

Submission by Malcolm L'Amy

Malcolm P. L'Amy
Tamarind
Mont de St. Anastase
St. Peter
Jersey
Channel Islands
JE 3 7ES
01534 483554
07797 712 737

Email: malcolm.lamy@newtelsurf.com

Access to Justice Review

20th June 2014

Invitation to comment in writing: Access to Justice Review

I write to submit a brief submission to this review, more concerning the traditional rôle of the Centenier, within the Criminal Justice System of Jersey.

My background is that, until March 2014 I had been a Centenier for some 11 years. I was first elected as a Centenier in the Parish of St. Peter in August 2003, became Chef de Police for St. Peter, a position I held until December 2010 and then took the rôle of Centenier in the Parish of St. Helier in 2011, until my term of office ceased in March 2014.

During those 11 years I received various awards for my work for the honorary system, which included the setting up of training courses for the honorary police, along with training courses for Centeniers for their rôle as prosecutors in the criminal justice system for Jersey. In 2006 I submitted a document to a Scrutiny Panel, chaired by former Deputy Bob Hill, reviewing the traditional rôle of the Centenier in the Magistrates Court, along with the powers of a Centenier to charge and bail offenders. For that submission, I received an award for the work undertaken.

With a brief overview of my background I wish to make comments as to the current situation of the rôle of the Centenier within the system, its cost effectiveness, the abilities of Centeniers to conduct Parish Hall Enquiries and the future of legally untrained, elected persons undertaking the prosecution rôle contained within their general policing rôle.

There are 56 Centeniers island-wide, who are elected under the Public Elections (Jersey) Law 2002. Following election, once a Centenier has been sworn in at the Royal Court they have the full powers of a Police Officer and have the ability to charge and bail without any formal training along with the power to conduct Parish Hall Enquiries.

From my 11 years within the system, as hard as some tried, Parish Hall Enquires were not conducted with any form of consistency. Being part of the Comité des Chefs, in June 2010 I was involved in producing a document entitled "*Parish Hall Inquiries, Powers to Impose Fines at Parish Hall Level Reference Document for Connétables and Centeniers*". The document was produced to assist Centeniers when imposing fines at Parish Hall level so that some form of consistency was applied between Parishes, who at the time appeared to be fining at different levels. Although 56 copies was produced and distributed to every Parish, total inconsistencies still appear, not only between individual Parishes, but within Parishes themselves. The document showed the maximum level of fine available to the Centenier along with a recommended guideline fine. The tables within the document detailed where a Centenier did not have the power to fine within certain legislation. It detailed "Common Law" offences where Centeniers had no powers to fine, with the only sanction being a "Written Caution" or a deferred decision followed by a written caution. Time was spent with the Magistrates obtaining a guideline for speeding offences so that a scale could be adopted and where the scale fine concluded for the Centenier it then continued for the presiding Magistrate. Even with all the work provided in producing such a document, I saw, at times, previous decisions by Parishes to fine outside either the guidelines provided or impose a fine where no power existed within the legislation.

The power of Charge and Bail is set in statute in "The Police Force (Jersey) Law 1974". In Article 3 (2) of that law, powers are given to Connétables and Centeniers for the; customary rights of search, granting of bail and the formal charging of a person with an offence. In May 2012, Connétables (Miscellaneous Provisions) (Jersey) Law 2012 was adopted by the States of Jersey to remove policing powers from the Connétables. Whilst sanctioned by Her Majesty in Council on the 17th October 2012 and registered in the Royal Court on the 26th October 2012, the Law has yet to be brought into force. This therefore means that the Connétables still have the full powers of a police officer along with the power to charge and bail offenders and, if they so wished, present offenders before the Magistrate. There have been times in the past where I have felt that an offender should or should not have been charged due to the availability or lack of, any evidence when at the point of charge. Not all of the 56 elected Centeniers appear in the Magistrates Court. Some are elected with the caveat that they will never attend court, due to various reasons. In the past it has been obvious that some people who have been elected to the position as Centenier have done so, purely to avoid a Parish being fined for not provided the regulated number of Centeniers for that given Parish. It has been my experience that there has been far too much political interference from the Comité des Connétables. There is evidence available to show that the position of Chef de Police of a Parish is a 'grace and favour' position, and if a Chef de Police falls foul of a given Connétable, he or she can be removed from that office without any form of right of reply. The position of Chef de Police is an unelected position and as the Comité des Chefs run the honorary police system of Jersey, they have the power to move the system in whatever direction they desire. I pose the question, should a prosecution service be politically controlled in the 21st Century?

Is the traditional system of honorary service free or cost effective to the Island? It may be thought that the traditional rôle of a person giving their time to their community free is cost effective, but the system, whilst not costing money to the Jersey Tax Payer, does have cost implications to Rate Payers of the individual Parishes. When looking at just the Parish of St. Helier, one can see the costs associated with running a prosecution service. St. Helier has 10 Centeniers who use the Parish's Nelson Street premises to operate from. This is staffed by a full time honorary police administrator, currently a retired Inspector from the States of Jersey

Police and two full time office staff who provide all administration required by Centeniers for case preparation such as, the typing of charge sheets, representations and Centeniers reports. The office prepares all the paperwork each day, not only for the array of court work but for all the Parish Hall Enquiries to be undertaken that evening along with various secretarial duties associated with running such a department. There are therefore the usual running costs associated with any business or department which apply to the running of the Nelson Street operation. Each Parish normally has a part time honorary police secretary, but there are some Parishes who prefer to use the facilities of St. Helier, free of charge, to assist their Centeniers.

In my 2006 report to the Scrutiny Committee thought was given to removing the customary powers of the Connétable and Centenier and replacing them with paid Designated Caseworkers (DCW's). With the passing of some 8 years, perhaps the time has come to revisit the traditional honorary of the Centeniers in the Magistrates Court. As all prosecutions in the Magistrates Court are presented in the name of the Connétable of the Parish, in which the offence has taken place, and not the Attorney General, one must ask the question should a politician be a prosecutor, is it human right compliant and fit for purpose in the 21st Century? If the legal aid system for Jersey is in need of change to a more centralised system funded, or part funded by the States of Jersey, it would seem that a States funded prosecution system should also be in place with DCW's replacing the traditional honorary rôle of the Centenier. Over the 11 years I have been involved, I have found the workload harder to effectually manage with the resources provided in St. Helier. I have seen too much political interference to continue to have confidence in the system. I have felt, at times that the Centeniers have become more like automatons with regard to the position of charge and bail and not the independent body they once were. This may have been due to the introduction of the Police Legal Advisors, on behalf of the Attorney General's Department to oversee the prosecutorial system.

Having mentioned my report, submitted to the Scrutiny Panel in 2006, I have attached said document for your information. Whilst I have been conscious of the limit of the submission and my time restraint, I could have added more to this small submission by way of further documents.

I would be happy to assist the review further if additional information was required from my knowledge gained within the honorary system and the awards I received during that period for the work undertaken to maintain and enhance the system.

Sincerely

Malcolm P. L'Amy