IN THE MATTER OF THE INDEPENDENT JERSEY CARE INQUIRY

CLOSING SUBMISSIONS
OF THE STATES OF JERSEY POLICE

Introduction

1. These submissions are filed and served on behalf of the States of Jersey Police. It is intended that these submissions will be supplemented by further written submissions in reply as may be necessary and by oral submissions in due course.

2. The States of Jersey Police recognises that the Independent Jersey Care Inquiry (the "Inquiry") is a generational event in which the response of the institutions comprising Jersey's private and public society to the abuse of children in the care system can be purposefully evaluated for the future benefit of the Island's children in care.

3. The States of Jersey Police supports the work, intentions and aspirations of the Inquiry and has been assisting in the process in as broad and effective manner as has been possible. The States of Jersey Police asks that the Inquiry undertake its tasks with an open mind, observing the natural requirement of fairness to all parties. The States of Jersey Police considers that the process of the Inquiry would be tainted and its findings undermined if it were to start with or appear to start with preconceptions, either that something has definitively gone wrong with the Island's care systems or that the Island's institutions are hopelessly flawed.

4. Insofar as the States of Jersey Police is concerned it firmly believes that in the context of proper historical evaluation of processes and society, its responses to abuse and allegations of abuse of children in the care system have been reasonable, effective and proportionate. The States of Jersey Police believes that the efforts and dedication of its officers in the course of the historic and current abuse enquiries has been clearly demonstrated by the evidence produced to the Inquiry,

but to the extent that any mistakes were made the States of Jersey Police stand ready to learn from those errors and to further improve the provision for victims of abuse in Jersey.

5. The States of Jersey Police has approached its evidence and the drafting of these submissions with each of the Inquiry's Terms of Reference in mind but has particularly concerned itself with Terms of Reference 4, 8, 9, 11, 12, 13 and 14.

6. The Inquiry has heard live evidence from a number of serving and former officers of the SOJP with the assistance of Carey Olsen:

(i) Former DC Anton Cornelissen;

(ii) DI Peter Hewlett;

(iii) WPC Emma Coxshall;

(iv) Former Police Constable Brian Carter;

(v) Former Superintendent Andre Bonjour;

(vi) Former DI Barry Faudemer;

(vii) DCI Alison Fossey;

(viii) Former Acting Chief Officer David Warcup;

(ix) Former DI Robert Bonney;

(x) Former DS David Morgan;

(xi) Superintendent Stewart Gull; and

(xii) DCO Robert Bastable.

7. The Inquiry has also been provided with written witness statements from former DCO Barry Taylor and DS Andrew Smith and while each of those witnesses has been ready and willing to attend the Inquiry to give all evidence in support of their witness statements, the Inquiry has chosen not to avail itself of that opportunity. The Inquiry has also had the benefit of the witness statement of former Superintendent John Pearson.

8. The States of Jersey Police is not aware of any serving officer who has declined to assist the Inquiry and the SOJP contends that this is instructive as to its collective commitment to ensuring that the Inquiry is as comprehensive as is reasonably and practicably possible.

9. Where set out above and elsewhere in these Closing Submissions, references to police ranks are to current ranks or ranks upon a former officer ceasing to be an officer of the States of Jersey Police.

10. The States of Jersey Police has provided the Inquiry with all relevant documents from its records and in doing so has reviewed paper, electronic and microfiche records dating back to the 1960s. The Inquiry has had the benefit of disclosure from:

    (i) the SOJP ILogs intranet and its predecessor computer systems employed by the SOJP;

    (ii) transcripts of recordings from the SOJP control room;

    (iii) email accounts of key officers dealing with child abuse issues;

    (iv) hard drives of individual officers;

    (v) the shared hard drive used by members of the SOJP's Public Protection Unit;

    (vi) the historic microfiche records of crimes dating back to the 1960s; and

    (vii) SOJP Annual Reports from 1952 to 2014.

11. To the extent the third party documents were not available from other sources, the Inquiry has also been provided with the 2008 Metropolitan Police Report in interim and final form, the 2009 South

Yorkshire Police Report and the 2010 Wiltshire Police Report. Where within the power of the States of Jersey Police, the Inquiry has also received witness statements and other background documents relating to these reports.

12. These closing submissions will address what the States of Jersey Police (herein "SOJP") considers to be the key themes arising from the Inquiry in terms of the evidence and process to date and in particular:

(i) Section 1 – Jersey's Unique Legal and Policing Environment;

(ii) Section 2 – The Development of the States of Jersey Police Force in a Public Protection Context;

(iii) Section 3 – The Continuing Development and Improvement of the PPU;

(iv) Section 4 - Partnership Working;

(v) Section 5 – Operational issues;

(vi) Section 6 – Resourcing;

(vii) Section 7 – Operation Rectangle;

(viii) Section 8 – Material Factual Inaccuracies;

(ix) Section 9 - Specific Criticism of the SOJP;

(x) Section 10 – Positive Evidence Relating to the Police;

(xi) Section 11 - The Griffin Report;

(xii) Section 12 – The Inquiry Process; and

(xiii) Section 13 – Recommendations and Submissions.

Section 1 – Jersey's Unique Legal and Policing Environment

13. The evidence received by the Inquiry and the recommendation making process to be undertaken is contextualised by the legal framework which has developed in the Island of Jersey over centuries into a distinct and separate societal foundation, albeit with parallel developments in society resulting in a degree of parallel legal development.

14. Jersey is a customary law jurisdiction with a legal system derived from Norman customary law and Jersey statutes. The common law and statutes of England are not relevant or binding in Jersey, but the Royal Court will have regard to the decisions of the English and Commonwealth Courts on matters of construction, where a source of law has developed in parallel with another jurisdiction or where a Jersey statute is similar to or derived from a foreign statute.

15. The Inquiry had the benefit of evidence from Richard Whitehead as to the legal landscape in Jersey. The Inquiry will have the benefit of a witness statement from Dr Helen Miles in relation to the institutional history of the criminal justice system in the Island and from Nicole Langlois of Counsel and French Avocat Duncan Fairgrieve in respect of the Island's extradition arrangements.

16. Jersey has a valuable but peculiar local government structure in the Parish system at whose centre is the volunteer Honorary Police. The Inquiry has heard evidence from officers of the SOJP that while a duality in policing function being provided by the SOJP and the Honorary Police is not ideal and would not have been preferred *ab initio* in 2016 it works effectively. In the modern era, the working relationship between the two forces has been refined and defined and the Honorary Police accept the primacy of the SOJP in relation to child protection work, with the SOJP ensuring that all Honorary Officers have undertaken Tier I safeguarding training. Nevertheless the officers of the Honorary Police provide vital local intelligence and assist the SOJP in the discharge of its policing functions.

Prosecutions

17. In respect of prosecution decisions, the SOJP does not prosecute anybody under the criminal justice arrangements in the Island. The SOJP are investigators and evidence gatherers. Charging decisions rest with Centeniers on advice from the Attorney General's staff at the Law Officers' Department. The Force Legal Advisor may work at Police HQ but they remain a Law Officer. Under these arrangements, the legal obligation of SOJP officers is to carry out investigations to a reasonable standard of competence. Police officers can and do make recommendations, but ultimately all cases falling within the Inquiry's Terms of Reference are reviewed by a Force Legal Adviser or Law Officer.

18. Nicholas Griffin QC applies the "Bolam test" imported from the English law of negligence which while not of general application in Jersey is a reasonable yardstick by which to assess the SOJP's investigatory work. It follows that criticisms of the SOJP for "failing to prosecute" X or Y, have to be viewed with a degree of caution when placed against the proper legal framework because of course the SOJP does not prosecute cases or charge suspects.

19. Guidelines have been issued to the SOJP and the Honorary Police regarding the investigation of domestic abuse cases, on the instigation of the SOJP, and the practice of child abuse cases being reported to Parish Hall Inquiries has long since ceased, except in exceptional circumstances and consequently on very rare occasions.

20. From the SOJP's recent experience, it seems that very occasionally, it will be deemed appropriate for low level allegations of assault by parents on children to be dealt with at Parish Hall Inquiry level, but this would be very much out of the ordinary.

Consensual Policing

21. As in any liberal democratic legal system, the development and application of the law in Jersey has its source in and reflects the development of the society in whose private and public institutions

that law must benefit and be applied. The SOJP recognises that legal and societal norms have developed throughout the period under review. That society and the law continues so to develop is illustrated by the welcome revision to the prosecution code undertaken by the current Attorney General so promptly following his appointment.

22. In a small island community such as Jersey the importance of consensual policing is brought more sharply to the fore. The oath of the constable is the foundation of the police officer's relationship with the community that the constable polices, but the obligation to *"cause the peace to be kept and preserved and prevent all offences against people and property"* is not an absolute obligation and must be exercised proportionately.

23. The concept of policing by consent recognises that the extent to which the co-operation of the public can be secured diminishes proportionately with the use of physical force and compulsion for achieving police objectives. It follows that in investigating any criminal behaviour the focus should be on the most serious offending behaviour occurring in any one incident and not peripheral conduct of third parties which might amount to inchoate or abetting criminal behaviour.

24. That is not to say that the inchoate or abetting criminal behaviour should not be investigated, merely that resources have to be used proportionately. By way of an example, when investigating abuse offences by a school teacher, it would be proper to focus on the offending by the teacher rather than pursuing other members of staff who may have committed minor offences by failing to report any suspicions they may have had.

25. It is the SOJP's firm belief that at all material times, and in particular since 2006, the SOJP has pursued the investigation and prosecution of child abuse cases in a reasonable and proportionate manner and has properly focussed on the most serious criminal behaviour in a course of conduct, but not pursuing third parties who may have committed low level offences in the same incident does not it is submitted amount to "a cover-up".

Extradition

26. Notwithstanding public preconceptions that extradition is a panacea, it is clear that historically and in modern times extradition to Jersey has not been an easy process. Further, even when contemplated, there may be sound operational reasons which make early extradition difficult and often pointless.

Section 2 – The Development of the States of Jersey Police Force in a Public Protection Context

27. In order that the Inquiry may avoid the potential for an unhistorical analysis of the structures and actions of the SOJP, the evidence submitted has included the Annual Police Reports from 1952 to 2014. An examination of these reports will assist the Inquiry in understanding the evolving role of what was initially known as the "Paid Police" which then evolved into the SOJP. This understanding will assist the Inquiry in understanding the role of the SOJP throughout the majority of the Inquiry's period of review, noting in particular that the SOJP did not exist in any recognisable form for the first 6 years of the review period.

28. The SOJP has had the ability to advance the skills of its officers through the appointment of experienced UK officers, who bring professional learning to the force, as well as through recruitment and promotion of local officers who bring with them specialist knowledge of Jersey, its traditions and communities. Since its inception, since Operation Rectangle in 2008 and since the exposure of Savile in 2011, the SOJP has seen improvements in its skills and abilities, just as the UK Police and the UK as a society has acknowledged the issue of historic child abuse and refined its response.

29. The following points are taken from the SOJP Annual Reports which are and were freely available, and demonstrate in a transparent and cogent way the prioritisation of child abuse in the general scheme of police work in the Island of Jersey.

1951

30. The Jersey Paid Police Force (Jersey) Law 1951, registered in the Royal Court on 3 November 1951 constituted the Jersey Paid Police Force, which was the forerunner of today's SOJP. The 1951 Law was enacted following the recommendations contained in the Maxwell-Tarry Report of 1950[1].

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[1] "Report on Police Organisation in Jersey" [1950], Sir Alexander Maxwell and Mr F T Tarry

1952

31. A criminal investigation department (CID) existed from 1952 and would have dealt with allegations of child abuse falling within the Inquiry's Terms of Reference which came to the notice of the Paid Police from that time.

1957

32. The perennial issue of resourcing appears to have been canvassed early in the life of the SOJP and the Inquiry will note the final paragraph on the first page of the Annual Report for 1957 stating:

"There has been no addition to the strength of the Force since its reconstitution in May 1952, in spite of the great increase in duties which have to be performed".

1959

33. The 1959 Annual Report refers to the first substantial increase in the authorised establishment of the SOJP by 25 officers effective from 1 January 1960, so the authorised establishment of all ranks had increased to 100 by this time although there was some delay in filling all of the new authorised posts.

1964

34. The 1964 report refers to the four policewoman of the SOJP having dealt with "assaults on young girls" and a "sex crime enquiry". By 1964 the SOJP was giving sex crimes sufficient priority to identify them within the Annual Report statistics. From the other details contained in the 1964 annual report the reference to the "sex crime inquiry" is to the inquiry which later identified the late Edward Paisnel as the "Beast of Jersey".

35. In 1964 the Crime Bureau was created to facilitate intelligence sharing between the SOJP and colleagues in the UK police service.

1965

36. The 1965 report refers to the SOJP having investigated:

"... a number of cases concerning children under 16...[relating to]...[children]...in need of care and protection...[and/...victims of or parties to immoral behaviour".

This clearly demonstrates that regardless of the actual or perceived attitude of society to child abuse in Jersey, there was a willingness to identify the issue in a public forum, to investigate allegations and there was no design to ignore or cover up such cases as early as 1965.

1967

37. From p.9 of the 1967 Annual Report the Inquiry will note that the Policewoman's Section of the SOJP had dealt with a number of cases involving common assault, indecent assault and unlawful sexual intercourse that year. It is not possible to tell from the way the figures are presented whether any of these fall within the Inquiry's Terms of Reference but, albeit in a manner which reflects the historical societal context, the SOJP was investigating sexual offences.

1972

38. Commenting on an increase in reported sexual offences from 116 in 1971 to 146 in 1972, Chief Officer Cockerham recorded that:

"Classification of sexual offences must be considered unreliable statistically owing to social attitudes, reluctance to report offences for fear of adverse publicity and false allegations for a variety of motives".

39. This comment shows that Chief Officer Cockerham was perceptive for his time.

1975

40. The number of recorded sexual offences and offences against the person was declining by 1975. The SOJP was extensively reorganised in 1975 following the recommendations of a report written by R G Fenwick effected by way of the Police Force (Jersey) Law 1974.

1981

41. Chief Officer Cockerham demonstrated an awareness of the issues that the Inquiry is looking into when he commented on page 25 of the 1981 Annual Report:

"Cases of child neglect and cruelty to children, especially babies, occur far too frequently and many incidents were investigated...in close liaison with the officers of the Probation Service and Children's Department, and are involved in discussions concerning the best course of action for the child in many of the cases".

1986

42. The 1986 annual report refers at p. 54 to all of the SOJP's woman police officers having attended two two-day specialist courses aimed directly at the Police Woman's role in the investigation of attacks on women and cases of child abuse. The annual report goes on to say that the purpose of the courses was to increase the officers' knowledge of the law and deal with practical aspects of the investigations, such as medical examination and interview and counselling techniques. It is a matter of regret that the Inquiry has not heard from any former SOJP officers with institutional memory from this time. Efforts to secure appropriate training specific to child abuse cases for SOJP officers were being made by the mid-1980s.

1989

43. The 1989 Annual Report is notable for a full page entitled "Child Abuse" at p.46 which states, *inter alia*:

"During the year under review, 34 allegations of child sexual abuse were investigated, as were 17 cases of non-accidental injury to children. Nine of these investigations resulted in criminal prosecutions, whilst of the remainder, there was either insufficient evidence to take further action or it was decided at the case conference that the individual case should be monitored through the Children's Office".

44. The report also summarises on-going efforts to develop the SOJP's capacity to investigate child abuse cases in 1989 stating:

"The near future will see available a purpose built suite designed specifically for the task of recording interviews with the child victims of these often abhorrent and, for the child, extremely traumatic crimes"; and

"All persons concerned with the investigation of such offences received considerable benefit by attending talks during the year from visiting doctors experienced in child abuse investigations".

45. The SOJP was plainly alert to the challenges of child abuse occurring in the Island in 1989 and was making efforts to improve its service in this regard. The Inquiry has heard evidence from DI Bonney concerning the successful investigation and prosecution of Leslie Hughes in 1989 in respect of abuse committed in the Clos de Sables Family Group Home.

46. The SOJP is concerned the evidence given to this Inquiry by Witness 77 in respect of the case of Leslie Hughes, in particular the attempts to belittle the accounts provided by the victims of Leslie Hughes. The SOJP submits that the evidence of Witness 77 should be generally disregarded as being of little assistance.

1990

47. The 1990 Annual Report is very notable in respect of matters falling within the Inquiry's Terms of Reference, referring to the SOJP's Child Protection Team having been set up some 16 months

previously. A discreet section in the 1990 Annual Report (page 31) is devoted to the Child Protection Team's activities. The report refers to:

"... an ever increasing concern being felt at the number of cases of child abuse, both physical and sexual, which were coming to the notice of the respective caring agencies".

48. The 1990 annual report states that six police officers attended the Vulnerable Victims Appreciation Course in Kent.

49. The 1990 Annual Report also states says that

"Members of the [CPT] team underwent intensive specialised training both locally and in the United Kingdom during the year, training which involved all aspects of the investigation of child abuse including the techniques of joint interviewing, video techniques and the medical aspects associated with this particularly repugnant offence".

50. In respect of the CPT's workloads in 1990 the report states:

"The Team were kept very busy during the year with fifty three cases being referred to them involving children between the ages of three to sixteen years, thirty six of which were of a sexual abuse nature".

In the event, 6 sexual abuse cases resulted in prosecution in 1990 as did 4 physical assault cases.

1991

51. The 1991 annual report section on the "Child Protection Team" states that there had been a reduction in the number of cases referred to the specialist unit down to 40 cases, 31 of which involved sexual abuse of children with the remaining 9 involving physical abuse allegations.

52. As is recorded in the annual report, the video recording and interview facilities located away from Police Headquarters were deemed to be among the most modern in Northern Europe at that time.

53. The 1991 annual report refers to on-going training, for instance, a seminar organised by the SOJP in March 1991 entitled "*Identifying Child Abuse Cases*". It was noted that over 200 delegates, drawn from the medical, legal and law enforcement professions had attended the conference, at which Mr Ray Wyre, the reputed expert on sexual offending, was the principal speaker.

54. It was the perception of Chief Officer Parkinson in 1991 that:

"Co-operation between my officers and officers of the Children's Department remains at a high level".

1992

55. The 1992 annual report section on the "Child Protection Team" refers to the difficulties associated with the investigation of allegations of child abuse in Jersey. As the Inquiry has heard, for example, from DI Faudemer and DI Bonney, the extent and the nature of a suspect's right to silence was a historical concern and indeed this concern remains current. The 1992 annual report also refers to the difficulties posed by the perception that sexual abuse cases needed to be corroborated as a matter of evidence. This appears to be the interpretation of the law that the SOJP was operating under in 1992.

56. Referrals increased in 1992 to 106 from 40 the previous year. 66 allegations of child abuse were carried forward to investigation of which 18 concerned acts of alleged physical abuse and 48 related to differing forms of sexual abuse. There were 3 prosecutions for physical abuse and 6 sexual abuse prosecutions in 1992.

1994

57. It is reported in the 1994 annual report that the "Child Protection Unit" as it was by that time known had had a particularly busy year dealing with 59 cases of sexual or physical abuse. This rose to 110 cases in 1995. Figures are unavailable for 1996 and 1997.

1998

58. In 1998, the Family Protection Team as it was by then known dealt with 86 child protection cases, including physical and sexual assaults and child pornography offences, involving a total of 110 victims. There was a rise in 1999 to 110 investigations involving 127 victims. It is notable that the victims included 16 adults who had come forward to record complaints of offences against them in the past. Investigations again included cases of sexual and physical abuse.

59. The 1998 annual report records the death of DS Roger Pryke in September 1999 at the age of 46. DS Pryke has been mentioned to the Inquiry in the evidence of DC Anton Cornelissen, WPC Emma Coxshall and DI Barry Faudemer.

2000

60. Mr Power was appointed to the role in December 2000. It was reported the same year that the number of child protection cases investigated by the Family Protection Team, working in partnership with the Children's Service, continued to grow. 128 cases were investigated, including cases of physical and sexual abuse, some of which were reported by adults who had come forward to report offences committed against them in the past.

2002

61. The 2002 annual report includes a section entitled "*Vulnerable people and children*" stating:

"Jersey remains a very safe community for our children and we intend to keep it that way by identifying the protection of children as a key policing priority and pursuing the introduction of a local sex offender registration scheme".

No figures as to number of investigations or victims were set out. This remained the case regrettably through to 2005 suggesting that there was perhaps something of a lull in focus upon this area of policing in the early 2000s, as compared to the 1990s. The annual reports under Mr

Power are highly statistical in nature and it is suggested that this is due to the input of Dr Ian Skinner, who was employed by the SOJP at this time as a dedicated statistician and was tasked with collating the annual reports.

2006

62. The 2006 annual report includes a section entitled "*Child Abuse and neglect*", which does give the 2005 and 2006 figures for child abuse cases. The Inquiry has heard evidence from DCI Alison Fossey that she instigated this distinct section being included in the 2006 annual report and policing plan, 2006 being the first reporting period during which she was in command of the PPU.

2007

63. The 2007 annual report is the first time that a reference to child abuse cases appears in the Chief Officer's Forward since the time of the Beast of Jersey investigation. Mr Power notes:

"a large increase in the number of child abuse cases brought to justice".

64. Mr Power refers to staff resources having been moved to strengthen the PPU. It is submitted that it is unlikely that these increases in the establishment of the PPU would have been achieved without the determined advocacy of DCI Fossey.

65. The 2007 annual report contained an expanded section on "child protection" matters, within the "Dangerous Offenders" section, spanning pages 27 and 28 of the report. The section starts with recognition that children in Jersey are not immune to physical, sexual and emotional abuse or neglect. The report refers to this area of policing undergoing significant reform in 2006 following the coming into force of the new Children (Jersey) Law 2002. The SOJP saw this as a catalyst to the improvement to the force's child protection work.

66. The 2007 Annual Report also notes the commencement of Operation Rectangle stating:

"During 2007, the SOJP opened a child abuse investigation which has developed into the biggest enquiry of its kind in the Island's history. At the time of writing, the investigation has recorded details of about 140 victims and witnesses. This sort of major enquiry has a significant impact on resources".

There were in fact 147 referrals of cases to the PPU in 2007.

2008

67. Acting Chief Officer David Warcup referred to the work of the PPU in his introduction to the 2008 Annual Report. The 2008 Annual Report refers to the new procedures and protocols developed with the intention of assisting in information sharing between agencies, notably the police and Children's Services, and for consensual case management. The 2008 Annual Report also refers to the SOJP having adopted new national guidelines on investigating child abuse and introducing new notification forms to help raise awareness of potential abuse cases. The Inquiry has received evidence from Acting Chief Officer Warcup as to the instrumental role he played in relation to the latter development.

68. The 2008 Annual Report refers to increasing workloads, with a large increase in the number of referrals from 147 in 2007 to 411 in 2008.

2009

69. The pattern of increasing PPU workloads in the modern era continued in 2009, with a more modest increase from 147 in 2007 to 241 in 2009. 2009 is the first time that an SOJP Annual Report makes specific reference to the increasing phenomenon of online abuse and sexual exploitation of children and young people.

2011

70. The 2011 Annual Report highlights the commencement of the Jersey Multi-Agency Public Protection Arrangements (MAPPA), as part of the implementation of the Sexual Offenders (Jersey) Law 2007.

2014

71. The 2014 Annual Report is the most recent report and has a fresh format stemming from the input of the Independent Jersey Police Authority. Chief Officer Michael Bowron's forward refers to the 2014 Jersey Annual Social Survey which identified that:

(i) 93% of Islanders feel safe in their local neighbourhood;

(ii) fear of crime has halved in the period 2010 – 2014; and

(iii) over 80% of local people think the SOJP is doing a good job,

thereby demonstrating that Jersey and the people of Jersey have confidence in the SOJP.

72. Chief Officer Bowron's forward also refers to an unexpected 2% budget reduction which took effect on 1 January 2015. In this last year for which records are currently available, the SOJP's Public Protection Unit processed 2312 Child Protection Notifications (a 35% increase on 2013) and actively managed approximately 65 registered sex offenders, or people who are known to be violent offenders, during 2014.

73. The 2014 Annual Report refers to developments during 2014 as a result of the Safeguarding Partnership Board, including, with particular relevance for the purposes of the Inquiry, the Multi Agency Safeguarding HUB (MASH), which as the Inquiry is aware provides a single point of contact for all child safeguarding concerns.

74. Finally from the 2014 Annual Report, at page 19 the Inquiry will note the announcement of the commencement of construction of the new Police Headquarters at Green Street, St Helier. The new building will supersede the existing headquarters located on Rouge Bouillon, St Helier. The SOJP wishes to extend an invitation to the Panel to undertake a guided tour of the new state of the art headquarters before they are completed.

75. The review of the annual reports shows that the SOJP has diligently investigated complaints of child abuse brought to its attention over a period of decades, although there appears to have been a lull between the appointment of Mr Power in December 2000 and the appointment of DCI Fossey as the sergeant in charge of the PPU in 2006. We have no doubt that the Inquiry will find that DCI Fossey was a significant force for positive change in the child protection sphere of policing.

2015

76. The PPU in 2016 comprises:

(i) 1 Detective Inspector;

(ii) 4 Detective Sergeants, including 1 seconded to the Multi Agency Safeguarding Hub; and

(iii) 12 Detective Constables – including 7 Child Abuse Investigators, 2 Offender Managers, 2 Domestic Abuse Investigators and 1 Vulnerable Adult Investigator.

77. An increase in the establishment from 6 to 7 Child Abuse Investigators was effected by Superintendent Stewart Gull in March 2016.

78. There are 5 civilian police staff working in PPU including:

(i) 2 Independent Domestic Violence Advisors; and

(ii) 3 staff who support domestic violence investigations, MAPPA and child protection case conferences.

79. The Inquiry has received evidence from Mr Brian Carter who is a member of support staff within PPU following his retirement as a police officer in 2007.

80. While the precise details are still being agreed, officer head count is likely to drop to circa 195 in the medium term as a result of the budget cut of approximately £2 million per annum to be implemented from 1 January 2017. There are no plans to reduce the establishment of the PPU as a result of these budget reductions. Cuts will have to be implemented in other areas of the SOJP's sphere of activity and competition for resources will increase across the SOJP.

81. The timeline overleaf sets out the establishment of the SOJP from 1952 to the present day as well as specific resourcing related matters referred to in the SOJP Annual Reports.

The SOJP establishment over time

Year	No. of Officers	Notable Detail
1952 – 1957	73	1 female police officer at this time
1958 – 1959	78	
1960 – 1963	100	Some delay in filling the increase of newly created posts, 13 vacancies as at year end 1960
1964	115	6 vacancies as at year end 1953 4 female police officers by this time
1965 – 1966	129	13 vacancies as at February 1966
1967 – 1970	133	1 vacancy as at year end 1967
1971 – 1975	150	18 vacancies as at year end 1971 The SOJP was extensively reorganised in 1975 following the recommendations of a report written by R G Fenwick effected by way of the Police Force (Jersey) Law 1974.
1976 – 1978	167	10 vacancies as at year end 1976
1977		"Civilianisation" becoming an integral part of police service with a civilian establishment of 31

		complementing the officer establishment.
1979 – 1980	185	5 vacancies as at year end 1979
1981	191	14 vacancies as at year end 1981 meaning for the first time since 1952 the actual number of police officers fell compared to the previous year.
1982 – 1983	199	11 vacancies as at year end 1982
1984 – 1985	210	14 vacancies as at year end 1984 3 vacancies as at year end 1985
1986	158	A considerable restructuring of the SOJP organisation was introduced in 1984. This resulted in an approximately 25% decline in authorised establishment. 2 vacancies as at year end 1986 Complimented by 21 civilian staff
1987 – 1988	160	4 vacancies as at year end 1987
2016	227	12 vacancies as at March 2016 Specifically in relation to PPU: 1 DI, 4 DSs (including 1 seconded to MASH) and 12 Detective Constables (including 7 child abuse investigators, 2 offender

		managers, 2 domestic abuse investigators and 1 vulnerable adult investigator).

Section 3 – The Continuing Development and Improvement of the PPU

82. The SOJP has taken child abuse matters extremely seriously throughout the course of its existence. There has been significant professionalisation since 1989 when a dedicated unit dealing with child abuse was set up within CID. That is not to say that child abuse was not a priority before 1989 and this review demonstrates that what is now described as child protection work was recognised as a priority in the Annual Reports since the establishment of the SOJP.

83. To the extent that there was a dip in the performance in this area in the early 2000s, this resulted from an unfortunate set of circumstances resulting in a lack of senior leadership following DI Faudemer leaving for the JFCU in 2002. WPC Emma Coxshall, who was an officer in the PPU at the time has told the Inquiry that she regretted that DI Faudemer had been rotated out of the unit because "*he was very good*". WPC Coxshall told the Inquiry that DSs Roger Pryke, Mike Shearer, Bernie Noel, Peter Hewlett, Terry Underwood and Louis Beghin were all rotated through the unit within a short period of time, and at least two such rotations, DS Pryke and DS Shearer, were due to personal illness and injury. They were the result of bad luck rather than management failure.

84. However, the SOJP tenure policy changed in the mid-2000s and the policy has and continues to be to inculcate and develop expertise in particular specialist areas, such as the PPU, prioritising excellence in experience above a multiplicity of experience.

85. We know that the Inquiry is considering historical context. Police forces were not as alive to child protection matters as they are now, although the SOJP does not appear from the evidence to have been behind the curve relative to other police forces in the British Isles.

86. As long ago as the receipt of DS Shearer's report dated 1 May 2001, DI Faudemer instigated the appointment of Kathie Bull to investigate arrangements at the Les Chênes Residential Unit. It would also be instructive to review the list of achievements in respect of child protection work set

out in paragraph 20 of DI Faudemer's witness statement. It is clear that the SOJP was looking to learn and improve its service in respect of public protection and safeguarding.

87. The widespread publicity of allegations made against Jimmy Savile, Edward Heath, Lord Greville Janner and others as well as police investigations in the form of Operations Rectangle, Hydrant, Midland, Enamel etc., mark a particular watershed which has been reached in recent years, leading to an increase in reporting and a confidence in victims that the police service will take their complaints extremely seriously. Operation Rectangle was ahead of its time in many ways.

Section 4 - Partnership Working

88. The Inquiry has heard evidence from DC Anton Cornelissen, WPC Emma Coxshall and DCI Alison Fossey as to historic issues in the relationship between the SOJP and Children's Services. The relationship with Children's Services has greatly improved but remains a key area of focus for the SOJP senior management. The recent evidence in Phase 3(d) from Superintendent Gull makes it clear that so far as the SOJP are concerned the appointment of a permanent director of Children's Services is to be welcomed and it is hoped that the relationship between the SOJP and Children's Services has been significantly changed for the better since DC Cornelissen and WPC Coxshall were in relevant posts.

89. For that reason it is submitted that the Inquiry should treat the evidence of DC Cornelissen and WPC Coxshall as having historical value but the evidence provided by DCI Fossey and Superintendent Gull is key to understanding recent developments and the current status of partnership working arrangements.

Early referral

90. DCI Fossey raised an issue in respect of the blurring of boundaries between what was police work and what was social work on the part of social workers, characterised by a tendency for social workers to conduct initial enquiries and for them to decide whether there were any criminal offences and a need for police involvement. This was clearly unsatisfactory and the SOJP through DCI Fossey promoted police involvement from the outset where there is any suggestion of a criminal allegation in a referral. DCI Fossey's evidence is that this seemed to be well received by Children's Services at the time as we were being a more active partner. Present arrangements of course involve the Multi Agency Safeguarding Hub.

Information sharing

91. Despite the efforts that the SOJP has made over the years, the issue of sharing information continues to be a barrier to successful child protection work.

92. For example there have been occasions when staff within Children's Services have exhibited frustration with the SOJP if they are not notified when a child in care is arrested and it would have been thought that undertaking a check to establish whether a child is a child in care should be a straightforward matter. However, there has been and continues to be no readily accessible list of names and certainly not one that is available to the SOJP. While the SOJP has been in dialogue with Children's Services to address the absence of an accessible list of children in care, the problem continues as at the date hereof.

93. The SOJP attributes problems concerning information sharing to a number of factors including a lack of maturity of Children's Services' IT and data systems but also a poor understanding of the Data Protection (Jersey) Law 2005 on the part of Children's Services personnel.

94. DCI Fossey has also told the Inquiry that she had concerns about the failure of the Long-Term Team within Children's Services to deal appropriately with emergency child protection matters and that she had concerns that the team at La Chasse were not referring information to the police. DCI Fossey refers to a case of a baby who presented at hospital with a fractured skull at 21:00 on 16 March 2006. The SOJP was not notified until 13:00 the following day, and then the notification was by chance.

95. Present arrangements again involve the Multi Agency Safeguarding Hub and are a considerable improvement upon the 2006 position.

96. DCI Fossey has shared with the Inquiry her experience of the Children's Services' Long-Term Team becoming so immersed in a case in relation to a family that they were not alert to new risks or changes in the levels of risk in that particular case. The creates a potential for missed opportunities

for early intervention in an incident within a family that to a police officer would be a warning sign but has not been identified as such by the Long-Term Assessment Team who might not employ the proper perspective. This appears to be a historic issue as revealed by the evidence of DI Faudemer gave in paragraphs 13 to 18 of his first witness statement dealing with a CAMAT training session in Devon in 1994 or 1995 stating:

"[I] was appalled by the reluctance to make a report until very late on and when I was finally permitted to give examples of the type of information that the Police may already hold and to explain that by delaying reporting, they could be inadvertently withholding the final vital piece of the jigsaw".

97. The SOJP considers that the risk of Children's Services personnel becoming inured to the circumstances of particular cases continues to be a real and significant potential hurdle to early intervention to prevent escalation on already troubled risk situations.

98. The conduct of Child Protection Case Conferences and the impact on information sharing has historically been a major area of concern for the SOJP, (per DCI Fossey and WPC Coxshall). By way of illustration, DCI Fossey's memorandum of 18 April 2006 raised concerns about the manner in which Danny Wherry behaved at strategy meetings and case conferences. DCI Fossey said that Mr Wherry failed to prepare and research properly for strategy meetings. Case chronologies provided by Children's Services are usually a rich source of information to assist the decision making process at strategy meetings yet Mr Wherry freely admitted to not reading these chronologies. Nevertheless he felt he was sufficiently informed to conclude the child was not at risk and he would be unsuccessful in an application for an order. DCI Fossey did say that her more recent experiences with Children's Services are completely different and she said that she was aware that they have recently succeeded in securing a number of emergency protection orders and care orders.

99. WPC Emma Coxshall's evidence in relation to Child Protection Case Conferences was in a similar vein, commenting upon her experiences with Jean Andrews as independent chair of Child Protection Case Conferences. Commenting on Mrs Andrews' appointment, WPC Coxshall said:

"[she] was a senior childcare officer who resigned or retired from Children's Services and shortly thereafter took up the post of the independent chair of the case conferences. Mrs Andrews was deemed by many as not being completely independent, given her background with Children's Services. Certain families would attend case conferences and Jean Andrews would know about them due to her previous involvement with Children's Services".

100. Commenting on Mrs Andrews' performance more generally, WPC Coxshall said:

"Jean Andrews had very strong views. In the event Mrs Andrews had made her mind up about something you could often not get her to think otherwise. I also felt that Mrs Andrews did not have adequate regard for due process. The manner in which she tended to ask closed and leading questions in child interviews appeared to me to be inappropriate and potentially detrimental to the prospects of criminal charges being brought in abuse cases".

101. The SOJP's experience is that the conduct of Child Protection Case Conferences has improved. Mr Brian Carter is now employed as the police representative to Child Protection Case Conferences and is able to bring a consistency of approach to such conferences.

Out of hours' contact

102. Another aspect of partnership working that remains a concern to the SOJP is the issue of out of hours' contact with Children's Services. The SOJP considers it would be helpful if solutions to the problem of gaining access to information out of hours are considered, whether this is by way of an IT platform or an HR solution.

Section 5 – Operational Issues

103. In the course of receiving evidence as to the conduct of police investigations over 70 years, the Inquiry has inevitably heard evidence of investigations which did not reflect best practice in one way or another. Nevertheless, insofar as the SOJP in 2016 can speak to facts and matters within its institutional memory, the SOJP is firmly of the opinion that the evidence adduced before the Inquiry clearly and cogently demonstrates that the discharge of policing functions from the establishment of the Paid Police in 1952 has been proper and professional, and that the people and visitors to the Island of Jersey have been safe and had their property protected in an effective and proportionate manner.

DS Pryke

104. The Inquiry has heard from DC Cornelissen, WPC Coxshall and DI Faudemer in respect of changes in the demeanour of DS Roger Pryke in the immediate run up to his diagnosis with the brain tumour that ultimately led to his death. Prior to his illness, DS Pryke had been an effective and popular officer with excellent leadership abilities. His appointment to the PPU was a sign of how much DS Pryke was valued as an officer and the priority given to the PPU.

105. It is a matter of regret that DS Pryke's condition was not detected sooner. However, the SOJP learned from the experience of dealing with DS Pryke's illness and instituted improved and more robust Human Resources processes to ensure that a decline in performance, such as that exhibited by DS Pryke would be detected much more quickly.

Anton Cornelissen

106. The SOJP management regrets that DC Cornelissen feels unhappy about aspects of his career with the SOJP. DC Cornelissen was on the evidence a sensitive officer who was good with vulnerable witnesses and victims of abuse. However, the SOJP does not accept DC Cornelissen's evidence in respect of the Victoria College investigation as fact.

107. DI Faudemer was the SIO of the Victoria College investigation and is best placed to give evidence as to the command and control of the investigation which led to the prosecution of Andrew Jervis-Dykes for a number of counts of child sexual abuse related offences. DI Faudemer's evidence is summed up at high level in paragraph 101 of his First Witness Statement dated 23 October 2015 when he said

"I do not believe that anything untoward happened during the investigation".

108. It is the SOJP's position that the Victoria College investigation falls outside the Terms of Reference of the Inquiry, but having made this reservation, we do wish to put on record that the SOJP does not agree that Detective Constable Cornelissen was cold shouldered or that any evidence relating to the Victoria College case has gone missing. In particular, the SOJP notes:

(i) Cold shouldering is a subjective matter and is not one that is capable of being proved or rebutted either way but the Inquiry will accept that while it may have happened it would be impossible to say, without further evidence or investigation, why it may have happened and whether it is relevant to this Inquiry.

(ii) In respect of documents, however, DI Faudemer has been afforded the opportunity to inspect the boxes containing the Victoria College investigation files at Police Headquarters and as far as he is concerned, they are intact, and as former SIO his evidence should prevail.

109. For the avoidance of doubt, the SOJP has not provided the documents relating to the Victoria College investigation to the Inquiry as the matter falls outside its Terms of Reference on the basis that there is no nexus to the care system. The existence of such documents is, however, a matter of fact.

110. DC Cornelissen might have misinterpreted former DI John De La Haye's actions in respect of the inspection of the St Helier Yacht Club's log book as nefarious when DI De La Haye's action may have directed at securing evidence which the Yacht Club was not legally bound to yield up to the SOJP

under the laws in force at the time. DI Faudemer as SIO gives the account which should be preferred and he is clear that there was no nefarious conduct.

Alleged cover ups

111. The Inquiry has not heard any credible or cogent evidence that the SOJP has been party to any "cover ups" as the concept is properly understood. Contra, any cover ups have occurred when matters have been concealed from the SOJP, for example by Anton Skinner in 1990 in relation to the Maguire case.

112. The management of the SOJP is aware of allegations that have been made in relation to complaints made against former Senator Wilfrid Krichefski in the 1960s. This matter is not within institutional memory so the true facts will never be known. The facts certainly have not been properly tested and the evidence adduced lacks substance. Any failings identified in the 1960s cannot be imputed to the present establishment of the SOJP.

113. To the extent that Counsel to the Inquiry has sought to identify a "cover up" in relation to the potential involvement of a retired police Inspector, Mr John de la Haye, in an investigation in relation to the cases of 370 and 369 the same is not accepted by the SOJP. As a starting point, the SOJP notes that the case had no institutional care nexus and falls outside the Terms of Reference of the Inquiry, such that the SOJP has been unable to properly address that allegation within the ambit of its restrictive legal and public policy processes.

114. However, for the avoidance of any doubt the SOJP does not accept that any wrongdoing has been disclosed on the part of any officer, in particular, on the part of DCI Alison Fossey. It is not credible that an officer who has devoted a large part of her career to child protection matters and who has a track record of implementing lasting reforms and achieving results in the form of successful prosecutions of child abusers would be party to any efforts to cover up involvement in an abuse case.

115. At paragraph 144 of his witness statement, Mr Power makes reference to the Paul Every case and suggests there was discomfort at the fact that former Superintendent Andre Bonjour and Mr Every were close colleagues in the Sea Cadets. Mr Harper also alludes to this issue at paragraph 90 of his witness statement. Taken together, the inference is that Superintendent Bonjour in some way tipped off Mr Every, resulting in the subject wiping his computer of valuable evidence.

116. While again this matter is outside the Terms of Reference of the Inquiry, the SOJP senior management considers the inference made by Mr Power and Mr Harper to be totally unfounded.

Other matters

117. The Inquiry will be particularly aware that the police response to abuse cases has become increasingly formalised over recent times. The SOJP is fully compliant with all key documents and guidance in this respect.

118. We would like to reassure the public that the SOJP is fully compliant with Management of Police Information (MOPI) in accordance with UK guidance. PPU material would be subject to retention for between 10 years and 100 years dependent upon category of material and subject to 10 year reviews.

Section 6 – Resourcing

119. The Inquiry has heard a significant amount about resource challenges and it is a truism that the more resources that are available, the better the police service in Jersey would be.

120. In that context, the SOJP is of the opinion that it has been able to ensure that on resent funding the Public Protection Unit is of adequate strength at the date hereof, although that can be no guarantee of the future position and there are future likely sources of demand, particularly such as those arising from online abuse, child sexual exploitation and other 21st century concerns.

121. The SOJP concedes that the PPU has not always been adequately resourced. The Inquiry has heard evidence from former Superintendent Andre Bonjour of resource challenges he experienced while fulfilling the role of Chief Inspector, Crime Services in the early 2000s. In a similar vein, Superintendent John Pearson has said that there were resource challenges throughout the period of his tenure with the SOJP.

122. Resourcing issues continue to be an issue with the entirety of the police function in Jersey and it is to be expected that this point will be made in Phase 3(d) of the Inquiry process by Senior Ranks of the SOJP, just as it is made in all budgetary discussions within the States Departments. Nevertheless the SOJP is undoubtedly fit for purpose.

123. The SOJP can make tackling child abuse a greater priority than other UK forces because policing issues on the Island are not dominated by the other issues that are relevant to mainland policing such as violent crime, street crime, inter-community crime and intra-community crime. However, those benefits and the ability to prioritise are relative and it is important to guard against complacency.

Section 7 - Operational Rectangle

124. Much of the evidence that the Inquiry has heard about the role of the SOJP in relation to the investigation of child abuse cases has inevitably centred on Operation Rectangle. Although the SOJP has investigated matters of child abuse in the care system in Jersey on many other occasions over the years, it is true that Operation Rectangle is the largest such investigation to date in terms of resources deployed. The SOJP's position is that the historical institutional child abuse investigation carried out by it as part of Operation Rectangle was a major success resulting in 8 prosecutions, leading to 7 convictions and 1 not guilty verdict.

A command and control issue

125. That said, the evidence reveals the existence of a command and control issue which did arise during Operation Rectangle. As is well known to the Inquiry, former DCO Mr Harper appointed himself as Senior Investigating Officer ("SIO") of the investigation. The institutional position of the SOJP is that this was an ill-advised decision. Mr Harper did not have the up to date training required to fulfil the role. It is a matter of regret that former CO Mr Power did not prevent Mr Harper appointing himself to this role. The evidence suggests that Mr Power found it difficult to rein in Mr Harper. While Mr Harper was by all accounts an extremely wilful individual, this cannot excuse the failure of Mr Power to exercise effective command oversight. If the SOJP senior management of the day did not feel that an appropriately qualified and experienced SIO candidate existed within the force at that time, then it is submitted that an outside candidate, from a UK force, could have been recruited from the outset.

126. It is submitted that it was absolutely right and proper for Mr Harper to be passionate about the investigation of child abuse, however, he should not have been appointed as SIO of Operation Rectangle. Mr Harper could have supported the investigation at a strategic level while engaging a specialist SIO from the outset. Having Mr Harper as the SIO meant that there could be no effective control and/or oversight over the SIO or the Investigation.

127. The SOJP senior management considers that DI Robert Bonney encapsulated the position well when he said, at paragraph 12 of his second witness statement dated 26 November 2015:

"The problem with having a DCO as SIO, a position which would typically be occupied by an Inspector in Jersey, was that the three tiers of management (Chief Inspector, Superintendent and DCO) that sit between an Inspector and the Chief Officer were stripped away. All of these tiers of meetings, brainstorming and scrutiny were lost. In my professional opinion, and detached by virtue of my retirement, this left Mr Power in a difficult position, and very exposed as the only person who could effectively supervise Mr Harper".

128. DI Bonney went on to say the following in paragraph 13 of his second Inquiry witness statement:

"The Inquiry may appreciate that the police service is not directly comparable to a civilian organisation. There is a rank structure and the ranks do matter. My experience tells me that junior officers working on Operation Rectangle may have been more reticent to challenge Mr Harper owing to his lofty rank, than they would an SIO holding the Inspector rank or a rank lower the DCO. This was probably not good for the investigation or for Mr Harper".

129. The appointment of Mr Harper as SIO of Operation Rectangle rendered Mr Power exposed as the only officer of a more senior rank than Mr Harper and therefore the only person who could be effectively expected to supervise Mr Harper.

130. As the Inquiry has heard, criticisms of Mr Harper did arise, mainly in relation to the SOJP's media strategy in respect of a physical evidence search at Haut de la Garenne ("HDLG") and other locations. The institutional position of the SOJP is that Mr Harper was ill advised to announce the finding of *"the partial remains of a child"* at HDLG before Oxford Laboratories has completed their analysis of Exhibit JAR6 and other "finds". This was partially causative of a febrile and polarised atmosphere within the Island which persists to this day. The announcement also gave rise to an abuse of process risk to Operation Rectangle child abuse prosecutions, in relation to which the

Inquiry has heard a significant amount of evidence, and has had the benefit of disclosure of the law report of the judgment of the Royal Court in the case of *Attorney-General v Aubin, Wateridge and Donnelly [2009] JRC 035A* in which the abuse of process matters were judicially considered.

131. It is correct that there was not a homicide investigation in respect of HDLG in the most formal sense, but the SOJP concedes that this was not the impression given to the public, politicians and even to officers of the SOJP as a result of the media strategy pursued by Mr Harper in the first 8 months of 2008.

132. The SOJP also joins issue with Mr Harper playing out a dispute in the public domain with the Law Officers' Department, the then Attorney General William Bailhache, now Bailiff in particular.

133. The SOJP agrees with the analysis of Nicholas Griffin QC that Mr Harper's interventions in respect of the case involving Witness 279 and Witness 281 were *"significant and unhelpful"*. The SOJP agrees with Mr Griffin QC's observation that in respect of this case, Mr Harper *"contributed to the highly pressured atmosphere in which the other police officers and the lawyers had to operate".*

134. Also in relation to Mr Harper's role as SIO of Operation Rectangle, the SOJP considers that it is highly significant that an opportunity was lost for a review of Operation Rectangle by Superintendent David Marshall of the Metropolitan Police around the end of 2007. DCI Fossey has given evidence to the Inquiry that she wanted reassurance that things were being done correctly and appropriate policies and strategies in place before the investigation was moved on to the Home Office Large Major Enquiry System (HOLMES). As the Inquiry knows, Mr Harper dismissed this and several other of DCI Fossey's suggestions.

135. The SOJP respectfully suggests that the evidence of each of Mr Power and Mr Harper is largely self-serving and it is a matter of regret to the SOJP that this is so.

136. Particularly as to Mr Harper, the Inquiry has received evidence from DCO Barry Taylor, DI Barry Faudemer, WPC Emma Coxshall, Superintendent Andre Bonjour, Detective Superintendent Mick

Gradwell, William Bailhache, Bailiff and others, all pointing to fundamental factual errors within his testimony. DI Barry Faudemer suggested that the Inquiry:

"should be very cautious before relying upon anything that is represented as fact in any of Mr Harper's witness testimony".

137. At paragraph 178 of his witness statement, Mr Harper appears to admit that he "retains copies" of confidential police documents. The SOJP publicly invites Mr Harper to return all operational documents in his possession to the SOJP. There can be no argument that it is reasonable for Mr Harper to retain SOJP documents relating to any matter and he is in breach of the Data Protection (Jersey) Law 2005 and Official Secrets (Jersey) Law 1952. The SOJP believes Mr Harper unlawfully retains police operational documents, including the day books which he is believed to have kept during Operation Rectangle, contrary to the obligations he assumed when he took the decision to become an officer of the SOJP.

