjury were ever pursued?

**The Attorney General:**

I do not propose to comment on documents which it is not clear to me are appropriately within the public domain and appear to me to have been inappropriately leaked; they are confidential documents. I am not aware of the basis on which any investigation for any alleged offence would have taken place.

**5.1.3 Deputy J.A. Hilton of St. Helier:**

Obviously there is a level of concern surrounding the events in 1998 and 2008 in this case. Although the advice has been given that the question of the terminal illness was not taken into consideration at that time, obviously lots of questions arose out of that. I accept that the Attorney General feels that he is not able to answer this question because of the confidentiality of documents but my understanding is ...

**The Greffier of the States (in the Chair):**

A question, please, Deputy; this is sounding like a speech.

**Deputy J.A. Hilton:**

Okay. My question is, in light of everything that has happened previously, can the Attorney General confirm that now where evidence is given or a statement is made on behalf of a defendant by his advocate concerning illnesses or whatever, that evidence would be required by the prosecution?

**The Attorney General:**

Yes, generally speaking, and I cannot think of any exceptions to that. If the health of an accused person is material to any decision made by the prosecution and representations are made regarding that health, then the prosecution would invariably wish some form of independent verification of that statement.

**The Greffier of the States (in the Chair):**

Do you wish a final supplementary, Deputy Tadier?

**5.1.4 Deputy M. Tadier:**

I appreciate the constraints within which the Attorney General is working but I think his own words said that he was thus satisfied that the correct decision had been made. The point I was trying to make in my question is that while the Attorney General and the Legal Department may themselves be satisfied, I, as a States Member and (I do not think) any States Member or a member of the public can be satisfied in any real sense because we are not privy to the information. So, first of all, will the Attorney General acknowledge that this is a particular problem for abuse survivors themselves and could he explain perhaps, if we applied the public interest test, the actual reasons for the prosecution not going ahead? I am talking about concrete and tangible reasons that we could give to victims if not released in this very exceptional circumstance.

**The Attorney General:**

I think it is extremely dangerous to begin to discuss the reasons for a prosecution decision one way or another within the public domain, particularly within a political assembly. I think it would be wholly inappropriate other than in the most exceptional cases for any detail to be gone into in that regard. In that direction lies political influence over prosecution decisions which, of course, [Approbation] as a matter of fundamental principle must be wrong. My predecessor made his statement in June 2009. He went as far, I think, as he properly and reasonably could do so in explaining why the decisions had been taken, the legal principles that he applied in reaching that decision, and I do not think that there is any basis that I can properly go any further. Inevitably, part of a consequence of keeping a prosecution decision sacrosanct, away from political influence and away from debate in the media or by emails, is that some information, substantial amounts of information, cannot enter the public domain. That will be frustrating for some people, difficult and painful for some people, but sadly it is the right thing to do.

**The Greffier of the States (in the Chair):**

Very briefly, Deputy, we must move on.

**5.1.5 Deputy M. Tadier:**

It is very brief. I am thankful for the answer. Could the Attorney General then explain what the very exceptional circumstances might be? Just give one example of a circumstance under which this kind of information would be given.

**The Attorney General:**

I am afraid I cannot immediately bring to mind an exceptional circumstance that information of this nature would be given in detail. Information was given in this case. It is a significant amount of information and much more than information about a prosecution decision would normally be given.