138. The SOJP considers that each of Mr Harper and Detective Superintendent Mick Gradwell were inappropriately close to journalists at points during their respective tenures as SIO of Operation Rectangle. The SOJP notes the following:

(i) Detective Superintendent Gradwell to his credit has admitted this.

(ii) Mr Harper denies any inappropriate action in this respect or at all. The management of the SOJP does not consider that this is tenable.

139. The SOJP does not consider that the Inquiry has heard any evidence that there was political interference in its operations, before, during or after Operation Rectangle. Senior politicians may have wanted Mr Harper off the case but he was not in fact taken off the case. The SOJP accepts that there will be political discourse, some of it highly robust. While it is helpful for the SOJP to have the full backing of politicians, there will be occasions when politicians disagree with a course

of action taken by the SOJP. It is not for the SOJP to advocate that politicians be limited in the kinds of questions they can ask in the States Assembly.

Mr Power

140. The SOJP does not consider that it is right to say that there was political interference in Mr Power's suspension. The Chief Officer's discipline code as in force at that particular time provided for the Home Affairs Minister to exercise a number of powers of oversight, essentially sitting in the position of a police authority. The criticism that arose in respect of Mr Power came from within the SOJP itself and from the Metropolitan Police Review team, such criticism being drawn to the attention of senior civil servants and the Home Affairs Department as was appropriate according to the procedures of the day. It is for the Inquiry to determine how if at all Mr Power's evidence was relevant to the matters in issue but it is submitted by the SOJP that it is of very little value to the Inquiry.

141. The issue of whether Mr Power's suspension was procedurally fair has been litigated out. The SOJP is of the view that, regrettably, hearing time during this Inquiry which could have been devoted to care system related matters has been devoted to considering issues surrounding Mr Power's suspension, a matter which is of tangential, if any, relevance to the Inquiry's Terms of Reference.

Former Chief Officer Warcup and former Superintendent Gradwell

142. The SOJP also joins issue with the allegation that Acting Chief Officer David Warcup acted improperly in relation to his conduct of Operation Rectangle or in the weeks leading up to the suspension of Mr Power. Acting Chief Officer Warcup saw that things were not right with Operation Rectangle very early on. The SOJP considers that Acting Chief Officer Warcup conducted himself professionally and transparently despite being in an unenviable position. There was no *coup d'etat*. It is not credible that an independent senior police officer, who held the rank of Assistant Chief Constable in the United Kingdom, would have any interest in furthering the agenda of any Jersey politician or other interest group. Acting Chief Officer Warcup simply applied objective police criteria to aspects of Operation Rectangle and did not like what he saw.

143. There is no credible evidence to suggest that Acting Chief Officer Warcup or Detective Superintendent Gradwell were anything other than committed to the Operation Rectangle abuse investigation. The Inquiry has not received credible evidence of any leads that were not proportionately explored during Operation Rectangle. These senior police officers came to Jersey in good faith to act in the best interests of the public of the Island. They were totally unprepared for the personal and vitriolic attacks to which they were subjected, some of that hostility occurring shortly after their respective arrivals in the Island. This is a matter of regret for the SOJP.

144. The Inquiry will have noted that the process of notifying employers and concerned parties of suspected abusers was not introduced before October 2008. Acting Chief Officer Warcup introduced it, drawing on the training he had received in England following the landmark ruling in *R v Chief Constable for North Wales Police Area Authority ex parte AB* [1998] 3 All ER 310, in which it was determined to be appropriate on public interest grounds to disclose certain information of known paedophiles to protect potential future victims. This is a development in child protection arrangements in Jersey for which Acting Chief Officer Warcup is responsible.

Could Operation Rectangle have commenced earlier?

145. The SOJP expects that the Inquiry will make findings as to whether Operation Rectangle could have happened earlier and it is submitted that it is possible that it could have been done earlier if information sharing arrangements within the SOJP and other partners had been better in the early 2000s. It is conceded by the SOJP senior management that it may have been possible for an historical investigation centred around HDLG to have been carried out as early as 2003.

146. The Inquiry has had disclosed to it an internal Children's Services document from 2003 entitled "Haut de la Garenne - Enquiry". The investigation in question is in relation to Witness 195's allegations that he was seriously sexually assaulted by Witness 264 when Witness 264 took Witness 195 out of HDLG on day trips in the 1960s. The same document refers to intelligence that abuse of children at HDLG was committed by Witness 7 and Morag Jordan, individuals who later featured

centrally in Operation Rectangle, Morag Jordan being convicted on several counts of physical assault.

147. The SOJP has become aware during the course of the Inquiry of a letter dated 18 August 1999 circulated to Children's Services staff by a Child Care Officer following the emergence of allegations about a former member of staff who had worked at HDLG and Heathfield (Witness 751). The letter contains a series of questions about the suspect and requests a response from staff members. The SOJP did not see the letter at the time, so does not accept that an opportunity to investigate HDLG was missed in 1999.

148. The SOJP became aware during the course of Operation Rectangle of the case of Richard Owen – a former staff member at HDLG who was convicted of sexual abuse of females at an institution in Staffordshire. Neither the case of Witness 751, nor the case of Richard Owen give rise to a reasonable cause for considering that a systematic investigation of HDLG as an institution was merited.

Was Operation Rectangle Justified?

149. With reference to Term of Reference 12, the concerns in 2007 were sufficient to justify the setting in train of the Operation Rectangle abuse investigation. The details of the search have been confirmed to fall outside the Inquiry's Terms of Reference.

150. The SOJP disputes out of hand the assertion put forward by Witness 7, himself a suspected child abuser that:

"There is still no doubt that two sergeants and a couple of detectives could have completed the investigation without wasting such vast amounts of public funds".

151. It is also unnecessary to address the Inquiry in respect of the financial management of Operation Rectangle, as these matters fall outside the Terms of Reference. It is sufficient to say that lessons have been learned as a result of the reviews by Lancashire Police and BDO Alto. The SOJP would

not and could not defend every item of expenditure on Operation Rectangle but considers that the culpability for inappropriate financial management rests very firmly with those in command at the time, in particular Mr Harper and Mr Power.

152. The SOJP considers that it is a matter of regret that DI Peter Hewlett's Scoping Report from April 2006 did not result in a major investigation until over a year later. It is right and proper that the circumstances surrounding this have been reviewed in detail by the South Yorkshire Police and by this Inquiry.

153. The SOJP note that former Home Affairs Minister Wendy Kinnard gave evidence that she was receiving briefings from the SOJP that there was possibly going to be a major historical child abuse inquiry during 2006. It has been alleged that Superintendent Andre Bonjour had not passed DI Hewlett's scoping report up the chain of command by year end 2006. It is therefore a matter of regret that Counsel to the Inquiry did not explore this aspect of Ms Kinnard's evidence with her more fully. The only officers who would have been likely to brief Ms Kinnard in 2006 were Mr Power and Mr Harper. Ms Kinnard's evidence suggests that Mr Power and / or Mr Harper were aware of the Scoping Report earlier than their evidence to the Inquiry suggests. While Superintendent Bonjour did accept "words of advice" in respect of the scoping report, the SOJP cannot be certain of wrongdoing on the part of Superintendent Bonjour on the basis that Superintendent John Pearson's day books have apparently not been retained.

154. The SOJP does not suggest that there were no institutional or personal issues with officers during the entirety of the Inquiry's period of review. There had been a workplace bullying problem during Graham Power's time as Chief Officer and it is regrettable that Mr Power did not do more to stamp this out. This is no longer an issue and the key individuals who have been referred to as exhibiting bullying behaviour are no longer officers of the SOJP.

155. As far as the SOJP is concerned, Operation Rectangle happened when it did due to a number of factors as follows:

(i) The blackmail of Witness 264 by Witness 195, which came before the Royal Court in 2004, where the Bailiff noted that Witness 195's allegations that he been seriously sexually abused by Witness 264 were "not incredible";

(ii) The other matters referred to in DI Peter Hewlett's Scoping Report from April 2006, including the [redacted] investigation; and

(iii) Personal capital and efforts expended by Mr Harper and other officers of the SOJP.

156. The SOJP has not seen any public evidence that any children have been shown to have been put at risk by the failure to initiate Operation Rectangle up to a maximum of 4 years earlier than in fact happened. Key deceased individuals whom would have been considered for prosecution had they been living such as Colin Tilbrook, Jim Thompson and Ray Williams were all long deceased by 2003. The SOJP is not aware that the opportunity to prosecute any particular individual for the abuse of children at HDLG was lost by the fact that the investigation was not commenced in 2003.

157. The SOJP does not suggest that Operation Rectangle was a final resolution and it has continued to investigate current and historic allegations of abuse of children within the Jersey care system. As the Inquiry Panel is aware, the SOJP initiated Operation Whistle in June 2015, although Operation Whistle did roll up within it some investigations that had already been in train since 2013. Operation Whistle is focused on reported abuse in institutions, and abuse involving Persons of Public Prominence (PPPs). Operation Whistle is in many respects the successor to Operation Rectangle.

Section 8 – Material Factual Inaccuracies

158. On 21 January 2015, the Inquiry released an update on their website having read in evidence from Witness 170 and a reference to a "cellar plan".

159. In this update it was stated that "*Counsel to the Inquiry Paul Livingston told Mrs Oldham that the documents had been asked for and he was awaiting an update*" and that "*Mrs Oldham was told that the Inquiry is still waiting for the plan to be disclosed by the police*". Both of these statements were incorrect.

160. The exact exchange was as follows:

"MR LIVINGSTON: He produced a plan of the cellar for the SOJP. However, the Inquiry does not yet possess this document. I will of course update the Panel if and when we receive it.

THE CHAIR: And again that document has been requested?

MR LIVINGSTON: I believe so, Members of the Panel, but I will endeavour to find out."

161. It is abundantly clear from the above extract that the statements made in the update were inaccurate. It cannot be positively stated that Counsel to the Inquiry Paul Livingston told the Inquiry that the documents had been asked for because he does not positively assert that himself "*I believe so ... I will endeavour to find out*" is not a positive affirmation. Additionally, it is unequivocal that the Inquiry was not "*waiting for the plan to be disclosed by the Police*" as suggested in the update.

162. HDLG did not have cellars and the references to cellars by Inquiry Counsel was misleading and evidences a failure to appreciate a material fact which has been unfortunately and unnecessarily promulgated through the media.

163. On 20 October 2015, the Inquiry published a press release in relation to the evidence of Anton Cornelissen. The press release contained a number of inaccuracies, the effect of which changed the entire tone of the statements.

164. At paragraph 12 of the statement it states "*John De La Haye, Trevor Garrett and Roger Pryke had all indicated they did not want the case to be investigated*". This is incorrect. DC Cornelissen's evidence is that these officers either did not appear to support him, or in the case of DS Roger Pryke, failed to progress the investigation with the speed DC Cornelissen expected. In relation to DS Pryke, DC Cornelissen was expressly asked by Counsel to the Inquiry whether, as PPU sergeant, DS Pryke closed down the investigation. DC Cornelissen replied that he did not, although it was open to DS Pryke to do so. The use of the word "indicated" in the press release suggests that there was a communication or instruction to DC Cornelissen advising him to stop investigating Victoria College. DC Cornelissen did not say that this was the case and not in relation to all three officers.

165. At paragraph 15 of the statement it states "*He also stated that all the Victoria College files went missing and were never found*". DC Cornelissen suggested that two items went missing. This certainly was not "*all the Victoria College files*". Detective Constable Cornelissen did not make any representation as to what fraction of the overall volume of Victoria College case files the missing files represented. The SOJP retains a comprehensive set of records relating to Victoria College to this day. These have not been provided to the Inquiry on the basis that the case is outside its Terms of Reference. It is important that those who came forward to assist the Victoria College investigation do not think that all of the evidence has been lost.

166. The Inquiry should be aware that there was no unlawful or covert interference with the investigation into Victoria College, nor were any part of the material case files lost.

167. There are other basic inaccuracies that undermine the veracity of the Inquiry updates such as references in the update to "Detective Superintendent Barry Faudemer". Barry Faudemer left the

SOJP in 2006 having attained the rank of DI. DI Faudemer did not attain the rank of Superintendent.

Section 9 - Specific criticism of the SOJP

168. We have made an effort to identify and classify the surprisingly limited negative evidence the Inquiry has heard about the SOJP and its officers from Phase 1(a) witnesses as follows:

(i) Evidence that allegations or complaints were ignored /not taken seriously;

(ii) Allegations that witness support was lacking;

(iii) Allegations of police misconduct; and

(iv) Strategic criticisms in respect of the conduct of Operation Rectangle.

Allegations and complaints ignored or not taken seriously

169. Some representative examples of allegations by Phase 1(a) witnesses that the SOJP ignored alleged victims' complaints are as follows:

(i) Witness 382, who was taken to HDLG in 1976 aged 8 years old commented as follows:

"I was involved in the police investigation back in 2007. I told the police about my experiences and also about what [blank] had told me. I got the feeling they were not interested in what I had to say. However, I do not think the police appreciated what impact taking half of the children in a home on holiday and leaving the other half behind would have on the children. They would not necessarily see any issue with this, or consider that it may be suggestive of abuse. The police were only interested in the big sensational storylines. It is what they are trained for. They did not appreciate the subtleties of abuse allegations. You could take to some of them and explain what it was like until you were blue in the face and they would not get it." [p.8 paragraph 33]

(ii) Witness 140 has said:

"*I remember very clearly being found by the police and being taken back to Haut de la Garenne kicking and screaming, telling the police that I did not want to go back. I do not remember complaining to the police about anything that happened at Haut de la Garenne.*" [p.72 paragraph 12]

(iii) Witness 48 who went to HDLG in about 1972 until 1978 then went to Basil Lodge says that he reported abuse to the SOJP in 1980 and the officers were of the view that the abuse complained of "never happened." [p.58 paragraph 54]. Witness 48 alleges that he has been:

"*told by the States of Jersey Police that there are no records of [his 1980 statement*]." [p.100 paragraph 62]

(iv) Witness 99 says:

"*I remain frustrated that my account was not believed and that more staff members of Haut de la Garenne were not prosecuted.*" [p.167 paragraph 43]

(v) Witness 36 says in relation to a barricading incident at HDLG in approximately 1986:

"*[The SOJP] became aware of what was going on at Haut de la Garenne and how unruly the home had become....However the barricading incident achieved nothing ....*" [p.116 paragraphs 56-57]

(vi) Witness 28 has said:

"I told the police about the abuse in Haut de la Garenne in 1996 or in 1997 when I was in prison in [blank and blank]. I believe I spoke to the [blank] police service. Nothing happened afterwards. After I told the police I was transferred to [blank] prison within a week or two. I suspect that this was done as a punishment, as [blank] was a significantly worse prison to be in." [p.181 paragraph 141]

(vii) Witness 111 who spent time at Brig-y-Don and Les Chenes says:

"*When the States of Jersey Police were first involved in the investigation into historical abuse, they were absolutely fantastic and could not do enough for the former residents. However, when the decision was made by the Attorney General not to press charges against Mario Lundy and [blank] many of the previous residents of Les Chenes felt angry. We had been left out in the fold and walked all over yet again, with no justice...[Jimmy] told me personally that he could not stay in Jersey and continue to work on the case because of all the corruption he had come across ....*"[p.37 Paragraphs 38 and 39]

and

"*As far as I am aware, no action was taken as a result of my statement to the States of Jersey Police. It was a farce. All I wanted was to see justice for myself and my friends, but the people responsible for the abuse we suffered have never been held to account.*" [p.37 paragraph 40]

The failure to provide witness support

170. Witness 341, who spent time at Brig-y-Don and HDLG and in foster care says that he was never given a copy of the statement he made to Operation Rectangle in 2008 and was never informed how the investigation developed. [p.190 paragraph 81]

171. Witness 341's evidence is representative of a number of witnesses who said that the SOJP's witness support arrangements were insufficient. The Inquiry has had the benefit of disclosure of all of the Family Liaison Officers (FLO) logs from Operation Rectangle from which the Inquiry will note that there is little or no evidence of a lack of witness care.

Alleged Police misconduct

172. Some representative examples of allegations of SOJP misconduct within the Terms of Reference are as follows:

(i) Witness 118 said:

"A friend whose husband is a policeman told me that there would often be police cars going back and forth to Haut de la Garenne. This made me wonder whether the police might have been involved in a sex ring" [p.42 paragraph 31].

(ii) Witness 341's opinion is as follows:

"I strongly believe that the States of Jersey, the Police and the politicians are all corrupt. They didn't like the fact that I made a stand against the abuse, and they have punished me for that." [p.190 paragraph 82]

(iii) Witness 73, who variously spent time at Heathfield, Les Chênes and La Preferance said:

"*I do not have much confidence in the Jersey Police to be honest and in my opinion; if you are known to the Police and they want to go after you then they will do you for anything.*" [p. 95 paragraph 118]

(iv) Tina Maguire, who spent time at HDLG and La Preferance and gave evidence to the Inquiry without anonymity has said:

"*You were then treated like a prisoner and would be sent back to Haut de la Garenne. The police would throw you into the back of the police van. I regularly begged to go to prison, but would be told "that's your home." I wouldn't tell the police why I didn't want to go back, as I didn't trust them. Of course some knew, or should have known what the home was like ....*" [p.114 paragraph 96]

and

"*I went to the police station at Rouge Bouillon. I do not know who I saw. I was sent packing. I was hurting, I was in pain, I was covered in blood as I had gone straight there. They didn't do any tests. I was [blank], they knew my name, they knew me very well. But there was no*

interest in me. The police wouldn't do anything. I was effectively shown the door." [p.123 paragraph 141]

and

"*Jersey is an oppressed Island as there is nowhere to go or talk, hence why everything is covered up. The police work with the States of Jersey.*" [p.126 paragraph 147]

(v) John Rodhouse, the former Director of Education has said that Jersey is a "*corrupt system*" where "*serious crimes are pushed under the carpet*" [p.67 paragraph 13].

173. The SOJP joins issue with all these allegations of failures. While the SOJP accepts that there will be failures on occasions, there is a process by which complaints can be made and investigated, and in appropriate circumstances by which officers can be disciplined. It is notable that none of these allegations gave rise to formal complaints.

174. It is a source of regret that some witnesses feel the way they do and that there is an amount of anti-police feeling within the Island, although this is below the average level of police dissatisfaction in regional police forces in the UK.

175. For present purposes, the SOJP draws the Inquiry's attention to the facts that it has received all Operation Rectangle FLO logs and it will be able to ascertain that efforts were made with witness support during Operation Rectangle. There has been some unwarranted criticism of the Inquiry in this regard prompting public announcements by the Chair to draw attention to the Inquiry's own witness support arrangements.

176. Some of the specific allegations above have been directly addressed in the witness statement of former DCO Barry Taylor and it is submitted that these specific allegations do not all stand up to scrutiny. We urge the Inquiry to read former DCO Taylor's witness statement carefully in that regard.

Criticism of the Operation Rectangle Strategy

177. As to strategic criticism regarding the conduct of the Operation Rectangle investigation, it is inevitable that such a large and high profile investigation will provoke a divergence of views, particularly in a small Island. With regard to the media strategy adopted in particular, the SOJP and other partners across the police service have learned lessons. The Inquiry can see these lessons being implemented in Operation Whistle wherein, as DCO Taylor has described it, the SOJP has operated a "*careful and considered media strategy with planned quarterly updates*". As also set out by DCO Taylor, this latter aspect differentiates Operation Whistle from Operation Rectangle, notwithstanding the overlapping subject matter.

178. As the Inquiry is aware, the SOJP is not responsible for problems with the law, e.g. the debate about the corroboration warning, which may have meant that it was difficult for cases to be prosecuted or for issues arising at the level of the prosecuting authorities, or where public sector partners took an active decision not to report matters. The SOJP is troubled by the evidence that Anton Skinner did not report suspicions regarding Alan and Jane Maguire in 1990. In respect of Mr Skinner, the SOJP emphasises the evidence provided by DI Faudemer that he was:

"*someone who was always looking for a compromise in order to avoid upset and confrontation*".

Section 10 – Positive evidence relating to the Police

179. Evidence has been heard that was positive in respect of the SOJP which we also expect the Inquiry Panel to take into account in the Final Report.

180. Witness 74 said:

"*I was interviewed by a male and female police officer but I do not recall their names. The interview took place in a suite in the local police station in [blank] at the time and was conducted by Jersey police. I felt they were very good and did not push me. They let me tell my story my own way and at my own pace*".

181. Witness 23 told the Inquiry on Day 20 that she felt that the SOJP officers investigating Leslie Hughes in 1989 took a "*very supportive*" approach in her police interviews and that she felt that her allegations had been taken seriously. It is suggested that the male police officer referred to by Witness 23 was likely to have been DI Bonney, whom the Inquiry has heard led the investigation into Leslie Hughes in 1989. The Inquiry has had the benefit of live evidence from DI Bonney and knows that he is a very conscientious person, who continues to carry the emotional burden of child abuse cases he investigated many years after his retirement. The Inquiry has heard that DI Bonney was appalled at the allegations that were made against Leslie Hughes and was instrumental in persuading Mr Hughes to confess, thus sparing Witness 23 and other victims from the ordeal of a trial. The female police officer who supported Witness 23 in 1989 is known to be WPC Jacqueline Ellis.

182. Witness 38 has said in a witness statement that has been read into the Inquiry's record that speaking to the police in 2008 during Operation Rectangle was "*quite straightforward*". He says the police were "*investigating for a very long time*", adding that "*I think they took my complaints and concerns seriously and I think I was paid enough attention*". In a similar vein, Witness 47 has said

"*The Police investigation [Operation Rectangle] lasted for months and the Police did keep in regular contact with us during this time*".

183. Witness 76 told the Inquiry on Day 29 that during the investigation into Alan and Jane Maguire in 1999, Detective Constable Nicholson of the SOJP was "*basically there just to be support for us and for us to talk to*". Witness 76 went on to say "*there was something about him that I felt I could open up to, so I would refuse to speak to anybody apart from him*". A question from Inquiry Counsel to Witness 76 asking if DC Nicholson was someone he felt he could trust or made him feel comfortable was answered in the affirmative.

184. The Inquiry has had all relevant witness statement from Operation Rectangle and other relevant investigations from the period of its review disclosed to it. Only in a very few instances have witnesses indicated any dissatisfaction with the witness statements taken by the police, and only then to add to them or correct minor points. It is a matter of praise in itself that officers of the SOJP have assisted witnesses to record comprehensive witness statements. This evidence has formed the bedrock on which this Inquiry has been able to go about its work.

185. We would also point out that public satisfaction in the SOJP is generally high, as set out elsewhere in these Closing Submissions. The Inquiry has heard of acts of kindness on the part of police officers over many decades and work by family liaison officers during Operation Whistle and at other times that did go the extra mile. It is important that it is not an outcome of this Inquiry that the rank and file of the SOJP and particularly the officers working within the PPU come away with a negative or demotivating feeling. All officers working in the PPU are committed professionals and on occasion, as the Inquiry has heard, investigating child abuse matters can take its toll on individuals. Constructive suggestions are of course welcome, but there should not be criticism for the criticism's sake.

Section 11 - The Griffin Report

186. The SOJP acknowledges the report of Nicholas Griffin QC and in respect of the findings which directly concern the SOJP:

(i) Mr Griffin QC has opined that "*I do not believe [DCI Fossey] was correct to assert* [in the Operation Rectangle Final Report] *that: 'in no case was the public interest test ever required to be applied' when making decisions not to prosecute*". The cases of Witness 491, 246 and Leslie Hughes are cited as cases where Mr Griffin QC considers that No Further Action ("NFA") decisions were reached on public interest grounds, despite there being sufficient evidence to proceed. The Bailiff stated his position that his opinion that a jury in Jersey would not convict in the case of Witness 491 was in fact an exercise of the evidential test rather than the public interest test. In relation to Witness 491 and Witness 246, we consider that DI Fossey was entitled to rely on the advice received in writing from Crown Advocate Baker on 24 April 2009 in each case that NFA decisions had been reached on the basis of insufficient evidence. Absent written or oral evidence from Crown Advocate Baker in relation to these cases, the SOJP considers that it is wrong for Mr Griffin QC to reach a conclusion as to the basis for deciding not to prosecute Leslie Hughes in May 2009. The SOJP has not seen evidence in Mr Griffin QC's report or in the Inquiry's proceedings more widely which cause it to accept that DCI Fossey's contention at paragraph 12.6 of the Operation Rectangle Final Report was incorrect.

(ii) It does not follow from Mr Harper's unprofessional media handling and ill-advised decision to appoint himself SIO, that the police file in the case of Witness 279 and Witness 281, prepared by officers other than Mr Harper, was not prepared to a professional standard. In this latter regard, the position of the SOJP is that Mr Griffin QC has erred in his analysis as to whether the file was prepared to a professional standard. Mr Harper played no role in the compilation of the police file in the case of Witness 279 and Witness 281 and his

interventions took place chronologically after the police file had been submitted to the Law Officers' Department.

(iii) In respect of Witness 7, the SOJP agrees that it is accurate as a matter of chronology that the original case file was incomplete. However, Crown Advocate Baker did provide a second advice in which his opinion did not change. We do not consider that the omission to provide the statements of Witness 688, Witness 591, Witness 628 and Witness 618 with the original case file was prejudicial to the alleged victims or to the public interest.

(iv) As to the failure to prepare a prosecution file in respect of Anthony Watton, it is noted that in oral evidence Mr Griffin QC accepted that a prosecution file for a deceased perpetrator would not be necessary and should not have been prepared.

Section 12 - The Inquiry Process

187. The SOJP considers that in conducting its analysis and evaluation of the evidence received and the submissions made the Inquiry Panel should review the processes and procedures which have developed through the course of the process with a critical eye. It has been and remains a matter of concern for the SOJP that the Inquiry's policies and practices in receiving evidence have not been sufficiently ascertainable or transparent to produce the best and/or most proportionate process.

Documentary Disclosure

188. In respect of the documentary disclosure provided by the SOJP, it is a concern that the significant volume of disclosure provided has not been used by the Inquiry. The SOJP notes with concern that 2 million pages of disclosure have been disclosed to the Inquiry yet only 66,000 pages have been 'used'. Expressing this in percentage terms, the Inquiry has only used 3.3% of the totality of the documents provided to it at significant expense by the SOJP and other document providers. The SOJP regrets that the Inquiry was unwilling to assist the SOJP as a major document provider with guidance as to the "relevancy" of certain classes of documents to its Terms of Reference.

189. In the course of assisting the Inquiry, the SOJP has provided over 40,000 pages of general disclosure and has promptly complied with specific disclosure requests and other information requests received from the Inquiry, nevertheless:

(i) as has previously been submitted by the SOPJP the terms of the summons on the SOJP served were unnecessarily broad; and

(ii) repeated requests for documents which had previously been disclosed suggest that the document management processes adopted by the Inquiry have not been fit for purpose,

and the SOJP is therefore concerned that the disclosure process has been unnecessarily expensive and time consuming.

190. As to the oral and witness statement evidence received by the Inquiry, it has been and remains a cause for concern that the approach to be adopted by the Inquiry may not have been transparent and that this has prejudiced the ability of the SOJP to present its evidence and submissions to the Inquiry in the fullest and most appropriate manner.

191. It is particularly unclear how the Inquiry has or proposes to treat evidence produced in its various forms, particularly in respect of the admissibility of some testimony or the weight that the Inquiry will attribute to each and any particular class of evidence.

Questioning

(i) In respect of all oral evidence given at hearings, the process of having to submit questions to Counsel for the Inquiry to review and ask at their discretion is deeply unsatisfactory. That the Inquiry's process is inquisitorial rather than adversarial does not of itself prohibit the ability for interested parties to ask proper questions. There is no reason why the course of questioning of witnesses could not have proceeded by way of non-leading questions, in a manner which would not be cross examination but which might lead to useful avenues for further investigation by interested parties and/or the Inquiry. The SOJP is firmly of the belief that it would have been of great assistance to the Inquiry to have had the benefit of more expansive questioning. The Inquiry will be aware that a number of interested parties were represented by Jersey Advocates and to the extent that any other interested party wished to propose questions without the assistance of a Jersey Advocate, the Inquiry has proved more than robust enough to ensure that witnesses have adequate protections.

Written Evidence outside the Terms of Reference

(ii) It has been and remains entirely unclear as to the weight to be attributed to evidence received from witnesses in witness statements or orally which falls outside the Inquiry's Terms of Reference. The SOJP had been put to significant expense and its ability to assist the

Inquiry has been significantly prejudiced by reason of the Inquiry's failure to explain how it is treating evidence received which falls outside the Inquiry's terms of reference. To the extent that it is able, the SOJP has attempted to meet matters of particular criticism notwithstanding they are outside the Inquiry's terms of reference; however, to the extent that any particular point of criticism of the SOJP falling outside the terms of reference has not been addressed, the SOJP joins issue with any such allegation and strongly urges the Inquiry to disregard it until such time as that allegation has been properly particularised and the SOJP has had the opportunity to respond.

Hearing Witness Statements

(iii) The process of reading in witness statements without the opportunity to verify those statements by means of an albeit flawed questioning process is unacceptable. It is respectfully impossible for the Inquiry to attribute any weight to evidence in the form of statements which were generally not prepared for the purposes of the Inquiry, where a witness has chosen when given the opportunity, not to attend the Inquiry and support their evidence or otherwise engage with the evidence gathering process, and where the Inquiry has not had the opportunity to evaluate the demeanour of the witness and the manner in which the witness gives evidence. The SOJP is firmly of the opinion that the process of reading in will lead to a materially and significantly flawed process if any weight whatsoever is attributed to this class of evidence.

192. By letter dated 21 October 2015, the SOJP sought clarification as to the Inquiry's treatment of witness evidence. More particularly it was asked whether the Inquiry accepted the truth of all factual statements made by the witnesses, or whether the Inquiry only accepted the truth of facts which have been "tested" insofar as they have been, by oral questioning. No response has ever been received by the SOJP and the Inquiry's position remains unclear to the SOJP and the SOJP

remains concerned that the Inquiry's findings or recommendations may be predicated upon an inaccurate factual matrix.

Interpretation of the Terms of Reference

193. The SOJP as an institution has been concerned at the Inquiry's approach to its Terms of Reference. The Inquiry was set up to investigate issues relating to the abuse of children in care in Jersey. It is quite clear from the Verita Report published in November 2011 that the focus of the Inquiry was to be "*residential care and fostering services, State and privately provided*".

194. The subsequent review of the Terms of Reference by Andrew Williamson again emphasised that the Inquiry was into the "*care system in Jersey*", focusing on persons in *"full time residential care"*. He recommended that the Inquiry be convened with *"particular reference to the standards of care provided to children in the care system"*. The report to the States Lodged *au Greffe* on 6 November 2012 by the Council of Minsters made it clear that the focus of the Inquiry was to be the Island's *"historical residential care system"*.

195. Furthermore, the Chair's opening address and the opening addresses by Counsel to the Inquiry on 3 April 2014 indicated that the terms of the reference would be considered against the background of the purpose of the Inquiry namely:

"*The Inquiry has been set up to establish what went wrong in the Island's care system over many years and to find answers for people who have suffered abuse as children.... Our purpose is to establish the truth; the truth about what happened to children in residential and foster homes, how mistreatment of children remained hidden for so long and what was done when concerns were raised*".

The Chair further stated that:

"*The Inquiry will not be treating each Term of Reference in isolation – there are many common issues all of which aim to address the following central concerns*".

196. The Chair went on to set out those concerns which focussed on "*children's homes and other statutory child care provision*".

197. Despite the clear and unambiguous focus of the Inquiry's Terms of Reference, the SOJP has received requests for documentation that fall plainly outside of the Terms of Reference. One example of this is requests made for information regarding Victoria College, an independent boys' school with at best a limited nexus.

198. Solicitors to the Inquiry have stated in correspondence that matters that occurred at Victoria College are relevant to Terms of Reference 4, 8, 9, 10, 11, 12 and 15 because Victoria College was "*partially funded by the States*" so this *"falls squarely within the Terms of Reference"*. The SOJP does not agree with this analysis and this has been clearly communicated to the Inquiry in correspondence (Carey Olsen to the Inquiry - 15 September 2014).

199. On 22 July 2014 the Chair said:

"*We are here to investigate the abuse and mis-treatment of children placed in children homes and foster care in Jersey from the Second World War*".

This was echoed on several different occasions by Counsel to the Inquiry.

200. Institutionally, the SOJP has been surprised at the amount of hearing time during Phase 2 which was devoted to consideration of the circumstances surrounding the suspension of Chief Officer Mr Power by the Home Affairs Minister Deputy Andrew Lewis on 12 November 2008.

201. Term of Reference 13 entitles the Inquiry to consider whether the process of submitting files of evidence from the SOJP to the prosecuting authorities was free from political interference at any level. The Inquiry is entitled to look into whether Mr Power's effective removal from strategic oversight of the SOJP did impact on the submission of evidence to the prosecuting authorities. It is the SOJP's position that Mr Power's suspension had no adverse impact on the Operation Rectangle abuse investigation, other than a temporary dent to the morale of the officers involved in the

investigation when it was being criticised. As a result of this expansive interpretation of the Terms of Reference, the SOJP has had to engage in extended correspondences with Solicitors to the Inquiry.

Relevant evidence not received by the Inquiry

202. The St Helier Town Hall and 11 country Parish Halls may hold important evidence within the Terms of Reference of the Inquiry, particularly, but not exclusively, in respect of the earlier parts of its review. The SOJP has informed the Inquiry of this issue but no remedial action appears to have been taken. The reality is that the Inquiry has only received disclosure from one of the Island's thirteen police forces.

203. The Inquiry has not received any evidence from Advocate Simon Thomas and has only received very limited evidence from Advocate Stephen Baker. If the Inquiry intends to make findings about the professionalism or otherwise of the approach of the criminal justice system in Jersey in respect of the Operation Rectangle cases but has received extremely minimal evidence from the prosecutors appointed by the Attorney General to handle those cases.

204. The SOJP is also concerned that the Inquiry has not secured evidence from former Senator Stuart Syvret. Mr Syvret has been an extremely vocal critic of child protection arrangements in the Island for many years. The Inquiry has heard evidence from the police officers and former police officers who worked on Operation Rectangle and is aware of the evidence that more than any other politician, Mr Syvret intruded on the operational space that any police service should be afforded in a major investigation. The Inquiry has heard that Mr Syvret's actions in instructing a BBC Panorama team of investigative journalists forced Operation Rectangle from its covert stage into its overt stage earlier than the SOJP wished. The Inquiry has had the benefit of disclosure of Mr Syvret's emails to police officers involved in Operation Rectangle, the tone and regularity of such it is submitted was inappropriate. The SOJP is not confident that Mr Syvret has disclosed all relevant documents and evidence in his possession to the Major Incident Room.

205. The SOJP expects that the Inquiry will find that there was political interference in Operation Rectangle from Mr Syvret.

The Redaction Protocol

October 2014 Rulings

206. The SOJP is concerned by the Inquiry Panel rulings handed down on 24 October 2014, following applications by Counsel to the Inquiry to amend the Inquiry Protocol: Freedom of Information, Data Protection and Redaction.

207. Notwithstanding the Inquiry's rulings of 24 October 2014, the SOJP continues to consider that it is unhelpful in a small community for there to be any naming of persons who have been accused but not convicted of child abuse in circumstances where their family are likely to be still living and easily identifiable. Naming of such individuals might bring about recriminations, shaming of individuals and their families and substantial ill-feeling and is expected to do little for community cohesion. These effects may be felt long after the Inquiry's work has been completed, particularly if those individuals or their families are not in a position to defend their reputations due to death, infirmity or financial constraints.

Provisional Redactions

208. In February 2015, the Inquiry amended the Protocol to remove the right of the SOJP and other document providers to apply provisional redactions to the documents supplied to the Inquiry. The SOJP was essentially being required to rely upon the Solicitors to the Inquiry, to redact documents adequately. In practice, the Inquiry rarely provided the 5 days' notice to the SOJP that a particular document was going to be used in proceedings that was required pursuant to paragraph 22.3 of the Protocol. This gave rise to significant failings in the redaction process which cannot be timeously addressed by the document providers.

209. The majority of the documents provided to the Inquiry by the SOJP contain personal data that was imparted to its officers and is retained by the organisation in circumstances where it might have been anticipated to be used for the purposes of criminal investigations. In applicable cases, that information is retained with an attached right to anonymity in accordance with the Criminal Justice (Anonymity in Sexual Offence Cases) (Jersey) Law 2002. It is reasonable to assume that it was not anticipated by the data providers that their personal data would be used in a public inquiry. It must follow that it is particularly important that appropriate safeguards are in place.

210. Unfortunately, Solicitors to the Inquiry displayed a relatively high propensity to fail to redact personal data in documents that the Inquiry has generated or that it has received from elsewhere than the "official" document providers. Where we have detected such errors, we have pointed them out to allow the Inquiry to make protective rulings. As by failing to operate within its own protocols in respect of the timeous disclosure of documents to Interested Parties, Carey Olsen were given little or no notice that the Inquiry is going to use particular documents, such that problems often only became apparent after a breach had already been committed.

211. There have been numerous instances of careless leaks of data to Interested Parties due to redaction errors by the Inquiry which we have pointed out. The following is a non-exhaustive list of occasions on which redaction errors by the Inquiry have caused inadvertent leakage of data to the wider group of Interested Parties, including on the following dates:

(i) 17 March 2016;

(ii) 7 August 2015;

(iii) 4 August 2015;

(iv) 30 June 2015;

(v) 18 June 2015 (also involving a reporting restriction pursuant to the Criminal Justice (Anonymity in Sexual Offence Cases) (Jersey) Law 2002);

(vi) 09 June 2015;

(vii) 02 June 2015;

(viii) 27 May 2015;

(ix) 13 April 2015;

(x) 11 December 2014; and

(xi) 2 October 2014.

212. The SOJP has in fact continued to apply provisional redactions to the documents supplied to the Inquiry by the SOJP, notwithstanding the February 2015 amendments. While these provisional redactions have no status under the Protocol as it has been amended, they provided a record as to the personal data and other information that the SOJP considered should be redacted.

Redaction suggestions

213. Solicitors to the Inquiry regularly resisted the suggestions of the SOJP to redact certain identifying features of witnesses. Month and year of birth of particular witnesses is a notable example. It is not clear why such specific personal data was left unredacted or why it assists the Inquiry's processes not to take the abundance of caution approach to redaction.

Inadvertent releases of data to Interested Parties with access to Opus Magnum

214. Even when personal data has been inadvertently released and the issue has been identified by document providers or others, those releases have not been remediated with due expediency. There was a particularly unfortunate example on 30 June 2015 of when a document was incorrectly shared with all the Interested Parties and then not taken off Opus Magnum, the document management system to which all Interested Parties have access, with the expediency the SOJP expected.

Practical Evidential Issues

215. The SOJP as an institution considers that it is important that untested evidence does not inform the Inquiry's findings, even as far as context is concerned.

Mr Power

216. On 4 and 5 November 2015 Mr Power provided live evidence to the Inquiry. Significant tracts of Mr Power's Inquiry witness statement concerned matters falling outside the Terms of Reference of the Inquiry. Two such examples were in relation to the drug squad (paragraph 49) and Operation Blast (paragraph 539), both of which were capable of causing unnecessary and unfair damage to the SOJP's reputation particularly as Mr Power's Inquiry statement was uploaded to Magnum where the public may not have read it in conjunction with the transcript showing Counsel to the Inquiry's warning.

217. The SOJP contends that the correct approach would have been either to omit from the Inquiry witness statement those matters falling outside the Terms of Reference of the Inquiry or to redact those portions before making the Inquiry witness statement available to the public.

Trevor Pitman

218. On 18 November 2015 Mr Trevor Pitman provided live evidence to the Inquiry. Although Mr Pitman's Inquiry witness statement is the longest produced to date it is difficult to identify any part of the statement that falls within the Terms of Reference of the Inquiry. The SOJP's position on this matter was noted contemporaneously.

219. The SOJP has not devoted finite resources to investigating the unsubstantiated allegations made in Mr Pitman's witness statement and, as such, this evidence remains untested. There exist many further similar examples to the evidential problems which arise in respect of the testimony of Mr Power and Mr Pitman.

Tina Maguire

220. Tina Maguire's evidence, which was given by video link from Cardiff on 22 January 2015, generated some extremely adverse publicity for the SOJP. For example, on page [redacted] of the [redacted] edition of 23 January 2015, there is an article headlined "[redacted] *Care Inquiry*". The article contains the following bold text by-line: "[redacted]".

221. The article pertains to Miss Maguire's allegation that she was raped by [redacted] in [redacted] which was 4 years after she had ceased to be a resident at HDLG, and alleges that she was not taken seriously by the SOJP when she attended Rouge Bouillon Police Station, bleeding and distressed, to report the rape. Miss Maguire told the Inquiry that inaction by the SOJP caused her to take matters into her own hands, approximately two days later, by administering a lethal dose of sleeping tablets to [redacted] which [redacted] did not consume in its entirety.

222. The SOJP retrieved its investigation file relating to the poisoning of [redacted] by Miss Maguire and has provided the same to the Inquiry. This investigation led to Miss Maguire pleading guilty to an offence of maliciously causing a noxious substance to be taken with intent to injure, aggrieve or annoy on 18 July 1986. Miss Maguire was given a three year probation order by the Royal Court. When Miss Maguire was interviewed by the SOJP in relation to the poisoning, Miss Maguire gave various explanations for her conduct as follows:

(i) Miss Maguire was offended by some sexually explicit letters between [redacted] and a woman in the UK;

(ii) Miss Maguire took exception to [redacted] allegedly "smacking" his son [redacted] (to whom Miss Maguire was close) for hanging pictures on his bedroom wall; and

(iii) Miss Maguire alleged that [redacted] has raped her at his place of work two years earlier in approximately 1984.

223. There was no suggestion in 1986 that [redacted] had raped Miss Maguire at that time or that she had tried to report a recent rape or indeed any rape to the SOJP. The only rape allegation made by Miss Maguire against [redacted] to the SOJP was historic, and that allegation was only made after Miss Maguire had been arrested in connection with the poisoning incident. The allegation that [redacted] raped Miss Maguire in 1984 was denied by [redacted]

224. The SOJP only discovered that Miss Maguire was going to be providing live evidence when she appeared on the video screen live link on 22 January 2015, before this she had been referred to by the Inquiry as [redacted] The SOJP were afforded no opportunity whatsoever to investigate Miss Maguire's allegations against the SOJP before they were publicly presented as fact. This was a breach of paragraphs 17 and 18 of the Inquiry Protocol on Oral Hearings, but also denied the SOJP the opportunity to put questions forward for a witness to be asked pursuant to paragraph 19.4 of the Inquiry Protocol on General Procedures.

225. This incident is likely to have impacted on the SOJP's reputation and the Inquiry's credibility when with proper management any such impacts could have been avoided.

The Final Report

226. In respect of the Final Report, the SOJP notes with concern the Inquiry's stated intention to provide the Interested Parties with notice of the contents just two hours ahead of publication. In the SOJP's submission, two hours does not provide adequate time to perform even a perfunctory skim read of what is expected to be a very substantial final report. The SOJP disagrees that "Maxwellisation" in the context of a public Inquiry is unnecessary, contrary to some opinion[2]. The SOJP submits that the Inquiry needs to reconsider its plans for there to be no Maxwellisation process.

[2] "Public Inquiries: Getting at the truth", Peter Watkin Jones and Nicholas Griffin QC, Law Society Gazette, 22 June 2015

Section 13 – Recommendations and Submissions

227. DCO Bastable and Detective Superintendent Gull have provided evidence at Phase 3(d) of the Inquiry. For present purposes, we restate the key message that the SOJP has worked hard in recent years at seeking continuous business improvement right across the PPU service area. It is critical to the success of child protection and safeguarding that the strength of this unit is not inadvertently undermined. With continuing increased service demand, further investment will be required in order to ensure an effective service.

228. The SOJP takes this opportunity to restate the concern that any tendencies to withdraw from partnership working are counterproductive. The SOJP remains uneasy about the disbanding of the Youth Action Team circa 2010 following an earlier Comprehensive Spending Review.

229. The SOJP believes that the Sexual Assault Referral Centre (SARC) requires additional investment and in particular, there is a need to coordinate victim services which is currently absent from SARC processes including victim therapy and family counselling support.

230. Superintendent Gull has highlighted the problems caused by high demand families and the social problem of persons aged 16 – 25 who are Not in Education, Employment or Training. The SOJP advocates a multi-agency programme of targeted support in these areas.

231. While this Inquiry has been underway, in November 2015, the English Children's Commissioner, Anne Longfield OBE, published a report entitled "*Protecting Children from harm, A critical assessment of CSA in the family network in England*". The view of the SOJP senior management is that the 11 recommendations contained within the report should be considered by all Jersey agencies involved in child protection arrangements, led by the Safeguarding Partnership Board, which is due to consider the report in 2016.

232. The concept of having a statutory mandatory reporting obligation in respect of child abuse has recently been considered by the Safeguarding Partnership Board, of which the SOJP is part and the

SPB does not support the implementation of mandatory reporting in light of the current available research. The SPB has concluded that the duty to report is best supported by professional codes of conduct and effective information sharing protocols rather than by criminal legislation, which has proven ineffective in other jurisdictions.

233. The SOJP is content with the present prosecution arrangements within the Island. That is not to say that there is no scope for the improvement or streamlining of prosecution processes, simply that the SOJP does not support a wholesale reinvention of the wheel. The SOJP is insistent that child abuse cases should not be dealt with at Parish Hall level but should be reported to the SOJP for professional investigation.

Submissions

234. At the close of this Inquiry, the SOJP would like to emphatically restate the sympathy and understanding which all police officers who have been involved in investigations into child abuse in Jersey feel towards the victims. The SOJP would like to take this opportunity to pay tribute to the bravery of those victims who assisted the SOJP's investigations as well as those who have come forward to help this Inquiry.

235. The SOJP would like to assure all victims that all allegations of child abuse in Jersey are taken seriously and treated with compassion by highly trained and professional officers of the SOJP's Public Protection Unit.

[redacted]

Carey Olsen

21 March 2016

IN THE MATTER OF THE INDEPENDENT JERSEY CARE INQUIRY

STATES OF JERSEY POLICE
SUBMISSIONS IN REPLY

Introduction

1. The States of Jersey Police has had the benefit of considering the written submissions filed and served by the other Interested Parties. The States of Jersey Police is broadly in agreement with and does not join issue with those Written Closing Submissions to any significant degree, save as in respect of those filed by the Jersey Care Leavers Association (the "JCLA") as particularised below.

2. The States of Jersey Police (the "SOJP") notes that the Written Closing Submissions filed are in general positive and complimentary as to the role and conduct of its officers and employees, as is reflected in the evidence received by the Inquiry.

A Preliminary Issue

3. As an important but preliminary issue the SOJP wishes to associate itself with the Chief Minister's request for early dialogue with the Panel as to potential recommendations at paragraph 115 of the Government of Jersey submissions.

4. The SOJP is operationally independent of the Government of Jersey and would be assisted in its efforts to implement Inquiry recommendations into police policies and procedures in the future if it is a full partner in this early dialogue.

5. For the avoidance of doubt it continues to be the opinion of the SOJP that the Inquiry's Report would be better having had the benefit of comment from Interested Parties before publication in its final form.

Former DCO Michael Gradwell

6. The SOJP does not join issue with Mr Gradwell's Written Closing Submissions insofar as they address the matters within the Terms of Reference of the Inquiry. The Inquiry should have the point that the SOJP is firmly of the opinion that Mr Gradwell's evidence to the Inquiry strayed well outside the Terms of Reference and save as provided at 7 below, the SOJP has not responded herein to those parts of Mr Gradwell's evidence. Should the Inquiry consider it necessary for the SOJP to so respond the SOJP will of course assist the Inquiry to the best of its ability.

7. For the avoidance of any doubt the SOJP reiterates its position that the financial management of Operation Rectangle is outwith the Terms of Reference of the Inquiry and has been examined and scrutinised by others appointed for the purpose.

8. The SOJP associates itself with the confirmation at paragraph 2.1 of Mr Gradwell's Written Submission that it was justifiable for Operation Rectangle to be commenced in the second half of 2007.

The JCLA

9. The SOJP supports the aims and aspirations of the JCLA but joins issue with parts of the JCLA Written Closing Submissions as filed. Save where the context indicates otherwise references to paragraphs below refer to the corresponding paragraphs in the JCLA Written Submissions.

10. It has come to our attention in the days immediately preceding the deadline for filing these Responsive Submissions that the JCLA Closing Submissions have been removed from the Inquiry's Magnum database. The SOJP may amend or expand these Responsive Submissions if there are material changes to the original draft of the JCLA Written Submissions.

Under Paragraph 1

11. The identification of various categories by reference to which a child may have historically been placed in care is potentially unhelpful as it may give rise to an inaccurate and potentially misleading characterisation of the Jersey care system.

12. It is suggested that:

"Children were placed in care for the following reasons: parental convenience; destitution; family breakdown; parental "social inadequacy"; criminality; bereavement; and abandonment".

13. Paragraphs 1.1.2 – 1.1.10 provide a limited number of witness statements detailing the sometimes supposed or inferred reasons as to why a particular witness was placed into care. This approach by the JCLA lacks precision and is unhelpful.

(i) The witness statements selected do not represent a cross-section of experiences as to why children were placed into care. By way of example criminality either on the part of the child or the parent(s) does not feature in the witness statements identified by the JCLA despite remand by the courts being a prevalent reason for children being taken into care.

(ii) Further as a matter of common sense it is far more likely that a decision to place a child into care was reached as a result of a number of contributing factors.

(iii) It is unfortunate that the annual Children's Officer's reports did not routinely provide information as to why children were placed into care, which calls into question the precision of the statistical analysis at paragraph 1.8.

Under Paragraph 6 – Mr Power

14. As regards paragraph 6.18 of the JCLA Closing Submissions, the SOJP disagree with the assertion that Mr Power left himself vulnerable by failing to achieve the right balance between vested interests.

15. We note that the JCLA does not identify who or what these vested interests were. On the contrary, Mr Power was vulnerable by reason of his failure in command in permitting Mr Harper to be SIO of Operation Rectangle and was thereafter resistant to the rectification of Mr Harper's mistakes after Mr Harper had retired. The latter course of action was directly causative of David Warcup, who was Mr Harper's replacement as SIO of Operation Rectangle, losing confidence in Mr Power. The Inquiry is referred to the clear impartial explanation as to why this was the case provided by Former DI Robert Bonney at paragraph 12 of his second witness statement dated 26 November 2015, as referred to at paragraph 127 of the SOJP written Closing Submissions.

16. The JCLA assert at paragraph 6.29 that it was "*clear*" by the summer of 2007 that the relationship between Mr Power and the States of Jersey was "*an estranged one*". The JCLA say that the reason for this was Mr Power having recused himself from a meeting at which a vote of no confidence in then Senator Stuart Syvret was discussed. It is respectfully submitted that this submission is epistemologically flawed.

17. In fact the evidence suggests that Mr Power had strained relationships with a number of public sector colleagues. The Inquiry has heard evidence from Wendy Kinnard and Andrew Lewis about the parlous state of relations between the SOJP and Jersey's Customs and Immigration Service. Wendy Kinnard noted that Mr Power was at fault in allowing animosity to develop with the Customs and Immigration Service. The Inquiry may have to accept that Mr Power simply had a difficulty in building and maintaining key relationships.

Under paragraph 6 - Mr Harper

18. The SOJP considers that the JCLA Written Closing Submissions do not properly address Mr Harper's failings in respect of Operation Rectangle.

19. At paragraph 6.21 of the JCLA written Closing Submissions, the question is posed:

"*If Mr Harper had not been the man on the scene would we have ever learnt so much about child abuse in Jersey?*"

and at paragraph 6.22 a tentative answer of "*probably not*" is advanced.

20. The SOJP rejects the notion that a fully trained SIO would have failed to cause all Operation Rectangle evidential leads to be rigorously pursued. On the contrary, Mr Harper's actions, particularly in relation to the physical evidence search, risked affecting public confidence in the SOJP and complicated the prosecution of abuse cases arising from Operation Rectangle.

21. The current management of the SOJP are confident that the conduct of Operation Rectangle's Deputy SIOs, Alison Fossey and, for a short time, Keith Bray, was principally responsible for driving forward the historical institutional child abuse investigation from a Major Incident Room at Police Headquarters. Public perceptions may be difficult to correct in this regard due to Mr Harper's high profile in the media sphere but in the SOJP's submission those public perceptions are flawed.

22. The current management of the SOJP joins issue with the assertions at paragraph 13:21 that:

"*Mr Harper kept the public and the media fully briefed*"

and "*The criticism that he played to the gallery is unfair*".

23. The SOJP contends that Mr Harper did not keep the public and the media fully briefed in respect of Operation Rectangle.

(i) The Inquiry will be fully aware that Mr Harper omitted to inform the public and media in unequivocal terms that there was no evidence of any homicides at Haut de la Garenne when all reasonable avenues of Inquiry had been pursued.

(ii) Mr Harper took the conscious decision not to publicise the final conclusions of Oxford Laboratories in relation to Exhibit JAR6. Mr Harper had a window of at least 4 months prior to his retirement to retract his 23 February 2008 announcement that the "*partial remains of a child*" had been located at Haut de la Garenne.

(iii) Whereas in continuing to fail to keep the public and the media fully brief Mr Harper announced in July 2008 that the partial burnt and cut remains of at least five children had been discovered at Haut de la Garenne, among other such announcements and unofficial briefings to favoured journalists when there was no evidence whatsoever of any such thing.

24. While the issue of the physical evidence search is strictly outside the Terms of Reference of the Inquiry, Mr Harper's conduct before the media caused serious difficulties and complications for the abuse side of Operation Rectangle, as the Inquiry has heard from many witnesses.

25. Commissioner Pitchers provided a judicial perspective on Mr Harper's action in his judgment in the combined abuse of process hearing, itself brought about as a direct result of Mr Harper's actions, reported as *Attorney General v Aubin, Donnelly and Wateridge (2009) JLR 340* where it was said:

"*Mr. Harper, by constant and dramatic press conferences and informal briefings, whipped up a frenzied interest in the inquiry, not in respect of the solid police work that was being done to investigate the serious allegations of child sex abuse, but in respect of what had turned out to be completely unfounded suggestions of multiple murder and torture in secret cellars under the building*".

26. The SOJP disagrees with any suggestion that Commissioner Pitchers' words should not be taken at face value. It is the belief of the current management of the SOJP that the Royal Court's position on Mr Harper's media strategy is correct, clear and cogent.

27. It is the SOJP's position that the JCLA Written Closing Submissions do not accurately recount the true position. The current management of the SOJP considers in light of all the evidence before the Inquiry it is clear that Mr Harper was to blame for the deterioration in the relationship between the Operation Rectangle investigation team and the Law Officers' Department. Mr Harper was unnecessarily confrontational and combative in his dealings with the Law Officers. He unjustifiably played out disagreements with the Attorney General, in particular in respect of the case of Witness 279 and Witness 281, in the public domain. Mr Harper was resistant to the Attorney General's idea of placing Barrister Simon Thomas within the Major Incident Room in accordance with best practice in the UK. This was at Mr Harper's sole instigation. Mr Harper did not have the support of his SOJP subordinates in taking these actions, but he overruled them.

28. The SOJP notes that elsewhere in the JCLA submissions at paragraph 13.29 it is stated that

"*following Mr Harper's retirement a new regime ensured that the SOJP and law officers enjoyed the professional working relationship that should be expected*".

By way of corroboration, the LOD's written Closing Submission at paragraph 187 state:

"*The working practices of both men* [Mick Gradwell and David Warcup] *were recognised by those around them as being more in keeping with the current policing policies and helped create a prosecution team ethos in which everyone felt they played a part in the decisions that were taken*".

29. The rapid normalisation of working relations following Mr Harper's retirement negates the assertion at paragraph 6.28 of the JCLA Written Closing Submissions that "*problematic issues*" would have arisen "*whoever was in harness*".

Under Paragraph 9.19 - Lessons to be learned

Relationship with UK forces

30. At paragraph 9.19(1) it is suggested that:

"[The] *SOJP should have a far deeper and on-going permanent relationship with a neighbouring UK force: for recruitment, training, experience and operations*".

For the avoidance of doubt the SOJP has had and continues to have on-going relationships for professional cooperation and resource sharing with UK police forces including in particular Devon and Cornwall Police. The Inquiry will be aware that the SOJP's access to the Home Office Large Major Enquiry System (HOLMES) and the UK's Police National Computer is facilitated via Devon and Cornwall Police. There are numerous other formal and informal links with Devon and Cornwall Police and other UK forces.

31. The Inquiry will be aware that officers within the SOJP's senior ranks, including within the top tiers of command such as Superintendent Stewart Gull, Deputy Chief Officer Robert Bastable and Chief Officer Michael Bowron have joined the SOJP after having trained and spent the majority of their careers as senior police officers within UK police forces.

32. The SOJP annual reports demonstrate that there has been considerable recruitment of officers from the UK over the years and, *vice versa*, a considerable number of officers from Jersey have transferred to UK forces.

33. The SOJP is not a UK "Home Office" police force however it submits and will continue to submit to "General" and "Focused" voluntary inspections by Her Majesty's Inspectorate of Constabulary and the current management of the SOJP recognises the great benefit that such inspections bring.

34. The SOJP expects officers of the force to be familiar with and operate in accordance with guidance promulgated in the UK including that published by the Home Office, The Association of Chief Police Officers (formerly) and The National Police Chief's Council (latterly). This guidance includes guidance on Achieving Best Evidence in Child Sexual Abuse Cases and Guidance on Investigating Child Abuse and Safeguarding Children.

35. The SOJP is fully embedded within all key UK police projects including:

(i) National Police Chief's Council (NPCC);

(ii) ACRO Criminal Records Office (ACRO);

(iii) AVCIS Vehicle Crime Intelligence Service (AVCIS);

(iv) National Ballistics Intelligence Service (NABIS);

(v) National Domestic Extremism and Disorder Intelligence Unit (NDEDIU);

(vi) National Police Coordination Centre (NPoCC);

(vii) National Police Freedom of Information and Data Protection Unit (NPFDU); and

(viii) UK National Counter Terrorism Policing HQ (NCTP HQ).

36. The Inquiry Panel is familiar with the on-going historical child abuse investigation codenamed Operation Whistle. The SOJP refers to this operation to demonstrate both the close and effective working relationship the SOJP maintains with UK police forces pursuing that investigation within the wider auspices of Operation Hydrant, and also the priority given to safeguarding operations including child abuse, by the command role taken by Superintendent Gull in that operation.

37. There is significant and meaningful cooperation with UK equivalents in other areas of the SOJP's business such as between the Jersey Financial Crimes Unit and the Serious Fraud Office and City of

London Police and across many police disciplines, albeit not relevant here by reason of them being outside the Terms of Reference.

38. It would not be accurate to characterise the SOJP as a provincial police force operating in a vacuum from the wider police service if that is what the JCLA suggest. The SOJP is a full spectrum national police force for Jersey which achieves value for money for the Jersey taxpayer by making optimal use of the resources available to it. Crime rates are significantly lower in Jersey than in the UK and public satisfaction in the SOJP is above the UK average. The recent record of the SOJP is well summarised in the States of Jersey Proposition for the Re-appointment of Chief Officer Michael Bowron (Proposition 70 of 2015) stating *inter alia* that 81% of the Jersey public are satisfied with the service provided by the SOJP.

39. The SOJP also refers to the appointment of Superintendent Stewart Gull who has a long and distinguished record in policing in the UK and now in Jersey. The Inquiry will be aware that Superintendent Gull considers that the SOJP Public Protection Unit of which he has command is able to investigate such child abuse matters arising in the Island which come to its attention. The officers of the PPU offer a wealth of experience in dealing with cases within the Inquiry's sphere of interest, the instance of child abuse in Jersey being consistent with UK and European averages.

40. The SOJP notes paragraph 6.13 where it is stated that:

"*Both Mr Power and Mr Harper lacked sufficient up-to-date knowledge in comparison to their UK counterparts, but the SOJP should have had a far deeper operational relationship. Its officers should have had on-going professional development with UK forces. It is inexcusable that none of the SOJP officers had up-to-date experience for the conduct of a major inquiry such as Operation Rectangle*".

41. The SOJP joins issue with the above statement.

(i) It is correct that both Mr Power and Mr Harper lacked sufficient up to date knowledge and in particular, by reason of that shortcoming Mr Power ought not to have permitted Mr Harper to take the role of Senior Investigating Officer ("SIO") of Operation Rectangle, nominally under the theoretical command, control and supervision of Mr Power.

(ii) There were a number of officers who did have the requisite training and who held the ranks of Inspector or above within the SOJP including Alison Fossey, Shaun Du Val, David Minty and Andre Bonjour.

(iii) Superintendent Bonjour has told the Inquiry of the extensive SIO training he received which was up to date as of June 2007. This training included in excess of one year spent in the UK, including in high crime localities, in addition to a period spent training with the FBI in the United States.

(iv) For some reason which has still not been ascertained Mr Harper and/or Mr Power overlooked all of these officers for the role of Operation Rectangle SIO.

(v) The alternative of hiring an experienced SIO from the UK on a temporary basis or on secondment solely for the purposes of Operation Rectangle was not initially considered from the outset, albeit that it was eventually pursued with the appointment of Mr Gradwell from Lancashire Police on a temporary basis after Mr Harper left Jersey.

(vi) Further, the option to seek to extend the tenure in Jersey of Superintendent John Pearson, another experienced career detective was not pursued by Mr Power. The Inquiry has heard that Superintendent Pearson retired at "*almost the exact point*" that Operation Rectangle commenced but no reason has been given as to why that option was not pursued.

42. Mr Harper insists that he had "grandfather rights" which meant that his SIO training was valid as of June 2007 but the SOJP do not consider that this is correct. The SOJP maintains its position that Mr

Harper was not qualified or suitably placed within the police command structure to take the SIO role. The Inquiry has not heard of any reason why it would not have been possible at the outset to appoint an outside SIO had Mr Harper held up his hands and admitted that he did not have the requisite experience.

43. It follows that contrary to the position put forward by the JCLA, the evidence suggests that the problem was not so much a lack of investment in people by the SOJP, as it was the determination by Mr Harper that he could fulfil the Operation Rectangle SIO role himself to the eventual detriment of the operation.

44. A further point in response to the criticism at paragraph 6.13 is that there was a dearth of UK precedent to follow in respect of historical institutional child abuse investigations in 2007. Operation Rectangle preceded other recent high profile historical child abuse investigations. The position is well put in the Written Closing Submissions of the Government of Jersey at paragraph 31:

"*Since the launch of Operation Rectangle, in recent years more and more instances of abuse have surfaced, with the voices of survivors heard around the world*".

45. It is unclear what UK experience the JCLA is suggesting that the SOJP might have accessed as Operation Rectangle was the first of its kind in terms of historic abuse inquiries. It is telling that no particular individuals or cases are identified by the JCLA.

SOJP's relationship with politicians

46. At paragraph 9.19(2) the JCLA submits:

"*There should be clear boundaries between politicians and the SOJP. The SOJP has to be accountable but this has to be transparent and must be seen to be independent*".

47. It is submitted that this position now is much better defined than it was at the time of Operation Rectangle by reason of the creation of the Independent Jersey Police Authority ("IJPA") pursuant to the States of Jersey Police Force Law 2012 (the "2012 Law"). The IJPA is chaired by Advocate Jonathan White and has six additional committee members. The specific duties of the IJPA are set out in Article 4 of the 2012 Law and are to ensure that the SOJP:

(i) is an efficient and effective police force;

(ii) delivers the key aims and objectives referred to in Article 3(3)(a) of the 2012 Law within the resources available; and

(iii) acts in accordance with any management policies referred to in Article 3(3)(b) of the 2012 Law.

48. The current management of the SOJP regrets that the IJPA was not set up earlier. This may have helped to avoid some of the difficulties which were experienced during Operation Rectangle. For example, Deputy Chief Officer Warcup's options were limited when he found himself in the position of needing to make a disclosure to somebody about difficulties he was experiencing with Mr Power. Specifically the Inquiry has heard that:

(i) Mr Power repeatedly vetoed the reasonable good faith decision Mr Warcup had made as Operation Rectangle SIO to hold a press conference in order to clearly state for the record that there was no evidence of any child homicides at Haut de la Garenne, which was made by reference to legal advice from the Attorney General and from media expert Matt Tapp,; and

(ii) Mr Warcup was becoming increasingly concerned during the period August to November 2008 by what the findings of the Metropolitan Police review of Operation Rectangle were

likely to be. Mr Warcup felt that Mr Power was blasé and dismissive about the on-going review.

49. In the event Mr Warcup felt that the only reporting channel open to him was to the States of Jersey generally via Bill Ogley, the then Chief Executive. The position certainly was not as clear as it should have been in 2008.

50. The SOJP considers that the current governance structure is appropriate and accords with best practice derived from UK experiences and suggests that the Inquiry would need to engage with and hear evidence from the IJPA Chairperson and committee members if it is considering making any recommendations in this regard. The SOJP has seen no evidence that the Inquiry has already done so.

Media policy

51. At paragraph 9.19(6) the JCLA submits:

"[The] *SOJP... should have clear media guidelines in relation to police matters and an appointed spokesperson*".

52. The SOJP does subscribe to media guidelines in the form of prescriptive police service guidelines in respect of the investigation of particular types of crime, such as homicides or historical institutional child abuse.

53. In relation to the latter category of cases, the Inquiry is aware that the guidance provides that the SIO should draft a formal written media policy. The Inquiry has heard that there were failings by Mr Harper in this regard during Operation Rectangle.

54. The SOJP has learned from the experience with Mr Harper and cannot envisage any circumstances whereby a Deputy Chief Officer would be SIO of any investigation, other than an internal police

disciplinary inquiry. In addition, a person without adequate training, as was the case with Mr Harper, would not be permitted to be SIO of an historical institutional child abuse investigation. There was a management failure in this regard on the part of each of Mr Power and Mr Harper, but they are no longer officers of the SOJP or any other police force.

55. The "appointed spokesperson" referred to by the JCLA would usually be the SIO of a particular investigation, being the person best placed to respond to questions from the public and the media in relation to the detail of particular cases – if indeed it is deemed to be appropriate to share any details. It is submitted that it would be unhelpful and impractical for the SOJP to be placed in a straightjacket whereby only one individual within the organisation is permitted to speak to the media.

Under Paragraph 13 – The Witness 7 investigation

56. At paragraph 13.4 the JCLA submits:

"*The Law officers were too easily* prepared *to dismiss the allegation,* [made by Witness 206 that he had been digitally penetrated by Witness 7] *in particular officers Mr Pick and Mr Smith, Advocate Baker, Mr Edmunds, and the attorney general, who appear to have acted as judge and jury when assessing*".

57. The Inquiry will be aware that Mick Pick was involved with Operation Rectangle as a civilian investigator seconded from the UK. Andrew Smith was and remains an officer of the SOJP. Neither of these individuals were or are Law Officers and it was for Advocate Baker to challenge, disregard or indeed ignore comments which he did not find to be helpful.

58. Mr Pick is not a legal expert. Mr Pick's observation that "*if it* [the digital penetration] *happened people would have heard*" criticised by the JCLA in paragraph 13.4.2 must be analysed in light of his status. The Inquiry has heard that Advocate Baker encouraged all police officers or civilian investigators involved in Operation Rectangle to provide their views on particular cases if they wished to do so, but the decision was Advocate Baker's.

59. The Inquiry has been provided with a considerable number of police reports authored by Mick Pick, in addition to witness statements taken by Mick Pick and transcripts of interviews conducted by him. Mick Pick is a capable and experienced civilian investigator, having completed a career as a detective in the UK. The various interview transcripts demonstrate that Mick Pick has a good empathetic manner with witnesses and was at all times during Operation Rectangle committed to securing justice for victims of historical child abuse.

The Opinion of Nicholas Griffin QC

60. At paragraph 13.28 of the JCLA submissions it is stated that "*the net result identified by Mr Griffin QC in his report is that police and law officers departed from the high professional standards expected which meant that cases were not considered objectively*". The SOJP considers that the use of the plural form "cases" mischaracterises the evidence of Mr Griffin QC, which was, on the whole, complimentary to the investigative efforts of the SOJP in respect of the selection of child abuse cases considered.

61. Mr Griffin QC opined that the SOJP's approach to the preparation of a prosecution file was not professional in one case only, being the case of Witness 279 and Witness 281. In that case, the only departure from the high professional standards expected by persons within the criminal justice system identified by Mr Griffin QC was on the part of Mr Harper, who purported to usurp Centenier Scaife's charging function and then played out a dispute with the Attorney General in the public domain. The SOJP has already indicated its position that Mr Griffin QC's reasoning is flawed in relation to the case of Witness 279 and Witness 281 (please refer to sub-paragraph 186(ii) of the SOJP submissions).

62. The current management of the SOJP disassociates itself from the ill-considered actions of Mr Harper in relation to the Witness 279 and Witness 281 investigation.

Other matters and Erratum

63. The SOJP broadly disagrees with the formulation of "The Jersey Way" set out in paragraph 6.10 of the JCLA submissions and disputes that this is an accurate characterisation of society in Jersey.

64. While it is true that major child abuse investigations invariably attract criticism, controversy and casualties along the way, as identified at paragraph 6.33 of the JCLA Written Submissions, this does not mean that the police service should do anything other than pursue investigative leads without fear or favour as the record demonstrates that the SOJP has done for many decades. Recent UK historical child abuse investigations, for example those in respect of allegations against the entertainer Cliff Richard and the late Leon Brittan, Baron Brittan of Spennithorne, QC, have not been without criticism of police officers involved.

65. There is an erratum to correct in respect of the SOJP Closing Submissions. The reference to Operation Whistle in paragraph 185 ought to have been to Operation Rectangle.

66. The SOJP would like to make it clear for the purposes of paragraph 144 of the SOJP Closing Submissions that the SOJP did make public interest disclosures prior to October 2008. David Warcup refined rather than commenced the practice and ensured that the SOJP's processes were in accordance with the judicial guidance contained in the seminal case of *R v Chief Constable for North Wales Police Area Authority ex parte AB [1998] 3 All ER 310*.

67. Finally, we have been asked by Solicitors to the Inquiry to append the Second Witness Statements of Deputy Chief Officer Barry Taylor dated 24 March 2016 and First Witness Statement of Dr Helen Miles dated 5 April 2016. While these do not form part of these Responsive Submissions, the witness statements accordingly appear as Appendix 1 and Appendix 2 hereto.

[redacted]

CAREY OLSEN

8 APRIL 2016

APPENDIX 1

SECOND WITNESS STATEMENT OF DEPUTY CHIEF OFFICER BARRY TAYLOR DATED 24 MARCH 2016

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 24 March 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Witness Statement of Barry Taylor

I, Barry Taylor, will say as follows:-

1. I make this witness statement subsequent to my first witness statement dated 29 February 2016 and I respectfully refer to my first statement herein.

2. In this second statement I address issues relevant to the Inquiry which have been addressed in the evidence recently released in the form of 41 additional witnesses now brought to my attention after my first statement had been filed.

3. This statement essentially addresses the fresh evidence but should be considered to be an adjunct to Section 3 of my first witness statement.

4. I refer to Exhibits BT38 to BT50 which contain true copies of documents and correspondence to which I shall refer on this affidavit.

5. I provide my comments in the order that the witness evidence appears in the Magnum folder entitled "*Mini Custom Bundles/Phase 1a, 1b and 2 read ins during Phase 2*".

Witness 55

6. With regard to Paragraph 88 of Witness 55's witness statement, the SOJP did not fail to reply to a subject access request made by Witness 55. Witness 55 has entered into extensive correspondence with the SOJP and Children's Services, copies of which are produced as **Exhibit BT38**. Following an SOJP investigation into Witness 55's complaints regarding his wife, the LOD has opined that no criminal offences have been disclosed.

7. The SOJP consider that it entered onto a reasonable and proportionate decision making process with the intention of adequately protecting Witness 55's children. As confirmed in Inspector James Wileman's letter to Witness 55 dated 19 September 2012 [within Exhibit BT38] all information in the case was shared with Children's Services and JFCAS. The position is succinctly stated in Josephine Olsson's letter dated 8 January 2015 to Witness 55, also contained within Exhibit BT38, where she says:

"*The police, when they viewed the recording, were appropriately only considering whether it met an evidential test for criminal prosecution; they judged it did not. The police were not responsible for determining whether the evidence they viewed met the lower threshold for Children's Services intervention*".

8. I was told by my legal advisors and I truly believe that Witness 55 and his wife have been concerned in contested legal proceedings relating to custody of their children following a breakdown of their marriage.

[redacted]

9. At paragraphs 106 to 111 of Witness 55's witness statement, he refers to documents relating to Haut de la Garenne ("HDLG") stored at States of Jersey Property Holdings. I am able to confirm that Operation Rectangle did recover a box of material (X1229) from Property Holdings but it was comprised primarily of building plans which were of limited assistance to the investigation. Civilian Investigator Garry Kitchen returned the box to Property Holdings. Subsequently, during the trial of Anthony Jordan and Morag Jordan, Civilian Investigator Kevin Denley collected the box and exhibited it as X4623. The box has again been returned to Property Holdings. I am told by SOJP officers and I truly believe that the box did not contain any documents or material which could properly be described as "disturbing" as asserted by Witness 55.

[redacted] – **Ian Hamilton King**

10. In respect of paragraph 20 of Mr King's witness statement, Operation Rectangle identified no evidence of children disappearing from HDLG. As has been set out in the witness statements of David Warcup, Alison Fossey and others, this possibility has been rigorously investigated. There are no children associated with HDLG whom are known to be unaccounted for.

11. As **Exhibit BT39,** I produce a copy of Mr King's PURN record. The Inquiry will note that Mr King has made frequent complaints.

Witness 153

12. In paragraph 7 of her witness statement, Witness 153 states that during numerous domestic incidents the SOJP never removed her from the situation or referred her to Children's Services. However, in paragraph 9 of her witness

statement, she says that neither parent was violent towards her. It is unlikely that a child in this position would be removed from parental custody today in a situation where the child was not reasonably suspected to be "at risk".

13. In paragraph 14, Witness 153 states that she spent nights at HDLG when her mother was drunk. We can confirm that page 166 of document D1745, at **Exhibit BT40** records that Witness 153 was housed at HDLG on 1 January 1983 for one night for that reason.

14. In paragraphs 22 to 34, Witness 153 refers to sexual abuse by [redacted] She says that she reported it when aged 10 or 12 (1982 – 1984) and Danny Wherry visited her as a Police Constable. Mr Wherry was not a police constable at that time having resigned from the SOJP in 1979 (see D3277, at **Exhibit BT41**).

15. Witness 153 has told the Inquiry that she reported sexual abuse reported to the SOJP on three separate occasions, when she was 5, 12 and 15 years old. R48 records that Witness 53 told the Operation Rectangle investigators that she reported sexual abuse when she was 13 years old.

16. The records of the SOJP have been reviewed and there are no records of any of the complaints referred to at paragraphs 12, 13, 14 and/or 15. I do not believe that it could credibly be asserted that the reports as to all four discrete allegations might have been ignored by Police Officers and/or that all relevant documents and records might have been lost or destroyed. The record keeping processes of the SOJP are typically very robust and effective, and records are

[redacted]

rarely lost or destroyed, if at all. The Inquiry will be aware that the SOJP has produced an extensive set of documents for its use dated back to the 1960s.

17. Witness 153 states that her Operation Rectangle witness statement (S382) was not signed. I can confirm that the original is signed although the Inquiry has been provided with an identical version of the statement which is in the format of HOLMES and does not contain original signatures.

18. In paragraph 83, Witness 153 says her brother was locked in a police cell following a road traffic accident because he was previously in care. As **Exhibit BT42**, I produce a copy of an action record describing the incident at Liberation Bus Station on 2 February 2014 whereby Witness 153's brother was arrested on the basis that he was "*drunk and incapable of looking after himself*". The action record print does not contain any reference to the individual's background or the care system. Although I cannot speak for the relevant officers and I was not present on the occasion of the detention, I can say that in my experience the fact that someone has been in care has not been relevant to any individual's treatment by police officers and that officers have for many years received discrimination training. From the action record I consider that the officers acted in a reasonable and proportionate manner.

Witness 341

19. Paragraph 22 of Witness 341's witness statement mentions cellars and shackles in the context of HDLG. Operation Rectangle ascertained that;

    (i) there were no cellars at HDLG, only shallow and typically inaccessible floor voids which were a feature of the construction of the building; and

(ii) there were no shackles found at HDLG and what had been described as shackles were shortly after being so described ascertained to be old bed springs.

20. It would appear that Witness 341 adopted this terminology from unfortunately inaccurate SOJP media releases and press reporting surrounding Operation Rectangle.

21. At paragraph 47 of his witness statement, Witness 341 states:

"*Some of the girls fell pregnant at Haut de la Garenne. We noticed little lumps growing on their stomachs. We never saw the babies. Some of the other residents said that the babies would be aborted and some of the abortions were carried out in the kitchens at Haut de la Garenne. I did not witness this taking place myself.*"

22. The Inquiry will note that paragraph 47 of Witness 341's statement to the Inquiry is inconsistent with the graphic first-hand account of witnessing a termination procedure set out in paragraph 26 of the witness statement he provided to Operation Rectangle dated 10 March 2008 (S104), at **Exhibit BT43.** I respectfully suggest that this inconsistency significantly undermines the usefulness of this witness' evidence.

23. With regard to paragraphs 81 of Witness 341's statement, it was an Operation Rectangle policy not to supply copies of witness statements to witnesses except to assist with civil litigation and then only supplied to their legal representatives. I produce a copy of the policy written up by Detective Inspector Alison Fossey (as she then was) on 12 August 2008 as **Exhibit BT44**. At **Exhibit BT45**, is a

copy of the *pro forma* letter template used for initial replies to contacts from civil litigation legal representatives. This contains the wording of the undertaking required from the legal representatives, which was to use the statement solely for the purposes of pursuing civil litigation.

24. Witness 341 also states that he was not kept informed of how the investigations into the complaints he made to Operation Rectangle developed. This is incorrect as demonstrated by Officer's Report R74DM, at **Exhibit BT46**. Witness 341 was fully appraised of the fact that prosecutions were not going to pursued against the specific living individuals against whom he made allegations. It is recorded that Witness 341 was "obviously disappointed" but praised the investigation team for their efforts.

Witness 382

25. In paragraph 23 of his Inquiry witness statement, Witness 382 suggests that a person came to his bed at night and on one occasion fondled his penis. However, in Rectangle Statement S64, at **Exhibit BT47**, he suggests that he was visited by a ghostly apparition and does not mention the sexual abuse.

26. The caning referred to in paragraph 28 of Witness 382's Inquiry witness statement was not referred to in S64 and had it been further inquiries might have been made.

27. In paragraph 33 of his Inquiry witness statement, Witness 382 incorrectly states that he was involved with Operation Rectangle in 2007. Message M36, at **Exhibit BT48** records his first contact as taking place on 25 February 2008. On that occasion, Witness 382 stated that he was not sure if he was abused.

Action A614, at **Exhibit BT49**, was raised and S64 was obtained 11 March 2008. The SOJP clearly did take Witness 382 seriously and handled the contact with Witness 382 in a professional manner.

Witness 63

28. There is a reference at paragraph 52 to a police officer called Val Singleton. Valerie Singleton is a former television journalist and was a presenter on the children's television program Blue Peter in the 1960s and early 1970s. An SOJP officer named Val Davison assisted Witness 63 in the preparation of her police witness statement dated 19 August 2008.

29. As mentioned in paragraph 21 above, it was Operation Rectangle policy not to release witness statements. At paragraph 52 of Witness 63's statement it says "*I made a statement to the police which they said they were going to let me have*". This would not have been in accordance with the SOJP's policy and it would have been unusual for this assertion to be made. Val Davison was one of the most experienced officers working on Operation Rectangle and I do not consider that it is credible for her to have promised to supply a copy witness statement to Witness 63 in contravention of the policy referred to above.

Enrico Sorda

30. Mr Sorda makes a number of unsubstantiated allegations in his witness statement concerning matters as to which he has no direct knowledge. I do not intend to address all of these unsubstantiated allegations.

[redacted]

31. Mr Sorda alleges that no prosecutions arose from the work of Mick Gradwell and David Warcup, despite their having spent more than half of the costs associated with Operation Rectangle. While it would be disproportionate to go through the Operation Rectangle HOLMES account and chart the exact input of Mr Gradwell and Mr Warcup, a very significant amount of investigative work and of course costs were incurred after Lenny Harper retired.

32. The investigation and subsequent convictions of Anthony and Morag Jordan, occurred while Mick Gradwell was SIO of Operation Rectangle. Further, the cases of Leonard Vandenborn, Ronald Thorne and Julian Thorne all came in the latter stages of the investigation after Mr Harper's retirement.

33. At **Exhibit BT50** are the timetables of the Matrix Panel Meetings in respect of which Mick Gradwell was a ubiquitous attendee. There is no evidence that I am aware of before this Inquiry to suggest that Mr Gradwell was anything other than committed to securing prosecutions of child abusers.

Conclusions

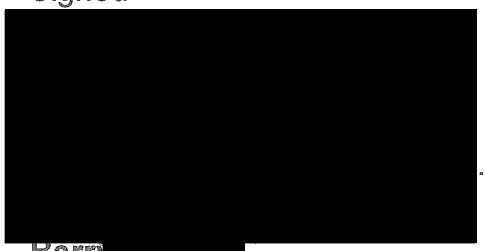
34. Of the additional witness statements which I have considered following release around or after 29 February 2016, 7 were signed in 2014, one as early as July 2014, 16 were signed in 2015 and the remainder are even unsigned or were signed more recently. It is unfortunate that these statements were not released earlier. Had they been released earlier I would have had the opportunity to carry out the required research in a timely manner and I would have been able to address these issues in my earlier statement.

[redacted]

35. I confirm that I am willing to give oral evidence to this Inquiry if required to do so.

I believe that the facts stated in this witness statement are true.

Signed



...

Barry [redacted]

Dated ..... 24th March 2016

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 24th March 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT38

[redacted]

M 00953/2014

Actioned	Type	Detail	Entered By	IF Ref
04-Jan-2012 14:54	Incident Text	CONCERNS RAISED OVER MOTHERS LACK OF CARE PROVIDED TO CHILDREN, IN PARTICULAR [redacted](2 1/2)	DC 672 SYKES K	F00180/2012
04-Jan-2012 14:54	Incident Text	STRATEGY MEETING TO TAKE PLACE	DC 672 SYKES K	F00180/2012
04-Jan-2012 14:54	Incident Text	NOT KNOWN TO PPU OR LOCAL SYSTEM	DC 672 SYKES K	F00180/2012
04-Jan-2012 16:00	Admin Text	FATHER, [redacted] ATTENDED PHQ WITH A USB DRIVE STATING IT CONTAINED A VIDEO OF HIS WIFE [redacted] ENGAGED IN A SEXUAL ACT (ORAL SEX) WITH HER LOVER [redacted] IN THE FAMILY HOME LOUNGE WITH HER 2 1/2YR OLD SON [redacted] PRESENT. THE MARRIAGE HAS BEEN IN TROUBLE SINCE JAN 2011 WHEN [redacted] TOLD [redacted] SHE HAD BEEN HAVING AN AFFAIR WITH HER [redacted], AS A RESULT [redacted] WENT ON TO HAVE AN AFFAIR. DURING THE SUMMER OF 2011 BOTH PARTIES DECIDED TO END THEIR AFFAIRS AND MAKE A GO OF THEIR MARRIAGE, [redacted] HAS SUFFERED FROM WORK RELATED [redacted] SINCE [redacted] 2009 AND IS ON [redacted] AND [redacted] THOUGHT THE AFFAIR WAS RELATED TO THE [redacted] HE WAS CONCERNED FOR [redacted] AS SHE OFTEN SPENT THE DAY IN BED AND DONE NO HOUSEWORK, SHE SEEMED VERY EMOTIONALLY DETACHED FROM THE CHILDREN AND WAS NOT MEETING THEIR BASIC NEEDS. [redacted] DECIDED TO SET UP A CAMCORDER IN THE LOUNGE TO MONITOR [redacted] DURING THE DAY AS HE OFTEN RETURNED FROM WORK TO FIND HER IN BED, AND STATING SHE COULDN'T COPE WITH THE BOYS. THE VIDEO WAS RECORDED IN SEPT 2011 BUT NOT VIEWED UNTIL END DEC 2011, IT SHOWED [redacted] LAZING AROUND ON THE SOFA WATCHING TV, ON HER LAPTOP OR TALKING ON HER MOBILE. AFTER A WHILE [redacted] ARRIVES AND THEY ENGAGE IN SEXUAL ACT IN THE LOUNGE WITH [redacted] PRESENT, DURING WHICH [redacted] IS SEEN TO CLIMB OVER [redacted] AND RUFFLE HER HAIR. NEITHER ADULT APPEARS TO BE BOTHERED WITH THE CHILDS PRESENCE AND CONTINUE WITH THE ACT WHICH LASTS 5-10MINS.	DC 672 SYKES K	F00180/2012
04-Jan-2012 16:12	Admin Text	[redacted] HAS NOW LEFT THE FAMILY HOME AND RESIDES WITH HIS PARENTS, [redacted] AND HIS WIFE ARE AWARE OF THE VIDEO. THE AFFAIR IS STILL ONGOING AND [redacted] IS STILL EMPLOYED BY [redacted] CONCERNS ARE THAT SEXUAL ACTS ARE BEING PERFORMED IN FULL SIGHT/HEARING OF CHILD, AND DURING WHICH HIS BASIC NEEDS ARE BEING IGNORED.	DC 672 SYKES K	F00180/2012
04-Jan-2012 16:14	Admin Text	REFERRAL DISCUSSED WITH CHILDREN'S SERVICE AND A STRATEGY MEETING ARRANGED FOR 2PM 05/01/12. [redacted] HAS BEEN UPDATED TO THIS EFFECT.	DC 672 SYKES K	F00180/2012
04-Jan-2012 16:24	Admin Text	DS DAVISON TO DISCUSS WITH LEGAL ADVISOR SARAH O'DONNELL 05/01/12	DC 672 SYKES K	F00180/2012
05-Jan-2012 16:34	Admin Text	FILE PENDED TO PPU UNTIL 12 JAN 2012 FOR THE FOLLOWING REASON: FURTHER ENQ BY OIC	DS 633 DAVISON C	-
05-Jan-2012 17:50	Admin Text	DISCUSSED THIS CASE WITH FLA SARA O'DONNELL - HER VIEW IS THAT THERE ARE NO CRIMINAL OFFENCES IN A CHILD BEING IN A ROOM WHILST A SEXUAL ACT IS TAKING PLACE. HOWEVER, SHOULD IT BE VIEWED THAT THE PARENT IS BEING NEGLECTFUL OF THE CHILD PRESENT (IE BY NOT ATTENDING TO HIS NEEDS SHOULD HE FALL OR HAVE AN ACCIDENT) THEN THIS WOULD BE DEEMED AT NEGLECTFUL. COMPLETE VIDEO TO BE VIEWED BY DC SYKES TO ASCERTAIN IF ANY CRIMINAL ACT HAS OCCURRED.	DS 633 DAVISON C	F00180/2012
05-Jan-2012 17:53	Admin Text	[redacted] TELEPHONED BY DS DAVISON AT 17:50 HRS - ADVISED THAT MEETING WITH SOCIAL SERVICES DID NOT TAKE PLACE TO DAY BUT HAS BEEN RESCHEDULED TO 12:00 TOMORROW.	DS 633 DAVISON C	F00180/2012
06-Jan-2012 14:32	Admin Text	ENTIRE VIDEO VIEWED BY DC SYKES DURING WHICH [redacted] HAS GONE ABOUT HER DAY-TO-DAY BUSINESS, TAKING OLDER CHILD TO SCHOOL, HOUSEWORK ETC? AT NO TIME HAS SHE ACTED INAPPROPRIATLY TOWARDS EITHER CHILD . THE SEXUAL ACT CANNOT BE SEEN BY THE CHILD PRESENT (2 1/2YRS) AS MOTHER IS WEARING A DRESS AND KEPT PULLED DOWN WHENEVER CHILD CLOSE OR IN VIEW OF ADULTS, HE IS NOT AWARE OF WHAT IS HAPPENING BETWEEN THE ADULTS. NO CONVERSATION TAKES PLACE WITH THE CHILD	DC 672 SYKES K	F00180/2012

		REGARDING THE ACT AND HE IS NOT ENCOURAGED TO BE INVOLVED IN ANYWAY AT ANYTIME. L		
06-Jan-2012 15:14	Admin Text	STRATEGY MEETING HELD AT MLP 1200HRS 06/01/12 AND ATTENDED BY PPU, CS, NURSERY, SCHOOL, A&E NURSE AND SCHOOL NURSE. ALL INFORMATION SHARED SHOWS THAT [redacted] HAS BEEN TELLING VARIOUS AGENCIES FOR LAST 2 MONTHS ABOUT THE VIDEO CLIP AND STATING THAT [redacted] IS ON VERGE ON NERVOUS BREAKDOWN AND NEGLECTING THE CHILDREN. ALL AGENCIES RECORDS SHOW THIS IS UNTRUE AND HE APPEARS TO BE MANIPULATING AGENCIES VIEWS TO BACK UP HIS CASE IN FAMILY COURT WHICH IS ON [redacted]12. HE IS PLANNING TO APPLY FOR FULL CARE OF HIS [redacted] DESPITE WORKING FULL TIME AND LIVING [redacted] SCHOOL AND NURSERY HAVE CONTACT WITH THE CHILDREN AND [redacted] ON A DAILY BASIS AND HAVE HAD NO CONCERNS ABOUT HER OR [redacted] THEY STATE THEY ARE WELL CARED FOR AND ALWAYS CLEAN AND TIDY WITH GOOD ATTENDANCE RECORDS. THERE ARE NO MEDICAL CONCERNS FOR [redacted] AND [redacted] HAS ALWAYS TAKEN [redacted] FOR ANY APPTS. IT WOULD APPEAR THAT [redacted] IS PORTRAYING HIS ESTRANGED WIFE IN A BAD LIGHT TO ENFORCE HIS CHANCES IN FAMILY COURT. NO EVIDENCE TO SUBSTANTIATE HIS ALLEGATIONS.	DC 672 SYKES K	F00180/2012
06-Jan-2012 16:47	Supervisory Text	THERE IS NO EVIDENCE OF ANY CRIMINAL ACTIVITY IN THE VIDEO RECORDED. STRATEGY MEETING HELD - NO FURTHER ACTION BY SOCIAL SERVICES OR POLICE. THIS CASE WILL BE DEALT WITH THROUGH THE FAMILY COURT.	DS 633 DAVISON C	F00180/2012
06-Jan-2012 16:51	Supervisory Text	LATE ENTRY - [redacted] WAS UPDATED WITH THE RESULT OF THE POLICE ENQUIRY BY DC SYKES ON [redacted]/12	DS 633 DAVISON C	F00180/2012
06-Jan-2012 16:51	File Status Changed	FILE STATUS SET TO COMPLETE. COMMENT: NFA BY PPU AND SS - FAMILY COURT DEALING.	DS 633 DAVISON C	-
06-Jan-2012 16:51	Admin Text	PEND REMOVED	DS 633 DAVISON C	-
20-Jan-2012 11:17	Admin Text	ADVOCATE BARBARA CORBETT ACTING ON BEHALF OF [redacted] CONTACTED DC SYKES AT 09.45HRS QUESTIONING WHY NO PPU INVOLVEMENT AFTER SEEING THE VIDEO PROVIDED BY HER CLIENT. ADVISED IT HAD BEEN VIEWED AND DISCUSSED WITH DS DAVISON AND LEGAL ADVISOR SARA O'DONNELL AND ALL IN AGREEMENT THAT NO CRIMINAL OFFENCES REVEALED. CORBETT QUESTIONED WHY WE THOUGHT NO HARM HAD COME TO [redacted] BY BEING PRESENT DURING A SEXUAL ACT TAKING PLACE? ADVISED HER THAT THERE WAS NO CRIMINAL OFFENCES REVEALED AND SHE WAS ASKING ME MY VIEWS MORALLY RATHER THAN PROFESSIONALLY, I ADVISED I WAS NOT GOING TO BE DRAWN INTO A MORAL DEBATE. CORBETT ASKED ABOUT CHILDREN SERVICE'S VIEWS ON THE MATTER AND IF THEY WOULD BE HAVING FURTHER INVOLVEMENT, I TOLD HER SHE WOULD NEED TO CONTACT THEM DIRECT AND ASK THEM AS I WOULD NOT MAKE COMMENTS ON THEIR BEHALF OR ANY OTHER AGENCIES BEHALF. CORBETT ASKED IF THE PROFESSIONALS WHO ATTENDED THE MEETING AT CS KNEW OF [redacted] MENTAL HEALTH CONCERNS RAISED BY [redacted] I ADVISED DURING THE DISCUSSION HELD AT THE MEETING NO AGENCY HAD ANY CONCERNS, FOR HER OR THE CHILDREN. I RAISED MY CONCERN THAT [redacted] HAD TOLD PPU THAT HE HAD ONLY BECOME AWARE OF VIDEO CONTENT DAYS BEFORE ATTENDING, BUT IT HAD BEEN APPARENT DURING THE MEETING THAT [redacted] HAD KNOWN FOR MONTHS BEFORE AND HAD DISCUSSED IT WITH OTHER AGENCIES BEFORE ATTENDING PPU. I TOLD CORBETT THAT AS FAR AS I WAS AWARE, SSW ELSA FERNANDES WOULD BE HAVING INVOLVEMENT WITH BOTH PARTIES FOR THE PURPOSE OF COMPLETING A REPORT FOR FAMILY COURT AND ANY PROCEEDINGS THEY MAY HOLD. I EXPLANED I COULD NOT PROVIDE ANY FURTHER INFORMATION AS PPU WOULD NOT BE HAVING ANY INVOLVEMENT.	DC 672 SYKES K	F00180/2012

19-Sep-2012 14:05	Admin Text	[redacted] HAS QUESTIONED PPU JUDGEMENT IN RELATION TO NO CRIMINAL OFFENCES BEING REVEALED DURING INVESTIGATION. HE HAS SENT LETTERS TO SENIOR MANAGEMENT WHO HAVE RESPONDED, A COPY OF THE LETTER HAS BEEN ADDED AS A DOCUMENT TO MFILE.	DC 672 SYKES K	F00180/2012
13-Nov-2014 10:49	Admin Text	[redacted] REMAINS IN DISPUTE WITH THE PRECISE DETAILS OF THE CONTENT OF THE VIDEO. PLEASE REFER TO ATTACHED DOCUMENTS.	CIV 2810 RENOUF C	F00180/2012
13-Nov-2014 11:50	Admin Text	THE CONTENTS OF THE VIDEO (AS DESCRIBED BY [redacted]) ARE AS FOLLOWS- * THE ADULTS CAUSED MY [redacted] WATCH SEXUAL ACTS *MY [redacted] WAS AWARE OF THE SEXUAL ACTS TAKING PLACE *THE SEXUAL ACTS WERE EXPLAINED TO MY [redacted] AS HE WATCHED AND ENQUIRED *MY [redacted] WAS IN PHYSICAL CONTACT WITH THE ADULTS AS THE SEXUAL ACTS WERE TAKING PLACE *MY [redacted] HEAD WAS HELD ALNGSIDE AN ADULT'S HEAD AS AN ACT OF ORAL SEX WAS PERFORMED *MY [redacted] WATCHED AND LISTENED TO ACTS OF SEXUAL VIOLENCE AND [redacted] REACTED WITH DISTRESS *MY [redacted] WAS AFFECTED BY THE EVENTS SEEN IN THE RECORDING, INCLUDING THE INTERACTIONS AND [redacted] PROVISION OF CARE.	CIV 2810 RENOUF C	F00180/2012

[redacted]

15th August, 2012

[redacted] 55

States of Jersey Police

Making Jersey Safer

Dear [redacted] 55

Thank you for your letter which was received Monday 6th August, 2012 to the Chief Officer, on whose behalf I now reply.

I have spoken to one of the senior officers involved and I understand that legal advice was sought from the Law Officers' Department and that there were no criminal offences identified. An appropriate referral to the Children's Services was made to ensure any safeguarding issues were addressed and, as such, we cannot reply on their behalf as to whether or not they felt the case required their intervention. The Royal Court has possession of the report from Dr. Williams and they have made their decision in possession of the full facts as to what the most appropriate custody arrangements are for your children.

In view of these facts I wish to advise you that the police have no more involvement in this case and cannot comment any further at this time.

Yours sincerely,

Police Inspector James Wileman
Staff Officer to
Mike Bowron QPM
Chief Officer

CHIEF OFFICER MIKE BOWRON QPM
PO BOX 789 JERSEY JE4 8ZD TELEPHONE [redacted]
WEBSITE www.jersey.police.uk EMAIL [redacted]

[redacted]

13th September 2012

Dear Mr. Wileman

I write to your letter dated 15th August 2012.

There seems to be a misunderstanding by the States of Jersey Police. Whilst the Royal Court may have possession of the report by Dr. Williams, its content has not been considered by any court or indeed by any part of the multiagency that is known to me. The custody arrangements of my children have been agreed without the involvement of the court.

I understand that the referral made by JFCAS to the Public Protection Unit at the States of Jersey Police on 4th January 2012 was not to identify whether a criminal offence had occurred but to assist JFCAS in determining whether child protection matters existed as part of their investigation. Whilst I acknowledge the subsequent referral to the Children's Service by the PPU, JFCAS was informed by the PPU that no child protection matters were viewed on the recording.

In light of the information provided in Dr. William's report, I now ask again whether the States of Jersey PPU maintain the view that none of the events, as depicted in the recording, present child protection matters that should have been communicated to the Children's Service and JFCAS in January 2012.

Yours sincerely,

[redacted]
55

cc

Mr. S Pontin, Children's Service, Social Services

Ms. E Fernandes, Jersey Family Court Advisory Service

Dr. B Williams, Consultant Clinical Psychologist

[redacted]

612500

19th September, 2012

States of Jersey Police

Making Jersey Safer

[redacted] 55

Dear [redacted] 55

Thank you for your letter dated 13th September, 2012.

The States of Jersey Police in consultation with the Law Officers Department are of the opinion that no criminal offences have been committed in this case. The primary role of the police in multi-agency child protection is to investigate criminal offences.

Any evidence gathered by the police during an investigation will be shared where necessary to protect children. All information in this case was shared with Children's Services and JFCAS.

Yours sincerely,

Police Inspector James Wileman
Staff Officer to
Mike Bowron QPM
Chief Officer

CHIEF OFFICER MIKE BOWRON QPM
PO BOX 789 JERSEY JE4 8ZD TELEPHONE [redacted]
WEBSITE www.jersey.police.uk EMAIL [redacted]

[redacted]

21 September 2012

Dear Mr. Wileman

Thank you for your letter dated 19th September 2012 and I again acknowledge the opinion of the States of Jersey Police that no criminal offenses have been committed and that the role of the police in multi-agency child protection is to investigate criminal offences. It is important to note that the referral of this matter to PPU was made by JFCAS so that the PPU could assess whether any child protection matters existed regardless of whether a criminal offence had occurred.

JFCAS and the Children's Service was informed by the PPU that no child protection matters were viewed on the recording at all regardless of whether they were criminal in nature. Based on the information provided by the PPU to the Children's Service and JFCAS the matter was immediately dismissed with no further assessment.

Again, in light of the information provided in Dr. William's report, I now ask again whether the States of Jersey PPU maintain the view that none of the events, as depicted in the recording, present child protection matters, criminal or otherwise, that should have been communicated by them to the Children's Service and JFCAS in January 2012.

Yours sincerely,

[redacted] 55

cc

Mr. S Pontin, Children's Service, Social Services

Ms. E Fernandes, Jersey Family Court Advisory Service

Dr. B Williams, Consultant Clinical Psychologist

[redacted]

24th June 2013

Dear Mr Wileman

I write to your letter dated 19th September 2012 in respect of a referral by the JFCAS to the PPU on 4th January 2012 regarding child protection issues in respect of my [redacted]children.

As part of this referral on 4th January 2012 a document detailing the child protection issues and a recording was provided to and retained by the PPU. This case was subsequently referred to the Children's Service by the PPU on the same day for assessment due to the nature of the case. Are you able to please confirm that the recording and the document was provided to the Children's Service as information for assessment before these items were returned to me on 6th January 2012 including the name of the representative from the Children's Service to whom this information was provided to?

Yours sincerely [redacted]

[redacted]

55

Content of recording & document were discussed at multi-agency strategy meeting before being returned.

[redacted]

24th June 2013

Dear Mr Wileman

I write to your letter dated 19th September 2012 in respect of a referral by the JFCAS to the PPU on 4th January 2012 regarding child protection issues in respect of my [redacted] children.

As part of this referral on 4th January 2012 a document detailing the child protection issues and a recording was provided to and retained by the PPU. This case was subsequently referred to the Children's Service by the PPU on the same day for assessment due to the nature of the case. Are you able to please confirm that the recording and the document was provided to the Children's Service as information for assessment before these items were returned to me on 6th January 2012 including the name of the representative from the Children's Service to whom this information was provided to?

Yours sincerely,

[redacted]

55

States of Jersey Police

Making Jersey Safer

55 [redacted]

Monday 8th July 2013

Dear 55 [redacted]

Thank you for your letter of the 24th June. Please accept my apologies for the delay in reply but I have been out of the Island for a period of time.

Unfortunately I do not have the information which you request in your letter. My capacity in replying to you in the past was as a representative of the Chief Officer, to whom you originally wrote, and I have never had any involvement in your case. I have therefore forwarded your letter to Detective Chief Inspector Fossey who is in charge of Crime Services and will, I'm sure, be able to direct your letter appropriately in an effort to provide a satisfactory response.

With kind regards,

[redacted]

James Wileman
Police Inspector – Uniform Operations

PO BOX 789 JERSEY JE4 8ZD TELEPHONE [redacted]
WEBSITE www.jersey.police.uk EMAIL [redacted]

c/o A. Fossey

[redacted]

11th July 2013

Dear Detective Chief Inspector Fossey

James Wileman of the States of Jersey Police informs me that he has referred a request to you that I made on 24th June 2013. I have enclosed a copy of these letters and I ask that provide me with a response at your earliest convenience.

Yours sincerel[redacted]

55

cc. Mr. J Wileman

[redacted]

Your ref:

Our ref:

Direct line:

States of Jersey Police

Making Jersey Safer

55 [redacted]

22nd July 2013

Dear 55 [redacted]

Thank you for your letter dated 24th June addressed to Inspector James Wileman and 11th July addressed to myself.

I refer to the questions that you asked Inspector Wileman and can inform you that subsequent to the referral by JFCAS to PPU on 4th January 2012, the content of the recording and document that you provided were fully examined by Police and discussed at a multiagency strategy meeting before being returned to you on 6th January 2012. The Children's Service was therefore in receipt of full information for assessment before these items were returned to you.

I am aware that you have had a number of responses from Police, Social Services, JFCAS and Mr Taylor of the Jersey Child Protection Committee on this matter, in addition to a meeting with Deputy Pitman, Richard Joualt, Sean Pontin and The Minister for Health and Social Services on the 13th June 2013. I would now wish to draw correspondence on this to a close.

You should refer any ongoing child protection issues to the Children's Service.

Yours sincerely

[redacted]

Alison Fossey [redacted]
Detective Chief Inspector
Crime Services

PO BOX 789 JERSEY JE4 8ZD TELEPHONE [redacted]
WEBSITE www.jersey.police.uk EMAIL [redacted]

[redacted]

31st July 2013

Dear Detective Chief Inspector Fossey

Thank you for your letter dated 22nd July and your response to the questions I raised in my previous correspondence with Inspector James Wileman.

The Police say that the content of the recording and the document were fully examined by them and discussed at the multiagency strategy meeting on 6th January 2012 and that the Children's Service was in receipt of full information for assessment.

The Children's Service informed the meeting with the Health Minister on 13th June 2013 that the Police never informed the Children's Service of the child welfare concerns outlined in the document nor were the Children's Service or multiagency strategy meeting in receipt of full information on the content of the recording. Consequently, the Children's Service said that no assessment was conducted by the Children's Service.

Likewise, the JFCAS officer spoke with the Police on 19th January 2012 to ascertain if the multiagency strategy meeting may have been misinformed by the Police about the content of the recording and the document after it occurred to the JFCAS officer that there may have been an oversight when the Police examined the recording and the concerns outlined in the document. The JFCAS officer was reassured by DC Sykes of the Police that the events, as outlined later in Dr. William's report, were not seen on the recording and that [redacted] was not affected by the incident as he would not have been aware of any act taking place. After hearing the comments of DC Sykes, the JFCAS officer said that she can only go on the information provided to her by DC Sykes as to the content of the recording and the JFCAS officer decided to dismiss all the child welfare concerns voiced for the remainder of the JFCAS investigation.

Whilst I share your wish to draw correspondence on this to a close, at this time, the Children's Service say that they were never informed of the nature or extent of the child welfare concerns voiced to the Police; and, JFCAS has declined to answer any questions on the wide range of inconsistencies in their JFCAS report submitted to the court. Therefore as fundamental discrepancies still exist in the accounts and opinions of the different agencies involved, I respectfully ask the Police to remain patient while these are resolved.

Yours sincerely

[redacted]
55

[redacted]

30th September 2013

Dear Detective Chief Inspector Fossey

Further to my letter of 31st July 2013 I write to kindly ask you to confirm if a copy was made of the video recording or any other information contained on the memory stick that was given to the police in January 2012 before it was returned to me at Police Headquarters two days afterwards.

I appreciate your patience on this matter and I look forward to hearing from you.

Yours sincerely

[redacted]
55

Your ref:

Our ref:

Direct line:

States of Jersey Police

Making Jersey Safer

55

8th October 2013

Dear 55

In response to your letter dated 30th September, I can inform you that the video clips were extracted from the memory stick at the time and a copy is held in a forensic format within our high tech crime unit.

Yours sincerely,

Alison Fossey
Detective Chief Inspector
Crime Services

PO BOX 789 JERSEY JE4 8ZD TELEPHONE [redacted] FAX [redacted]
WEBSITE www.jersey.police.uk EMAIL [redacted]

[redacted]

14th October 2013

Dear Detective Chief Inspector Fossey

In response to your letter of 8th October 2013, I was wondering if you can also confirm the reason for retaining a copy, how it has been used to date, and the reason for continuing to retain it.

I also kindly ask for a copy of the police report prepared as a result of the referral at the time.

Yours sincerely

[redacted]

55

[redacted]

30th October 2013

Dear Detective Chief Inspector Fossey

I was wondering if you have had an opportunity to consider my letter of 13th October 2013 and if you are able to provide me with a response please.

Yours sincerely

[redacted]

55

[redacted]

Your ref:

Our ref:

Direct line:

States of Jersey Police

Making Jersey Safer

[redacted] 55

6th November 2013

Dear [redacted] 55

Thank you for your letter. DCI Alison Fossey is currently on leave, but will respond to your letter upon return.

Yours sincerely,

Abigail Batho
Superintendent's Secretary
States of Jersey Police

PO BOX 789 JERSEY JE4 8ZD TELEPHONE [redacted] FAX [redacted]
WEBSITE www.jersey.police.uk EMAIL [redacted]

Your ref:

Our ref:

Direct line:

States of Jersey Police

Making Jersey Safer

[redacted] 55

14th November 2013

Dea[redacted] 55

Further to your letter of 14th October 2013, I can confirm that there is no longer a reason to retain a copy and that I will arrange for it to be destroyed immediately. It is States of Jersey Police policy to retain digital data for sufficient time to allow all proceedings, appeals, requests from legitimate interested parties or agencies to apply for access to relevant legally seized material and that appropriate weeding and destruction of material is undertaken with that in mind.

The copy has not been used in any way and was simply a forensic image which was taken at the time to enable officers to view the clip without destroying any potential evidence. I would wish to emphasise that it has since been held in a forensic format in a secure environment.

Please regard this letter as formal notice that this copy is now destroyed and closure of this matter.

Yours sincerely,

[redacted]

PO BOX 789 JERSEY JE4 8ZD TELEPHONE [redacted]
WEBSITE www.jersey.police.uk EMAIL [redacted]

[redacted] made copies

[redacted]

[redacted]

18th November 2013

Dear Detective Chief Inspector Fossey

Thank you for your letter of 14th November 2013. I was wondering whether you can also confirm that no persons other than officers of the States of Jersey Police have accessed or viewed a copy while it was retained by the States of Jersey Police.

I was also wondering if I may have a copy of the police report prepared as a result of the referral made on 4th January 2012.

Yours sincerely

[redacted]

55

Confirm that no individual other may have with legitimate safeguarding purposes has accessed or viewed a copy.
No report - no criminal offences.

[redacted] 11/10/10

Your ref:

Our ref:

Direct line:

States of Jersey Police

Making Jersey Safer

55 [redacted]

2nd December 2013

Dear 55 [redacted]

I refer to your letter dated 18th November 2013.

I can confirm that no other individual other than those with legitimate safeguarding purposes have accessed or viewed any copies whilst detained by the States of Jersey Police.

I am unable to provide you with a copy of the Police report as there were no criminal offences disclosed in the referral dated 4th January 2012.

This matter is now closed and any further correspondence will not be addressed by the States of Jersey Police. You should refer any ongoing child protection issues to the Children's Service/Multi-Agency Safeguarding Hub (MASH).

Yours sincerely,

Alison Fossey
Detective Chief Inspector
Crime Services

PO BOX 789 JERSEY JE4 8ZD TELEPHONE [redacted]
WEBSITE www.jersey.police.uk EMAIL [redacted]

[redacted]

4th December 2013

Dear Detective Chief Inspector Fossey

I was wondering if you have had an opportunity to consider my letter of 18th November 2013 and if you are able to provide me with a response please.

Yours sincerely

[redacted]

55

[redacted]

8th December 2013

Dear Detective Chief Inspector Fossey

Thank you for your letter of 2nd December 2013.

Has Mr Sean Pontin, Head of the Children's Service, or any other person of the Children's Service at Health & Social Services accessed and viewed the copy retained by the States of Jersey Police and, if so, on which date(s) did this occur?

Please also confirm that the copy retained by the States of Jersey Police is now destroyed and the weeding process complete.

Yours sincerely

[redacted]

55

[redacted]

7th January 2014

Dear Detective Chief Inspector Fossey

I refer to my letter of 8th December 2013 in which I asked if the Head of the Children's Service or any other person of the Children's Service, the organisation with statutory safeguarding responsibilities, accessed and viewed the copy retained by the States of Jersey Police and, if so, on which date(s) did this occur.

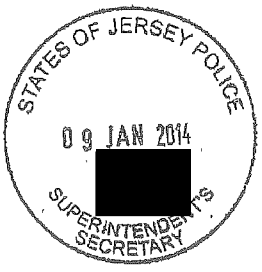
Please also confirm that any copies are now destroyed and the weeding process complete as mentioned in your letter of 14th November 2013.

Please send me this information which I am entitled to under Article 7 of the Data Protection (Jersey) Law.

Yours sincerely

[redacted]

55



[redacted]

13th January 2014

Dear Mr McKerrell

I am writing to kindly ask for copies of all information, structured or otherwise, held by the States of Jersey Police about myself and my children, [redacted] and to provide me with all information available about the source of this information and its recipients.

As part of this request, I also ask for a copy of all information shared by DC Karen Sykes-Houston or any other person with the Children's Service, the JFCAS or any other organisation in relation to my children and me, including the information disclosed by the States of Jersey Police to the Children's Service as part of the referral to the States of Jersey Police on 4th January 2012. Please be aware that information may have been exchanged in a number of ways, including by telephone.

Please be aware that I wrote to Detective Chief Inspector Fossey with a similar request for information on 8th December 2013 although I am yet to receive a reply so I have sent another request on 7th January 2013. I enclose a copy of my most recent letter for your convenience.

Please send me the information which I am entitled to under Article 7 of the Data Protection (Jersey) Law 2005.

If you need further information from me, or a fee, please let me know as soon as possible.

It may be helpful to know that I only ask for information from 1st January 2011.

Yours sincerely

[redacted]
55

[redacted] Art 5 - Sexual Offences

McKerrell, Kevin

From: [redacted] 55
Sent: 22 April 2014 20:56
To: McKerrell, Kevin
Subject: Fwd: Records
Attachments: Records.ZIP

Dear Mr McKerrell,

Please find below a short chronology of some of the interactions with the police over the past two years , all of which should be known. Is it convenient for me to call you this week to agree the next step?

Kind regards,

[redacted] 55

4th January 2012

The referral was made by the JFCAS to the States of Jersey Police and a memory stick and list of concerns was given to the police.

Between 4th January and 6th January 2013

The police examined the memory stick and list of concerns.

6th January 2012

A Strategy meeting was held at the Children's Service which the police attended. Records show that the police gave factually inaccurate and misleading information on the content of the recording which was used to make decisions and express opinions on my children and me.

19th January 2012

The JFCAS officer, who attended the Strategy meeting, said that DC Sykes/ Houston had watched the recording and that DC Sykes had informed the Strategy meeting that none of the event that were described on the list of concerns were seen on the recording.

A phone call was made to DC Sykes/ Houston to make the police aware of the inaccurate information during which DC Sykes/ Houston said that *"lots of parents share beds with their children who are present during sexual activity"* and that it was a moral issue.

23rd January 2012.

The JFCAS officer was informed of what DC Sykes had said but the JFCAS officer said that JFCAS can only go on the information provided by DC Sykes/ Houston as to the content of the recording. The JFCAS said they would contact DC Sykes to reconfirm the information on the recording.

February 2012

After making contact with DC Sykes, the JFCAS officer said that DC Sykes had told the JFCAS that: "[redacted] *was unaffected by this incident as he would not have been aware of any act taking place and that he was nowhere near the couple at the time".*

April 2012

A JFCAS report was submitted to the Court that confirmed:

- The States of Jersey Police had informed the Children's Service and JFCAS that at no time had my [redacted] had been aware of any sexual act taking place.
- The States of Jersey Police had informed the Children's Service and JFCAS that my [redacted] was not encouraged to take part in the sexual acts at any time.

14th May 2012

A clinical psychologist was instructed to prepare an independent psychologist on the content of the recording for the Court.

15th May 2012

A referral was made by the NSPCC Pathway to the Children's Service who confirmed that only the police had viewed the recording.

July – June 2012

The clinical psychologist completed the report on the content of the recording.

H&SS stated that the States of Jersey Police acted on the content of the recording by giving "words of advice"to those seen in the recording.

The man seen in the recording departed the island.

Correspondence exchanged with the police and others to correct the factually inaccuracies in the information shared. See correspondence with the police

June 2013

The Head of the Children's Service confirmed to a director of Health & Social Services (HSS) & the Minister for HSS that the Children's Service was not told about the list of concerns held by the police at the time of the referral but action should have and would have been taken at the time.

July-August 2013

Exchanged letters with DCI Fossey of the States of Jersey Police to confirm why list of concerns held by the police had not been referred by the police to the Children's Service in January 2012. DCIFossey said that full information on the list of concerns and the recording was shared by the States of Jersey Police with the Children's Service on 6thJanuary 2012.

September to December 2013

Correspondence exchanged with the police and others.

On 8th October 2013, Detective Chief Inspector Fossey said that a copy of the recording had been made and retained by the States of Jersey Police in their HighTech crime storage system.

On 14th November 2013 DCIFossey said that the copy of the recording retained by the police would be destroyed and that it had not been used in anyway. DCI Fossey said the matter was now closed.

In December 2012, I wrote to DCI Fossey to ask for a copy of the police report prepared as a result of the referral made on 4th January 2012.

DCI Fossey said that there was no police report as no criminal offences were disclosed in the referral dated 4thJanuary 2012 and she would not say if the Children Service had viewed the copy of the recording detained by the police. DCI Fossey reconfirmed the matter was closed and that any further correspondence would not be addressed by the police.

On 6th January 2014, a subject access request was made to DCI Fossey and again to Mr Kevin McKerrell of the police on 13th January 2014.

---------- Forwarded message ----------
From: [redacted] 55
Date: 31 March 2014 17:27
Subject: Records
To: [redacted]

Dear Mr McKerrell,

Thank you for the telephone call on Thursday. As requested, please find attached the letters exchanged with the States of Jersey Police and some other relevant documents.

Records held by the Jersey Family Court Advisory Service and Health & Social Services say that, after examining video clips containing footage of my [redacted] and two adults, the police informed a Strategy meeting held at the Children's Service in early January 2012, and the JFCAS again afterwards, that:

- the adults did not cause my [redacted] to watch any sexual acts,
- my [redacted] was unaware of any sexual acts taking place,
- my [redacted] was not encouraged to take part in a sexual act, and

- there was nothing neglectful in the behaviour towards my [redacted]

The records also show that, based on this information, the police opined that my [redacted] was unaffected by the events seen in the video clips, including the provision of care, and the police reassured the Strategy meeting and the JFCAS that, for purpose of a child protection strategy meeting, no events were seen in the footage that represented a child protection concern.

Extracts of the records held by H&SS and the JFCAS which contain information disclosed by the police are attached to this email.

In my opinion, the information disclosed by the police is factually inaccurate and misleading and this information has been used by the Strategy meeting, the JFCAS and others to make decisions and express opinions on my children and me.

Dr Bryn Williams, a clinical psychologist, prepared an independent report on the content of the video clips in July 2012 which verifies the inaccuracy of the police's disclosure.

The video clips examined by the police clearly show that:

- the adults choose to engage in the sexual acts in the presence of my [redacted]
- the adults caused my [redacted] to watch sexual acts
- my [redacted] was aware of the sexual acts taking place
- the sexual acts were explained to my [redacted] as he watched and enquired
- my [redacted] was in physical contact with the adults as the sexual acts were taking place
- my [redacted] head was held alongside an adult's head as an act of oral sex was performed
- my [redacted] watched and listened to acts of sexual violence and he reacted with distress
- my [redacted] was affected by the events seen in the recording, including the interactions and his provision of care

As such, I request that the States of Jersey Police correct the information and notify the JFCAS, H&SS and me of this correction.

Moreover, page 6 of the Strategy meeting minutes and other letters from the police indicate that the police officers concerned obtained a legal opinion on the contents of the video clips from a Police Legal Advisor before they attended the Strategy meeting. Therefore, please confirm whether the information disclosed by the police officers to the Police Legal Advisor before the Strategy meeting was the same information which was disclosed by the police officers at the Strategy meeting.

I exchanged several letters with the police before 2014 disputing the accuracy of the information disclosed by the police about my [redacted] and asking for this information to be corrected. The police confirmed in autumn 2013 that the video clips had been extracted from the memory stick in January 2012 and that these were still being held, but then the police wrote to me immediately afterwards to notify me of their decision to destroy the video clips held before any correction was made. Because of this, please confirm why the clips of my [redacted] were retained after the decision was made in January 2012 that there was no role for the police or the Children's Service, and please confirm whether the video clips, or any other information on my children and me, have been erased, deleted or destroyed while the police have known that the accuracy of the information remains in dispute.

The police also mentioned in the same letters that the video clips had not been used in any way. However, a director of H&SS says that the police acted on the information in mid-2012 (just after the release of Dr Williams's report) by giving advice to the gentleman seen with my [redacted] in the clips immediately before his contact with my children stopped and his sudden departure from the island. Therefore, as H&SS appear to have taken comfort from the action taken by the police, please confirm if the police have acted in regards to this case at any time after the Strategy meeting in January 2012.

The content of the video clips represented only a small part of the concerns for the children which were listed in the 7 pages of notes which were held by the police at the time of the Strategy meeting, therefore please confirm if the records held by H&SS and the JFCAS, as attached to this email, record all the information that was disclosed by the police on the contents of notes which was of relevance to a child protection strategy meeting.

The minutes also record that the police made personal remarks about my character to the attendees of the Strategy meeting which, in conjunction with the disclosure of the factually inaccurate information on the content of the video files, appears to have influenced the decisions made by others on all concerns voiced. I, therefore, wish to understand more about the basis for any remarks and their relevance to the meeting's purpose.

This problem has been going on for over two years and many letters have been exchanged requesting access to information and the correction of inaccuracies, therefore, as all involved are keen to bring this matter to a close, I would be grateful if we can agree a reasonable timeframe in which to correct the information so that the problem can take a step towards being resolved.

I appreciate your time on this matter and I look forward to hearing from you.

Kind regards

55

60

Renouf, Colin

From: [redacted]55 <[redacted]>
Sent: 02 October 2014 16:10
To: Renouf, Colin
Subject: Meeting
Attachments: [redacted]_Act_of_Court_re_shared_residence[1].pdf

Dear Mr Renouf

Thank you very much for taking the time to meet with me to discuss my subject access request and my request for information to be corrected. I appreciate you agreeing to resolve these requests at the same time. Please note that I have enclosed a copy of the consent order issued by the court in relation to the shared residence arrangement reached.

In answering our question of when the police's investigation of the allegation concluded, I draw your attention to paragraph 32 of the JFCAS records (supplied to Mr McKerrell earlier this year) which says that the outcome of the allegation and subsequent police investigation was dealt with before 10 January 2012.

In regards to the information held by the JFCAS and the Children's Service which originated from the police , I draw your attention to the same paragraph which states that DC Sykes affirmed to these agencies *"that at no time was* [redacted] *aware of the act taking place"*. As the original recording and the independent report clearly show that [redacted] was not just aware of the act but also in contact it may be worth asking DC Sykes if she watched the 6 hour recording in full before sharing the information on its content with the police legal advisor and the other agencies before they made their decisions.

The same paragraph of the JFCAS records goes on to say that DC Sykes expressed the opinion that, based on this information, there were "*no child protection concerns or any criminal activities taking take*".

As the police now have the records of the other agencies to see that the information which originated from the police was incorrect, I kindly request that arrangements are made by the police for these inaccuracies which to be corrected and for the police to notify the JFCAS and the Children's Service of this correction.

I look forward to hearing from you next week.

Kind regards,

[redacted]

Our Ref: [redacted]

[redacted]

13th November 2014

Dear [redacted]

Further to our meeting on 6th November and your request for data held by the States of Jersey Police to be amended, I write to advise you that the following steps have been taken.

1. An entry has been made on the Protection Notification File to highlight the fact that you dispute the precise details of the video. Your interpretation of events, as detailed on page 3 of your letter to Jo Olsson, of 11th November 2014 has also been posted onto this file.
2. All documents, including the above mentioned letter and the letter from Dr Williams of 8th November 2014 have also been attached.

You will appreciate that my remit is restricted to matters relating to data protection and not any child protection concerns.

I would advise you that this is the formal position of the States of Jersey Police. I trust that these measures will be satisfactory to you, however should your concerns remain, I would suggest that you seek guidance from the Data Protection Commissioner as the States of Jersey Police will not be negotiating further on this matter.

Yours sincerely

Colin Renouf
Data Protection - Audit Officer

MEMORANDUM

To: Mr C Rennie

Reference: —CJD

Cc:

From: S T Ayres
Deputy Chief Officer
17th November 2014

Subject: [redacted]

[redacted]

[redacted]

Our Ref: [redacted]

[redacted]

14th January 2015

Dear [redacted]

I refer to email correspondence received from yourself on 16th December 2014, 5th January 2015, and 13th January 2015 in which you raise a number of issues. I am now in a position to address each one in turn.

You asked me to notify the other agencies

Following our agreement to append your version of events onto our file you asked me to forward the same information to the other agencies that were represented at the strategy meeting on 6th January 2012. In determining your request I needed to consider the impact of third party interests, as well as the need to strike the right balance in accordance with data protection principles in that the data needs to be accurate but adequate and not excessive. Given that the agencies were already aware that a sexual act had been alleged, I agreed that the forwarding of your own version of events met the data protection principles without unreasonably impacting on the data subjects involved.

I wrote to the Health and Social Services Department, Family Nursing and Home Care, [redacted] School and [redacted] Nursery.

The Health Department confirmed that they still held a file as it is the umbrella organisation for the Children Service. A copy of your letter sent to Ms Olsson on 11th November 2014, which highlights the areas of contestation, has been forwarded to the Health and Social Services Information Governance and Legislation Programme Manager on 14th January 2015.

Family Nursing confirmed that they no longer hold records.

[redacted] Nursery advised me that your children no longer attend and that they did not require any further information as it is no longer be relevant.

[redacted] School Head Teacher, [redacted] confirmed that one of your children does still attend the school and that they still hold a file. I therefore wrote to [redacted] on 13th January and provided her with a copy of your letter of 11th November 2014.

You asked me to reconsider my refusal to accept still photographs

My original response to you (15th December 2014) was

> *In considering the production of still photographs and other information, I again refer to principle 3 and ask myself whether their inclusion would be relevant and not excessive, given that this is an historic record. I have concluded that it would be excessive and that the information already recorded in our file is "adequate".*

I have further deliberated over this. This is not a live enquiry and the records kept are for information/reference purposes only. While the States of Jersey Police is receptive to any new evidence that may come to light, in this case, it is not new evidence, but the same evidence in a different format. Regrettably I have to inform you that my original position is unchanged and that I will not be able to accept any further information from yourself.

You indicated that the States of Jersey Police had not complied with your Subject Access Request

I refer you to a letter from Mr Barry Taylor, the Deputy Chief Officer of 14th November 2014 in which he advised you that the States of Jersey Police would not be disclosing the information requested. The position remains unchanged.

You suggest that you have been misled as you had previously been advised that police had fully examined the recording

You correctly quote from Ms Olsson's letter of 8th January 2015 in which she states that "*police colleagues only viewed the sections dealing with adult sexual activity*". Clarification has been sought from the investigating officer, Acting Detective Sergeant Karen Houston, in which she has confirmed that she viewed the whole video, only fast forwarding when no one was present in the room. She has further clarified that she was still able to view the picture while fast forwarding.

I trust this provides you with some reassurance that you have not been misled.

Conclusion

I appreciate that I have not been able to assist with all your requests, but I do believe that the States of Jersey Police has made some very reasonable attempts to address your concerns. I believe that I have now reached the point where I can assist no further and that in some instances we will have to agree to disagree.

Yours sincerely

Colin Renouf
Data Protection – Audit Officer

c.c. Alison Fossey
Jo Olsson
Emma Martins
Stewart Gull
Barry Taylor

[redacted]

21 January 2015

Dear Mr Renouf,

I acknowledge receipt of your letter of 14th January 2015 and I note the steps taken by the States of Jersey Police in relation to my requests. I also note your clarification about the way in which the video was viewed by the police.

I would be grateful if you would confirm that the JFCAS and Children's Service correctly quote from the States of Jersey Police in the JFCAS report and within the records of Health & Social Services. Extracts of these records have been provided to you.

I appreciate the attention you have given to this case and I look forward to hearing from you soon.

Yours sincerely

[redacted]
55

c.c. Alison Fossey
Emma Martins
Stewart Gull
Barry Tarry

Our Ref: M00953/2014

55

14th November 2014

Dear 55

The Data Protection (Jersey) Law 2005 places an obligation on the Chief Officer, when holding personal data, to provide a copy of that information, (unless an exemption applies), to you on request. In this case we include a duty to protect the privacy of sensitive third party data. From the personal details supplied in your request, there is no information that the Chief Officer is required to supply to you under the provisions of the Law.

I am in a position, however, to confirm that our records have been amended to include your version of events as outlined on page 3 of your letter to Ms Olsson on the 11th November 2014. Additionally, all documents have been attached to our records.

Yours sincerely

Barry Taylor
Deputy Chief Officer

Our Ref: M00132/2012

The Manager
[redacted]

15th December 2014

Strictly Confidential

Dear Sir/Madam

According to minutes of a Strategy Meeting held on 5th January 2012, two members of your staff, [redacted] were present when a case involving the [redacted] family was discussed. [redacted] 55 and the States of Jersey Police have been in recent discussion over the accuracy of the information held on our database. [redacted] 55 believes that the details of the incident were inaccurately recorded by the States of Jersey Police and it has been agreed that the details of what is disputed be recorded within our own file.

The Data Protection Law requires data to be held accurately and up to date (Principle 4), and [redacted] 55 remains concerned that, as a result of the information provided by the States of Jersey Police at the Strategy Meeting, you hold data that that may not be accurate. I am also mindful of Principle 3 which states that "personal information must be adequate, relevant and not excessive" , and this is the purpose of my correspondence at this time.

In order to assess whether it would be appropriate to disclose the disputed details (given that they are highly sensitive) I would be grateful if you could advise me whether you still process data from this Strategy Meeting and whether you would consider the additional disputed data relevant and not excessive for your needs.

Yours sincerely

Colin Renouf
Data Protection – Audit Officer
[redacted]
Tel. [redacted]

Our Ref: M00132/2012

[redacted]

15th December 2014

Strictly Confidential

Dear [redacted]

According to minutes of a Strategy Meeting held on 5th January 2012, you were present when a case involving the [redacted] family was discussed. [redacted] 55 and the States of Jersey Police have been in recent discussion over the accuracy of the information held on our database. [redacted] 55 believes that the details of the incident were inaccurately recorded by the States of Jersey Police and it has been agreed that the details of what is disputed be recorded within our own file.

The Data Protection Law requires data to be held accurately and up to date (Principle 4), and [redacted] 55 remains concerned that, as a result of the information provided by the States of Jersey Police at the Strategy Meeting, you hold data that that may not be accurate. I am also mindful of Principle 3 which states that "personal information must be adequate, relevant and not excessive" , and this is the purpose of my correspondence at this time.

In order to assess whether it would be appropriate to disclose the disputed details (given that they are highly sensitive) I would be grateful if you could advise me whether you still process data from this Strategy Meeting and whether you would consider the additional disputed data relevant and not excessive for your needs.

Yours sincerely

Colin Renouf
Data Protection – Audit Officer
[redacted]
Tel. [redacted]

Our Ref: M00132/2012

Tracey Fullerton
Information Governance Manager
4th Floor Peter Crill House
General Hospital
Gloucester Street
St Helier
JE1 3QR

15th December 2014

Strictly Confidential

Dear Tracey

According to minutes of a Strategy Meeting held on 5th January 2012, your colleague Anne Kelly was present when a case involving the [redacted] family was discussed. [redacted 55] and the States of Jersey Police have been in recent discussion over the accuracy of the information held on our database [redacted 55] believes that the details of the incident were inaccurately recorded by the States of Jersey Police and it has been agreed that the details of what is disputed be recorded within our own file.

The Data Protection Law requires data to be held accurately and up to date (Principle 4), and [redacted] [redacted 55] remains concerned that, as a result of the information provided by the States of Jersey Police at the Strategy Meeting, you hold data that that may not be accurate. I am also mindful of Principle 3 which states that "personal information must be adequate, relevant and not excessive" , and this is the purpose of my correspondence at this time.

In order to assess whether it would be appropriate to disclose the disputed details (given that they are highly sensitive) I would be grateful if you could advise me whether you still process data from this Strategy Meeting and whether you would consider the additional disputed data relevant and not excessive for your needs.

Yours sincerely

Colin Renouf
Data Protection – Audit Officer
[redacted]
Tel. [redacted]

Community & Social Services
Services for Children
Overdale, Westmount
St Helier, Jersey, JE1 3QS
Tel: (01534) 443500
Fax: (01534) 443581

States of Jersey

8th January 2015

55

Dear 55

I am writing to advise you of the outcome of the meeting I convened on 17.12.14, to consider the representations you have made about your children's welfare; specifically focussed on the video that was seen by Bryn Williams and the Bryn Williams' report in the private proceedings following the separation of you and your ex-wife.

I had earlier written to you to say that Children's Services intended to take no further action, (see my letter dated 5.11.14). You then wrote to me and enclosed a letter from Bryn Williams (dated 8.11.14) which caused me to review the decision I had made.

The meeting on 17.12.14 was attended by Mike Cutland and Alison Fossey. Sean Pontin, who was due to attend, is currently off sick. Bryn Williams joined part of the meeting by phone and I chaired the meeting.

The purpose of the meeting was to consider what, if any, action should be taken by Children's Services (or other partner agencies) to safeguard the children, taking into account what is known about the family and the views expressed by Bryn Williams in his letter.

Bryn Williams viewed six hours of recordings, and his assessment of the harm to the child was based on a consideration of the whole recording not just the excerpts relating to adult sexual activity. Sean Pontin and police colleagues only viewed the sections dealing with the adult sexual activity.

The police, when they viewed the recording, were appropriately only considering whether it met an evidential test for criminal prosecution; they judged it did not. The police were not responsible for determining whether the evidence they viewed met the lower threshold for Children's Services' intervention. Sean Pontin subsequently viewed the recording and judged that it did not meet the threshold for Children's Services intervention.

The meeting noted the significant discrepancy between Bryn Williams' and Sean Pontin's judgement about the recording. The meeting noted that Bryn had viewed all the recordings and Sean a selected excerpt. The meeting noted that the children's mother behaved entirely appropriately when the concerns were discussed with her, recognising the inappropriateness of her behaviour and the risk of harm to her children. Apart from you, no-one else has subsequently raised any concerns about the care of the children.

You have been unusually tenacious and persistent in drawing attention to your concerns. This could reflect an acrimonious separation and unresolved conflict between you and your ex-wife, it could also reflect a genuine and well founded worry about the welfare of your children; it could reflect both.

Following careful consideration in the meeting I have decided the following

I do not intend to re-open the past and re-assess risks from two years ago. Notwithstanding any shortcomings in actions taken by Children's Services at that time, I am not persuaded that it is in the best interest of the children to make the historical issues a focus for intervention.

Although Children's Services have had no enquiries or referrals about the children, I do want to satisfy myself that the concerns Bryn Williams had at the time about the psychological well-being of the children in the care of their mother have been resolved. If they have not, I want to ensure that we offer an appropriate level of support. Clearly if there are child protection concerns these would be escalated through the usual route.

I have therefore asked Julia Wise St Leger to allocate the case to a social worker for an initial assessment. I have not forwarded to Julia the dossier of papers that you sent to me, nor do I intend to do so. I have however sent her the Bryn Williams report and letter. I have also briefed her personally

[redacted] sincerely

[redacted]

[redacted] Olsson
[redacted]erim Director, Services for Children

c.c. Julia Wise St Leger
Alison Fossey
Mike Cutland
Dr Bryn Williams
Glenys Johnston

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 24th March 2015

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT39

[redacted]

LOG ENTRY PRINT ONLY - NOT A PROSECUTION REPORT

INCIDENT FILE F06517/2015

Crime File

OIC: PC 413 WOOLLEY H (Shift - C) **SIO:** ()

SUSPECT / OFFENDER DETAILS

PURN: 98415

VICTIM DETAILS

LOG ENTRIES

28-May-2015 08:05 **Incident Text** **PC 413 WOOLLEY H**

Offence:
Art 3(1)(b)-Pursues conduct that person knows or ought to know amounts to harassment of another

Incident Address: Liberation Place , Jersey Consumer Council , Esplanade
UPRN: 69385056

Incident Parish: ST. HELIER

Incident Date / Time: BETWEEN 20-May-2015 / 07:00
  AND 20-May-2015 / 19:00

Reported Date / Time: 22-May-2015 / 13:10

28-May-2015 08:05 **Incident Text** **PC 413 WOOLLEY H**

QFI:SUSPECT: Ian KING - has made himself known to the victims and has been identified/named by the victims.

28-May-2015 08:05 **Incident Text** **PC 413 WOOLLEY H**

QFI:WITNESS: - Rose COLLEY (Chairman of the Jersey Consumer Council) - has had several telephone conversations with the perpetrator.

- Anne KING (Executive Officer of the Jersey Consumer Council) - Has also had several telephone conversations with the perpetrator.

28-May-2015 08:05 **Incident Text** **PC 413 WOOLLEY H**

QFI:HOUSETOHOUSE: N/A

28-May-2015 08:05 **Incident Text** **PC 413 WOOLLEY H**

QFI:SEARCH: N/A

28-May-2015 08:05 **Incident Text** **PC 413 WOOLLEY H**

LOG ENTRY PRINT ONLY - NOT A PROSECUTION REPORT

QFI:MO: Mr KING made contact with the JERSEY CONSUMER COUNCIL on Wednesday the 20th of May 2015. He was phoning apparently to complain about the newly appointed members of the JCC and follow up an old complaint that the JCC wouldn't help him with a financial dispute he had.
Whilst he was on the phone to Anne KING (no relation) who is the chief executive of the JCC Mr KING became extremely rude and aggressive towards her. It seemed that if Mr KING didn't hear the answers to his complaints that he wanted to hear he would become dismissive and derogatory about the establishment as a whole, calling the system "corrupt"
On occasion during his conversation with Mrs KING he made personal slights about her stating, "YOU'RE PATHETIC" and "YOU DON'T DESERVE YOUR JOB"
Mr KING made threats to come forward to the press with "evidence" he has of over a hundred fraud cases that the JCC has ignored. He claimed that if the information got out it would be the end of the JCC and Mrs KING would be out of a job. Mrs KING replied by telling him that he is fully entitled to take the information to the press and that if his "evidence" is in the public interest then she welcomes it. Mr KING asked "ARE YOU NOT SCARED BY THAT?" Mrs KING said her only interest is the truth.
Mrs KING stated that Mr KING's tone throughout the conversation was demanding, domineering and aggressive. She stated that she felt intimidated and a little scared whilst on the phone to him.

On the same day Mr KING contacted Rose COLLEY who is the chairman of the JCC. His initial telephone conversation was with COLLEY's PA and she stated that he was incredibly rude to her on the phone stating "MRS COLLEY HAS A PA WHAT A WASTE OF MONEY THAT IS". She also stated that he was very demanding stating "I WANT TO SPEAK TO COLLEY NOW!" and when told she was busy he stated "IT HAS TO BE THIS AFTERNOON, NO LATER".

COLLEY spoke to Mr KING later in the day and her account of her conversation with him was much the same as her PA's and Mrs KING's. COLLEY stated that KING was questioning her position as Chair of the JCC stating "YOU'RE IN CONFLICT AND YOUR POSITION IS UNTENABLE" COLLEY is worried about accusations like this being unfairly thrown around as she is a lawyer and they could have a damaging effect on her career and her firm. COLLEY stated that Mr KING called her "RUDE AND ARROGANT". COLLEY stated that he was also questioning the appointment of some of the new members of the JCC stating "THEY AREN'T FIT TO DO THE JOB" inferring that he was better than them.

28-May-2015 08:05 Incident Text PC 413 WOOLLEY H

QFI:INJURY: No Injuries.

28-May-2015 08:05 Incident Text PC 413 WOOLLEY H

QFI:PROPERTY: None

28-May-2015 08:05 Incident Text PC 413 WOOLLEY H

QFI:EXHIBITS: No Exhibits.

28-May-2015 08:05 Incident Text PC 413 WOOLLEY H

QFI:CCTV: None.

28-May-2015 08:05 Incident Text PC 413 WOOLLEY H

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QFI:FORENSIC: None

28-May-2015 08:20 Admin Text PC 413 WOOLLEY H

HISTORY:

KING has previously been in contact with the JCC approximately a year ago, regarding a financial matter between himself and Lloyds Bank. He was told at the time that the JCC was not able to assist with matter as they were not set up to deal with multinational banking conglomerates. KING at the time has supposedly taken this to mean that the JCC is corrupt and is working in favour of the banks. According to Mrs KING, his demeanour and tone were exactly the same on that occasion as they were during the recent incident.

KING was actually interviewed recently for a position on the JCC as they recently recruited new members. Although they knew about his confrontations with the JCC it was still decided to give him an interview in the interests of fair process. KING was apparently qualified enough for the position and was given an interview on merit. Unfortunately for him he did not interview well and he was not chosen to become a JCC member. Supposedly his negative outlook of the JCC came to the fore and his criticism of the Jersey "establishment".

The recent publication of the new members list seems to have sparked this latest barrage of phone calls to the JCC.

KING has had similar run in's with the Citizen's Advice Bureau, Tourism and various other states departments and members.

28-May-2015 08:28 Admin Text PC 413 WOOLLEY H

From speaking to Mrs KING and COLLEY it is felt that Mr KING is not targeting specific individuals at the JCC or other public institutions, rather the organisations or establishments themselves.

KING has made no general or specific threats of harm and has never demonstrated over the years any violent behaviour. His conduct however is unacceptable in civilised society. Regardless of whatever issues or concerns he may have, KING needs to be made aware that there is a right way and a wrong way to deal with people on the phone or otherwise. He seems to disregard the fact that the people he is speaking to are actual human beings and not just agents of the corrupt institutions he seems to harbour so much animosity towards.

In this instance the JCC (COLLEY and KING) do not wish to make a formal complaint regarding Mr KING'S behaviour and instead have opted for WOA to be given to him to. They were clear to state that he is still free to contact the JCC and other organisations but the way he conducts himself needs to change as his is causing distress and worry to the people he is ranting at.

28-May-2015 08:29 Admin Text PC 413 WOOLLEY H

OIC to obtain contact Details of Mr KING from the JCC via email and then to contact Mr KING to issue WOA.

28-May-2015 09:33 Supervisory Text PS 231 MCDONALD M

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Susupect to be spoken to and further enqs.

28-May-2015 09:29 | Incident Text | PC 153 STAFFORD T

C/man review.
From the text on this crime the offence of harassment would not appear to be made out. It would appear that he the suspect has made derogoratory comments to 2 individuals who work for JCC via the telephone.
It would appear that the suspect has phoned over a legitimate matter and got irate which it woulod seem he as done in the past.
This would seem to best fit the Teelvcommunications Law which would seem the more appropriate offence.
That is not to say that if a full statement is taken that harassment may be made out.
However at this time the elemnts do not appear to be made out and so this is not counted for HOCR purposes.
OIC/SIO if further information comes to light that makes the offence out then please inform c/man.
Please bear in mind that it would be one IP per crime.

28-May-2015 12:00 | Admin Text | PC 413 WOOLLEY H

OIC has spoken to Mr KING and has passed suitable WOA regarding his conduct on the phone. I made it clear that he could be liable for prosecution under telecoms Law and that his conduct is not acceptable in polite society.

He didn't seem to take to much of it on board and stated that the JCC and others should be investigated for publishing false information regarding the banking industry in Jersey.

28-May-2015 12:16 | Admin Text | PC 413 WOOLLEY H

OIC has noted C/man entry and concurs that on this individual occasion that a telecoms offence would be more suitable, however as no further action is going to be taken regarding this incident a log entry covering this will hopefully suffice.

Based on Mr KING'S reaction to the WOA given in relation to this matter OIC feels there is potential that KING will contact the JCC again in the near future and conduct himself in a similar manner. If that is the case a complaint may be forthcoming and depending on the time scale this could amount to a course of conduct.

28-May-2015 12:24 | Admin Text | PC 413 WOOLLEY H

KING has requested an email from OIC containing name rank and collar number. OIC will oblige and copy in PS345 QUENAULT.

28-May-2015 12:49 | Admin Text | PC 413 WOOLLEY H

OIC has updated Anne KING of the JCC to confirm that WOA have been passed to Mr KING.

All enquiries now complete.

File to be considered for purposes of admin detect.

04-Jun-2015 05:46 | Supervisory Text | APS 705 QUEMARD E

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File noted. WOA given to Mr KING. No formal complaint from JCS staff though they are aware that should Mr KING's behaviour continue then telecommunications offences may be made out and that they can make a formal complaint should they so wish. File to be closed.

18-Jun-2015 11:07 Admin Text CINSP 197 TURNER L

From: Turner, Lee
Sent: 18 June 2015 11:07
To: 'Jersey Consumer Council'
Cc: Woolley, Henry
Subject: RE: Re : Complaint Ian Hamilton King

Good morning Anne,

I take it you're referring to PC Henry Woolley, the officer who was dealing?

As he has a grip on this matter I would await his return in the circumstances, but my advice would be to simply ignore this latest email. He has indicated he will direct further correspondence through the Chief Minister's office - so be it. Advocate Colley has clearly set out her stance in the 18th June email and I would see no need to respond further.

Henry - would you please make contact with Anne on your return, you may of course have an alternative view based on your involvement and dealings with Mr King to date.

Regards,

Lee

-----Original Message-----
From: Jersey Consumer Council [mailto [redacted]
Sent: 18 June 2015 10:44
To: Turner, Lee
Subject: FW: Re : Complaint Ian Hamilton King

Hello Lee

Sorry to trouble you but Ian is off for a week.

Thank you

Anne

On 18/06/2015 10:42, "Jersey Consumer Council"
<[redacted]> wrote:

>Dear Ian
>
>Rose has asked me to contact you to see what we should do as Mr King
>has now emailed twice following your chat with him. (see chain of
>messages
>below)
>
>Naturally we are reluctant to pursue further dialogue but would welcome
>your guidance.
>
>Kind regards
>
>Anne King>
>
>

>
>On 18/06/2015 10:29, "[redacted]
><[redacted]> wrote:
>
>>Good morning Advocate Colley,
>>
>>I refer to your complaint to The States Of Jersey Police concerning my
>>alleged behaviour and your unacceptable response to my email dated
>>28-05-2015.
>>
>>If you have a valid complaint then make it, if not kindly withdraw the
>>accusation and apologise.
>>
>>I look forward to your immediate response.
>>
>>To save upsetting your sensitivities further - I will be directing all
>>correspondence through the office of The Chief Minister.
>>
>>Kind regards
>>Ian H King
>>
>>
>>On 2015-05-28 16:19, Rose Colley wrote:
>>> Dear Mr King
>>>
>>> I acknowledge receipt of your email. I do not intend to deal
>>> further with the reference to the States of Jersey police.
>>>
>>> As far as 'Jersey Issues' is concerned, if you are aware that

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>>> information contained therein is inaccurate, then please put all of
>>> this in writing to the Consumer Council email address.
>>>
>>> Yours sincerely
>>>
>>> Advocate Rose Colley, Partner

>>>
>>> -----Original Message-----
>>> From: [redacted]
>>> [mailto[redacted]]
>>> Sent: 28 May 2015 16:07
>>> To: Rose Colley
>>> Cc: [redacted]
>>> Subject: Re : Complaint Ian Hamilton King
>>>
>>> Good afternoon Advocate Colley,
>>>
>>> I understand a complaint has been made to the States of Jersey
>>> Police concerning my behaviour.
>>>
>>> Perhaps you could arrange for me to attend your next Council
>>> Members meeting so I can hear first hand just exactly I have offended.
>>>
>>> If that is not convenient then perhaps you can supply me with
>>> Council Members respective email addresses so I can forward them
>>> with a detailed formal complaint concerning past factually incorrect
>>> information published in 'Jersey Issues'.
>>>
>>> I would also ask that perhaps you could do me the courtesy of at
>>> least responding to this correspondence.
>>>
>>> Kind regards
>>> Ian H King
>>> [redacted]

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 24th March 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT40

[redacted]

Schedule of Admission and Discharge Registers 1960-1984

Exhibits [redacted]

Surname	Other names	Date of admission	Date of birth	Reason for admission	Date of discharge	Reason for discharge	Alternative Name	Comment	Alternative DOB (1)	Alternative DOB (2)
[redacted]		30/07/59	[redacted]47	CoP	17/08/57	Absconded				
[redacted] 433		21/12/59	[redacted]51	n/k	23/07/60	Father released from prison and rehabilitated.				
[redacted]		21/12/59	[redacted]47	n/k	05/09/60	Return to parents				
[redacted]		21/12/59	[redacted]49	n/k	05/09/60	Father released from prison				
[redacted]		02/01/60	[redacted]46	Royal Court Order in need of care	28/09/64	Taken to [redacted] [illegible]				
[redacted]		04/01/60	[redacted]54	Transferred from [redacted] on reaching age limit.	02/04/60	Returned to custody of mother				
[redacted]		06/01/60	n/k	Taken into custody pending deportation for a training house in [redacted]	08/01/60	Taken to training house in [redacted]				
[redacted]		11/01/60	[redacted]46	Out of control of parents	29/08/61	Returned home				

Amalgamated sheet

[redacted]				
04/11/82	72	Mother's confinement	27/11/82	
04/11/82	78	Mother's confinement	27/11/82	
04/11/82	75	Mother's confinement	27/11/82	
13/11/82	66	Destitute	15/11/82	
17/11/82	73	Beyond parental care and control	n/k	
21/11/82	75	NAI	12/03/83	
26/11/82	67	Beyond parental control	12/01/83	
27/11/82	71	Beyond mother's control	31/03/83	
10/12/82	82	Failure to thrive	18/12/82	
12/12/82	79	Mother in hospital	23/12/82	
31/12/82	80	Mother unable to cope	17/04/83	
01/01/83	72	Mother missing	01/01/83	
25/01/83	74	Neither parent able to cope at the moment - separation	26/03/83	
25/01/83	78	Neither parent able to cope at the moment - separation	26/03/83	
30/01/83	79	Mother's recuperative holiday	07/02/83	
30/01/83	74	Mother's recuperative holiday	07/02/83	

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: [illegible]

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT41

[redacted]

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 24th March 2015

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT42

[redacted]

[redacted] 02/02/2014

Actioned	Type	Detail	Entered By	IF Ref
22-Feb-2014 07:44	Incident Text (MULTI)	ON STATED TIME AND DATE, OFFICERS HAVE BEEN FLAGGED DOWN BY A MEMBER OF PUBLIC TO ADVISE OF A MALE LYING ON THE ROAD OUTSIDE STAND O OF LIBERATION STATION. UPON ATTENDING, [redacted] WAS LOCATED LYING ON ONE OF THE BENCHES, BEING HELD BY SEVERAL MEMBERS OF PUBLIC. [redacted] WAS SEEN APPROXIMATELY 10 MINUTES PREVIOUS AND WAS EXTREMELY INTOXICATED HOWEVER WAS IN THE CARE OF A FRIEND. THE SAME MALE, [redacted] WHO WAS SEEN WITH HIM 10 MINUTES PREVIOUS TOLD OFFICERS THAT [redacted] HAD JUST BEEN HIT BY A BUS WHICH HAD THEN DRIVEN OFF. [redacted] WAS VERY INTOXICATED AND EXTREMELY EXCITABLE. AMBULANCE ATTENDED AND [redacted] WAS SEEN BY PARAMEDICS. HE REFUSED ANY FURTHER ASSISTANCE FROM THE PARAMEDICS WHO SAID TO OFFICERS THAT THE INJURIES SEEMED MORE IN LINE WITH A FALL. DUE TO THE STATE THAT [redacted] WAS IN AND REFUSING ANY FURTHER MEDICAL ASSISTANCE, [redacted] WAS ARRESTED FOR BEING DRUNK AND INCAPABLE. WHILST OFFICERS WERE DEALING WITH [redacted] SMELT OF INTOXICATING LIQUOR, HIS EYES WERE RED AND GLAZED AND COULD BARELY OPEN THEM AT SOME POINTS, AND HE WAS UNABLE TO WALK AND HAD TO BE CARRIED AT ALL TIMES. HE WAS DRUNK AND INCAPABLE OF LOOKING AFTER HIMSELF. [redacted] HAD ALSO LEFT THE AREA AT THIS TIME.	PC 409 FARRINGTON J	F03113/2014 F03114/2014
22-Feb-2014 08:05	Admin Text (MULTI)	[redacted] ATTENDED [redacted] ON THURSDAY 6TH FEBRUARY AND STATED THAT HE WISHED TO REPORT A HIT AND RUN. [redacted] WAS SEEN BY THE ARRESTING OFFICER. [redacted] STATED THAT HE HAD SEEN THE SAME 2 PARAMEDICS THE NEXT DAY IN A&E WHO TOLD HIM WHAT HE STATED HAPPENED THE NIGHT BEFORE. WHEN SEEN BY MEDICAL STAFF AT A&E, THEY CONFIRMED THAT INJURIES TO HIS ANKLE/FOOT WAS CONSISTENT WITH A CRUSH RATHER THAN A FALL.	PC 409 FARRINGTON J	F03113/2014 F03114/2014
22-Feb-2014 08:06	Admin Text (MULTI)	OFFICERS HAVE REQUESTED CCTV FROM LIBERTY BUS WHO HAVE CAPTURED SOME OF THE INCIDENT ON CCTV. THIS WAS REQUESTED TO BE COLLECTED ON 19/02/14 BY ONE OF THE DAY SHIFT OFFICERS.	PC 409 FARRINGTON J	F03113/2014 F03114/2014
22-Feb-2014 08:07	Admin Text (MULTI)	FROM: MALTBY, CHARLOTTE SENT: 20 FEBRUARY 2014 13:55 TO: FARRINGTON, JOSEF SUBJECT: CCTV HI I COLLECTED YOUR CCTV TODAY. MR DAVIES SAID THAT HE HAS PUT FOOTAGE ON THE DISC FROM BOTH THE BUS AND THE BUS STATION AS HE THOUGHT YOU WOULD WANT BOTH. I COULDN'T SEE ANY LOG ENTRIES ON THE MASTER FILE TO KNOW WHAT THE JOB IS ABOUT SO I JUST NODDED AND SAID THANK YOU! THE PROPERTY SYSTEM HAS JUST CRASHED SO I CAN'T ATTACH IT AT THE MOMENT, I'LL LEAVE IT IN YOUR PIGEON HOLE. THANKS CHARLIE	PC 409 FARRINGTON J	F03113/2014 F03114/2014
23-Feb-2014 10:44	CCTV Submission (ACTION)	ACTION CREATED - REQUEST FOR WORKING COPIES, PRINTED STILLS. FOR MORE INFORMATION PLEASE SEE DOCUMENT 378560 IN THE DOCUMENTS SECTION OF THE MASTER FILE	PC 409 FARRINGTON J	-
24-Feb-2014 10:09	Admin Text (MULTI)	OIC HAS ATTENDED LIBERTY BUS AT LA COLLETTE AND SPOKE WITH HR MANAGER, NIKKI WITHE. WITHE HAS STATED THAT SHE HAS SEEN THE CCTV AND DUE TO THE MALES ACTIONS WALKING INTO THE BUS, THE COMPANY WILL BE FULLY SUPPORTING THE DRIVER, [redacted] AS THIS WAS NOT THE DRIVERS FAULT AND DID NOT SEE/FEEL ANYTHING FROM HIS BUS. INTERVIEW ARRANGED FOR [redacted] WITH UNION REP, [redacted] AT PHQ THURSDAY 6TH MARCH 2014 AT 14.00 HOURS.	PC 409 FARRINGTON J	F03113/2014 F03114/2014

24-Feb-2014 12:57	CCTV Submission (ACTION)	OWNER CHANGED TO (HTC) COMMENT: PLEASE SEE PREVIOUS REQUEST FOR PRINTED STILLS, THANKS	CIV 2669 O'BRIEN E	-
25-Feb-2014 12:56	CCTV Submission (ACTION)	COMPLETED. COMMENT: VIEWED CCTV FROM LIBERTY BUS. IT IS RECORDED AS 1 FRAME PER 4 SECONDS. CAPTURED VIDEO AND PRODUCED STILL IMAGES OF INCIDENT. PRINTED STILLS AND PRODUCED AS EXHIBIT GD/20/01/14/01/DMR/01. SENT THE PRINTED STILLS AND THE WORKING COPY DISC TO THE OIC.	CIV 2621 REYNOLDS D	-
06-Mar-2014 14:45	Admin Text (MULTI)	INTERVIEW CONDUCTED AT 14.23 ON THURSDAY 6 MARCH 2014 BY PC 409 FARRINGTON & 377 FOWLER WITH INTERVIEWEE [redacted] WITH [redacted] PRESENT AS UNION REP FOR LIBERTY BUS. [redacted] HAS STATED THAT HE HAS HELD HIS DRIVING LICENSE FOR 23 YEARS PLUS AND HAS BEEN DRIVING BUSES FOR 12 YEARS. HE CONSIDERS HIMSELF AS A GOOD DRIVER WITH NO MAJOR ACCIDENTS OR PROBLEMS. HE HAS STATED THAT ON SUNDAY 2 FEB 2014 AT APPROXIMATELY 00.30 HOURS, HE LEFT THE BUS STATION LOOKING RIGHT OUT OF THE WINDOW AND IN HIS WING MIRRORS AS HE NORMALLY DOES. WHEN ASKED IF HE IS AWARE OF A MALE BANGING THE SIDE OF THE BUS HE STATED "NO" AND STATED "NOT AWARE AT ALL OR I WOULD HAVE STOPPED STRAIGHT AWAY". HE ALSO STATED THAT HE IS NOT AWARE OF ANY MALE GOING UNDERNEATH THE WHEELS OF THE BUS. HE STATED DUE TO THE TIME OF THE NIGHT AND PEOPLE BEING ABOUT, HE NORMALLY TAKES EXTRA CARE TO LOOK OUT FOR PEOPLE.	PC 409 FARRINGTON J	F03113/2014 F03114/2014
06-Mar-2014 15:29	Admin Text (MULTI)	INTERVIEW TAPES: JF/06/03/14/01	PC 409 FARRINGTON J	F03113/2014 F03114/2014
12-Mar-2014 07:39	Admin Text (MULTI)	EMAIL SENT TO [redacted] ADVOCATE: FROM: FARRINGTON, JOSEF SENT: 09 MARCH 2014 19:11 TO: [redacted] CC: [redacted] SUBJECT: RE: RE [redacted] DEAR [redacted] WE HAVE INTERVIEWED THE DRIVER OF THE BUS AND HAS PROVIDED HIS ACCOUNT WHEREBY HE DID NOT REALISE THAT [redacted] HAD WALKED INTO THE BUS AND IF HE DID, HE WOULD HAVE REPORTED THIS TO THE POLICE. I HAVE SPOKEN TO MY SUPERVISOR AND DUE TO THIS BEING AN ACCIDENT ON [redacted] BEHALF, THIS WILL NOT BE TAKEN ANY FURTHER BY POLICE. I HAVE REVIEWED THE CCTV AND ALTHOUGH IT IS NOT GREAT, IT DOES SHOW [redacted] BANGING ON THE SIDE OF THE BUS AND THEN FALLING. KIND REGARDS	PC 409 FARRINGTON J	F03113/2014 F03114/2014
12-Mar-2014 07:46	Admin Text (MULTI)	EMAIL TO ADVOCATE FROM: FARRINGTON, JOSEF SENT: 09 MARCH 2014 19:11 TO: [redacted] CC: [redacted] SUBJECT: RE: RE [redacted] DEAR [redacted] WE HAVE INTERVIEWED THE DRIVER OF THE BUS AND HAS PROVIDED HIS ACCOUNT WHEREBY HE DID NOT REALISE THAT [redacted] HAD WALKED INTO THE BUS AND IF HE DID, HE WOULD HAVE REPORTED THIS TO THE POLICE. I HAVE SPOKEN TO MY SUPERVISOR AND DUE TO THIS BEING AN ACCIDENT ON [redacted] BEHALF, THIS WILL NOT BE TAKEN ANY FURTHER BY POLICE.	PC 409 FARRINGTON J	F03113/2014 F03114/2014

		I HAVE REVIEWED THE CCTV AND ALTHOUGH IT IS NOT GREAT, IT DOES SHOW [redacted] BANGING ON THE SIDE OF THE BUS AND THEN FALLING. KIND REGARDS		
12-Mar-2014 07:49	Admin Text (MULTI)	ATTEMPT TO CONTACT [redacted] ON [redacted] HOWEVER NO ANSWER.	PC 409 FARRINGTON J	F03113/2014 F03114/2014
13-Mar-2014 09:41	Admin Text (MULTI)	12/03/14 - OIC CONTACED [redacted] TO PROVIDE HIM WITH CONTACT AT LIBERTY BUS. HE WILL ARRANGE A TIME/DATE TO VIEW THE CCTV WITH THEM. NO FURTHER POLICE ACTION REQUIRED.	PC 409 FARRINGTON J	F03113/2014 F03114/2014
13-Mar-2014 12:11	Admin Text (MULTI)	FROM: FARRINGTON, JOSEF SENT: 13 MARCH 2014 12:11 TO: [redacted] SUBJECT: INCIDENT 02/02/14 DEAR NIKKI AFTER OUR INVESTIGATION, I CONFIRM THAT NO FURTHER POLICE ACTION WILL BE TAKEN. THE MALE INVOLVED IN THE INCIDENT HAS CONTACTED US ASKING TO SEE THE FOOTAGE. I HAVE FORWARDED HIM YOUR DETAILS AND HE IS HAPPY TO VISIT YOU IN ORDER TO WATCH THIS. SHOULD YOU HAVE ANY FURTHER QUERIES REGARDING THIS, PLEASE DO NOT HESITATE TO CONTACT ME. KIND REGARDS	PC 409 FARRINGTON J	F03113/2014 F03114/2014
13-Mar-2014 12:22	Admin Text (MULTI)	FROM: NIKKI WITHE [redacted] SENT: 13 MARCH 2014 12:11 TO: FARRINGTON, JOSEF SUBJECT: AUTOMATIC REPLY: INCIDENT 02/02/14 I AM AWAY FROM THE OFFICE FROM TUESDAY 04 MARCH 2014 AND WILL RETURN ON MONDAY 31ST. DURING THIS TIME I WILL HAVE LIMITED ACCESS TO MY EMAILS BUT WILL RESPOND TO YOU AS SOON AS I CAN. IF YOUR MATTER IS URGENT PLEASE CONTACT KEVIN HART, GENERAL MANAGER, IN THE FIRST INSTANCE.	PC 409 FARRINGTON J	F03113/2014 F03114/2014
13-Mar-2014 12:22	Admin Text (MULTI)	CALL TO LIBERTY BUS AND SPOKE TO GARY DAVIS [redacted] HE HAS AGREED TO LIAISE WITH [redacted] REGARDING VIEWING FOOTAGE. CALL TO [redacted] TO UPDATE.	PC 409 FARRINGTON J	F03113/2014 F03114/2014
13-Mar-2014 15:50	Supervisory Text	MALE WAS ARRESTED FOR BEING D&I ON THE NIGHT IN QUESTION DUE TO HIS CONDITION , FOOTAGE I AM TOLD SHOW HIM GOING UP TO THE MOVING BUS, WHERE IT APPEARS FROM OUTCOME HE INADVERTENTLY GETS HIS FOOT TRAPPED UNDER THE BUS WHEEL CAUSING A CRUSH INJURY. THE BUS DRIVER WAS UNAWARE OF THE INCIDENT AND HAD HE BEEN AWARE HE WOULD HAVE STOPPED, GIVEN THE SIZE OF VEHICLE AND NOISE MADE BY IT - IT IS QUITE LIKELY THAT THE DRIVER WOULD NOT HAVE KNOWN ABOUT THE MALE BEING PRESENT. INSUFFICENT EVIDENCE TO PROSECUTE. RTC FILE TO BE SUBMITTED.	APS 340 MASON J	F03114/2014
13-Mar-2014 16:03	Supervisory Text	OIC DUE TO INJURY - PLEASE CAN YOU SUBMIT A RTC REPORT DUE TO INJURY.	APS 340 MASON J	F03113/2014
		ON SUNDAY 2ND FEBRUARY 2014, BETWEEN APPROXIMATELY 00.35 AND 00.40, A [redacted] DOUBLE DECKER BUS, [redacted] WAS EXITING FROM LIBERATION STATION, ESPLANADE FROM N STAND. WHILST EXITING, [redacted] 88, JERSEY), RAN UP TO THE BUS, BANGING ON THE SIDE OF IT, FELL AND HIS LEFT LEG/FOOT WENT UNDERNEATH ONE OF THE WHEELS OF THE VEHICLE. THE VEHICLE DROVE OFF WITHOUT STOPPING. [redacted] LAY ON THE FLOOR FOR A SHORT WHILE AND WAS THEN ASSISTED BY A MEMBER OF PUBLIC TO A NEARBY BENCH AT O STAND OF LIBERATION STATION. SEVERAL OTHER MEMBERS OF PUBLIC ATTENDED TO ASSIST. POLICE CONSTABLE 409 FARRINGTON, POLICE CONSTABLE 374 CLAXTON AND POLICE CONSTABLE 252 O'NEILL ATTENDED WHERE [redacted] WAS FOUND LYING ON THE BENCH AT O STAND. [redacted] WAS HEAVILY INTOXICATED AT THIS TIME. AMBULANCE STAFF		

31-Mar-2014 13:08	Case Summary	ATTENDED THE SCENE AND PROVIDED MEDICAL ATTENTION TO [redacted] HOWEVER FURTHER MEDICAL ASSISTANCE WAS DECLINED BY [redacted] AT THIS TIME. [redacted] WAS UNABLE TO PROVIDE OFFICERS WITH ANY INFORMATION ABOUT HOW HE HAD BEEN INJURED. AS [redacted] LEFT THE AMBULANCE, HE HAD TO BE CARRIED OUT OF THE VEHICLE AND WAS INCAPABLE OF LOOKING AFTER HIMSELF AND THERE WAS NO-ONE THAT [redacted] COULD BE RELEASED INTO THE CARE OF. DUE TO THIS, HE WAS ARRESTED AT 01.11 HOURS AND TRANSPORTED TO ROUGE BOUILLON POLICE STATION WHERE HIS DETENTION WAS AUTHORISED FOR THE NIGHT. ON THURSDAY 6TH FEBRUARY 2014, [redacted] ATTENDED THE ENQUIRY DESK AT ROUGE BOUILLON POLICE STATION AND STATED THAT HE WISHED TO REPORT A HIT AND RUN. [redacted] STATED TO PC FARRINGTON THAT HE RECEIVED INJURIES FROM THE INCIDENT ON SUNDAY 2 FEBRUARY 2014 AND HAD ATTENDED THE ACCIDENT AND EMERGENCY DEPARTMENT. HE STATED THAT HE HAD INJURIES TO HIS ANKLE/FOOT WHICH WAS CONSISTENT WITH A CRUSH AS WELL AS A LUMP TO HIS FACE AND GRAZING. HIS FOOT WAS IN A CAST AND THE LUMP AND GRAZING WAS VISIBLE TO OFFICERS. CCTV WAS GAINED FROM LIBERTY BUS AT LIBERATION STATION WHICH SHOWED THE INCIDENT. DUE TO THE FRAMES PER SECOND, THIS WAS NOT TOO CLEAR. IT WAS ESTABLISHED THROUGH LIBERTY BUS THAT THE DRIVER OF VEHICLE IS [redacted] ATTENDED ROUGE BOUILLON POLICE STATION FOR A VOLUNTARY INTERVIEW AND WAS INTERVIEWED ABOUT THE INCIDENT AT 14.23 ON THURSDAY 6TH MARCH 2014 BY POLICE CONSTABLE 409 FARRINGTON & 377 FOWLER. [redacted] STATED THAT ON SUNDAY 2 FEB 2014 AT APPROXIMATELY 00.30 HOURS, HE LEFT THE BUS STATION LOOKING TO HIS RIGHT, OUT OF THE WINDOW AND IN HIS WING MIRRORS AS HE NORMALLY DOES. WHEN ASKED IF HE IS AWARE OF A MALE BANGING THE SIDE OF THE BUS HE STATED 'NO' AND STATED 'NOT AWARE AT ALL OR I WOULD HAVE STOPPED STRAIGHT AWAY'. HE ALSO STATED THAT HE IS NOT AWARE OF ANY MALE GOING UNDERNEATH THE WHEELS OF THE BUS. [redacted] STATED DUE TO THE TIME OF THE NIGHT AND PEOPLE BEING ABOUT, HE NORMALLY TAKES EXTRA CARE TO LOOK OUT FOR PEOPLE. DUE TO THE DRIVER HAVING NO KNOWLEDGE OF THE EVENT AND PLAUSIBILITY OF HIS STORY, NO FURTHER POLICE ACTION WAS TO BE TAKEN. [redacted] WAS CONTACTED ABOUT THE RESULTS OF THE INTERVIEW AND WAS PROVIDED WITH A CONTACT AT LIBERTY BUS IN ORDER TO VIEW THE FOOTAGE. [redacted] HAS SINCE BEEN INTO LIBERTY BUS AND VIEWED THE CCTV.	PC 409 FARRINGTON J	-
01-Apr-2014 07:22	Admin Text	RTC REPORT AND SKETCH PLAN COMPLETED. FILE PASSED TO DELTA 3 FOR REVIEW.	PC 409 FARRINGTON J	F03113/2014
12-Apr-2014 18:01	Supervisory Text (MULTI)	FILE NOTED - SUBMITTED DUE TO INJURY CAUSE WHEN PEDESTRIAN TRAPPED FOOT UNDERNEATH BUS WHEEL. INSUFFICENT EVIDENCE FOR PROSECUTION	APS 340 MASON J	F03113/2014 F03114/2014
12-Apr-2014 18:02	File Status Changed	FILE STATUS SET TO CJU - ADMIN. COMMENT: FILE NOTED - INSIFFICENT EVIDENCE TO SUPPORT TRAFFIC OFFENCE, RTC REPORT SUBMITTED DUE TO INJURY TO PEDESTRIAN - ALL PERSONS UPDATED	APS 340 MASON J	-
24-Apr-2014 10:45	File Status Changed	FILE STATUS SET TO COMPLETE. COMMENT: SEE LOG	CIV 2620 DE LA COUR D	-

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 24th March 2015

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT43

STATES OF JERSEY POLICE

Witness Statement

Article 9 Criminal Justice (Evidence and Procedure)(Jersey) Law 1988

Statement of: [redacted] 341

Age if under 20: OVER 18 (if over 20 insert 'over 20') Occupation: [redacted]

This statement (consisting of 7 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: [redacted] 341 Date: 10/03/2008

Tick if witness evidence is visually recorded ☐ *(supply witness details on rear)*

In the case of witnesses who produce exhibits which have been created or received in the course of a trade, business or profession or other occupation i.e. computer printouts or copy bank records, the witness statement MUST contain the following endorsement:-

"I am employed as..... at ..... . As such, part of my responsibilities includes making witness statements on behalf of ..... . I do so from my own knowledge and experience and from information obtained by me from the business records of ..... . These records may be either paper based or computer based, which have been subsequently printed onto paper.

These records for the purposes of Article 65 of the Police Procedures and Criminal Evidence (Jersey) Law, 2003, form part of the records related to ..... and were compiled, at every stage by staff members, acting under a duty, in the ordinary course of that everyday trade or business from information supplied by persons, whether acting under a duty or not, who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with in the information and they cannot reasonably be expected (having regard to the time which has elapsed since they supplied the information and to all the circumstances) to have any recollection of the matters dealt with in the information supplied."

Signature: [redacted] 341 Signature witnessed by: SZTYBER-OMER
2010/11

Date: Signed

[redacted]

1. I am a fifty one year old male and I was born on [redacted] 1956 in Jersey. My father was an alcoholic and my mother worked hard to look after us all. In my early childhood [redacted] and my father couldn't cope looking after the rest of us.

2. We were first sent to live at BRIG-Y-DON childrens home and remained there for about six or seven months. When I was approximately seven years old we were sent to Haut de la Garenne. My brothers [redacted] 233 [redacted] came with me. My sisters [redacted] were sent to the [redacted] who lived in [redacted]. When we got to Haut de la Garenne we were all split up on arrival and I was taken straight to a dormitory by a member of staff called [redacted]. It was a great big long room on the upper floor. I could see the fields from the dormitory windows and there was a big black fire escape at the back. [redacted] took charge of me. I remember she had [redacted] hair.

3. People I can remember being there were [redacted] 493, 174 [redacted] 338, 579 and 342 [redacted]. It was an all male dormitory and slept about ten to fifteen of us.

4. We had a strict regime every day, being up early every morning for a bath or a shower. If you got up to use the toilet during the night you would be hit by the [redacted], as that wasn't allowed. They would often punch you in the face or a kick you. This happened to me from day one. I was only a child and I was frightened. My parents had never hit me and this was alien to me. I didn't know what was going on or why this was happening. This happened day in day out. The staff were the ones doing the assaulting.

5. In the kitchen there was a big machine for skinning potatoes. The drain would freeze up in winter and [redacted] 491 [redacted] would make us dig the ice out with our bare hands. Often my hands would be bleeding and [redacted] 491 [redacted] would stamp on my hand forcing it into the drain. It would hurt and I would squeal but he wouldn't stop, he was a sadistic bastard. [redacted] 491 [redacted].

Signature: [redacted] 341 [redacted] Signature witnessed by: SZTYBER-OMER
2010/11

6. Whether summer or winter whenever it was dark we were sent to the dormitory to sleep. I would regularly wake up in the night and someone would be touching my private parts, or I would wake up with someone's genitals in my face. I know it was the [redacted], and I will never forget their faces, but I can't remember their names .

7. The one occasion that sticks in my memory was when I saw 579 being raped in the toilets by a [redacted]. He was squealing like a pig and she was being anally raped. I couldn't intervene because I would have been beaten or worse. If you said anything out of place you would get a hiding, and I didn't want the same thing to happen to me. 579 went into himself after that and he never spoke about it.

8. [redacted] had a room near the [redacted]. I think she was in her mid [redacted] She regularly sexually assaulted the boys. I witnessed [redacted] giving boys oral sex and the older boys, who were twelve to fourteen often had sex with her. These things would always take place in her room. I remember she was very fond of [redacted] who who was well endowed. The younger boys used to watch it regularly. She would lift her skirt up and show you her private parts. I used to give [redacted] oral sex when I was about seven or eight years old. She would take me in her room, open her legs and me to lick her private parts, therefore I would. I thought it was normal , and was too young to realise what was going on. I didn't know that it was wrong.

9. I remember a lady called [redacted] too. I am not sure if this was her Christian or surname. She was also in her mid [redacted] and she was a [redacted] lady. She was another one who was sexually assaulting the boys. I recall she used to stick candles into her vagina in front of the boys.

10. At that time the only people I did trust and who were 'normal' were [redacted] took me to her mothers house and [redacted] gave me a medal after I had a [redacted] operation and was brave. [redacted] knew what was going on as I confided in her. She always wanted to adopt me, but wasn't allowed to. She told me that she couldn't do anything to stop what was happening as she would have been sacked or assaulted.

11. There was one lady who was really [redacted], but I can't remember her name. Rather than hit you with an open hand she would punch you hard. She would grab you by the testicles and squeeze hard. She was [redacted] than the others and was nasty. She looked like an old matron in the war.

Signature: 341 Signature witnessed by: SZTYBER-OMER
2010/11

12. I remember one time when a girl, I think her name might have been [redacted] was crying. TILBROOK went mad, took hold of her and threw her down a full flight of stairs. She must have been about fourteen of fifteen at the time. The stairs were high and I saw her at the bottom and she wasn't moving. I never saw her again after that. We were grabbed by the hair and told to bugger off . [redacted] was a little skinny thing with [redacted] hair which was [redacted] in colour. One of her friends was a girl called [redacted] who later went to the [redacted].

13. The male staff members were always sexually assaulting the girls. Some would get pregnant and then later the baby would be gone. It was so long ago that I can't remember names, probably because I was so young. I remember a girl called [redacted] who was pregnant when she was about fourteen years old. She wouldn't say who the father was but we knew it was a member of staff. One minute she was noticeably pregnant and then she disappeared. I asked where she went but they wouldn't tell me, they just said she had moved on. I remember her being really pretty with [redacted] hair.

14. Girls were sexually assaulted all the time. We used to touch the girls as well, as we came to think of it as being normal, even at that age. We learned this behaviour from the staff and didn't realise it was wrong. It was a regular thing that girls were assaulted by male members of staff in the showers and toilets.

15. One incident I remember was being thrown into a boiling hot shower by TILBROOK. I couldn't reach the taps to make it colder and he held me in there. He held my face against the glass of the shower. As this was happening I remember seeing a girl curled up on the floor of the shower, naked. TILBROOK dragged me out of the shower by my face. When he had gone I made my way over to the girl and I picked her up. She was shaking like a leaf and saying 'it's him, he does it all the time', meaning TILBROOK. I still become upset and angry when thinking about the things that TILBROOK put us through.

16. 493 and I were very close. He was my best friend in Haut de la Garenne, but prior to this we used to be [redacted]. 493 and I were troublesome kids. We were always in trouble for getting up to pranks. We used to run across the aircraft runway as the planes were landing and silly things like this. I was at the home first and then 493 came to Haut de la Garenne later. He changed drastically in there. He kept saying that he needed to get out and he

wanted to go home. One day he said that he couldn't take it any more, and that he'd had enough. The next day he disappeared and we were looking for him all over the place. As we were on the minibus going to Grouville School the following day we saw him [redacted]. We didn't realise that it was 493 at the time and didn't think it was a real person when we saw him. 491 just drove on and didn't stop the bus. We were told later that afternoon by 491 that it had been 493 [redacted]. They said that he was accused of [redacted] the day before. I know he wasn't responsible for [redacted] because I had been with him all day. They used to always threaten 493 with Borstal and he was frightened.

17. I didn't think 493 would [redacted] he wasn't a coward. It broke my heart. They told us that he had [redacted] 493 was being abused in the home. He never put it into words but he changed so much whilst there it was unreal, and I knew what was going on. 493 death greatly affected 91.

18. In 1965 my brothers and I were taken for weekends to 480, 481 's house, which was in [redacted] I must have been about seven or eight. I went with 233 [redacted]. We were taken for weekend visits at first and brought back to Haut de la Garenne. We would sometimes stay overnight and I hated it. They had their own [redacted] children [redacted]. They would often scream and shout at us for even using the wrong toys. We would often get a slap. I used to dread going there and used to hide at Haut de la Garenne so they couldn't find me and make me go. I was always forced to go there. [redacted] hated going too.

19. 480 used to expose her breasts to [redacted] and perform oral sex on him whenever 481 was away. He was about fifteen at the time and was [redacted] I woke up one night when she was givin him a blow job in our room and I saw everything. 480 told me I would get a hiding if I told anyone but also gave me five pounds to keep my mouth shut. [redacted] told me to say nothing too.

20. I remember once I stole a bag of sixpences from 480 's house. I denied taking it when confronted, but it was me. As punishment 480 came into my bedroom and she jumped onto my chest. She pulled her skirt up and began jumping up and down on my face with her vagina in my face. This frightened me and I didn't know what to do. I got a hiding for that too. She hit me

anything she could get her hands on, belts, sticks, canes, all sorts. She most hit me on my [redacted] and I still bear the scars on my [redacted] to this day.

21. I remember one occasion bringing a newt home which escaped and went behind the cooker. I got one of the worst beating of my life for that. 480 continually hit me with a stick across the [redacted] until I couldn't get up. I crawled up the stairs and got into bed and I couldn't move for two days. She wouldn't even call the doctor. I kept running away after that. 481 would wrap a belt around his fist and punch me in the face with the buckle. 480 once hit me with a drum stick. I had touched it and she laced me with it around the head. I was nearly unconscious when she was finished.

22. I told THOMSON , head of Social Services that I had to get out of there but he wouldn't listen. He was childcare officer and he said that I was a liar and he didn't believe me. I told him everything that was happening. Amongst others I told Ian SMITH who was the head of Childrens Services at that time. He didn't want to know. I told another called COOMER who I think was a Childcare Officer, and he wouldn't listen either. I told Miss THORNTON from Child Services who knew the 480, 481 well. Miss BYGRAVES was lovely when I told her and she said she was going to help me.

23. I was eventually stopped from staying with the 480, 481 because I got so out of hand. My behaviour worsened and I was too naughty for them to handle. I kept running away and when I was about fourteen years old they sent me to Basil Lodge , Clarendon Road, St Helier.

24. When I was older I started getting into serious trouble because my head was all over the place. I got into alcohol and drugs with [redacted] led me being involved in crime. My experiences in childhood have left me scarred both physically and mentally. I have had to live with these memories which will never go away. I don't want my children or grandchildren to go through what I did. Someone has to be accountable.

25. I have seen the pictures of the underground rooms on the television with the bathtub in it. TILBROOK, 491 and [redacted] would take me down to these rooms to administer their beatings. It was underground and low and accessed from outside.

Signature: 341 Signature witnessed by: SZTYBER-OMER
2010/11

26. Children often came and went from Haut de la Garenne. I remember a girl being there for about three months and I'm not sure if she got pregnant, but she disappeared. I knew the staff got rid of the babies, because I witnessed it. Not proper abortions, but something else. They would use a coat hanger and pull them out. I saw it happen at Haut de la Garenne in a basement room by the stairs near the kitchen. There was a long marble slab next to a sink with some type of washboard to the other side of it. I saw a girl sitting there who was about fifteen years old, bleeding profusely and screaming. I saw the baby covered in blood and it was alive, it was moving . I knew this was happening regularly as I saw it about four or five times during my time there. It was a [redacted] that was aborting these babies but I don't remember her name. She was old and she used to give us all cod liver oil and something black to swallow each day. She would have been in her forties or fifties. I never knew what happened to the babies after they were aborted.

27. I remember boys going to see [redacted] at Grouville School with problems with their penises because they had sores, and she would treat them. It was common knowledge and we all laughed about it at the time. Thinking about it now they must have been sexually transmitted diseases.

28. As a result of so many beatings my [redacted] is ruined. I am going to need surgery in the future. I have never had a normal relationship due to the fact of what happened to me. It is on my mind constantly and it has effected my relationships. I have taken it out on my partners and I regret that.

29. I have not spoken to the media at all in relation to this. I would not go to the press and would not give an interview if approached.

30. I am happy stand in court and give my evidence in front of people who offended against me and others in my childhood. I want just to be done and the truth to come out.

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 26th March 2021

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT44

[redacted]

STATES OF JERSEY POLICE

06

MAJOR CRIME POLICY FILE

OFFENCE CHILD ABUSE DECISION NO. 22

VICTIM(S) MULTI

OFFICER MAKING DECISION DATE OF DECISION 12/8/08

DI 671 Fossey TIME OF DECISION 1000

DECISION:
To decline to release any victim's statement for civil proceeding until the criminal proceedings are complete.

REASON:
To release any statement prior to the conclusion of criminal proceedings could have an adverse effect on the administration of justice.

OFFICER MAKING ENTRY

DI Fossey

SIGNATURE OF OFFICER MAKING DECISION

[redacted]

DATE 12/8/08

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 21 March 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT45

[redacted]

Operation Rectangle

[redacted]

Private & Confidential
[redacted] Solicitors
[redacted]

25 August 2010

Dear Sirs,

Thank you for your letter dated 18th August 2010 requesting a copy of the statements made by your client ??.

With regard to the provision of the statements I must ask that you supply the undertaking given by all of the lawyers to prevent clients being given a copy of their statement and revealing its content to other witnesses. The undertaking required states –

I Advocate [name] of [firm] undertake as follows:

1. To retain the witness statement of [name] in our client file and not to make any further copies of it;

2. Not to use the statement for any purpose other than considering and / or pursuing a civil claim in relation to the matters set out in the statement, without first obtaining the written consent of the States of Jersey Police.

When we have received this undertaking the copy statements can be released to you.

Yours sincerely

Malcolm Rogers
Deputy Office Manager
Operation Rectangle

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 2nd March 2021

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT46

[redacted]

Officer's Report

		URN	[redacted]
TO:	SIO	REF:	
STN/DEPT:	OPERATION RECTANGLE		
FROM:	CI GODDARD, PAUL NICHOLAS	REF:	
STN/DEPT:	OPERATION RECTANGLE	TEL/EXT:	
SUBJECT:	A1991	DATE:	07/07/2009 00:00
TITLE:			

Sir

I have advised [redacted] that the allegations against [redacted] have been investigated and that the decision has been made that no prosecution will follow.

I have also advised him that the allegations against [redacted] have been investigated and that a decision has been made that no prosecution will follow.

[redacted] was obviously disappointed but appeared to accept the decision stating that 'it was really what he always expected'

I have advised him that the investigation in relation to Haut de la Garenne is not complete and that there are remaining issues where decisions are to be made and that there are still ongoing investigations in relation to other matters.

He concluded by thanking the investigation team for their efforts

It should be noted that [redacted] has recently moved house and is now resident at

[redacted]

He only has use of the mobile telephone number [redacted] His former home number, [redacted] no longer exists)

Action submitted

CI Paul GODDARD

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 28th March 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT47

[redacted]

STATES OF JERSEY POLICE

Witness Statement

Article 9 Criminal Justice (Evidence and Procedure)(Jersey) Law 1988

Statement of: [redacted] 382

Age if under 20: OVER 18 (if over 20 insert 'over 20') Occupation: BUILDER

This statement (consisting of 5 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: [redacted] 382 Date: 11/03/2008

Tick if witness evidence is visually recorded ☐ *(supply witness details on rear)*

In the case of witnesses who produce exhibits which have been created or received in the course of a trade, business or profession or other occupation i.e. computer printouts or copy bank records, the witness statement MUST contain the following endorsement:-

"I am employed as..... at ..... . As such, part of my responsibilities includes making witness statements on behalf of ..... . I do so from my own knowledge and experience and from information obtained by me from the business records of ..... . These records may be either paper based or computer based, which have been subsequently printed onto paper.

These records for the purposes of Article 65 of the Police Procedures and Criminal Evidence (Jersey) Law, 2003, form part of the records related to ..... and were compiled, at every stage by staff members, acting under a duty, in the ordinary course of that everyday trade or business from information supplied by persons, whether acting under a duty or not, who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with in the information and they cannot reasonably be expected (having regard to the time which has elapsed since they supplied the information and to all the circumstances) to have any recollection of the matters dealt with in the information supplied."

Signature: [redacted] Signature witnessed by: DC3371 SLATTER
2010/11

Date: 12/03/08 Signed [redacted]

Recorded by: DC3371 SLATTER

Commenced at 1720hrs on 11/03/08 and Concluded at 1930 hrs on 11/03/08

S64

1 I am the above named and currently live at the address overleaf.

2 I was a resident at Haut de la Garenne children's home between 1976 and 1983. At this time I would have been 8 – 15 years old.

3 I was placed in Haut de la Garenne due to problems at home. My mother was suffering from health problems brought on by alcoholism. She died shortly after I was placed at Haut de la Garenne.

4 My brother [redacted] 596 was also placed at Haut de la Garenne the same time but he was placed with a family group in around 1981.

My recollection of living at Haut de la Garenne is that although there were some good times I did not generally enjoy my time there and was not sorry to leave. I can't put a specific reason for this just that I did not enjoy my time there.

5 We did go on some nice trips. I remember trips being arranged to Disneyland (Florida), horse riding in the New Forest and skiing trip to main land Europe.

6 During the time I was at Haut de la Garenne. Mr THOMPSON was the Superintentant and [redacted] 556 was the deputy.

7 There were four living blocks a Haut de la Garenne, Aviemore, Baintree, Claymore and Danluse. I was based in [redacted]

8 The numbers varied in the blocks from 30 boys down to only around 6 at the end of my time there. We all had a specific member of staff who would look after our needs including buying our

Signature: [redacted] Signature witnessed by: DC3371 SLATTER
2010/11

clothes etc. My main carer was a lady called [redacted] but there was another lady who I just remember being known as [redacted] which possibly her first name.

9 [redacted] also looked after me for a while. He [redacted] but later got into drugs and his life took a downturn. He [redacted] and committed suicide by hanging himself. This occurred sometime in the middle of my time at Haut de la Garenne.

10 When I was 13 years old I recall being in the washroom on the lower ground floor. Two brothers who were residents of Haut de la Garenne came to me and disclosed that they were being sexually abused by an older boy by the name of [redacted] 43 They stated that [redacted] 43 asked them to come to his room where he would ask them to strip naked and lie on top of him. He would also ask them to masterbate him.

11 [redacted] 43 was much older than us at this time. As far as I can remember he was post school age but still a full time resident at Haut de la Garenne.

12 [redacted] approached me on several occasions and disclosed the abuse that [redacted] 43 was subjecting them to. They asked me not to say anything to the staff but to me it appeared the abuse was steadily becoming worse although I do not recall them disclosing anything about penertrative sex.

13 [redacted] were of a similar age to me but I was more socially mature. Although they asked me not to tell the staff what was going on I felt compelled to do so. As such I informed the staff what was going on. I do not remember who I told . I recall that the staff verified that [redacted] had told me with them. As a result [redacted] 43 was segregated from the other boys in one of the detention cells in the Aviemore block. This was the cell with the plastic window. He was shut in the cell from 9.00pm till morning. It was speculated that [redacted] 43 would wander around the home at night and that [redacted] were not the only people to be targeted by him.

14 Our dormitory was on the second floor. It consisted of two adjoining rooms, one that slept about five people and one that slept four. We called it the "green room" owing to the green carpet. It had a window which looked onto the swimming pool.

Signature: [redacted] Signature witnessed by: DC3371 SLATTER
2010/11

15 Owing to the general ambience of the building we would create stories and generally have a non serious interest in the occult and witchcraft. The astmosphere of the building was ideal for holding séances and we did play with ouija boards. I recall [redacted] giving me a book on witchcraft and the occult. He stated that the book was banned and that I must not show it to the staff. I did read a bit of it but just dismissed it as rubbish.

I remember vividly lying in bed with the lights off and having the feeling of someone leaning over me and breathing heavily in my ear. This happened regularly. I would get out of bed and switch the light on but no-one was there. The staff would state that it was probably the boiler, which was situated directly underneath our room or something to do with the fabric of the building. Another boy called 380 [redacted] also experienced this feeling in exactly the same way.

17 Witchcraft and the occult was also practiced at the dalmons , which is situated directly across the road. This is an ancient burial ground where there is a circle of buriel mounds. We would see fires which had been set on this site and also saw black candles and upturned crosses at this location.

18 When I was initially placed in Haut de la Garenne I was immediately placed in one of the detention rooms which are situated to the right of the building attached to the Aviemore block . My first two days at Haut de la Garenne were in one of these cells which I recall being only eight years old at the time, was very traumatic, bearing in mind that I had just been taken away from my mother. The detention rooms were similar to police cells in that the doors were locked, there was a wooden board for a bed, the window was plastic and you had to ring a bell in order to be allowed to the toilet which was situated next to the detention cell. I did not know why I was put in one of these cells for my first two days.

19 I was also placed in these cells on about four other occasions for minor misdemeanours. This included swearing at the staff fighting with other boys. On one occasion I was put in one of these cells for fighting with my brother.

20 I was required to wear my pyjamas and dressing gown when in the detention rooms but were still looked after while in there i.e. given food and drink.

Signature: [redacted]
2010/11

Signature witnessed by: DC3371 SLATTER

21 My experience of Haut de la Garenne children's home was that the group of boys that were placed there was a mixture of boys who had been separated from there families due to problems within their families and boys who were at Haut de la Garenne due to them being habitually in trouble with the authorities. This being the case there was a real mixture of personalities which didn't always gel together. It was also the case that the staff had to form some sort of generic policy with respect to dealing with all the boys that were resident there.

With respect to what I have said above I would like to leave the verdict as to whether I was abused at Haut de la Garenne in the hands of a higher authority.

When making this statement I have not given any names or identified any places that are not purely within my knowledge. The police have not forced me to say anything I don't want to say or did not know before the police spoke with me.

Signature: [redacted] Signature witnessed by: DC3371 SLATTER
2010/11

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 21st March 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT48

[redacted]

General Message

URN: [redacted]

Assessor/Receiver's Summary:

Date/Time: 25/02/2008 1630

Priority: High Urgent: No

Type: Taken Date: 25/02/2008

Classification:

Description:

Message Details

Message From/To: From

Surname: [redacted]

Forename(s): [redacted]

Sex: MALE

Telephone 1: HOME: [redacted]

Telephone 2:

Telephone 3:

Telephone 4:

Address: HOME: [redacted]

Email:

Post Code:

Content

I am a former resident of HDLG between 76-83. I am not sure if I was abused, I remember being locked in isolation for days. I can say that a [redacted] 43 seriously abused two brothers called [redacted] and [redacted] - sexually. For this [redacted] 43 was put in solitary, no prosecution, Police not called.

I also remember a member of staff [redacted] who committed suicide.

Cult activity was rife around HDLG. We would see lots of lights at night and next day would find lots of upside down crossses, black candles, and cult paraphanalia.

At night people would come and look at us so closely you could feel their breath. Another kid [redacted] 380 also experienced this.

Caller then became emotional and asked someone to call and see him.

Information

Person receiving/sending: RECEIVING Title/Rank/ID Number:

Surname: [redacted]

Forenames:

Actions Required? Assessor/Receiver:

Action No: Registrar/Indexer:

Further Action Required? Office Manager:

Other References: Officer in Charge:

Acknowledgement

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 24th March 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT49

[redacted]

Action Report

Details

URN A614

Text [redacted] OR ANY ABUSE SUFFERED AT HDLG Following media attention to HDLG 23/02/2008 [redacted] has contacted the enquiry stating he was at HDLG from 00/00/1976 to 00/00/1983 but is not sure if he was abused, though states at night people would come and be very close to them - there was also cult activity going on. He adds he was aware of [redacted] 43 [redacted] sexually abusing [redacted] and [redacted] needs to be seen in order that he can be de briefed for the time he spent at HDLG and for statement to be obtained by the aim of best practice for his recollections there for any abuse suffered to include full details of offenders and any corroboration he can supply in respect of others abused - in particular what he says concerning [redacted] Visit of should be made to his info in [redacted] Holmes exhibits accounts/a personal file which appears to relate to the subject of this action under Ref [redacted] Consider Policy in relation to Risk Assessment for witnesses and victims - Holmes Doc [redacted] refers >> Obtain witness presentation, complete PNC, PURN and CLUE checks and update intelligence where appropriate. Update action, LCD Logs and Historical Abuse database. Endorse the action pursuit to show what intelligence has / has not been submitted <<

Title [redacted] FOR ANY ABUSE SUFFERED AT HDLG

State Filed

Station HEADQUARTERS

Class HAUTE DE LA GARENNE

Subclass 1

Allocated Officer

Themes

Themes

Linked Actions/Associated Documents

Associated Documents

Originating Details

Originating Document [redacted]

Originating Details

Subject Details

Subject(s) [redacted]

Result Details

User ID [redacted] Thursday 24 March 2016 08:11 Template Version 1.23

[redacted] L11 OP RECTANGLE - JERSEY CHILD ABUSE Page 1 of 4

Action Report

Recorded By Officer

Receivers Instructions	Receivers Instructions Test Data
Result Text	RESULTED on 18/03/2008 Contacted 0940 hours 10/03/2008 - still willing to speak any time after 5.30. Good quality witness. Gives accurate account of disclosure by [redacted] of abuse by 43 at HDLG. PURN - number of driving convictions PNC - [redacted] PNCID [redacted] From receiver: Action complete. Witness appreciation and checks complete. Statement submitted. UPDATED on 04/07/2008 [redacted] obtained from [redacted]
Documents Taken	[redacted]
Pend Date	
Disclosure Records	57SOJ16L11-DI2185, DISCLOSURE, DI2185 - Ready for Defence Case Statement - CaseFile: CF1 Item: [redacted] FOR ANY ABUSE SUFFERED AT HDLG
Legacy Log	
Migration Log	
Tags	
No Data Available	
Associations	
Reference	[redacted]

Nature	LINKACTION	Provisional	Start Date	End Date	Provenance
Target Description	[redacted] FOR ANY ABUSE SUFFERED AT HDLG			Association Description	
Note					
Status					

Action Report

Associations

Reference [redacted]

Nature	LINKACTION	Provisional	Start Date	End Date	Provenance
Target	[redacted]			Association	
Description	HDLG			Description	
Note					
Status					

Reference [redacted]

Nature	GENERATED	Provisional	Start Date	End Date	Provenance
Target	[redacted]			Association	
Description				Description	
Note					
Status					

Reference [redacted]

Nature	SUBJECT	Provisional	Start Date	End Date	Provenance
Target	[redacted]			Association	
Description				Description	
Note					
Status					

Reference [redacted]

Nature		Provisional	Start Date	End Date	Provenance
Target	[redacted]			Association	RESULTED
Description				Description	
Note					
Status					

Reference [redacted]

Nature	ORIGIN	Provisional	Start Date	End Date	Provenance

Action Report

Associations

Target Description	[redacted]	Association Description
Note		
Status		

Reference [redacted]

Nature	Disclosure	Provisional	Start Date	End Date	Provenance
Target Description	DI2185 - Ready for Defence Case Statement - CaseFile: CF1 Item: [redacted] FOR ANY ABUSE SUFFERED AT HDLG			Association Description	
Note					
Status					

Attachments

No Data Available

Witness Name: Barry Taylor
Statement No: Second
Exhibits: BT38 – BT50
Dated: 21st March 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit BT50

[redacted]

MATRIX PANEL TIMETABLE 3 Wednesday 19 November 2008

Officers	Investigation	Time of Panel
Mick Pick & Guy	[redacted] 7	09.00 – 09.30
	[redacted]	
	[redacted]	
Paul & Stevie	[redacted]	09.30 – 10.00
	[redacted]	
Graeme & John P	Kidd	10.00 – 11.00
	Jordan	
	COFFEE BREAK	
Joe	Various	11.30 – 12.00
Ange	[redacted]	12.00 – 12.30
	LUNCH BREAK	
Julie & Mark C	[redacted] 491	2.00 – 2.30
Val & Howie	[redacted]	2.30 – 3.30
Sally & John Mc	[redacted]	3.30 – 4.00
	[redacted]	
	COFFEE BREAK	
Phil & Kim	Maguires	4.15 – 4.45
	[redacted]	
	[redacted]	
	[redacted]	
Jim McGranahan	[redacted]	4.45 – 5.15
	[redacted]	

MATRIX PANEL TIMETABLE Thursday 7 May 2009

Officer	Investigation	Time of Panel
Dave HILL	[redacted] Peter HARRIS	09.00 – 09.15
Mark CANE / Julie JACKSON	Les HUGHES / [redacted]	09.15 – 09.45
Paul GODDARD	Richard DAVENPORT	09.45 – 10.00
John PACKER	KIDD and JORDAN	10.00 – 10.15
		10.15 - 10.30
	COFFEE BREAK	
John McMAHON	[redacted] 264, 578	11.00 – 11.30
Howard HARRIES	[redacted] 335	11.30 – 11.45
Joe CUNNINGHAM	[redacted]	11.45 - 12.00
Jim McGRANAHAN	[redacted] 569	12.00 – 12.15

MATRIX PANEL TIMETABLE – Wednesday 24 June 2009

Officer	Investigation	Time of Panel
Julie JACKSON	[redacted]	09.30 – 09.45
Paul GODDARD	[redacted]	09.45 - 10.15
	[redacted]	
	[redacted]	
	[redacted]	
Jim McGRANAHAN	[redacted]	10.15 – 10.30
	[redacted]	
	COFFEE BREAK	
Joe CUNNINGHAM	[redacted]	11.00 – 11.15
	[redacted]	
	[redacted]	
	[redacted]	
	[redacted]	

18Jun09.rme

MATRIX PANEL TIMETABLE – Thursday 23 July 2009

Officer	Investigation	Time of Panel
	[redacted]	09.30 – 09.45
	[redacted]	09.45 - 10.15
	[redacted]	10.15 – 10.30
	[redacted] 7	10.30 – 10.45

APPENDIX 2

WITNESS STATEMENT OF DR HELEN MILES DATED 5 APRIL 2016

Witness Name: Dr Helen Mary Miles
Statement No: First
Exhibits: HMM1 – HMM5
Dated: 05 April 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Witness Statement of Dr Helen Mary Miles

I, Dr Helen Mary Miles, will say as follows:-

1. I refer to Exhibits HMM1 to HMM5 which contain true copies of documents to which I shall refer in this witness statement.

2. I am currently employed as a Policy Director within the Department of Community and Constitutional Affairs. My current role includes leadership of the 1001 Critical Days and Early Years Taskforce. I have been in post since May 2015.

3. Prior to this appointment, I was employed as the Director of Criminal Justice at the States of Jersey Police (SoJP) between January 2008 and May 2015. During my tenure, I had responsibility at different times, for custody functions, response investigation, criminal justice administration, records and information management and the Jersey Vetting Bureau. Prior to that appointment, I was employed as Research and Information Manager at the Jersey Probation and Aftercare Service (JPACS) between 1993 and 2008.

During my tenure at the JPACS, I completed, inter alia, an undergraduate honours degree in Social Science and Criminal Justice, a Diploma in European Humanities, a post-graduate Diploma in Social Research Methods and a Doctorate in Applied Social Sciences. My thesis was entitled "Constructing Justice in an Island Community: Honorary Police and the Parish Hall Enquiry System in the Channel Island of Jersey". My doctoral studies were supervised by Professor Peter Raynor at the Centre for Criminal Justice and Criminology, University of Wales, Swansea.

4. I have published articles in academic journals and presented at conferences in Jersey, the UK and Europe. I hold an honorary research fellowship at the University of Wales, Swansea and I am the Jersey Director of their Crime and Society Research in Jersey Programme.

5. In 2014, I co-authored a book "Reintegrative Justice in Practice", published by Ashgate Limited which reproduces parts of my doctoral studies around the informal management of crime in an island community. The content that follows in this statement is based both on my thesis and the manuscript of that publication.

6. I have been asked to provide an overview of the origins and context of the honorary systems of Jersey, in particular the role of the Honorary Police and the operation of the Parish Hall Enquiry. I also provide an overview of the effectiveness of the Parish Hall Enquiry and make some observations about the future of the Parish Hall Enquiry and the honorary system upon which it depends.

[redacted]

7. There is little doubt that the continuing strength of the Parishes as social and administrative units represents an unusual survival of a traditional form of social organisation, and forms the basis of the honorary policing system of which the Parish Hall Enquiry is a part.

8. The study of the history of the establishment and the development of the community institutions poses certain problems for the researcher. Whilst there are a number of sources which document the history of the Island, there is very little written prior to 1996 either about the Honorary Police or the Parish Hall Enquiry system. References to the Honorary Police usually refer to the "quaint custom" of parish policing and neither attempt to describe the origins of the system nor to evaluate either its effectiveness as an important instrument of the maintenance of peace and social order in the parishes. The important role played by the Parish Hall Enquiry system in the administration of justice in Jersey is largely ignored.

The rise of the parish

9. Honorary service in Jersey has its roots in a feudal system of social organisation underpinned by the existence of the "fief". The organisational framework of the parish had evolved through a series of relationships of paternalism and deference to the King and the officials appointed by individual fiefs. The current twelve parish structure became established in the 12th Century and possibly earlier. Initially providing a framework for ecclesiastical organisation, it also provided a useful organisational unit of both civil and military organisation. The parish also became established both as a

community and an entity in law (Kelleher 1994).[1] Despite the small geographical area of the island, from a cultural perspective, rather than becoming a single island-wide community, Jersey developed unusually, as an island comprising twelve separate "bubbles of governance" (Shearing, 2001) each having considerable discretion to shape and control events that took place within parish boundaries. All parish matters, including policing, were dealt with by a system of unpaid officers, elected and controlled by the principaux of each parish[2]

> *In an Island characterised by a lack of communal expression, the parish, as the only institutional representative of a collective identity, reflected the attitudes and responses of the rural population to change and possible threats to the traditional way of life (Kelleher 1994:59).*

10. The role of the parish as the primary unit of social organisation in Jersey is of vital importance. The parish governing body ("Les assemblées paroissales") and the Honorary Police formed a powerful political body, able to influence the direction of Island government.

> *The role of the Connétable and his officers reflected this strong interest in the affairs of the community. Their role was the administration and policing of the parish in paternalist fashion; keeping parish matters within parish hands. Recourse to the instruments of justice outside the parish that is to the Royal Court was made only when totally necessary (Kelleher 1994:58).*

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[1] See the Parish of St Helier v Manning 1982 JJ 183

[2] This continues into modern times, where parish officials are elected to serve a term of office by the ratepayers of the parish. The distinction between rich and poor has eroded over time in that les principaux – the wealthiest landowners no longer take precedence over the 'ordinary' property owner.

11. Each of the twelve parishes has an internal structure designed to promote good stewardship. All positions are honorary[3] and office holders are elected by the rate-payers of the respective parish. In addition to the Honorary Police, there are a number of other posts which are held by parishioners. These include Inspecteurs des Chemins, (Roads Inspectors), Procureurs des Biens Public (Parish Treasurers) and Inspecteurs des Rats (Rates Assessors). The involvement of the community in this way ensures that decision making is kept at local level. In other jurisdictions all of these services would be provided by the state via paid functionaries.

12. The existence of the parish as a separate entity, independent of Island central control is important to understanding the social and political circumstances which have allowed the systems of Honorary service to prevail into modernity. The dislike of centralisation pervades every aspect of Island life into the 21st century probably because the unit of social organisation and administration remains the parish. The pressure towards modernisation which is maintained by some business interests, and in particular the finance sector, encounters continued opposition from supporters of a traditional way of life, who are primarily resident in the country parishes.[4]

13. The law in Jersey has evolved from a system appropriate to an agrarian society to the complex classification necessary to underpin the requirements of an international finance centre.[5] What is significant about this transition is the uncharacteristic absence of a process of industrialisation that is visible in

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[3] Since 1998, the position of Connétable is entitled to remuneration according to the terms of the States' Members Income Act (1998) JERSEY R & O 9275

[4] The continued public outcry at the suggestion of the Clothier panel (2001) to remove the right of Connétables to sit in the States by virtue of their office alone provides a contemporary example. This move was rejected in November 2004 when the house overwhelmingly voted in favour of the retention of the ex-officio role of the Connétables.

[5] For a discussion of Jersey's evolution into an offshore finance centre, see Hampton M in Baldacchino and Greenwood (1998:292-311)

almost all modern European societies. Throughout this transition process, reliance upon customary law has ensured that the Honorary System proved remarkably resilient in a changing context. In addition, the political influence inherent in the system has given it some protection from outside pressure (Kelleher 1994)

Derivation of the responsibility of the parish for policing

14. This section provides an account of the origins, role, powers and legal basis of the Island's Honorary Police, from the earliest records through to the Rutherford Report of 2002. It describes how their role has evolved over time, and how it has been affected by various constitutional changes, including the establishment of a paid police force.

15. The essence of Honorary Policing in Jersey is the existence of an unpaid body of parishioners helping to maintain peace and social order across the island.

16. The system of policing within the parishes has changed little since its establishment by the French Kings in early times. Under the general supervision of the Attorney General, honorary officers provide an effective and powerful network of local knowledge that spans the Island. Authority is derived from the oath of office, sworn before the Royal Court. Whilst the Code of 1771 ratified the law, the powers afforded to the Honorary Police are predominantly customary in origin. Within the boundaries of their own parish the Connétable and the Centenier have the power of arrest and the right of entry to any premises, without warrant, to search for stolen property or

[redacted]

prevent a breach of the peace.[6] The Vingteniers and Officiers de Connétable are permitted to exercise these powers only in an emergency or when ordered to do so by the Connétable.

The office of Connétable

17. The Connétable, until recently, was the principal officer of the respective parish and the head of the Honorary Police.[7] Prior to 1998 this office was honorary and unpaid. In addition to the policing and administrative functions, the Connétable represents the Parish in the States Assembly.[8] A Connétable is elected by parishioners to serve a three-year term of office. At the end of that period he/she must seek re-election.

18. The role of the Connétable has not changed since the fifteenth century. The "father of the parish"[9], is charged with ensuring the safety and responsibility of the parishioners and is personally responsible for ensuring the presentation of criminal cases before the Royal Court. The Connétable has a multiplicity of roles within the parish, the duties being formalised in the Code de 1771:

> ***LES CONNETABLES*** *sont tenus de faire rapport, et présenter en Justice toutes personnes contrevenant aux Ordonnances et Règlemens établis pour le bon ordre dans la société, et d'assembler une fois le mois leurs Officiers, afin de se mieux enquérir des délits qui seroient commis, et de pouvoir connoître les délinquans, selon la teneur expresse du serment de la charge. Ils ne continueront point en*

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6 the customary power of search was abolished in December 2004 following the enactment of the Police Procedures And Criminal Evidence (Jersey) Law 2003. The full policing powers of the Connétable were further removed in August 2014 – only a policy role remains in relation to parish policing

7 This duty was delegated to the Chef de Police of the Parish in 2008

8 The proposal by the Clothier Committee to remove the right of a Connétable to sit in the States Assembly by virtue of office alone was defeated in November 2004 and again in 2012

9 Only three women have held the position of Connétable, in the rural parishes of St Lawrence, St Brelade and latterly St Saviour.

[redacted]

la charge, non plus que les Centeniers et Vinteniers, plus de trois ans, à moins qu'ils n'y soient élus de nouveau, et qu'ils consentent de l'exercer ; et après ledit terme, l'Officier du Roi s'adressera à la Cour, qui ordonnera une nouvelle élection selon l'usage

(The Connétables are bound to report and present before the Court all who contravene the Orders and Rules established to maintain order in the community, and to assemble monthly their Officers in order to inquire into the commission of minor offences and to be made aware of wrongdoers, according to the terms of their oath of office. They will not serve longer than three years, (unless re-elected and if in agreement to serve) and after the said term, the Crown Officer will address the Court, who will order an election).

19. The notion of maintaining order in the community and pursuing wrongdoers was thereby enshrined in law together with the assembly of officers to enquire into the commission of offences. The establishment of a powerful network of local knowledge was necessary to achieve this mandate, a service that was provided by a team of subordinate officers.

The office of the Centenier

20. The Connétables are assisted by a Centenier; also elected by parishioners to serve a three-year term. Either retired from, or following another occupation, the Centenier acts in a voluntary, unpaid capacity, primarily performing duties associated with Parish Hall Enquiries and prosecution.[10] The Centenier is

[10] The establishment of the Police Court in 1863 formalised the authority of the Centenier to charge individuals and present them before a stipendiary magistrate for sentence. The Attorney General may initiate proceedings in his own right and may overrule Centeniers who refuse to exercise their discretion to prosecute.

also empowered to deputise for the Connétable in his absence. Originally each parish required one Centenier but this number has been increased by order of the Court depending on the size of the population of the parish.[11]

21. In the absence of any island-wide system of policing, the maintenance of peace and social order in the parish and the investigation of crime fell squarely on the shoulders of the Centenier who occupied a pivotal role in the parish. This task was often quite onerous, particularly in St Helier. Centeniers report being woken up several times a night to attend incidents. In parishes where there was more than one honorary officer, the most senior in terms of length of service, became the Chef de Police and was able to deputise for the Connétable in the States Assembly.[12]

22. The powers vested in the Centenier are customary, conferred via the oath of office, administered by the Royal Court as specified in the Code de 1771. The oath empowered the Centenier to seek out and control wrongdoers in order to prevent breaches of the peace.

23. The States Committee charged with the creation of new legislation have recently revised the oath to reflect the modern context in which the contemporary Centenier operates. The new oath maintains the spirit to keep and cause to be kept the Queen's peace, but removes the outdated elements such as controlling the observance of the Sabbath and illegal tavern-keeping.

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[11] See (Loi (1853) au sujet des Centeniers et Officiers de Police).

[12] This customary right was challenged in St Helier in 2004 and in the Honorary Police(Jersey) Regulations 2005 provided for the Connétables to appoint a Chef de Police of their choice following consultation with the Honorary Police of the relevant parish.

The office of the Vingtenier

24. Junior in rank to the Centenier, the Vingtenier was charged with the administration of a vingtaine, a sub-division of the parish for fiscal purposes. (In the parish of St Ouen, these sub-divisions are known as cueillettes). The Vingteniers assist the Centeniers by recording proceedings at Parish Hall Enquiry and in certain cases providing useful intelligence about attendees and the circumstances relating to the alleged offences.

The office of the Constables Officer

25. The Officier de Connétable (CO) is the most junior rank of the Honorary Police. The principal role is to assist the Centenier with the routine administration and policing of the parish including road closures for weddings, funerals and fetes.

The effect of social change upon the honorary system

26. Until the beginning of the nineteenth century the concept and system of honorary policing in Jersey had not been questioned. At this time, there started to be considerable concern with the function of the parish system. This disquiet was principally experienced by English settlers who although economically powerful found it impossible to precipitate change. Their inability to infiltrate Jersey institutions and consequent lack of political influence resulted in calls for reform. When the States refused to act, the newcomers wrote letters of complaint to the Privy Council. As a result, a major investigation into the state of the Criminal Law in Jersey was undertaken by visiting commissioners from England.

27. In 1847, the First Report into the State of the Criminal Law in the Channel Islands provided the first comprehensive account of the evolution of Jersey Law and examined the history of customary practice. The English Commissioners wrote unfavourably about the state of the law and were particularly critical about criminal processes.

> *It appears to us that scarcely any part of the criminal proceedings which we have described is such as to suit the present condition of the inhabitants of Jersey (p.xxxviii).*

28. The strongest criticism was reserved for the informal, unprofessional nature of parish organisation and the lack of competence in police duties demonstrated by Centeniers. Described as "almost wholly inoperative as a protective force" the report was disparaging about the role of the Honorary Police and recommended that it should be replaced by a paid force at the earliest opportunity. The Commissioners were critical of every aspect of the role of the Connétable, principally because they could not reconcile the duties with their understanding of the role as it applied to England.

> *The word 'constable' conveys to the English lawyers the idea of an authority much inferior to that which the constable, and, as acting for him, the Centenier, constitutionally possesses. The officers have functions partly resembling those of our police magistrates. They may, in certain cases, take bail from a party arrested where the offence does not amount to felony; they can also bind parties to keep the peace. In numerous cases they assume the exercise of a discretion which in*

England would not be thought compatible with the duties of a police officer (p xxxix).

29. Until the construction of parish buildings, investigations into offences would have taken place at the scene of the alleged offence. In cases of public order offences, the focus would have been on prevention rather than punishment. With the sole criminal tribunal being the Royal Court only the most serious offences would have been referred. The Commissioners Report describes a process of a preliminary investigation which compares to the procedure of a Parish Hall Enquiry as we know it today.

30. The recommendations put forward by the Commissioners were unsurprising. Both men were legal experts from England with limited understanding of the complex relationships and frameworks through which Jersey society had evolved. The Commissioners recommended that all duties connected with the "preservation of the peace and the enforcement of the Criminal Law" be removed from all ranks of the Honorary Police whose primary focus should be towards municipal duties. A particular criticism was that of the political role of the Honorary Police and recommended that the paid force should be independent of the Parish Assembly.

31. Reaction to the 1847 report was characteristically slow. Despite the gross indictment on the character and composition of the Honorary Police, the customary practices continued unhindered for nine years before any enactment was introduced that had the potential to change the status quo. The Commissioners Report raised a number of constitutional concerns for the

Island which were considered to be more important than the application of the law and the implementation of the recommendations in the report.

32. The principal outcome of the 1847 report into the Criminal Law was a Law to create a paid police force in St Helier[13] and a number of other Laws which established a criminal justice infrastructure.

33. It has been suggested that the Laws passed in 1853 may in some way be seen as paying lip service to the Commissioners report (Kelleher 1994). Although the laws were drafted and approved by the Privy Council, the actual implementation and enforcement was not automatic. Policing in the parishes was still very much the province of the Honorary Police. The Law provided for the establishment of a paid police force only in St Helier and the uniformed Officers remained under the control of the Connétable. The paid police required the permission of the Connétable before crossing the boundaries into another parish. The real power within the system remained at community level and decisions about investigating offences, charging offenders, offering bail and the customary right of search continued to be made by the Centenier.

34. In 1861, a further Report prepared by Royal Commissioners reviewed the civil and ecclesiastical functions of the Island. Once again, the Commissioners were critical of the role of the Honorary Police and recommended that the institution be relieved of any duties regarding the maintenance of peace and social order. Once again, the recommendations were ignored and the Honorary Police continued unhindered for the next 73 years.

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[13] Loi (1853) Ordonnant L'organisation D'une Police Salariee a St Helier (Law to create a paid police force in St Helier)

RAPPORT AU COMITE DE LA DEFENSE DE L'ILE SUR LA REORGANISATION DE LA POLICE SALARIEE

35. In 1934, the Connétable of St Helier wrote to the Defence Committee expressing his concern at the insufficient number of paid police available to patrol St Helier in an efficient manner (Police Committee Minute Book, 1922-1947). The Defence Committee consequently commissioned a report to investigate two distinct aspects of policing:

    a. to establish whether it was possible or desirable to provide the services of "experts" in the detection of crime and whether their services should be available on an island wide basis when the Connétables judged that their services were required; and

    b. to examine whether it was expedient, whilst conserving the fundamental principle of the Honorary Police to reorganise the paid police in accordance with the current needs of the whole Island.[14]

36. The Report acknowledges the various social changes that had taken place in the Island since the establishment of the paid force in 1853, particularly the rapid growth of new urban areas in hitherto rural parishes. It also addressed the question of state responsibility for the provision of policing as an alternative to reliance on the parish. Whilst acknowledging the "great debt which generations of Jerseymen owe to the Members of the Honorary Police who have served, and who are serving the States so well" (p14), it suggested

[14] This term of reference has been mistranslated in a description published on the States of Jersey Police website which reads: "Examine whether it was expedient to retain the fundamental principal of the honorary system of policing" – this changes the sense dramatically.

that an Island-wide force was necessary in order to provide a professional source of policing from which all parishes would benefit.

37. The Committee proposed that the St Helier paid police force should be abolished and replaced with an Island wide force over which the States should have direct control. However, it was also stipulated that Officers from the force would be available to the country parishes only at the request of the Connétable or Centenier of that parish and would be required to act in accordance with their orders within parish boundaries. Perhaps fearful of the rejection suffered by the Royal Commissioners, this Report was explicit in the view that "there should be no interference with the authority of the Constable in his own parish" (p.18).

38. As a corollary to the principal recommendations, the Report acknowledged that the prosecution of crime should remain the responsibility of the Attorney General and the Honorary Police and further that there should be as "little modification as possible in the manner in which offenders against the criminal law are brought to Justice" (p.21).

39. In 1935 the States accepted the recommendations in principal but never acted upon them. However, three years later in 1938, the issue was still being discussed and there was much controversy over the proposal, predictably from within the country parishes (JEP 15.2.1938). Once again the political power of the rural bloc prevailed; the principal was eventually rejected and the recommendations of the 1934 report were never enacted.

Policing during the Occupation

40. No written records appear to exist about the operation of the Honorary Police during the occupation years. The experience of Occupation had a profound effect upon the Jersey population and is well documented in a number of local publications (Sanders 2005; Harris 2003)

The Maxwell and Tarry report

41. During the post-war period, the effectiveness and efficiency of the Honorary Police to maintain social order was again questioned. The Defence Committee commissioned a further report into police organisation in Jersey.

42. Maxwell and Tarry provided a balanced commentary on the role of the Honorary Police in 1950. This report was supportive of honorary service and commended the work done to maintain peace and social order in the parishes. The role of the informal parish enquiry was considered and the role of the Centenier in the adjudication of offences was examined.

43. The Maxwell and Tarry Report acknowledged the widespread view that the Honorary Police could no longer function as the primary provider of public protection and required the support of a paid force, with power to act on an island-wide basis to pro-actively detect and deter crime.

44. With regard to the Parish Hall Enquiry, Maxwell and Tarry concluded that the decision to prosecute should remain with the Centenier. The Report was well received and a year later in 1951 the Paid Police Force (Jersey) Law was enacted to provide paid policing on an Island-wide basis. The new law did not

address the role of the Parish Hall Enquiry. Following previous practice, the power to offer bail and charge offenders remained with the Centenier.

45. Tarry returned to Jersey in 1958 in order to inspect the newly formed Force. He considered that the quality of service was much hampered by the subordinate position of the Paid Police in relation to the Honorary Police. His recommendations for an enhanced role found little political support and with the exception of a name-change to the SoJP, the status quo was maintained in favour of the honorary service.

46. A further inspection, some sixteen years later recommended the regularisation of the relationship between the two police forces. (Jersey Evening Post 1972) These recommendations achieved greater political support and in 1974 the Police Force (Jersey) Law was enacted. This extended the powers of the SoJP to the whole island without requiring the permission of the respective parish Connétables. However, the customary rights to offer bail, charge and search premises without warrant remained with the Centenier. This law confirmed the role of the SoJP as the primary provider of policing and obliged the Honorary Police to call for the assistance of the professional force to deal with "prescribed offences". The last revised edition of the Police Force (Prescribed Offences) (Jersey) Order 1974[15] setting out the "prescribed offences" is at Exhibit HMM1.

[15] The Police Force (Jersey) Law 2012 repeals Articles 6 and 7 of the Police Force (Jersey) Law 1974. Article 6 of the 1974 relates to prescribed offences, and stipulates that where a member of the Honorary Police on investigating any occurrence has cause to believe that any prescribed offence has been or is about to be committed, they must immediately request the assistance of the States of Jersey Police Force. Prescribed offences are those common law and statutory offences that are set out in the Schedule to the Police Force (Prescribed Offences) (Jersey) Order 1974.

Clothier – the report of the Independent Review Body on policing services in Jersey

47. *Even though the origins of the Honorary Police fade gradually into the remote past, it is nevertheless easy to imagine how such an institution took root. What is remarkable is that it has survived in Jersey alone, to the present day (Clothier, 1996:1).*

48. In 1996 Sir Cecil Clothier chaired a panel of Islanders who were charged with reviewing the policing system to examine whether the powers of both police forces were sufficient to combat crime, afford sufficient protection to the public and assess the level of service provided. This was the first review for a period of forty-three years. The panel acknowledged that the economic structure of Jersey had changed considerably during the post war period and that these changes necessitated a more professional approach to policing than could be provided by the Honorary Police alone.

49. The report concluded that whilst every witness declared that the Honorary Police should remain in existence the "*overwhelming burden of evidence ... was that the Honorary Police are outdated in both organisation and method*" (Clothier, 1996: 5)

50. The report concludes that the Parish Hall Enquiry "*defies classification in any modern legal framework*" (Clothier, 1996: 16). A total of eight recommendations for reform were made:

    a. The provision of an information leaflet about the powers of a Centenier at an Enquiry;

[redacted]

b. Guidance notes for Centeniers as to proper conduct should be expedited;

c. Formal training for Centeniers into the conduct of Parish Hall Enquiries;

d. The recording of cautions administered at Parish Hall should be made the subject of substantive law;

e. Parish Hall Enquiries should be open to the public;

f. Centeniers should be prevented from conducting a Parish Hall Enquiry into offences that they have themselves investigated;

g. The role and jurisdiction should be extended to empower Centeniers to make findings of guilt; and

h. Procedures at Parish Hall Enquiry should be revised, clarified and standardised across the parishes.

51. As a result of the Review, a working party was established to examine and where possible, implement the recommendations. However, only the first two administrative matters have been implemented.[16] The working party report published in 1997 rejected the recommendations that would change the traditional concept of the Parish Hall Enquiry from an informal enquiry conducted in private to a public hearing. No support was given to the recommendation that Centeniers should be empowered to find guilt because it was generally thought that this would elevate the Parish Hall Enquiry to the status of a Court. The Parish Hall enquiry is not a judicial process. The

[16] The Code on the Decision to Prosecute and Guidance Notes for Centeniers were produced by the Attorney General in 1997. The full text is reproduced in Exhibits HMM4 and HMM2 respectively.

findings of the working party report clearly articulate the Parish Hall Enquiry as a process that allows a Centenier to establish the facts of a case in an informal, private setting. This Enquiry forms part of the prosecution process and the Centenier is required to decide whether there is sufficient evidence to formulate a charge and whether it would be in the public interest to bring the matter before a court.

52. As with all previous reports, the Clothier review recommended that the Honorary Police retain their role in the prosecution process. The power to charge offenders, offer bail and the customary right of search without warrant remained the preserve of the Centenier.

Twenty First Century challenges

THE RUTHERFORD REPORT

53. The latest report was conducted by Rutherford and Jameson in 2002. The previous reports had concentrated solely upon policing matters; this review focused upon the criminal justice process and policies of the Island as a whole. The review board was asked to concentrate upon methods of preventing and addressing offending and recidivism. Rutherford consulted widely and concluded that:

> *The Parish and the process of Parish Hall Enquiries remains a cornerstone of the Island's approach to tackling crime and anti-social behaviour. (Rutherford and Jameson 2002:9)*

54. In spite of the acknowledgement of the primacy of the parish in the context of governance and social control within the Island, the Review notes that an

important challenge is to achieve a 'workable' balance between the professional and lay members involved in the criminal justice process.

55. The Review describes the Parish Hall Enquiry as "one of the most remarkable institutions to have evolved on the Island" and makes a number of recommendations aimed at enhancing the diversionary role of the Parish Hall Enquiry and the development of the role of the Centenier. In Rutherford and Jameson's view, the corollary to the enhancement of the role of Centenier at Parish Hall Enquiry is the abolition of the role in Court and the transfer of the power to charge to an independent prosecution service. This is one of the most contentious recommendations in the history of the honorary system. In June 2005, the Criminal Justice Policy consultation document eschewed this recommendation on the grounds of financial and human resource implications. The Home Affairs Committee also considered the existing arrangements for prosecution by Centeniers, supplemented by the introduction in 1998 of professional prosecutors for complex cases, to be satisfactory.

56. A further recommendation is that there should be a specific Parish Hall Enquiry for youths, using lay panel members appointed at parish level. The Parish Hall Enquiry is an investigatory process, rather than a judicial body. If this were to change, there may be difficult to comply with the terms Human Rights (Jersey) Law. Any suggestion that a Centenier or a lay member might adopt a judicial role could compromise the right to a fair trial. This complexity does not occur at present because, as previously stated, the Parish Hall Enquiry is part of the prosecution process rather than any judicial one. As

[redacted]

the Human Rights Law is in force, attendees appearing before an Enquiry have to accept the level, as well as the principle, of a fine; if they do not, they will have the option of appearing before a Court. The Home Affairs Committee makes the following policy statement regarding Parish Hall Enquiries:

> *The Committee supports their status as an investigatory rather than a judicial body. To do otherwise would compromise their traditional and valuable role in dealing with offender outside the criminal justice system and in being able to meet the provisions of the Human Rights(Jersey) Law 2000 (Criminal Justice Policy Consultation Document 2005:62)*

The operation of the hybrid model of policing in Jersey

57. The Island's current hybrid model of policing involves both paid and Honorary Police. They both have a role in dealing with offenders. These interactions have the potential for disagreement about roles and responsibilities arising from the existence of thirteen police forces in a small area.

58. The system of policing in Jersey is very unusual and probably unique. It is unlikely that the social and political conditions that assisted its evolution would have existed elsewhere. In effect, the Island has thirteen independent police forces co-existing within an area of forty-five square miles; each one having a separate chain of command. This unique phenomenon provides significant challenges in operational organisation.

59. In most other modern states, the state police act as the gate-keepers to the criminal justice system. Their role is principally to detect crime, investigate

offences and present offenders before an independent Court which will decide guilt or innocence and deliver punishment accordingly. State police organisations also have a role in crime prevention. The policing model in Jersey provides for the Honorary Police to perform some of these functions conjointly with the SoJP and some as the sole provider.

Community dimensions

60. The level of community involvement in policing is higher in Jersey than most other jurisdictions. Police involvement in the community also differs from other areas in that it is controlled both centrally via the state and locally via the parishes. In other jurisdictions it is possible to pinpoint the 'centre' of policing. In Jersey it is impossible to locate because it is decentralised thirteen times. Neither the state, nor the parish, exercise complete control over the provision of policing.

61. In Jersey, everyone lives 'locally' but despite this, paid police officers seem to retain a higher level of anonymity than their honorary counterparts and are therefore less available to the influence of community members. Their names and addresses do not appear in the local phone directory and their identity in Court can be withheld when giving evidence. Their level of community involvement appears to be far lower.

62. The current senior management team of the SoJP are mainly officers with a background of policing in the United Kingdom. The impact that these Officers have had upon the policing policies and procedures is profound. For example, the introduction of a Criminal Justice Unit, a greater focus on intelligence led policing, and the development of a memorandum of

understanding between the States and Honorary Police have changed the face of paid policing in Jersey.

63. There are approximately equal numbers of Honorary Police and SoJP and although not under the direct control of the Chief Officer of the SoJP, the Honorary Police form a huge reserve of officers to assist both on a day to day basis and in times of crisis. In other jurisdictions, problems of corruption have been raised when there is local influence upon policing matters. In Jersey there are structured mechanisms for making the police accountable. The traditions of honorary service ensure that the parish communities are involved in police decision-making at every level. The structure of election of honorary officers provides a safeguard together with the right of appeal to the Attorney General. Honorary Police are subject to the same formal complaints procedures as SoJP Officers (Police (Complaints and Discipline) (Jersey) Law, 1999).

Honorary Police organisation

64. All honorary officers have the power of arrest within parish boundaries. At an operational level, if an Honorary Officer has cause to believe that a "prescribed offence"[17] has been, or is about to be committed, the officer is obliged by law to request the assistance of the SoJP.

65. The Connétable of each parish has a number of administrative duties and powers such as the granting and withdrawal of permits and licences. Permission is also required from the Connétable to hold social events within the parish.

[17] See Exhibit HMM1

66. The subordinate Honorary Officers perform a variety of policing functions to ensure the smooth running of the parish and ensure the enforcement of the orders of the Connétable. Officers are organised into duty teams, headed by a Centenier who are usually on duty for one week in four. During the duty week, officers are on call twenty four hours per day. The duties are varied and include attending at Parish events to assist with the direction of traffic to facilitate social events, parish patrols, investigating road accidents, checks on unoccupied premises, searches for missing persons. Many of the tasks performed serve to improve the quality of life for the parishioners; duties that would seem insignificant and unnecessary to highly-paid, and highly trained officers in professional forces.

Honorary Police and SoJP liaison

67. Article 21 of the Police Force (Jersey) Law 2012 provides that the Chief Officer of the SoJP and the Attorney General (as titular head of the Honorary Police) must establish appropriate arrangements for working in partnership and exchanging information; thereby effectively formalising the Memorandum of Understanding which is in place between the Honorary Police and the SoJP. Work is currently in progress to update the 2006 Memorandum of Understanding between the SoJP and the Honorary Police.

Consensus

68. Not only is there often a lack of consensus between the SoJP and Honorary Police, there is evidence of a lack of agreement between parishes. This leads to considerable frustration in the area of policy-making and implementation when the police authority cannot exercise any influence whatsoever over the

practice of a particular parish. Whilst the SoJP may aspire to English national standards of practice, the parish structure tends to decentralise power and influence, making the imposition of uniformity and centralised systems difficult. Political autonomy, both at parish and Island level means that community involvement in policy and practice cannot be underestimated.

The Memorandum of Understanding

69. An interim report into Parish Hall practice (Raynor and Miles 2003) suggested that there was no full agreement about the respective roles, responsibilities and functions between the SoJP and the Honorary Police.

> *Relations between the two occasionally have the flavour of a territorial dispute and this is not consistent with the need for legitimate authorities to be seen to work harmoniously (2003:14)*

70. Following discussions between the Honorary Police, SoJP, Home Affairs and the Law Officers Department, a Memorandum of Understanding was drafted and agreed by all parties. This document sought to elicit a workable agreement that would preserve the unique nature of the rights and responsibilities of the Honorary Police whilst ensuring the provision of an effective policing solution across the island. In order to formalise and clarify the role of the two forces, the guidance in the document attempts to define the 'liabilities' of the SoJP, the Home Affairs Committee and the Honorary Police. The document acknowledges that members of the public who require a service from the police are able to contact the Parish Hall, the Centenier or the SoJP and sets out guidelines to follow for the control room. When despatching an Officer to deal with an incident, the Control Room staff have

the option of allocating a SoJP Officer or an Honorary Officer according to specified criteria. The SoJP are required to provide first response to incidents where there is:

a. An immediate threat to public safety

b. Injury

c. Specialist investigation required

d. Unusual political or media sensitivities

71. The deployment of Honorary Officers by way of first response is considered appropriate for:

a. Non-injury road traffic accidents

b. Noisy parties

c. Neighbour disputes

d. Minor Public Disorder

e. Loose or escaped animals

f. Minor Larceny

Honorary Police accountability

72. At Island level, Honorary Officers are ultimately accountable to the Attorney General who is the titular head of the Honorary Police. At individual parish level, honorary officers are accountable to the parishioners and the assemblées paroissales. As part of an honorary body, it is difficult to compel

[redacted]

members to perform any task. Whilst certain standards of conduct are expected, there is nothing contractual to oblige officers to undertake training, performance review or appraisal. The Honarary Police Association assert that there is an accepted need to have a basic level of training and there is discussion in progress about the provision of accreditation for officers who have undertaken training in specific areas. All officers of the Honorary Police are expected to abide by a disciplinary code specified by the Police (Complaints and Discipline) (Jersey) 1999, Law. Complaints against the Honorary Police may be investigated by an independent Police Complaints Authority comprising lay members appointed by the Island's government. The 'Parish Police' belong to the parishioners and as long as members of the assemblées paroissales continue to elect them, and the Attorney General agrees to approve their appointment, then tenure is guaranteed.

The parish hall enquiry

73. Parish Hall Enquiry refers to the process of preliminary investigation conducted by a Centenier to ascertain whether there is sufficient evidence to suggest that an offence has been committed and whether or not it is in the public interest to prosecute the alleged offender for that offence. In all but the most serious offences[18], offenders will be invited to attend at a Parish Hall Enquiry to have the circumstances of the offences reviewed by the Centenier. The Parish Hall Enquiry has no legal definition and it is *not* a Court. Enquiries are usually held in the evening, attendance is voluntary and the attendee can at any time request that the case be heard before the Magistrate. If a person warned to attend at Parish Hall Enquiry does not attend, the Centenier may

[18] For example: serious offences of violence, driving whilst impaired, drug importation and supply

choose to issue a summons to appear before the Magistrate unless the offence is considered to be so trivial as to be a waste of court time.

Current parish hall enquiry practice

74. Guidance Notes for Centeniers at Parish Hall Enquiries were prepared by the Attorney General[19], these notes state that the purpose of the Enquiry is for the Centenier to decide:

a. Whether there is sufficient evidence to justify a charge;

b. If so, whether it is in the public interest to prosecute or whether the matter can be dealt with in some other way at the Enquiry; and

c. If the matter is to be dealt with at the Enquiry, the appropriate method of disposal.

75. Since the early 1990's the Criminal Justice Department at SoJP Headquarters both makes a recommendation about, and records the outcome of Parish Hall Enquiries. This does not constitute a criminal conviction, but is regarded as a "Parish Hall Sanction". This record is produced at subsequent Enquiries and Court appearances within the Island. There is no requirement to declare these sanctions on job applications or visa requests. The Rehabilitation of Offenders (Jersey) Law 2001 does not apply to sanctions meted at Parish Hall because they are not recognised as criminal convictions although they may be disclosed to the Disclosure and Barring Service in certain circumstances.

[19] See Exhibit HMM2.

76. Most cases appear before the Centenier on a reference from the SoJP but other Honorary Officers of the parish, Customs and Immigration Officers, Agriculture and Fisheries Officials and Education Welfare Officers and even members of the public can refer alleged offenders to the Centenier for Enquiry. Records of these referrals are therefore not necessarily copied to the Criminal Justice Department and may be held in referring Departments.

77. In cases where witness statements are recorded from Honorary Police Officers, these are forwarded to the Criminal Justice unit at the SoJP where the details are recorded and processed as if they had been recorded by SoJP Officers.

Record keeping

78. Each parish is responsible for its own record keeping. In my experience from observations during the research period, a number of methods were evident. Where attendees had been invited to an Enquiry by a SoJP Officer, parishes relied upon the material provided to them by the Criminal Justice Department. This would include, *inter alia*, a witness statement, previous offending history, police report, pocket notebook entries and other relevant material to prove the evidential test. At the end of the Enquiry, this material should be destroyed.

79. In some parishes, another Honorary Officer would be in attendance at Enquiries who would make brief hand-written notes in a ledger or a notebook to record the details of the attendee and the outcome of the Parish Hall Enquiry. These ledgers are retained by the parishes.

80. Parishes are responsible for their own storage and archiving of material. In recent years, many records from across the parishes have been transferred to the Jersey Archive, including Honorary Police Meeting Minutes, Honorary Police incident books, and Honorary Police Notebooks and welfare records. The Parish Retention Schedule set out at Exhibit HMM3 applies to the modern records produced by the Parishes. Each Parish is required to have a signed off retention schedule in place under the Public Records (Jersey) Law 2002.

81. Since September 2015, the parishes have been drawn into the remit of the terms of the Freedom of Information (Jersey) Law 2011 and citizens are able to request information covered within this law in a similar manner to that of a States Department. It should be noted, however, that matters relating to criminal matters recorded at Parish Hall Enquiries are exempt.

The role of the Centenier at the parish hall enquiry

82. The Centenier is required to consider the facts of each case and decide whether or not it is in the public interest to prosecute the offender. The Centenier outlines the facts of the case as they have been presented and the attendee is asked whether or not he/she agrees with their interpretation. If the attendee does not agree that the facts of the case are an accurate representation of the incident, the Centenier is required to formally charge the attendee and remand the case to the Magistrate's Court for trial. The Centenier is not empowered to decide guilt.

83. In arriving at a decision, the Centenier is to have regard to the guidelines issued by the Attorney General contained in the Code on the Decision to Prosecute.[20]

84. Observation of the process of Parish Hall Enquiries would suggest that in usual circumstances, every attempt is made to prevent the attendee from entering the formal system (unless of course, they wish to do so). The Parish Hall Enquiry is a participatory forum and there is much negotiation between participants about the circumstances of the offence and the appropriate sanction.

85. The Centenier has a number of options available:

a. No further action – The Centenier may offer "words of advice" to the attendee and no further action is taken regarding the offence. There is often an element of reparation or restoration attached including letters of apology or compensation to a victim. The Centenier is not empowered to order compensation, simply request it.[21]

b. Written Caution – The Centenier may issue a written caution as an alternative to prosecution when, with reference to the Code on the Decision to Prosecute, it is decided that it is not in the public interest to bring a charge.

c. Financial penalties – Where the offence is admitted, the Centenier may impose fines, with the consent of the attendee up to £100 for certain statutory offences.

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[20] See Exhibit HMM4.

[21] The Centenier has no role in the administration of civil justice between an alleged offender and a victim. The Centenier is limited to taking into account the offer of compensation in reaching his decision about a particular sanction.

[redacted]

d. Voluntary Supervision – The Centenier may invite attendees to place themselves under the supervision of either the Probation Service or the Alcohol and Drug Service on a voluntary basis. This may involve drug and alcohol education, victim awareness, restorative justice initiatives, employment and training support, bereavement counselling as well as a programme of intervention designed to prevent further offending. If the attendee breaches this voluntary contract, either by failing to comply with the requirements or by re-offending, the Centenier may decide to prosecute.

e. Deferred Decision – The Centenier may defer the decision to prosecute to a later date. The attendee is invited to enter into a voluntary contract with the Centenier to stay out of further trouble for a fixed period of time. The Centenier may also recommend other elements such as a curfew or reparation to the victim. At the conclusion of the deferment period, the Centenier is required to make a decision as to whether prosecution is appropriate. He may use the behaviour demonstrated by the attendee during the deferment period to inform this decision.

f. Charge and bail for a Court appearance. – The most important power that a Centenier has is to formally charge and bail an attendee appear before the Magistrate in the relevant Court. Unlike the position in other jurisdictions, the SoJP do not have this power.[22]

86. It is important to appreciate that all the above options, except the last, are consensual i.e. they can only be adopted with the agreement of the attendee.

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[22] See Art.3(2) Honorary Police Force(Jersey) Law 1974

[redacted]

It is equally important to realise that the Attorney General reserves the right to bring prosecutions directly and also has the statutory power to direct a Centenier to bring a charge where for whatever reason the Centenier had chosen not to prosecute.

One size does not fit all

87. The SoJP perceive that a centralised location would maximise the strengths of the Enquiry system by introducing a standard format Enquiry. One officer insisted that the Parish Hall Enquiry system perpetuated a 'postcode lottery' citing inconsistency of sanction as a significant weakness. The SoJP would prefer to see a matrix to standardise outcomes using a list of 'gravity factors' along the lines of those issued to the Association of Chief Police Officers in the United Kingdom by the Home Office. They perceive that this would greatly improve public perception of the system and go some way to controlling the discretionary powers of the Centenier. These guidelines would encourage greater consistency in decision-making across the parishes.

88. The SoJP assert that greater consistency would foster a higher level of confidence in the system. Assessment would be based on the seriousness of the offence and the number of previous parish hall sanctions or Court convictions. In practice, the Decision Sergeant in the Criminal Justice Unit is already operating along the lines of a similar matrix using similar criteria to formulate a recommendation for the Centenier. Concern has been expressed by the SoJP that Centeniers do not always follow the recommendations. Centeniers are required to record their decisions in writing and return a pro-forma to the Criminal Justice Unit at police headquarters for recording in the

ViewPoint database. If the SoJP do not agree with a decision, they are able to refer the matter to the Attorney-General for consideration.

89. The trend for consistency can be interpreted as a desire for centralisation. This may also be a consequence of a managerialist approach to the administration of justice. The erosion of the discretion of Centeniers is part of this trend. Centralisation would take offenders away from the community they offend against. The risk is that any shift towards centralisation, from parish based administration of justice to a central state-run service would result in more punitive measures and a consequent increase in the number of people charged to court. Attendees will be objectified as 'offenders' and will automatically be categorised into 'types' and manipulated as 'risks' (Nellis 2001). This would not only impact upon the social and cultural customary practices of Jersey society but also impact heavily upon the financial resources required to administer a more formalised system.

90. This desire for centralisation might also be seen as an attempt to control, monitor or restrain the extraordinary power of the Centeniers and the Connétables of the respective parish. The maintenance and development of informal social networks is important. Knowing one's neighbour ensures that primary community control is maintained rather than resort to state control (Braithwaite 1989). These networks are very effective at building safer communities; knowing who to ask for help, knowing that assistance will be offered, without question, any time of the day or night. These are neither nostalgic nor romantic ideals. In other jurisdictions, creeping damage is being done to social systems capable of exerting informal control over behaviour. In

Jersey the honorary systems of support and peacekeeping remain relevant to a significant number of the population.

Discretion in decision making

91. In the context of my research, Centeniers reported that the considerable potential for the exercise of discretion was the single most important factor in the discharge of their duties. Most Centeniers stated that they had 'enough' discretion to exercise the appropriate authority when required.

> *Discretion is important. This is not a job where you are being assessed all the time. A states police officer often has to take things one step further or they are up before the inspector. It doesn't matter how long it takes me to deal with something, nor how, because I am accountable to the parish (Centenier – urban parish).*

> *Levels of discretion grow with experience. We have more discretion than the states police not to report offences and turn them into 'crimes'. I have the power not to charge and that is huge and important (Centenier – suburban parish).*

92. Other Centeniers acknowledged that levels of discretion were constrained by a number of factors, notably a framework of guidelines and legal procedures which militated against the use of the Parish Hall Enquiry in the administration of justice. Consistency was also mentioned in the context of discretion. Many Centeniers commented that the reasons for the exercise of discretion needed justification in order to raise public confidence. Centeniers interviewed with at

least five years honorary service all reported that they had experienced a rise in the level of constraint placed upon their decision making.

> *When exercising discretion, we are always accountable to the A-G. In this day and age you have to cover your back. We have lost some of the beauty of turning a blind eye. Now, we need to think 'what if...' (Centenier – urban parish)*

93. Attempts to limit the discretionary powers of Centeniers have been observed by key players in the criminal justice system (Guidance Notes, Code on the Decision to Prosecute, SoJP Orders, Time Period Aims and Magistrates Training Notes). These seem to have the aim of establishing clear rules according to specific criteria for the forum of hearing particular cases.

94. There is an expectation to charge offenders according to SoJP Orders in respect of the following offences:

a. Grave and criminal assault

b. Common assault resulting in injuries to the victim

c. Breach of bind over where the offence is similar

d. Possession of Class A drugs

e. Persons on probation

f. Offences whilst on bail

g. Where the offender has previously failed to attend a Parish Hall Enquiry

h. Persistent offender, i.e. similar offences in the past 12 months

i. Assault on Police

(Force Orders 30/4/03)

95. It has also been observed that in certain cases, charges that had been laid under this policy were later reduced or dismissed in court due to insufficient evidence. Introducing standards of practice according to mechanistic rules can inhibit good practice. Strict adherence to this policy means that opportunities for informal dispute resolution at parish level are affected. Victim impact in such cases can be high and victims may be left with a sense of injustice. Interviews with victims state that satisfaction is high when offences are dealt with at Parish Hall level and even higher in cases where there has been Victim Offender Mediation.

96. Centeniers appear to have more discretion than people imagine. Firstly they have a duty to uphold the law; secondly Centeniers claim that they have the duty to protect, nurture and develop the community and promote the interest of the parish. There is a duality between enforcement and assistance. The discretion available to the Centenier means that the public interest can take precedence over the enforcement role. An offence may pass the 'evidential test' but the 'public interest' in terms of community realignment and development can be prioritised.

Flexibility

97. The flexible and practical implementation of the law is a key feature of the work of the Centenier at Parish Hall Enquiry. Many issues which would fall

outside legal standards of relevance in court can become the subject of scrutiny in Enquiries. What is known about the attendee, the family, school, residential circumstances can all be taken into account when applying the 'public interest' test. Other factors that influenced Centeniers were the observed personality or character of the attendee, parents, other Honorary Officers' knowledge of the attendee and their supporters. Centeniers view of fairness and perceptions of remorse all featured in the decision-making process.

98. In practice, the Centenier is able to exercise considerable discretion and a suspension of 'rules'. This is frequently demonstrated at Parish Hall where longer term rehabilitation and reintegration are seen to be preferable to retribution.

Accountability

99. Annually very few complaints about the practice of Centeniers at Parish Hall Enquiry have been noted by the Attorney General. The Jersey Police Complaints Authority investigates complaints made against any Police Officer. In 2003, the Authority supervised the investigation of thirty complaints. The Authority does not investigate all complaints made nor does the Authority make the distinction between honorary and SoJP Officers so accurate presentation of the figure regarding Centeniers is not possible. In 2004, forty three complaints were investigated by the SoJP, five of which were for criminal conduct. When matters refer to an Honorary Officer, the complaint is referred to the Attorney General who refers the complaint to the Connétable of the respective parish for comment. The most common complaint with regard

to the Parish Hall Enquiry seems to be that of Centenier's fining outside of their statutory power or acting in a high handed manner.

Independence

100. Centeniers conducting enquiries state that the decisions that they take are done so on a consensual basis. The SoJP express concern that consent is not always truly informed due to a lack of process by the Centenier and a lack of understanding by the attendees.

101. The principle of independence suggests that the reviewer of a case should be independent of the investigating officer. This operates well in Jersey where all cases are independently reviewed by the Centenier. It was recommended and implemented as a result of the first Clothier report that Centeniers should cease the practice of both conducting a Parish Hall Enquiry where they have previously investigated the incident. The researchers observed that great strides were made to avoid a conflict of interest in this area. In extreme circumstances, a Centenier from a neighbouring parish may be asked to deal with a particular case in order to ensure impartiality. There are a number of mechanisms inherent in the system that affords an intrinsic level of accountability.

102. If the Centenier has power over the attendee, it can only be exercised by mutual consent. The ultimate power is therefore held by the attendee who has the right to disagree and request hearing by a formal Court. Even after the Enquiry, decisions can be referred to the Attorney-General by the attendee. In practice, this seems to be a rare occurrence. Decisions made by the Centenier (with the exception of laying a charge) are made on a consensual

basis. In the United Kingdom, prosecutors are required to take into account 'any lines of defence'. Centeniers are not bound by this in their decision-making. As previously discussed, the fact that an offence is admitted does not mean that there is sufficient evidence to warrant prosecution. The issue of informed consent is also important. It is not agreed by the SoJP that there is sufficient understanding of the process to give truly informed consent. Very little coercion was observed. Although there were examples of uneven compliance with guidelines most attendees were informed that they may disagree with the decision of the Centenier and opt for a formal Court hearing.

Publicity

103. Whereas the media provide the Jersey public with a link to the Courts, the Parish Hall Enquiry is a private forum and neither the process nor the results are reported. In other jurisdictions, publicity is an important accountability mechanism. Protection of privacy has some support in law. The need to respect private life is enshrined in the European Convention on Human Rights; press and public may be excluded where their presence interferes with private life of any party. The media generally argue that any person who is convicted of an offence relinquishes this right to privacy. Attendees at Parish Hall Enquiry may only be identified if a charge is laid. Even though attendees may admit to the commission of offences, they agree to accept an informal sanction which is not recognised in law as a criminal conviction. The Enquiry is part of a prosecution process; the media are therefore not permitted to report upon proceedings.

104. Public dissemination of personal details of persons appearing at parish hall was recommended in 1950 by Maxwell and Tarry and again in 1996 by Clothier. On both occasions this recommendation was rejected in favour of the maintenance of the private hearing.

Voluntary attendance

105. Although attendance at a Parish Hall Enquiry is described as 'voluntary', failure to attend (despite frequent reminders) is likely to result in a summons. The threat of formal prosecution and potential conviction is outlined in the Notice of Intended Prosecution. One attendee commented: 'It didn't feel like an invitation, and I had no intention of turning it down'.

Legal advice

106. Guidance notes for Centeniers note that:

> *An Attendee is entitled to be accompanied by a lawyer should he so wish. It is a matter for the Centenier's discretion what part the lawyer is allowed to play at the Enquiry. The lawyer is there primarily to advise his client (4.01).*

107. In practice, few Advocates attend at Enquiries although it was noted that many Centeniers stated that they had received telephone calls from legal advisers in advance of the Enquiry to discuss the likely outcome of the Enquiry or to offer a character reference.

[redacted]

Legal aid

108. In Jersey, Legal Aid is not funded by the state. It is a service provided by the legal profession in Jersey at their own expense so that offenders who cannot afford a lawyer or are unable to obtain one, can do so. The Parish Hall Enquiry occurs as part of the prosecution process meaning Legal Aid is not available.

Other key players in the parish hall enquiry system

109. The following are also key players in the Parish Hall Enquiry system:

a. The Attorney General

b. The Court

c. The SoJP

d. The Probation and After Care Service

e. The Home Affairs Committee (to become the Minister for Home Affairs)

110. Their views are important in illustrating the part which the Enquiries are seen to play in the system, and as examples of some of the current disagreements about their usefulness and future role.

The role of the Attorney General

111. As the titular head of the Honorary Police, the position of the Attorney-General is central to the operation of the system. In practice, the Attorney-General has no day to day input into the activities of the Honorary Police. The role is

however, instrumental in the preparation of guidelines and directives, the investigation of complaints and the general promotion of Honorary Police activities.

The role of the Court

112. Successive Magistrates have exerted considerable influence over the function and filtering of cases appearing at Parish Hall, particularly regarding youths. This reach has also extended to SoJP policy and procedure.

113. A Magistrate stated in the widely read local newspaper that he wished to reduce the number of 'unnecessary Parish Hall Enquiries" (Jersey Evening Post, December 2001, December 2002). The subsequent composition of the 'A' and 'B' lists of the names of young offenders accelerated the passage of a number of youths into the Youth Court for offences that previously would have been dealt with at Parish level. Automatic charging reduces the possibility for creativity and innovation and increases the rigidities in the system.

114. Research undertaken by the Probation Service suggests that this policy also led to a rise in the number of offenders charged to appear before the Youth Court. The Probation Service prepared Social Enquiry Reports on 94 Youths in 2003 who were charged directly to the Youth Court at Police Headquarters without the benefit of attendance at Parish Hall Enquiry. This represented an increase of 40% on the 2002 figure of 67. 39% of Offenders who were charged directly for court without appearance at Parish Hall were dealt with by either a fine or a Binding Over Order. There is an argument that these may have been heard at Parish Hall level where the same outcome could have been attained without the attraction of a criminal conviction. The use of

hitherto unavailable empirical data, more fully presented in chapter seven, prompted serious questions about the role of diversion, the overuse of the Youth Court and the apparent disuse of the Parish Hall Enquiry. Meetings between the Chief Probation Officer and the Magistrate have since resulted in the preparation of a discussion document which outlines the criteria for referral to the Court.

115. During a training session for Centeniers; the Magistrate expressed concern over 'inconsistencies' in four areas: the slow speed of the process, the seriousness of offences being dealt with by Centeniers, the antecedent history of offenders dealt with at parish level, and the excessive length of deferred decisions. These concerns greatly influenced the practice of Centeniers who are sometimes less willing to deal with matters at Parish Hall level for fear of criticism by the Magistrate. In addition, the Magistrate has produced time period aims in order to refine the system. Adherence to these aims has impacted upon Parish Hall Enquiry practice in a variety of ways, not least a rise in the number of enquiries held at SoJP Headquarters.

Referral Back

116. Currently there is no mechanism to allow referral of cases back to Parish Hall Enquiry where there may have been a change of circumstances relating to the charge. Such a mechanism may prove useful to avoid criminal conviction whilst ensuring that the offence is officially sanctioned. This facility may result in a reduction of the number of automatic prosecutions for co-accused according to current guidelines. This facility is proposed in the revision of the

1864 Law which is currently under development with a view to drafting in 2016 and implementation in 2017.

Advice and guidance

117. Centeniers report that advice from the Magistrates is highly valued. Centeniers are encouraged to discuss cases with the Magistrate directly where there is uncertainty over a course of action. Previous Magistrates have been supportive of the Centenier's role and the principle of the Parish Hall Enquiry when applied to certain offences and circumstances. For motoring offences, the general test is that of whether the offence is so serious that the Court is likely to impose disqualification. Magistrates have also shown themselves to be most supportive of creative and innovative solutions to offending proposed by Centeniers for youths who would likely have received Binding Over Orders from the Court.

The role of the SoJP

118. Ten Officers upward of the rank of Sergeant were interviewed to formulate an opinion of the value of the Honorary Police and the Parish Hall system from the SoJP viewpoint. The results of these interviews reveal a divergence of opinion, across and within ranks, as to the purpose of a Parish Hall Enquiry and the role of the Centenier.

119. It would seem that a number of factors have combined to bring about a change in the way that offenders are diverted into the Parish Hall Enquiry system. The 'traditional' approach, prior to 2003 was to verbally warn offenders to attend an Enquiry in the appropriate parish. Since the

implementation of the computerised system, the process has become more formal and offenders are required to submit their personal details to the officer who in turn prepares an electronic report. Staff at the Criminal Justice Unit review the evidence, prepare a case file and generate a Notice of Intended Prosecution which invites the offender to attend at a Parish Hall Enquiry. The impact of Police bail, introduced under the Police Procedures and Criminal Evidence (Jersey) Law 2003, upon the continued use of the Parish Hall Enquiry, particularly for adults, remains to be seen. It is possible that it will further erode the role of the Parish Hall Enquiry.

120. In contrast to other jurisdictions, the SoJP are not empowered to charge individuals to appear before the Court. It is possible that the various tensions will intensify as well as a potential re-opening of the gulf between the SoJP and Honorary Police as the former take on 'national' ideas and standards that do not fit neatly with the traditional Jersey approach. It is also possible that practices will change through a process of 'drift' rather than conscious decision, as an unintended consequence of computerisation.

Organisational norms and expectations

121. Organisational norms and expectations differ between the SoJP and the Honorary Police. There is some evidence to suggest that the 'evidential test' is given greater weight than that of the 'public interest'. There is also the belief that the power to charge should be removed from the Centeniers.

122. All cases submitted to the Criminal Justice Unit are reviewed and a written recommendation made to the Centenier about where the case is processed. This recommendation is usually based upon a combination of factors

including the gravity of the offence and any previous offending. Centeniers report that although this preliminary indication is helpful, it has little influence over any final decision preferring to make up their own minds about the nature and context of the offence after having heard the facts and relevant information from those present at the Enquiry.

The role of the State – Criminal justice policy formation

123. Following the publication of the Rutherford and Jameson report in 2002 the Home Affairs Committee developed a criminal justice policy for Jersey. A number of key players participated in focus groups and seminars relevant to particular areas of policy. The Criminal Justice Policy recommends the continued use of the Parish Hall Enquiry system as an appropriate intervention. The State has a role to play in striking a balance between the professional and traditional approaches, and ensuring that they cooperate to the benefit of the community.

> *Although the Committee agrees with the sentiment expressed in the Rutherford Report in terms of the benefit of enhancing the Parish Hall Enquiry system, these are outweighed by the inherent dangers in tampering with a tribunal that works successfully as a diversionary tool. There has been evidence of a continuing tendency to by-pass the Parish Hall Enquiry for certain offences and in the case of some persistent offenders. For the system to work effectively there must be appropriate balance and good decision making on the part of Centeniers (Criminal Justice Policy Consultation Document 2005:61).*

The role of the probation service

[redacted]

124. Unlike the Probation Service in England and Wales, the Jersey Probation and After Care Service is an agency of the Royal Court of Jersey. The Probation Service has been in existence in Jersey since the 1930's and has a long history of involvement at Parish Hall level. Officers attend all enquiries where youths are involved to offer assistance to the Centenier in his or her decision making. The Service also offers non-statutory supervision of offenders referred by Centeniers, restorative justice conferencing, and support to Centeniers. The Parish Hall Enquiry is considered by the Service as an important tool in the armoury of reducing offending behaviour and protecting the public from crime. The System is considered as a model of good practice and the Probation Service strives to uphold the system through detailed research and evaluation of process and outcomes.

125. The Probation Service have developed, over a number of years, a comprehensive database of information relating to Parish Hall Enquiries (for youth offenders) and produce an annual report which provides a useful digest of youth offending statistics (Jersey Probation and After Care Service 1984-2015).

126. Officers of the Probation and After Care Service have offered assistance to Centeniers at Parish Hall Enquiries since the 1950's. In the main, advice and support is offered to youths although Centeniers continue to refer adults to the Service for voluntary supervision.

127. Voluntary Supervision has been offered by the Probation service since the mid 1960's when a need was identified to offer young people who had committed more serious offences an alternative to a court appearance. The

Probation Service agreed to offer a period of intervention, on a voluntary basis, to address the needs of the young person and reduce further offending behaviour. The scheme proved successful with high levels of satisfaction and support from Centeniers together with low rates of recidivism. The Probation Service continues to offer Voluntary Supervision to appropriate young people and adults. The breadth of intervention has expanded considerably in recent years to meet complex needs. The child and family enter into a voluntary contract with the Centenier to comply with the Probation Service during a specified period of months. An individual programme is designed according to the needs of the person. This may involve drug and alcohol education, victim awareness, restorative justice initiatives, employment and training support, bereavement counselling as well as a programme of intervention designed to prevent further offending. If the person breaches this voluntary contract, either by failing to comply with the requirements or by re-offending, the Centenier may decide to prosecute. Voluntary Supervision agreements have shown themselves to be very successful with low rates of re-conviction. Other disposals at Parish Hall have equal success. 'Words of advice', written cautions and deferred decisions show low levels of re-sanctioning and re-conviction across the parishes (Jersey Probation and After Care Service, 1999- 2015).

Community values and justice

128. In spite of some variation in performance and some uneven compliance with guidelines, the Parish Hall Enquiry system deals successfully and appropriately with a wide range of offending and makes a very useful

contribution in this role. The Parish Hall Enquiry is in effect the conventional response to offending behaviour in Jersey. The system operates within an open model that means that a wide range of options is available when it comes to dealing with offences and dispute resolution. Centeniers recognise the benefits of informal justice and every attempt is made within the Honorary System to prevent offenders entering the formal court process. The model presumes that reintegration is best achieved through a process that begins and ends in the community, not in the formal justice system. In other jurisdictions, interventions are located within the criminal justice system (Anti-Social Behaviour Orders, Referral Orders, Caution Plus, Final Warnings and Restorative Justice Initiatives). What is unique about the Parish Hall system is that it exists outside the formal criminal justice system. It is organised and mainly resourced by the community. It 'defies classification in any modern legal context' (Clothier 1996:16).

129. The honorary system and the role of the Parish Hall Enquiry are important because they both foster a sense of community and interdependence that is crucial to the establishment of a safe society through the long term prevention of crime. Such familiarity breeds social control and may go some way to explaining the low levels of crime in Jersey compared with other jurisdictions of a similar size. Gossip and scandal are popular pastimes in small communities and Jersey is no exception. Public scrutiny of private events is part of the cultural thread. Public humiliation through the shaming techniques of the local media is much feared.

The potential impact of social change

130. Jersey has experienced considerable changes in the post war period. From an Island that was economically dependent upon agriculture, it has become one of the foremost financial centres in the world. Finance is now the cornerstone of the Island's economy and much of the skills and expertise to maintain its prominence have been 'imported'. This is also evident in public administration and criminal justice agencies. When the composition of the traditional community starts to erode, the impact of gossip and scandal has a lesser effect. Newcomers may feel less incentive to comply with community norms, primarily because they do not understand them and have less long-term investment in maintaining social peace. The extent to which this influx of 'strangers' will further erode the power of the traditional organisational structures remains to be seen. The influx of expertise from other jurisdictions has the potential to threaten this status quo and makes local and traditional ideas seem antiquated and outmoded. It may not be the case that Jersey community is resistant to change; it is perhaps reluctant to change for change's sake.

131. There is evidence of a reduction in the reliance on the parish for service delivery and welfare provision. Despite a public outcry in 2004 against the proposal to remove the Connétables from the States Assembly, this suggestion has been reasserted as part of proposals to reform the States of Jersey (States of Jersey 2006, 2012). In addition to this step, it is proposed that the existing parish structure will be dismantled for voting purposes and

that the island will be divided into between three and six electoral 'constituencies' together with the abolition of the parish deputies.

The future of policing in Jersey

132. There is strong evidence to suggest that the institution of the Honorary Police is threatened by the changing structure of Jersey society which means that primary, parish-based systems of control are under strain. It is becoming increasingly difficult to recruit parishioners to honorary roles. The economic upturn of the Island offers some explanation as to why this should be so. High cost of living and rates of inflation contribute to a high proportion of adult working population and a particularly high level of working women. The old industries of agriculture and fishing have mostly disappeared. Quite often, parishioners simply do not have the spare time to devote to honorary service.

133. Bayley poses some interesting questions about the effect that economic development has had on crime prevention and on the distribution of responsibility for social discipline between the state and the community. He also questions whether social control over behaviour is greater or less in developed countries. Jersey is highly developed in a number of ways but still retains a number of traditional institutions, and the honorary system exercises a high level of control in a number of areas.

> *Are communities more or less willing to shoulder responsibility for preventing indiscipline in developed or underdeveloped countries? It is interesting that worldwide attention to 'community policing' originated in developed countries. This may not be because less developed*

[redacted]

countries didn't have it, but because they hadn't thought to call it by a new name (Bayley 1985, cited in Mawby 1994:9).

134. The future for the model of honorary policing is the subject of much controversy. The change of focus towards enforcement rather than prevention is a factor. In the case of the SoJP, central government accepts responsibility for the provision of service and the control of standards. Matters of Health and Safety, Human Rights and Public Liability legislation hitherto irrelevant to voluntary organisations, are serious issues that require careful consideration by the Comité des Connétables.

135. It is my opinion that the ideal is that both SoJP and Honorary Police should be mutually supportive. The 'Memorandum of Understanding' between the two goes some way to achieving this ideal. Allowing decision-making to remain with the community helps to ensure a focus on the long term goals of rehabilitation and reintegration rather than the short term demand for punishment and retribution. The SoJP have a role to detect and investigate crime whereas the Centenier, the elected community representative decides at which point in the justice system an offender should enter, if at all.

The future of the parish hall system

136. There is evidence to suggest that the traditional role of the Parish Hall Enquiry is being eroded by modern attempts at reform in order to achieve measurable outcomes. That the role of the Parish Hall System should be strengthened has been promoted by the Jersey Probation and After Care Service and the Building a Safer Society Strategy whose remit is to focus upon early intervention initiatives to prevent future offending.

137. Over a period of fifty years, the process which was so clearly initiated and controlled by a Centenier has seen the transition from the complete non-involvement of the state to open intervention in order to promote what is considered to be 'fairness', 'justice' and 'consistency'. Attempts to achieve procedural uniformity and consistency run the risk of undermining the flexibility and responsiveness to the circumstances of the individual case which appear to be essential components in the system's current effectiveness. The requirement to take an increasing range of cases direct to Court risks diminishing the role of the Parish Hall Enquiry. In addition, some high-profile individuals in the criminal justice system have been particularly active in seeking to reduce the Enquiry's powers and discretion.

138. In practice, we have heard reports that police officers sometimes tell victims or witnesses that a particular offender will be charged with an offence. Centeniers report being put under pressure to charge offenders. This reduces the status of the Centenier to that of a rubber stamp endorsing the decisions of the professionals without appropriate scrutiny. In certain cases, this haste to charge has resulted in unfortunate consequences for alleged offenders who were later acquitted due to a lack of evidence. Automatic charging for certain offences according to Force Orders may have weakened the position of the Centeniers in the system. Police bail may well be seen to have the same effect making the Parish Hall Enquiry unnecessary.

139. In 2006, there was a further push by the SoJP to add a number of offences to Force Orders. This stemmed from criticism by the Magistrate about the time taken for offences to reach the Court system. This has the result of reducing

the time available to produce positive results in the informal system. The very many positive benefits of an independent enquiry, conducted after a 'cooling off period' by an elected parish officer, at a neutral place, away from the security and uniforms of the police station would be lost in such cases. It should also be noted that many other jurisdictions in many industrialised countries around the world are currently seeking to rediscover the benefits of informal systems which have been allowed to fall into disuse. Often this is happening because modern, high-cost systems of law enforcement and adjudication are not fully delivering the levels of satisfaction and community safety expected by the public.

140. Whereas previously it was almost automatic to warn all alleged offenders for Parish Hall Enquiry (except for the most serious offences), it is now increasingly common practice for Centeniers to deal with offenders at SoJP headquarters. This practice has the effect of bypassing Victim Offender Mediation opportunities and other possibilities for informal reparation. In Jersey the Victim Offender Mediation scheme has generally failed to attract offenders after a court appearance with the majority of conferences taking place at Parish Hall level on a voluntary basis.

141. The Jersey model represents a mixed economy of policing in which Parish and State co-exist combining the features of policing expected in a modern state with a traditional system of volunteers who possess greater powers than their paid, professional, counterparts. Until recently, traditional arrangements in Jersey have enjoyed some protection because it is difficult to change policies and practices in a system in which power is widely dispersed and

consensus for change difficult to achieve. However, both the honorary system and the Parish Hall Enquiry are now in a transitional phase. Changes to the composition of the States Assembly and the potential for a reduced parochial power-base suggest that they are in danger of being modernised out of existence. Both are under threat unless people are prepared to keep the system going and, more importantly, make decisions that will nurture and protect it.

142. In October 2005, the States debate that was fully expected to approve the Criminal Justice Policy adapted from the Rutherford report was cancelled due to the transition process to ministerial government. When the 'new' States reconvened, the newly appointed Minister for Home Affairs re-presented the policy for approval. At this point, the social affairs scrutiny panel singled out the policy for closer inspection and announced the investigation into the power of the Centenier to charge offenders.

143. The informal, reintegrative discourse is slowly changing to that of enforcement and the relaxed nature of the Parish Hall Enquiry is often portrayed by the SoJP and the media as undesirable. Informality is equated with a lack of attention to Human Rights and restoration as less favourable to retribution. Jersey is suffering, for the first time in its history with a financial challenge and difficult decisions regarding the provision of public services are required. There are inevitable conflicts of interest between ministries, and a managerial discourse is becoming more prominent. The administrative cost to the public of the Parish Hall Enquiry system has been cited as an area of concern and

so it remains vulnerable to manipulation by those who control limited resources.

144. It is important that attempts to modernise and formalise the system do not undermine the traditional arrangements which are already more effective and efficient than some formal criminal justice processes. This research on the effectiveness of the Parish Hall Enquiry and the honorary system suggests that it could be more realistic to expand their role. Jersey has a low cost system into which more could be diverted.

145. The informal nature of the Parish Hall Enquiry and the Honorary System upon which it depends, have maintained order and upheld peace in Jersey for nearly 800 years. The system operates within an open model that means that almost anything and everything is possible when it comes to dealing with dispute resolution at a local level.

146. It is clear that the way in which the Parish Hall System incorporates retributive, rehabilitative, restorative and re-integrative justice according to individualised and contextual needs makes it very unusual indeed. Some of the pressures to which it will need to respond are noted, but overall it clearly has the potential to remain a fundamental part of Jersey's system of criminal justice, and perhaps, with appropriate modification and political support, to play a larger role than at present.

147. In particular, it is important not to assume that because an institution is ancient, it must therefore be archaic and unsuited to modern needs: tradition and adaptability can be a very effective combination.

[redacted]

148. I confirm that I am willing to give oral evidence to this Inquiry if required to do so.

I believe that the facts stated in this witness statement are true.

Signed

[redacted].....

Dr Helen Mary Miles

Dated 09/04/2016 .....

Witness Name: Dr Helen Mary Miles

Statement No: First

Exhibits: HMM1 – HMM5

Dated: 05 April 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit HMM1

[redacted]

Jersey

POLICE FORCE (PRESCRIBED OFFENCES) (JERSEY) ORDER 1974

Revised Edition
23.375.75
Showing the law as at 1 January 2014
This is a revised edition of the law

Jersey

POLICE FORCE (PRESCRIBED OFFENCES) (JERSEY) ORDER 1974

Arrangement

Article

Supporting Documents

Jersey

POLICE FORCE (PRESCRIBED OFFENCES) (JERSEY) ORDER 1974

THE HOME AFFAIRS COMMITTEE, in pursuance of Article 6 of the Police Force (Jersey) Law 1974,[1] orders as follows –

Commencement [see endnotes]

1

The prescribed offences for the purposes of the Police Force (Jersey) Law 1974[2] are those offences set out in the Schedule to this Order.

2

This Order may be cited as the Police Force (Prescribed Offences) (Jersey) Order 1974.

SCHEDULE[3]

PART 1 – COMMON LAW OFFENCES

1. Abduction.
2. Abortion.
3. Affray
4. Arson.
5. Assaults of every description, except minor assaults.
6. Bigamy.
7. Blackmail and cognate offences.
8. Breaking and entering with intent; illegal entry with intent.
9. Breaking prison.
10. Concealment of birth.
11. Conspiracy.
12. Frauds of all kinds; e.g. embezzlement, false pretences, forgery, falsification of accounts, etc.
13. Homicide of every description.
14. Inciting to commit crime.
15. Kidnapping.
16. Larceny of every description, except of a trivial nature.
17. Libel.
18. Malicious damage, except damage of a trivial nature.
19. Obscene publications.
20. Offences within the exclusive jurisdiction of Her Majesty.
21. Perjury and cognate offences.
22. Perversion of the course of justice.
23. Receiving, hiding or withholding stolen property.
24. Robbery.
25. Sexual offences of all kinds.

PART 2 – STATUTORY OFFENCES

Offences against the following enactments: –

1. Control of Borrowing (Jersey) Law 1947.
2. Children (Jersey) Law 1969 – Part 12.
3. Civil Aviation Act 1949 (Channel Islands) Order 1953.
4. Civil Aviation Act 1971 (Channel Islands) Order 1972.
5. Copyright – Loi (1913) au sujet des Droits d'Auteur, and Loi (1908) au sujet des Droits de Compositeurs.
6. Cremation (Jersey) Law 1953.
7. Currency Offences (Jersey) Law 1952.
8. Dangerous Drugs (Jersey) Law 1954.
9. Decimal Currency (Jersey) Law 1971.
10. Depositors and Investors (Prevention of Fraud) (Jersey) Law 1967.
11. Diseases of Animals (Jersey) Law 1956, Article 38(2).
12. Distilleries, Loi de 1860 sur les
13. Droit Criminel, Loi (1895) modifiant le
14. Drugs (Prevention of Misuse) (Jersey) Law 1964.
15. Exchange Control Act 1947 (Channel Islands) Order 1947.
16. Explosives – Loi (1884) sur les Matières Explosives.
17. Explosives (Jersey) Law 1970.
18. Firearms (Jersey) Law 1956.
19. Fire Service (Jersey) Law 1959, Article 19.
20. Gambling (Jersey) Law 1964.
21. Geneva Conventions Act 1957.
22. Genocide (Jersey) Law 1969.
23. Control of Housing and Work (Jersey) Law 2012[4], Part 7, to the extent that it applies to non-resident traders.
24. Hijacking Act 1971 (Jersey) Order 1971.
25. Immigration (Jersey) Order 1972 (1971 Act)
26. Impôts, Loi (1845) sur la régie des, Article 18.
27. Licensing (Jersey) Law 1974, Article 84.

28. Liquid Fuel, Control of, (Jersey) Regulations 1974.

29. Marine etc. Broadcasting (Offences) (Jersey) Order 1967.

30. Mental Health (Jersey) Law 1969, Articles 36, 37 and 38.

31. Merchandise Marks (Jersey) Law 1958.

32. Merchant Shipping Acts.

33. Milk (Sale to Special Classes) (Jersey) Regulations 1974.

34. Motor Traffic (Jersey) Law 1935, Article 50.[5]

35. Motor Traffic (Third Party Insurance) (Jersey) Law 1948, Article 18.

36. Motor Vehicle Duty (Jersey) Law 1957, Article 15.

37. Official Secrets (Jersey) Law 1952.

38. Patents (Jersey) Law 1957.

39. Places of Refreshment (Jersey) Law 1967, Article 16.

40. Post Office (Jersey) Law 1969.

41. Printed Papers (Jersey) Law 1954.

42. Prison (Jersey) Law 1957, Articles 20 and 30.

43. Rassemblements Tumultueux, 1797.

44. Registered Designs (Jersey) Law 1957.

45. Restriction of Offensive Weapons (Jersey) Law 1960.

46. Road Traffic (Jersey) Law 1956, Articles 18(1), 27, 53 and 54(2).

47. Telecommunications (Jersey) Law 1972.

48. Tokyo Convention Act 1967 (Jersey) Order 1969.

49. Trade Marks (Jersey) Law 1958.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Police Force (Prescribed Offences) (Jersey) Order 1974	R&O.6094	1 January 1975
Control of Housing and Work (Transitional and Consequential Provisions) (Jersey) Regulations 2013	R&O.30/2013	1 July 2013 (R&O.63/2013)

Table of Endnote References

[1]	*chapter 23.375*
[2]	*chapter 23.375*
[3] *Schedule*	*amended by R&O.30/2013*
[4]	*chapter 18.150*
[5]	*this reference has not been renumbered in the revised edition; all other references to Articles and Parts in this Part of this Schedule are (if the relevant Law remains in force) references to the revised edition*

Witness Name: Dr Helen Mary Miles

Statement No: First

Exhibits: HMM1 – HMM5

Dated: 05 April 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit HMM2

[redacted]

CODE OF DIRECTIONS FOR CENTENIERS ON THE CONDUCT OF PARISH HALL ENQUIRIES

Preliminary

1. No person shall be warned to attend a Parish Hall Enquiry ("an Enquiry") unless it reasonably appears to a Centenier, police officer or other appropriate law enforcement agency that an offence may have been committed.

2. Every person formally warned to attend at an Enquiry and who does so attend (hereinafter referred to as "an Attendee") shall, at the Parish Hall, be given an opportunity to study the information leaflet about enquiries before the Enquiry begins.

2.1 Leaflets in English, French, Polish and Portuguese are to be available to Attendees.

3. A Parish Hall Enquiry is essentially a prosecution process. The purpose of an Enquiry is for the Centenier to decide:

3.1 whether there is sufficient evidence to justify a charge;

3.2 if so, whether the public interest requires a charge be laid;

3.3 if a charge is appropriate, whether the matter can be dealt with at the Enquiry after the charge is laid, using one of the applicable statutory provisions.

4. It is not appropriate for a Centenier to conduct an Enquiry into an alleged offence which he or she has investigated or taken any part in investigating.

5. Enquiries are not held in public. The Centenier should at all times be accompanied during the Enquiry by another police officer. It is desirable, where practicable, that either the Centenier or the other officer (or both) should be of the same sex as the Attendee.

5.1 An Attendee is entitled to be accompanied by a lawyer and may be accompanied by any one other person should he or she so wish. It is a matter for the Centenier's discretion

what part the lawyer or other person is allowed to play at the Enquiry. However, the lawyer is there to advise his client and should be permitted to do so. The Centenier may nonetheless exclude any person from the Enquiry for misconduct or unruly behaviour.

5.2 An Attendee who is under 18 years of age must also be accompanied by a parent or guardian or other responsible adult and, if no such person is present, the Centenier should adjourn the Enquiry. If, despite all reasonable efforts by the Centenier to procure the attendance of a parent, guardian or other responsible adult no such person attends following such adjournment or adjournments, the Centenier should warn the Attendee to attend Court. All juveniles should be seen either on a different evening or at different times from adult enquiries.

5.3 A mentally ill or mentally handicapped Attendee must also be accompanied by a relative, guardian or other person responsible for his care or custody, and the Centenier should normally adjourn the Enquiry if no such person is present. This adjournment will enable the Centenier to make further enquiries with a view to ensuring that at the next hearing, a relative, guardian or other responsible person will be present so that the matter can proceed.

Procedure at Parish Hall Enquiry

The Centenier shall be mindful of the fact that anything said by the Attendee whilst not under caution is not admissible in evidence against the Attendee.

6.1 At the Enquiry, the Centenier should introduce himself and explain the purpose of the Enquiry (as set out at paragraph 3. above). The Attendee should first be told with sufficient particularity to inform him or

her of all the material details of the offence alleged to have been committed. This does not normally involve reading out either the relevant police report or any witness statement but it does require a summary of the allegations to be put. Where the Centenier is in any doubt as to whether the Attendee has a sufficient understanding of the English language, she/he should arrange for an official interpreter to be present and should adjourn the Enquiry until an interpreter is present.

7. The Centenier, who shall have read the report of the incident before the Enquiry starts, shall consider such other material as she/he thinks fit including hearing from the Attendee. Before inviting the Attendee to say anything, the Centenier must caution him or her that s/he is not obliged to say anything unless s/he wishes to do but whatever s/he wishes to say will be taken down in writing and may be given in evidence. The Centenier will normally reach a decision based upon the police report and witness statements without the need to resort to the oral hearing of witnesses. It is to be remembered that the Parish Hall Enquiry is not an occasion for a Centenier to act as an investigator – paragraph 4. above applies.

7.1 Having considered the material before him, and the Code on the Decision to Prosecute, the Centenier shall decide whether there is sufficient evidence to justify a prosecution. In any case where the Centenier ultimately concludes that there is not sufficient evidence to justify a prosecution, the Enquiry shall be ended and no further action taken against the Attendee.

7.2 In such cases, all records of the Enquiry shall show that there was insufficient evidence of an offence. The Centenier shall ensure that all records of the Enquiry are returned to Police Headquarters within 14 days from the date of the Enquiry.

7.3 If the Centenier concludes that there is sufficient evidence to justify a prosecution, the Centenier shall then go on to determine whether the public interest requires that charge(s) be laid. In reaching a conclusion the Centenier shall have regard to the

Guidelines issued by the Attorney General and contained in the Code on the Decision to Prosecute.

8. If the Centenier considers that it is appropriate to do so, the Centenier may:

i) adjourn the Enquiry in order to allow further information to be gathered to determine whether there is sufficient evidence to justify a prosecution or seek the advice of the Legal Advisers;

ii) where the Centenier considers that the evidential test is met and with the consent of the Attendee, defer the decision on whether to prosecute and adjourn the Enquiry for no longer than three months. A deferral of this decision may be accompanied by voluntary probation or any appropriate voluntary community measure agreed by the Attendee. This may include, if the Attendee and the victim agree, a supervised meeting between the Attendee and the victim.

8.1 In the case of an adjourned Enquiry under paragraph 8 the Attendee must be brought

back to Parish Hall Enquiry at a later date. On that occasion, depending upon what has transpired in the meantime, the Centenier will proceed in accordance with paragraph 8.2 below.

8.2 If the Attendee adequately complies with the voluntary probation order or other appropriate community measure, and there are no new circumstances which should be taken into account, the Centenier would be expected to determine at the end of the adjournment described in paragraph 8(ii) above, that the public interest did not lie in the commencement of a prosecution at that stage, and to proceed in accordance with paragraph 9 below. If the Attendee has not so complied, or new circumstances have arisen which require it, the Centenier should proceed in accordance with paragraph 10 below, charging the Attendee and warning him or her to appear in the Magistrate's Court or the Youth Court as the case may be.

9. In any case where the Centenier is satisfied that the public interest does not lie in the commencement of criminal proceedings, the options open to the Centenier are:

9.1 With the agreement of the Attendee, to issue a written caution.

9.2 To take no further action, although this may well involve words of advice, an oral caution, warning, etc.

10. If the Centenier concludes that the public interest requires a prosecution he shall so inform the Attendee. The Centenier shall proceed to charge the Attendee. At the time a person is charged he or she shall be given a written notice showing particulars of the offence with which he or she is charged and including the name of the officer in the case and the name and the Parish of the Connétable or Centenier who charges the person. So far as possible the particulars of the charge shall be stated in simple terms, but they shall also show the precise offence in law with which the person is charged. The notice shall begin with the following words:

"You are charged with the offence(s) shown below. Do you wish to say anything? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence."

If the person is a juvenile or is mentally disordered or mentally vulnerable the notice shall be given to the appropriate adult.

11. Where the Centenier has charged the Attendee, the Centenier should:

11.1 Inform the Attendee of the availability of the Legal Aid Scheme and explain the procedure for obtaining Legal Aid if this is required.

11.2 Subject to paragraph 12 below -

i) warn the Attendee to attend at Court on the first available date;

or

ii) admit the Attendee to bail in such sum as the Centenier may

reasonably determine pending his or her appearance at Court.

12. After the charge(s) have been laid in cases where the Centenier has a statutory power to fine:

12.1 If the Attendee admits the offence(s) and agrees that the Centenier deal with the matter, the Centenier should make clear to the Attendee that a record of a fine will be kept by the police and may be made available on a future occasion to a Court or a Parish Hall Enquiry, although it will not amount to a *"conviction"*. Payment of the fine by the Attendee concludes the proceedings in respect of the offences which the Centenier has charged.

12.2 If the Attendee admits the offence(s) s/he should do so in writing by signing a document substantially in the form set out in Schedule 1, supplied to him or her by the Centenier. S/he should then be asked whether s/he has anything to say by way of

excusing the offence(s) after hearing which the Centenier shall determine the appropriate course of action.

12.3 If the Attendee does not admit the offence(s) the Centenier cannot proceed to deal with him or her at the Parish Hall Enquiry and the Centenier should warn the Attendee for appearance before the Magistrate's Court on the charge(s) laid.

13. It is important that the Centenier should have regard to Attorney General's Directive 1/97 which spells out the consequences of the various options referred to above in terms of the records maintained at Police Headquarters.

14. A Centenier must record in writing the reasons for a decision not to prosecute. This must make clear whether there is insufficient evidence or whether there is sufficient evidence but the public interest is in favour of the matter being dealt with at the Enquiry in one of the manners described above rather than a prosecution. If the latter is the case, the Centenier must record the reasons for the decision that it is not in the public interest to prosecute. The Centenier shall ensure that the

written record is returned to Police Headquarters within 14 days from the date of the Enquiry.

Other Points

15. A Centenier may, if asked to do so, give advice or counsel to any Parishioner or fellow citizen about domestic or other problems. In this respect a Centenier has neither more nor less right than any other person, although his or her position as Centenier will naturally lend authority to the advice given. Centeniers may give advice or counsel at the Parish Hall if persons choose to seek them out there or at any other time and place which may be convenient. Centeniers should never give the impression that in advising or counselling they are exercising a judicial function, neither should they purport to make a judgment binding on any person in matters brought to their attention. Centeniers have no civil jurisdiction. Centeniers should never ask an Attendee, for example, to accept civil liability for a road traffic accident.

16. A Centenier must bear in mind the importance of keeping the victim of an offence informed. Accordingly, it is the responsibility of the Comité des Chefs, in conjunction with the States Police, to ensure that arrangements are in place to inform the victim of the outcome of a Parish Hall Enquiry including, if the decision at the Enquiry is not to

charge the alleged offender, a brief statement of the grounds for the decision. This should be taken from the reasons recorded pursuant to paragraph 14 above.

17. This Code of Directions replaces the Guidance Notes for Centeniers at Parish Hall Enquiries issued on 10th January, 2000, and comes into force on 23rd February, 2008.

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Her Majesty's Attorney General

Witness Name: Dr Helen Mary Miles

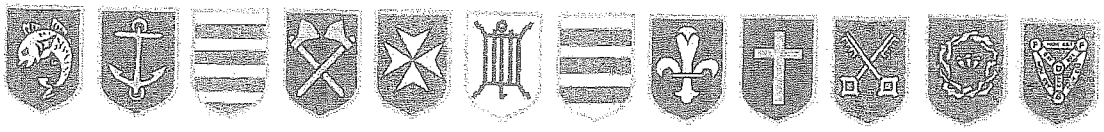
Statement No: First

Exhibits: HMM1 – HMM5

Dated: 05 April 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit HMM3



Parish Retention Schedule and Closure Periods

Agreed at Parish Secretaries Meeting: 16/06/2009
Amendments to include Comité des Connétables: 13/08/2013
Draft updated: 18/05/2015

Please note that this schedule should be applied to all records produced by the Parish, whether paper or electronic.

This retention schedule applies to the modern records produced by the Parish. Each Parish is required to have a signed off retention schedule in place under the Public Records (Jersey) Law 2002.

Any records that the Parish still holds that are over 20 years old should be transferred to the Jersey Archive under the Public Records (Jersey) Law 2002.

Please note that retention periods are calculated from the end date of a file/volume, e.g. if a volume contains records dating from 1970 – 2005 then the retention period is calculated from 2005.

This schedule also includes suggested closure/exemption periods for certain series of records. These periods are also calculated from the end date of a file/volume.

Under Freedom of Information legislation public institutions are required to complete transfer forms and include any exemptions that they wish to apply to records being transferred to the Archive.

Records that are transferred to the Archive and have no exemptions attached by the public institution are presumed to be open to public access.

The guidance below reflects best practice but does not constitute legal advice. The Archivist will endeavour to work with public authorities to ensure that the guidance reflects legislation but responsibility for checking on any legislative requirements rests with the public authority. Responsibility for checking more recent enactments rests with the reader.

This schedule will be reviewed after 5 years. Date of next review: 2019

Records In Series	Maximum Retention by Parish	Action by Parish	Action by Jersey Archive	Notes inc. closure periods
Parish Assembly				
Parish Assembly Acts/Minutes	20 years	Transfer to Jersey Archive	Archive	
Parish Assembly Agendas	20 years	Transfer to Jersey Archive	Archive	
Parish Committees				
Parochial Committee Acts/Minutes	20 years	Transfer to Jersey Archive	Archive	
Parochial Committee Agendas	20 years	Transfer to Jersey Archive	Archive	
Special Committees – e.g. Repairs of Parish Hall	20 years	Transfer to Jersey Archive	Review	Archive will retain minutes of Committee Meetings
Officer Meetings (including Churchwardens)	20 years	Transfer to Jersey Archive	Archive	
Parish Secretaries notes/agendas	5 years	Destroy		
Ecclesiastical Assembly				
Ecclesiastical Assembly Acts/Minutes	20 years	Transfer to Jersey Archive	Archive	
Ecclesiastical Assembly Agendas	20 years	Transfer to Jersey Archive	Archive	
Ecclesiastical Assembly Accounts	10 years	Transfer Annual Accounts to Jersey Archive, follow generic SoJ Treasury retention schedule for all other financial information	Archive Annual Accounts	

Ecclesiastical Assembly Correspondence	20 years	Review and Destroy unless significant or high profile issues raised*	Archive selected papers	
Roads Committee				
Roads Committee Acts/Minutes	20 years	Transfer to Jersey Archive	Archive	
Roads Committee Accounts	10 years	Destroy		Based on the assumption that accounts are included in the Parish Annual Accounts
Roads Committee Correspondence	20 years	Destroy		
Roads Committee Inspectors Reports	5 years	Transfer to Jersey Archive	Archive	
Visite du Branchage Overview Documents	5 years	Weed duplicates and admin papers and transfer overview to Jersey Archive	Archive	
Visite Royale	20 years	Weed for duplicates and transfer to Jersey Archive	Archive	
Constable				
Constable's Correspondence including paper and email – for specific guidance on email correspondence see the SoJ email policy and also Generic Retention Schedule for Ministerial/Chief Officer papers	20 years	Review and Destroy unless significant issues raised*	Archive selected papers	Constables correspondence will be subject to a 100 year closure period should files contains correspondence re. Honorary Police matters or welfare matters containing personal information.

Constable's Accounts	10 years	Destroy		Based on the assumption that accounts are included in the Parish Annual Accounts
Committee's on which Constable sits	20 years	Review	Archive minutes, agendas and papers of all Committees where records would not already be sent to Jersey Archive from, e.g. States Greffe	
Comité des Connetable Minutes	20 years	Transfer to Archive	Archive	To be received from the Comité des Connetable
Comité des Connetable Correspondence	20 years	Review and Destroy unless significant issues raised	Archive selected papers	To be received from the Comité des Connetable
Rates				
Approved Parish Rate List		Printed copy to Archive each year	Archive	
Annual Returns	10 years	Transfer all schedules pre. 1981 and then 1 set every 5 years to Jersey Archive	Archive	
Supervisory Committee Minutes	20 years	Transfer to Archive	Archive	To be received from the Comité des Connetable
Supervisory Committee correspondence	20 years	Review and Destroy unless significant issues raised	Archive selected papers	To be received from the Comité des Connétables
Parish Rate Appeal Board Minutes	20 years	Transfer to Archive	Archive	To be received from the Comité des Connetable
Rate Appeal Board Minutes	20 years	Transfer to Archive	Archive	To be received from the Comité des Connetable
Rates Committee Minutes	20 years	Transfer to Jersey Archive	Archive	

Rates – Mandataires	Regularly superseded			
Rates – Correspondence	10 years	Destroy		
Rates – Appeals pre 1995	20 years	Weed and Archive	Archive	Appeal form and decision to be received from the Comité des Connetable
Rates – Appeals post 1995	10 years	Destroy		Information in minutes of the Parish Rate Appeal Board or Rate Appeal Board
Rates – Unpaid Rates Lists	10 years	Destroy		
Honorary Police				
Honorary Police Minutes	20 years	Transfer to Jersey Archive	Archive	Closed for 100 years – unless in future exempt/non-exempt copies are prepared.
Honorary Police Attendance Registers	20 years	Transfer to Jersey Archive	Archive	
Honorary Police Notebooks	10 years	Transfer a small sample to include all high profile cases (MOPI group 1) to Jersey Archive	Archive selected papers	Closed for 100 years
Honorary Police Correspondence	20 years	Review and Destroy unless significant or high profile issues/cases raised*	Archive selected papers	Closed for 100 years
Honorary Police Elections	20 years	Transfer to Jersey Archive	Archive	
Honorary Police Rotas	10 years	Destroy		
Honorary Police Charge Sheets		Destroy once copies passed to SoJ Police		
Honorary Police Magistrate's Court 'no-shows'	3 months	Destroy		

Parking Tickets	10 years	Destroy		
Comité des Chefs de Police Minutes	20 years	Transfer to Jersey Archive	Archive	Only 1 set of minutes needs to be kept at the Archive - Closed for 100 years. This will come from the Comité des Connétables / Comité des Chefs de Police office
Comité des Chefs de Police Correspondence	20 years	Review and Destroy unless significant or high profile issues/cases raised*	Archive selected papers	
Parish Hall Enquiries		Destroy once copies passed to SoJ Police		
Parish Hall Enquiry Result Sheets	20 years	Review – small sample to Jersey Archive	Archive sample	
Parish Hall Inquiry Ledgers	20 years	Transfer to Jersey Archive	Archive	Archive on the assumption that these give overview statistics
Parish Hall Inquiry Attendance Sheets	20 years	Destroy		
RT1 Forms	Current + 1	Destroy		
Record of Prosecution and notes	20 years	Destroy		Assumption that this is a duplicate of Police Information
Parking Tickets Correspondence	3 years	Destroy		
Parking Tickets – Settled	10 years	Destroy		
Parking Tickets – Unsettled	10 years	Destroy		

Centeniers Association minutes and Vingteniers & Constable's Officers Association minutes	20 years	Transfer to Jersey Archive	Archive	Replaced by Honorary Police Association in 2005
Honorary Police Association Minutes	20 years	Transfer to Jersey Archive	Archive	
Honorary Police Complaints and Discipline Register	20 years	Transfer to Jersey Archive	Archive	
Licensing				
Taverners Licence Applications	10 years	Destroy		On the presumption that the licence is recorded in the Royal Court
Sunday Trading Permits	5 years	Destroy		
Places of Refreshment Permits	5 years	Destroy		
Driving Licence Applications	10 years	Sample – Transfer to Archive	Archive a sample of records	Any driving licences archived should be closed for 84 years
Driving Licence Revocations	10 years	Destroy		
International Driving Licence Applications	15 months	Destroy		
Firearms Licence Applications	20 years	Destroy		
Firearms Licence Lists	10 years	Destroy – Master Copies at Police HQ		
Firearms Licence Revocations	20 years	Destroy		
Fireworks Licence Applications	5 years	Destroy		
Dog Licence Applications	5 years	Destroy		
Parish Accounts – Please see States of Jersey Financial Directive 12.7 for advice on financial records				

Annual Accounts		Copy each year to Archive	Archive	
Sheltered Housing				
Sheltered Housing Applications	10 years	Review – Sample to Jersey Archive	Review	Closed for 50 years
Sheltered Housing Association Minutes	20 years	Transfer to Jersey Archive	Archive	Not applicable to all Parishes
Sheltered Housing Association Accounts	10 years	Transfer Annual Accounts to Jersey Archive	Archive	Not applicable to all Parishes
Sheltered Housing Association Correspondence	20 years	Review and Destroy unless significant or high profile issues raised*	Archive selected papers	Not applicable to all Parishes
Land & Buildings				
Contracts relating to property purchased/sold by the Parish	Retain whilst land in Parish ownership then 10 years	Destroy unless contract is dated prior to 1945	Archive older contracts	The text of the contract will be already stored at the Jersey Archive through the Public Registry
Plans of Parish Properties	20 years	Transfer to Jersey Archive	Review	
Records of projects carried out on parish buildings	20 years	Review	Review	Review project records against Jersey Archive standard project records retention schedule
Leases of property	Termination of lease plus 10 years	Destroy		
Elections				
Printed Electoral Lists		One copy to Archive each year – 1st September		Received from the Parish
Electoral Forms	5 years	Destroy		
Correspondence concerning elections	10 years	Review and Destroy unless significant or high profile issues raised*	Archive selected papers	

Dons				
Dons – Minutes of Meetings	20 years	Transfer to Jersey Archive	Archive	Closed for 100 years
Dons – Accounts	10 years	Transfer Annual Accounts to Jersey Archive	Archive selected papers	
Dons – Correspondence	20 years	Review and Destroy unless significant issues raised*	Archive selected papers	Closed for 100 years
Administrative Records				
General Correspondence Files	20 years	Review and Destroy unless significant issues raised*	Archive selected papers	
'Property search' correspondence	20 years	Review and Destroy after 5 years but keep for 20 years if significant issues raised		
Newscutting Files	20 years	Transfer to Jersey Archive	Archive	
Parish Magazines		Copy to Archive	Archive	
FOI requests	10 years	Review		
Parish Websites		Archive to take snap shots	Archive	
Communes				
Minutes of the Commune	20 years	Transfer to Jersey Archive	Archive	
Accounts of the Commune	20 years	Transfer annual account to Jersey Archive – destroy other papers in line with States FDs	Review	
Cemeteries				
Burial Plot Records	20 years	Transfer to Jersey Archive	Archive	
Acts of Cemetery Committees	20 years	Transfer to Jersey Archive	Archive	
Parish Clubs and Societies				
Minutes of Meetings	20 years	Transfer to Jersey Archive	Archive	

Accounts of Society	20 years	Transfer annual account to Jersey Archive – destroy other papers in line with States FDs	Review	
Parish Registrar				
Birth Records				
Birth Registers	20 years from end date of register	Transfer to Jersey Archive	Archive	Closed to public for 110 years
Alteration Forms	10 years	Destroy		
Stillbirth Registers	20 years from end date of register	Transfer to Jersey Archive	Archive	Closed to public for 100 years
Marriage/Civil Partnership Records				
Marriage Registers	20 years from end date of register	Transfer to Jersey Archive	Archive	
Notice Books	20 years from end date of register	Transfer to Jersey Archive	Archive	
Marriage Licences	20 years	Transfer 5% sample to Jersey Archive	Archive Sample	Rest of licences to be destroyed after 20 years
Death Records				
Death Registers	20 years from end date of register	Transfer to Jersey Archive	Archive	Closed to public for 75 years
Medical Fact and Cause of Death Form	20 years	Destroy		
Administration Records				
Enquiries correspondence	5 years	Destroy		
HR Files – Please see Generic States of Jersey Schedule				
Residential Homes Records – Please see Social Services Retention Schedule				
Nursery School Records – Please see Primary School Retention Schedule				
Health and Safety Records – Please see Generic States of Jersey Schedule				

*Review of Correspondence Files

Correspondence files should be reviewed after 20 years (or sooner if electronic) and only those which contain information on significant issues of public interest should be transferred to Jersey Archive. Files which meet the following criteria should be transferred to Jersey Archive:

- Records that show Jersey's social development, including demographic, cultural and economic change;
- Records that document change, continuity and development in Jersey over time and assist with the historic interpretation of such changes;

- Records that show States' administration's policies, procedures and decision making processes;
- Records that show and document the significant functions and activities of States of Jersey administrations;
- Records that show changes to Jersey's physical environment;
- Records that relate to notable events or persons;
- Records that are suitable for statistical and quantitative analysis;
- Records that show the development of communities in Jersey and
- Records that can be used in the growing field of genealogical research

Jersey Archive staff are happy to assist with the review process and offer advice.

Jersey Archive staff are happy to assist with the review process and offer advice.

APPROVED AND SIGNED ON BEHALF OF THE COMITÉ DES CONNÉTABLES BY:

Name	Signature:	Position:	Date:
C. Norman	[redacted]	Chairman - Comité	23/6/15

APPROVED AND SIGNED BY JERSEY ARCHIVE:

Name	Signature:	Position:	Date:
Linda Romeril	[redacted]	Archives and Collections Director, Jersey Heritage	7/07/15

Witness Name: Dr Helen Mary Miles

Statement No: First

Exhibits: HMM1 – HMM5

Dated: 05 April 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit HMM4

CODE ON THE DECISION TO PROSECUTE

1. Introduction

1.1 The decision to prosecute (i.e. to charge) an individual is a serious step. Fair and effective prosecution is essential to the maintenance of law and order. Even in a small case a prosecution has serious implications for all involved - the victim, a witness and a defendant. Centeniers are to apply the Code to ensure that they make fair and consistent decisions about prosecutions.

1.2 The Code contains important information for those who work in the criminal justice system and the general public. It helps Centeniers to play their part in ensuring that justice is achieved.

2. General principles

2.1 Each case is unique and must be considered on its own. There are, however, general principles which apply in all cases.

2.2 The duty of the Centenier is to make sure that the right person is prosecuted for the right offence and that all relevant facts are given to the Court.

2.3 Centeniers must be fair, independent and objective. They must not let their personal views of the ethnic or national origin, sex, religious beliefs, political views or sexual preference of the offender, victim or witness influence their decisions. They must not be affected by improper or undue pressure from any source.

3. The Code tests

3.1 There are two stages in any decision to prosecute. The first stage is the **evidential test**. If the case does not pass the evidential test it must not go ahead no matter how important or serious it may be. If the case does pass the evidential test the Centenier must decide if a prosecution is warranted in the public interest.

3.2 The second stage is the **public interest test**. The Centenier will only start or continue a prosecution when the case has passed both tests. The evidential test is explained in section 4 and the public interest test is explained in section 5.

4. The Evidential test

4.1 Centeniers must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each defendant on each charge. They must consider what the defence case may be and how that is likely to affect the prosecution case.

4.2 A realistic prospect of conviction is an objective test. It means that the Magistrate, a jury or bench of Jurats properly directed in accordance with the law is more likely than not to convict the defendant of the charge alleged.

4.3 When deciding whether there is sufficient evidence to prosecute, Centeniers must consider whether the evidence can be used and is

reliable. There will be many cases in which the evidence does not give any cause for concern. There will, however, also be cases in which the evidence may not be as strong as it first appears. Centeniers must ask themselves the following questions:

Can the evidence be used in Court?

(a) Is it likely that the evidence will be excluded by the Court? There are certain legal rules which might mean that evidence which seems relevant cannot be given at a trial. For example, is it likely that the evidence will be excluded because of the way in which it was gathered or because of the rule against using hearsay as evidence? If so, is there enough other evidence to ensure a realistic prospect of conviction?

Is the evidence reliable?

(b) Is it likely that a confession is unreliable because (for example) of the defendant's age, intelligence or lack of understanding?

(c) Is the witness's background likely to weaken the prosecution case? For example, does the witness have any dubious motive that may affect his or her attitude to the case or a relevant previous conviction?

(d) If the identity of the defendant is likely to be questioned, is the evidence about this strong enough?

4.4 Centeniers should not ignore evidence because they are not sure whether it can be used or is reliable. They should, however, look closely at it when deciding if there is a realistic prospect of conviction.

4.5 Where Centeniers have concerns over the possible exclusion of evidence, they should consult and be guided by the advice of the Police Legal Adviser.

5. The Public Interest test

5.1 In 1951, Lord Shawcross (Attorney General for England) made a classic statement on public interest which has been supported by Attorneys General ever since:

> "It has never been the rule in this country - I hope it never will be - that suspected criminal offences must automatically be the subject of prosecution" (House of Commons Debates, Volume 483, column 681, 29 January 1951).

5.2 The public interest must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. In cases of any seriousness a prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour. Although there may be public interest factors against prosecution in a particular case, often the prosecution should go ahead and those factors should be put to the Court for consideration when sentence is being passed.

5.3 Centeniers must balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the offender. Some factors may increase the need to

prosecute but others may suggest that another course of action would be better. The following lists of some common public interest factors (both for and against prosecution) are not exhaustive. The factors which apply will depend on the facts in each case.

Some common public interest factors in favour of prosecution

5.4 The more serious the offence the more likely it is that a prosecution will be needed in the public interest. A prosecution is likely to be needed if -

(a) a conviction is likely to result in a significant sentence;

(b) a weapon was used or violence was threatened during the commission of the offence;

(c) the offence was committed against a person serving the public (for example, a police officer, prison officer or a nurse);

(d) the defendant was in a position of authority or trust;

(e) the evidence shows that the defendant was a ringleader or an organiser of the offence;

(f) there is evidence that the offence was premeditated;

(g) there is evidence that the offence was carried out by a group;

(h) the victim of the offence was vulnerable, has been put in considerable fear or suffered personal attack, damage or disturbance;

(i) the offence was motivated by any form of discrimination against the victim's ethnic or national origin, sex, religious beliefs, personal views or sexual preference;

(j) there is a marked difference between the actual or mental ages of the defendant and the victim or there is any element of corruption;

(k) the defendant's previous convictions or cautions are relevant to the present offence;

(l) the defendant is alleged to have committed the offence whilst under an order of the court;

(m) there are grounds for believing that the offence is likely to be continued or repeated (for example, by a history of recurring conduct); or

(n) the offence, although not serious in itself, is widespread.

Some common public interest factors against prosecution

5.5 a prosecution is less likely to be needed if:

(a) the Court is likely to impose a very small or nominal penalty;

(b) the offence was committed as a result of genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);

(c) the loss or harm can be described as minor and was the result of a single incident (particularly if it was caused by a misjudgment);

(d) there has been a long delay between the offence taking place and the date of the trial, unless -

- the offence is serious;
- the delay has been caused in part by the defendant;
- the offence has only recently come to light; or
- the complexity of the offence has meant that there has been a long investigation;

(e) a prosecution is likely to have a very bad effect on the victim's physical or mental health (always bearing in mind the seriousness of the offence);

(f) the defendant is elderly or is (or was at the time of the offence) suffering

from significant mental or physical ill-health (unless the offence is serious or there is a real possibility that it may be repeated). Centeniers must balance the desirability of diverting a defendant who is suffering from significant mental or physical ill-health with the need to safeguard the general public;

(g) the defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution simply because they can pay compensation); or

(h) details may be made public which could harm sources of information, international relations or national security.

5.6 Deciding on the public interest is not simply a matter of adding up the number of factors on each side. Centeniers must decide how important each factor is in the circumstances of each case and go on to make an overall assessment.

The relationship between the victim and the public interest

5.7 Centeniers act in the public interest and not just in the interests of any one individual. But, Centeniers must <u>always</u> think very carefully about the interests of the victim, which are an important factor when

deciding where the public interest lies and, accordingly, whether a prosecution should be brought.

Young offenders

5.8 Centeniers must consider the interests of a youth when deciding whether it is in the public interest to prosecute. The stigma of a conviction can cause very serious harm to the prospects of a young offender or a young adult. Young offenders can sometimes be dealt with at a Parish Hall Enquiry without the need for a Court appearance. However, Centeniers should not avoid prosecuting simply because of the defendant's age. The seriousness of the offence or the offender's past behaviour may make prosecution necessary.

6. Charges

6.1 Centeniers should select charges which -

(a) reflect the seriousness of the offending;

(b) give the Court adequate sentencing powers; and

(c) enable the case to be presented in a clear and simple way.

This means that Centeniers may not always continue with the most serious charge where there is a choice. Further, Centeniers should not continue with more charges than are necessary.

6.2 Centeniers should never go ahead with more charges than are necessary simply to encourage a defendant to plead guilty to a few. In the same way they should never proceed with a more serious charge simply to encourage a defendant to plead guilty to a less serious one.

7. Accepting guilty pleas

7.1 Defendants may want to plead guilty to some, but not all, of the charges. Alternatively they may want to plead guilty to a different, possibly less serious, charge because they are admitting only part of the crime. Centeniers should only accept a defendant's plea if they think the Court is able to pass a sentence which matches the seriousness of the offending. Centeniers must never accept a plea just because it is convenient.

8. Power of the Attorney General to overrule a Centenier's decision

8.1 Members of the public should be able to rely upon decisions taken by Centeniers. Normally, if a Centenier tells a person that there will not be a prosecution that is the end of the matter. However the Attorney General is the ultimate authority in respect of all prosecutions in the Island and has the power to overrule a Centenier's decision not to prosecute. In exercise of this power he may direct a Centenier to lay a charge. Where appropriate Centeniers should inform a person whom they have decided not to charge of this possibility.

8.2 Similarly the Attorney General may direct a Centenier not to proceed with a prosecution which has been commenced.

9. Conclusion

9.1 Centeniers form part of the Honorary Police. They are answerable to the Attorney General.

9.2 The Code for Centeniers is designed to make sure that everyone knows the principles which Centeniers apply when carrying out their work. Centeniers should take account of the principles of the Code when they are deciding whether to charge a defendant with an offence. By applying the same principles Centeniers are helping the criminal justice system to treat victims fairly and to prosecute defendants fairly and effectively.

9.3 The Code is issued by the Attorney General and is available from all Parish Halls and:

The Law Officers' Department

Morier House

St. Helier

Jersey. JE1 1DD.

9.4 It is also available at the States of Jersey Police Headquarters.

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H.M. Attorney General

10th January, 2000.

Witness Name: Dr Helen Mary Miles

Statement No: First

Exhibits: HMM1 – HMM5

Dated: 05 April 2016

THE INDEPENDENT JERSEY CARE INQUIRY

Exhibit HMM5

[redacted]

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Submissions to the

Independent Jersey Care Inquiry

on behalf of the Law Officers' Department

Oliver Glasgow QC & Sarah Przybylska

2 Hare Court

INDEX

INTRODUCTION

1. Over the course of more than a hundred days the Inquiry has received evidence from almost every quarter concerned with mistreatment of children on Jersey. Victims of abuse, alleged perpetrators of abuse, investigators of abuse, and prosecutors of abuse have all assisted the panel with their involvement in what was to become Operation Rectangle.

2. The task faced by the Inquiry is encapsulated by the Terms of Reference ("ToR") which were set by the States of Jersey when the Panel was invited to take up its post. They have been interpreted so as to ensure that almost every aspect of the child abuse scandal that shocked Jersey between 2008 and 2009 has been the subject of close inspection. The challenge now is to separate fact from fiction; to distil rumours and allegations from the truth; and to ensure that no matter the number of claimants or the volume with which they announce their claims, the LOD and the Crown Officers are judged on proper (and what lawyers so often refer to as admissible) evidence.

3. We submit that when one takes a dispassionate and critical look at the evidence that the Panel has received, there is no proper basis upon which the Panel could conclude that the Law Officers' Department ("LOD") or any of the Crown Officers conducted themselves in a way that was unprofessional or lacked independence. The purpose of these submissions is not to seek to justify each and every decision that was taken during the period under review; that is an impossible task and, in any event, it is not one that the Panel is required to undertake. The purpose of these submissions is to respond, where appropriate, to the attacks that have been made upon the various decisions under review and to assess the weight that should be attached to the evidence that has been received. We submit that once that exercise has been carried out, the Panel will have no hesitation in concluding that there are no proper grounds for criticising the LOD.

4. In seeking to make submissions on behalf of the LOD it is not our intention to address each and every allegation that has been made against the Crown Officers, the Crown Advocates or the staff of the department. It would be impossible so to do and, with respect to those who have given assistance to the Inquiry, any allegation that is

entirely without evidence to support it is something this Inquiry should accord little or no weight.

5. The Inquiry made plain that there were no rules of evidence and, as such, that neither a witness' statement nor their evidence would be edited to remove matters that fell outside the ToRs or which ought properly not to be considered. As a result, the Panel has received accounts containing highly defamatory allegations against past and present members of the LOD. We do not intend to respond to baseless allegations since to do so would be to give them a credibility that is presently absent; however, by not responding to some of the more lurid claims of dishonesty, abuse of power or cover up it should not be thought that any admission to any alleged wrongdoing is being made. In the event that the Panel requires assistance in respect of any allegations that is not addressed in these submissions we would expect to be invited to provide that assistance otherwise it would be unfair for the Inquiry to make any findings that are adverse to the LOD.

6. In order to assist the Panel and the other Interested Parties we will address each of the three ToRs that are relevant to the LOD in turn; we will endeavour to take matters in a chronological order; and we will try (wherever possible) to avoid overlapping the evidence. We take the view that the three ToRs that concern the LOD are:

- 4: Examine the political and societal environment during the period under review and its effect on the oversight of children's homes, fostering services and other establishments run by the States, on the reporting or non-reporting of abuse within or outside such organisations, on the response to those reports of abuse by all agencies and by the public, on the eventual police and any other investigations, and on the eventual outcomes.

- 9: Review the actions of the agencies of the government, the justice system and politicians during the period under review, in particular when concerns came to light about child abuse and establish what, if any, lessons are to be learned.

- 13: Establish the process by which files were submitted by the States of Jersey Police to the prosecuting authorities for consideration, and establish –
    - Whether those responsible for deciding on which cases to prosecute took a professional approach;
    - Whether the process was free from political or other influence at any level.

7. Insofar as those ToRs are capable of an answer that can be distilled into a few sentences we will endeavour so to do in order that the Panel will appreciate from the outset the direction that these submissions will take, the evidence upon which we will rely and the conclusions we will invite you to make.

8. The starting point for any consideration of the allegations made against the LOD is that none of them must be assumed to be correct unless there is any evidence to support them and unless that evidence is actually persuasive of the point it is deployed to demonstrate. Simply asserting something to be true does not make it so; simply alleging fault on the part of any person or organisation does not require an explanation be provided; and simply rehearsing the nature of a complaint does not demand proof be adduced that the contrary is in fact the correct position. Out of respect for all concerned and in accordance with the rules of natural justice, the Panel must start from the position that the allegations must be grounded in fact otherwise they are utterly without any persuasive force whatsoever.

9. In light of everything that the Panel has heard, the only proper conclusion about the response of the LOD to the allegations of abuse is that each and every allegation referred to the LOD was given fair and proper consideration; that each and every Law Officer who was required to consider cases that have been reviewed by the Inquiry took a professional and responsible approach to the decisions they had to make; and that each and every decision taken in respect of those cases withstands scrutiny, is within the range of what could properly be described as appropriate and was free from any outside influence. The evidence upon which we base such a confident assertions is that of the Law Officers, the States of Jersey Police ('SOJP') and the Inquiry's own expert. To the extent that there is evidence before the Panel said to contradict this

conclusion, it is misconceived, unsubstantiated and does not provide any real support for the claims predicated upon it.

Summary of Conclusions

10. In particular we submit that the following particular conclusions can distilled from the evidence about Operation Rectangle:

- The Attorney General ("AG") recognised the risk of conflict created by his position and took steps to ensure that it did not arise;

- The AG put in place a system that was designed to establish objective independence and provide public confidence;

- The system ensured that the material provided by the SOJP was reviewed by independent advocates, assessed by the LOD and, where appropriate, subjected to further analysis by independent English lawyers;

- The system resulted in a decision making process that was itself professional and appropriate;

- All those who participated in the process undertaken by the LOD acted professionally and in good faith and the process was free from any outside interference; and

- The decisions that resulted from that process withstand scrutiny and are reasonable in their conclusions.

TERM OF REFERENCE 4

11. Much has been made of an environment of cover up that it is claimed existed in Jersey even before the States of Jersey Police ("SOJP") began to investigate the allegations of child abuse.

12. Leonard Harper, who came to Jersey in 2002 and took up post as the Deputy Chief Officer ("DCO") of the SOJP, made strident claims that such was the attitude of the AG it was impossible for him to bring charges of corruption against any of his fellow officers whom he considered to be guilty of serious wrongdoing: *"The conclusion was soon reached was that I could not get corrupt officers charged as the AG would not agree to do so… I do not know what was in it for the AG. I cannot understand why he would not want corrupt officers removed."* [**WS000516/10**]

13. Mr Harper provided as evidence of this assertion the cases of Sean Osmand, Roy Boschat, and the three members of the IT staff. The treatment of these individuals was, he suggested, demonstrable proof of his belief that the AG had no desire to prosecute the police: *"I cannot recall any occasions where the AG did agree to charge employees of the SOJP in relation to malpractice/corruption"* [**WS000516/11**]. Furthermore, Mr Harper has cited what he claims to be fundamental corruption within the Honorary Police as evidence of this alleged refusal by the AG to certain prosecute cases.

14. In each and every respect Mr Harper's claims have been found wanting:

<u>Sean Osmand</u>

15. The evidence against Osmand was reviewed by the lawyers at the LOD in August 2006 and advice was provided by the then Solicitor General ("SG"), Stéphanie Nicolle, in November 2006. The SG concluded that the evidence in relation to bribery and corruption did not satisfy the evidential test and, therefore, that Osmand could not be prosecuted for those matters [see advice of Nicolle exhibit WB14 **WD009017/64-76**]. Mr Harper (who is not legally qualified) and who was not content with the time it was taking to review the case encouraged a Centenier to charge Osmand with 42

Computer Misuse offences before receiving final advice from the LOD – the reason for selecting these charges was that, unlike allegations of corruption, they did not require the AG's consent before charge. Mr Harper deliberately usurped the role of the LOD since he *"did not accept that Osmand should escape liability"* [**WS000516/9**]. The AG was understandably concerned at the end of the proceedings that, despite Mr Harper's belief in the strength of the case against Osmand, he was only convicted of three of the charges he faced and the prosecution costs had exceeded £100,000.

Roy Boschat

16. Mr Harper complains that the William Bailhache *"ordered that [Boschat] should not be [charged]"* [**WS000516/10**] and this is said to be the result of a visit from two politicians who were associates of Boschat who *"asked for the charges to be stopped"* [**WS000516/10**]. Mr Harper's assertions are based entirely upon guesswork and rumour and the implied allegation that the AG was influenced in the exercise of his office by a visit from two politicians is without any substance. Mr Harper is joined in this complaint by Graham Power who suggests that *"the AG intervened personally and directed that Boschat should not be charged and that the papers be referred to him"* [**WS000536/17**]. Mr Power labours under the same misunderstanding as Mr Harper; neither know what took place in the meeting with the AG and neither know what it was that caused the AG to call for the file before agreeing that Boschat could be charged. Fortunately the Panel is in a better position than either Mr Harper or Mr Power, since they have had the benefit of evidence from William Bailhache on this very point.

17. Senator Sarah Ferguson and Deputy Collin Egré contacted the AG and subsequently visited him to allege that Mr Harper was abusing the criminal process in order to conduct a vendetta against Boschat. As the AG pointed out at the time: *"I will see you both and listen to what you have to say but it is right to make it clear that it not for politicians to concern themselves with the administration of justice in individual cases… the decisions are a matter for the prosecution and the court. This is a pretty important issue of principle"* [**WD009066/1-2**]. However, William Bailhache recognises that, subject to that important caveat, it was important that he listen to what

they had to say: *"the allegations which they made against Mr Harper were allegations which it seemed to me no Attorney General should ignore. The alleged abuse of the criminal justice system by an officer as senior as the Deputy Chief Officer of Police was a serious matter"*. Therefore, he called for and reviewed the file, and instructed Mr O'Donnell not to proceed with the charges until he had done so. He communicated this to Mr Power, who *"said that he understood"*. On reviewing the file, the AG saw nothing that supported the allegations made and the case proceeded [**WS000701/25-26**; **WD009066**].

18. Mr Harper suggests that there were *"a number of inexplicable adjournments in the case, and shortly after I retired the case was thrown out of Court. I believe* [by] *Ian Le Marquand"* [**WS000516/35**]. The implication seems to be that something untoward went on. Again, this is a distortion of the true position. The evidence against Boschat depended entirely upon what he had said to the Magistrate when called to give evidence as a defence witness on behalf of Osmand. John Edmonds reviewed the file in order to make his statement to the Inquiry and confirms that, unsurprisingly, Mr Boschat sought to have the evidence excluded:

"This necessitated further hearings... The case was not heard by Ian Le Marquand but by... Bridget Shaw... [A]fter lengthy legal argument she ruled the confession to be inadmissible. As that was the only evidence against Mr Boschat... Laurence O'Donnell offered no evidence and the charge against Mr Boschat was dismissed" [**WS000698/53-54**].

19. By way of an aside, Mr Power made an interesting observation as regards Mr Harper and the effect that the Boschat case had upon him. It was obvious to Mr Power that the involvement of the AG before Boschat was charged was not received well by Mr Harper: *"I know that this episode was influential in shaping Lenny's view of the relationship between the Law Officers and Politicians and that it entered his thinking when he considered how issues of arrest, advice and charge should be approached"* [**WS000536/18**]. The irony, of course, in Mr Power's observation is that, if correct, Mr Harper's jaundiced view of the AG and the Jersey justice system was predicated (sadly like so much of his evidence) upon misunderstanding and assumption.

Members of the IT Department

20. Mr Harper wrongly asserted in evidence that the three individuals concerned were police officers; they were not, they were civilian employees (though one was a former officer). The three men were accused of purchasing computer equipment on the SOJP budget which had been intended for their personal use. All three maintained when interviewed that they had permission to purchase the computers because they were intended to assist in providing a 24/7 IT support service which would require them to work from home. The evidence against them was reviewed by the SG, Stéphanie Nicolle. In light of the statement from Chief Officer Le Breton, in which he accepted that the men had permission to purchase computers to be used at their homes, it was concluded that the case did not pass the evidential test. It is to be noted that DI Minty, who provided a report on the case to the LOD, identified that the problem with the case was proving beyond reasonable doubt any fraudulent intent. All three men were subjected to disciplinary proceedings and dismissed.

21. Of the three examples that Mr Harper provides in order to demonstrate his assertion that the AG turned a blind eye to corruption, not one of them actually supports his claim. Indeed, not only do all three reveal that the LOD reviewed all of the cases with care, all three reveal something of Mr Harper's attitude towards those in authority, which was one of deep suspicion and distrust: *"telling the truth and following the rules did not matter to some people in authority in Jersey"* [**WS000516/11**].

22. It is not entirely clear what caused Mr Harper to come to such a conclusion, but he was a little less forthright when he actually came to give evidence: when asked if he understood the legal reason why corruption charges were not being brought he admitted that he "*never understood the legal reason*" [**Day 121/37/4**]; and when asked if he wanted the Inquiry to understand that in each case where he alleged that there was a refusal to charge corrupt individuals the basis for the refusal was improper or just that he disagreed with it he replied, *"I didn't agree with it and I didn't understand it… whether or not it is improper I wouldn't like to say"* [**Day 121/52/4-11**].

The Honorary Police

23. We do not intend to respond to the wider issues that some witnesses have raised about the role of the Honorary Police since that falls outside the Inquiry's ToRs but, since it is cited by Mr Harper as further evidence in support of his allegation of corruption it is important to address it to that limited extent. Mr Harper has offered his performance assessment of the Honorary Police, whose officers he claims were all too willing to abuse their position in order to show favour to certain individuals:

"I quite often found that offenders were going through Parish Hall Inquiries for offences that were too serious for the process and suspects were simply getting a tap on the shoulder as they knew member of the Honorary Police presiding over the Parish hall Inquiry… It always seemed to me that if the suspect was someone that was friendly with a Centenier of the Honorary Police generally they would not go through the proper police systems" [**WS000516/14-15**].

24. This part of Mr Harper's evidence provides a striking example of the difficulty that the Panel faces when trying to assess what value, if any, one can attach to his account. The attack upon the Honorary Police is a damning one; Mr Harper does not shy away from accusing its officers of deliberate corruption and, by implication, the AG since he is the titular head of the service. If true, the allegations are very serious since the attitude of the Honorary Police towards offenders and particular types of offences might make it impossible for charges to be brought – after all, it is only the Centenier who can charge and not an officer from the SOJP. Given the way in which Mr Harper has sought to portray himself as the lone voice against a corrupt system and his avowed desire to ensure that nothing would stand between him and the fight for justice ("*you help the good people and you do whatever needs to be done to stop the bad people*" [**WS000516/53**]), it is noteworthy that in response to this perceived abuse of power he did absolutely nothing. He did not investigate these allegations, he did not look at any of the Honorary Police officers involved and he did not even report the matter to the AG. When asked whether he had informed the AG of his concern that suspects were simply getting a tap on the shoulder his reply was: *"I don't recall personally reporting it to the AG"* [**Day 121/48/10-11**].

25. It is very easy to make such sweeping allegations of corruption and abuse of power but, if there were any truth in the claims, then Mr Harper, if he is the guardian of justice that he purports to be, would have done something about it. After all, he did not shy away from sending emails to the AG making strident complaints about the conduct of Honorary Police officers when this had a direct impact upon his personal life (see the correspondence about the improper use of his warrant card – **WD005159/2** & **WD005161/2-3**).

26. The position, therefore, in which the Panel finds itself is that Mr Harper has made serious but unsubstantiated allegations of corruption. Not only are his allegations entirely unsupported, they are positively contradicted by those with greater experience of the Honorary Police. We do not need to cite the evidence of any of the former AGs, which provides a comprehensive endorsement of the process, but we do invite the Panel to recall the evidence of Bridget Shaw whose work as a police legal advisor and now as a magistrate puts her in the perfect position objectively to assess the question of internal corruption and abuse of the Parish Hall Enquiry process: *"I have never come across an instance which caused me to have concern"* [**WS000691/12**].

27. Notwithstanding Mr Harper's obvious failure to investigate these alleged attempts to pervert the course of justice, this material is deployed by him as a means of tarnishing the reputation of the Island and the Crown Officers. It is also used as a vehicle to introduce the Roger Holland, Victoria College, and Jersey Sea Cadets cases, all of which are said to be further examples of how those in power are themselves so corrupt that they would prefer to cover up scandal rather than expose it to public scrutiny and at the same time bring shame to the Island.

<u>Roger Holland</u>

28. To the uninformed outsider the Roger Holland story has been touted as a classic example of the attitude taken towards child sex offenders by those in power and their refusal to own up to mistakes that they have made. As with so many other allegations made before the Inquiry, this is not a reading that bears close analysis. The chronology of Holland's election to and service as an officer of the Honorary Police is

a lengthy one. It is necessary to look carefully at the sequence to avoid conflating different events and ascribing to individuals knowledge they could not have possessed at the time.

Original conviction & election to the Honorary Police

29. On 10 October 1986, at the age of 21, Holland pleaded guilty to indecent assault of a vulnerable child and was sentenced to 12 months' probation, which was discharged four months early because of good progress. He admitted to the police that he had indecently assaulted another minor but the matter was not pursued as the parents of the victim wished to protect her and felt it best not to co-operate with the investigation for that reason.

30. On 7 July 1992, Holland was elected to the Honorary Police and sworn in as an officer by the Royal Court on 10 July. The Royal Court was not aware of his previous conviction. The Inquiry has heard evidence from Sir Philip Bailhache, Mr Le Brocq and Mr Harper about the process by which the conviction came to light. There is a crucial difference between these three accounts; Sir Philip gave direct evidence of his involvement, while Mr Le Brocq and Mr Harper provided a version of events drawn from hearsay, gossip and assumption.

31. Sir Philip's evidence was as follows:

"On 10 July 1992, Roger Holland was sworn in before the Royal Court. Later that day, I had sight of an anonymous letter dated 8 July 1992 which stated that Roger Holland had been convicted of the indecent assault of a minor. I was not aware of Roger Holland's conviction until after he was sworn in by the Royal Court." [**WS000699/10**]

32. Amongst the many claims Mr Le Brocq has made the following are of note: *"It is my belief that the AG… failed to read the criminal record for Mr Holland"* [**WS000541/14**]; *"Sir Philip Bailhache could easily have brought Mr Holland back to the Royal Court"* [**WS000541/14**]; and *"I say that the records of the AG's office must show that Sir Philip Bailhache and his successors were provided with Mr Holland's*

record on numerous occasions" [**WS000541/15**]. Mr Harper has made similar claims about these events which took place a decade before his arrival in Jersey; he asserts that the AG *"allowed Roger Holland to be appointed to the Honorary Police despite the fact that concerns were known about him"* [**WS000516/16].**

33. The assertion that the AG knew about Holland's criminal record before he was sworn in appears to be based (to the extent that it has any rational basis) on the written evidence of the then Clerk to the AG to the Committee of Inquiry which later looked into the circumstances of Holland's election. She said that *"as a matter of routine, all prospective Honorary Police officers were automatically checked out with the Criminal Records Office, both by the Greffier on behalf of the Town Hall and by myself on behalf of our department"* [**EE000006/9**].

34. Sir Philip pointed out (and there has been no evidence to the contrary) that:

"It is immediately apparent that this is not a specific recollection of what actually happened in the case of Roger Holland, but a general statement of what 'would' have happened 'as a matter of routine'. It is not an accurate statement of how criminal records were obtained in Jersey by 1992. [The Clerk] had been a longstanding employee of the LOD… it appears that she was confusing a process which was in place earlier in her career with that in place in 1992. She did undoubtedly in those early days request criminal records from the SOJP from time to time, but the Criminal Records Office was then a local affair. During the 1980s, the SOJP records department was linked with that for England and Wales so that the complete record for a defendant could be made available. The records became fuller, but inevitably obtaining a criminal record became much more time-consuming because each request had to go to the UK... As a result it would have been quite impossible for the LOD to obtain via the SOJP a copy of a criminal record in the two days between my being notified on 8 July 1992 of the election of Roger Holland and his swearing in before the Royal Court on 10 July 1992..." [**WS000699/11-12]**

35. There is, in short, no evidence to suggest any failure by Sir Philip to take action prior to Holland's swearing in. It is difficult to reach a view now as to what course of action Sir Philip should have taken on learning of Holland's conviction after he had been

sworn in. He had no power to suspend Holland as *"suspension could not have been premised upon conduct occurring before [Holland] had been sworn in"* and so his only option was to make a representation to the Royal Court [**WS000699/13**]. There was no formal procedure for so doing. Moreover, in 1992, as Sir Philip points out, "*there was no suggestion of any re-offending or a continuing predilection for young children and it was reasonable to conclude that he had been successfully rehabilitated"* [**WS000699/12**]. He did not know then that Holland would go on to be convicted of multiple further offences. He was to some degree limited in his options by the fact that the power to suspend a member of the Honorary Police was not retrospective and applied only to conduct occurring after election. As Sir Philip said, *"In retrospect I would rather a different decision had been made... but it is easy to be wise after the event"* [**WS000699/13**]. What is clear, however, is that there was no cover up or corruption, only a sequence of difficult decisions made under pressure of time.

1994 assault allegation

36. In 1994 an allegation was made that Holland physically assaulted an adult visitor to the Island outside the Pomme d'Or Hotel. The alleged victim was unwilling to provide a statement. The Chef de Police informed Holland of the complaint and he voluntarily surrendered his warrant card. The then AG, Sir Michael Birt, was informed of the matter; he ordered an investigation and suspended Holland pending its conclusion. Sir Michael *"had no knowledge of his previous conviction. [He] had no knowledge of and had played no part in his election"* [**WS000680/18**]. At the conclusion of the investigation the then Connétable, Me Le Brocq, recommended that Holland be suspended rather than required to resign as he *"has already been punished quite substantially by the long period of suspension… [he] has learnt his lesson"*. The AG suspended Holland from duty for three months [COI Report, **EE000006/12-13**]. In making a decision on sanction, he was *"only entitled to take into account… things which Roger Holland had done whilst an Honorary Police officer"* [**WS000680/19**].

37. Meanwhile, in June 1995, the AG directed that he should be supplied with either the criminal record of all new applicants to the Honorary Police or written confirmation that there was no criminal record [**WS000680/20**].

38. On 5 December 1995, Holland was re-elected as a Constable's Officer. Sir Michael explains: *"As Mr Holland was not a new applicant, when he was sworn in there was no requirement to inform me… of any previous convictions. Roger Holland's swearing in would have proceeded as a purely routine matter and the paperwork would have been processed by my clerk without reference to me."* [**WS000680/20-21**]

1997 re-election

39. On 2 September 1997, Holland was elected as a Vingtenier. Sir Michael Birt was still the AG. His evidence was that:

"Again, [Holland's] previous convictions would not have been brought to my attention and the appointment would have been routinely processed, again without reference to me. Chief Officer Le Breton [of the SOJP] wrote to me raising concerns about the fact that Roger Holland had been sworn in as a Vingtenier. This was the first occasion that I saw the papers setting out the evidence which underlay Holland's conviction in 1986. After seeing this, I considered that it would be preferable for the AG to be informed of previous convictions, even in the case of an Honorary Police officer who was being re-elected. I therefore amended the directive concerning the reporting of previous convictions of elected Honorary Police officers to include those who were re-elected by means of a letter dated 3 November 1997…" [**WS000680/21**]

1999 allegation & failures by Robert Le Brocq

40. The COI heard evidence that in March or April 1999 an allegation was made by a young girl that Holland had sexually assaulted her in the back of a police van. An Honorary Police officer was also told about a separate matter, namely another indecent assault committed prior to Holland's election to the Honorary Police in 1992 for which he had never been prosecuted. These and other matters were reported on 23 April 1999 to the then Connétable, Mr Le Brocq [**EE000006/16-17**]. Sir Philip Bailhache explains that:

"As Connétable, Mr Le Brocq was obliged by the Honorary Police (Jersey) Regulations 1977 and the Police Force (Jersey) Law 1974 to inform the AG of complaints made against members of the Honorary Police as soon as possible; to investigate the complaint himself, or, in the case of certain more serious matters, to request the assistance of the SOJP; and then to report to the AG at the conclusion of the investigation." [**WS000699/15**]

41. Mr Le Brocq did not inform the AG; nor did he pass the matters on to the SOJP until 30 June 1999. The COI found that *"there was… misunderstanding on the part of Connétable Le Brocq of his statutory responsibility for reporting complaints against serving members of the Honorary Police to the AG"* **[EE000006/20**]. On or about 11 July 1999, the Chef de Police reported the matters to Sir Michael Birt (as AG). He caused the matters to be investigated and Holland was suspended by the SG (Stephanie Nicolle) on 11 August 1999 pending the result of the investigation. On 17 November 1999, Holland resigned from the Honorary Police **[EE000006/17-18]**. In 2000, he was found guilty of two counts of indecent assault committed prior to his election in 1992 and was sentenced to a three year probation order. He breached this and was imprisoned for two years.

42. The criticism of Mr Le Brocq by the COI ultimately led to officers from the Wiltshire Constabulary being invited to review Mr Le Brocq's conduct. He has made wild accusations about the integrity of those involved in this subsequent investigation: *"I suspect that the officers from the Wiltshire Constabulary wanted to help Sir Philip Bailhache avoid blame for the Holland situation by placing the blame on me and my Chef de Police"* [**WS000541/24**]. It is undoubtedly this final allegation that does the most damage to what little credibility Mr Le Brocq might have had. In the course of one short paragraph he accuses two AGs and the investigating officers from Wiltshire of being complicit in some sort of dishonest plot, the purpose of which was designed to prevent criticisms being levelled at Sir Philip Bailhache. Not only is there no evidence to support his claim but when Mr Le Brocq complained to the Police Complaints Authority ("PCA") about the findings of the Wiltshire Constabulary the PCA dismissed his complaint. According to Mr Le Brocq, the PCA's written response was a *"whitewash"* [**WS000541/24**] but even a brief glance at their nine page letter

reveals it to be a considered response that gave due consideration to all relevant matters.

43. Following the Wiltshire investigation, Mr Le Brocq faced proceedings before the Royal Court. The case involved the Royal Court determining whether it was appropriate for Mr Le Brocq to remain in office in the light of his failure to comply with the statutory requirements to inform the AG of a complaint against a member of the Honorary Police, to have the matter investigated and to submit a report on completion of the investigation to the AG.

44. Mr Le Brocq asserts that the case against him *"failed"* [**WS000541/25**]; that is not correct. The Royal Court had *"no doubt that complaints were made [and that] the allegations should therefore have been reported to the Attorney General and referred immediately to the SOJP for investigation"* [para 9 of the judgment – **WD008354**]. There were three complaints: the Royal Court was satisfied that Mr Le Brocq did not report any of them to the AG as soon as possible; one was not referred to the SOJP for investigation in a timely manner; the other two were investigated internally; and no report was submitted to the AG in respect of either [para 12 of the judgment – **WD008354**]. Mr Le Brocq accepted through his counsel during the hearing that he was *"in breach of duty"* in respect of these failings [para 13 of the judgment – **WD008354**]. When he gave evidence to this Inquiry, Mr Le Brocq begrudgingly accepted that he could, had he chosen so to do, have taken the complaints direct to the AG (rather than wait to investigate them himself) thereby ensuring that the titular head of the service was aware of what had taken place [**Day 105/98/9-99/21**]. The Royal Court accepted that Mr Le Brocq had not *"acted dishonestly or with any intention of obstructing the course of justice.... [he] failed to appreciate his duties... and to act on them*" [para 18 of the judgment – **WD008354**]. The Court held that it was inappropriate to take no action against Mr Le Brocq. His conduct was "not acceptable" and so the Court issued a reprimand.

45. Ultimately, Mr Le Brocq regards the former AG as being responsible for the collapse of his career going so far as to describe himself as a *"scapegoat"* [**Day 105/107/4]**. He and others, notably Mr Pitman [e.g. **WS000654/70-71**], have sought to present his failure to act on complaints made against Roger Holland in 1999 as somehow the

result of Sir Philip's decision not to refer Roger Holland back to the Royal Court in 1992. Mr Pitman excuses Mr Le Brocq by suggesting that Sir Philip *"allowed a convicted paedophile into the Honorary Police service and.... let someone else – an innocent man – take the blame for this decision"* [**WS000654/71**]. This is a deliberate conflation of two separate events seven years apart aimed at relieving Mr Le Brocq of any responsibility for his own actions. Whilst, as a matter of logic, if Holland had not been elected to the Honorary Police in the first place it is unlikely that Mr Le Brocq should have had cause to investigate him some time later, that does not excuse Mr Le Brocq for his startling failures.

46. The Panel might want to consider the impact this has had upon Mr Le Brocq's perception of the events about which he gave evidence. It might help the Panel to consider one of the closing remarks that he made in his statement: *"Sir Philip Bailhache made a public statement to the BBC admitting that he had been made aware of Mr Holland's criminal record in 1992. He claimed that he only became aware after swearing Mr Holland in as an Honorary Police Officer... Sir Philip's failure to make this admission public before 2008 and the efforts of the Crown Officers to divert blame away from him resulted in my being dragged over the coals and being unable to gain re-election as Connétable in 2001"* [**WS000541/26**]. Sadly for Mr Le Brocq, none of this is correct. The Committee of Inquiry report presented to the States in 2002 (which is even exhibited by Mr Le Brocq) makes it quite clear that they heard evidence from Sir Philip Bailhache and others that the AG was first alerted to the conviction on the day of Mr Holland's swearing in by an anonymous letter which did not arrive at the LOD until his return from the Royal Court after the swearing in was complete. Sir Philip Bailhache did not (as alleged) fail to disclose what he knew of Holland until 2008 and Mr Le Brocq's failure to secure re-election was not the result of anything done by the LOD. Whilst it would be to engage in speculation to offer reasons as to why he lost the election, his admitted breach of duty and eventual reprimand could not have strengthened his position.

The outcome of the COI

47. By the time the COI drafted its report, the AG had already put in place guidelines that were drafted so as to ensure that this situation cannot be repeated. As a result this is not an area which can give rise to any recommendation; lessons have already been learned.

48. The extent to which the Roger Holland episode is relevant to any of the ToRs is extremely limited. The Inquiry has heard evidence from Sir Michael Birt that:

"[The Holland affair] is not something that could ever happen today. When I left office in 2000, the procedure for vetting would-be Honorary Police officers was… that in the case of both first-time and re-elected officers, details of any criminal conviction should be drawn to the attention of the AG, failing which the constable must certify that there is no criminal record. This allows the AG to have the opportunity to consider whether a conviction should bar a person from holding office. I do not therefore see that there could be a repetition of the Holland situation where the problem arose because the conviction was not drawn to the attention of the AG prior to his election" [**WS000680/22**].

49. The matter has some extremely peripheral relevance in that it has been relied upon by some witnesses as lending support to the proposition that the 'Establishment' is reluctant to act against suspected child abusers; Mr Le Brocq claimed that these events show that "*the system in Jersey allows Crown Officers to make mistakes, avoid taking blame themselves, and arrange matters so that any blame is directed towards ordinary members of the public"* [**WS000541/25**]. This is entirely at odds with the findings of the Committee of Inquiry, whose report into the election procedure [**EE000006**] was drafted following the receipt of evidence from all relevant witnesses; Mr Le Brocq was among those who were called and therefore one can safely conclude that the Committee's findings were made with all due account having been taken of his account:

"This Committee is of the opinion that no cover-up in the accepted sense of the term occurred. The information about Mr Holland's conviction was never hidden and was

to some extent considered at each of the critical points in his career in the Honorary Police, although that consideration had been flawed and decisions had been made on insufficient information... once Mr Holland had been sworn in as an honorary police officer, despite his previous conviction, that conviction receded into the background for the purposes of his continuing police service. It appears that the suggestion of a cover-up had arisen from individuals with limited knowledge of the background of the matter. At a time of heightened anxiety regarding sexual abuse of children the discovery of a man with a conviction for sexual abuse of a child serving in the honorary police was inevitably disturbing. It was immediately assumed that Mr Holland's presence in the St. Helier Honorary Police can only have had a malign explanation." [**EE000006/18**]

50. The assumption identified by the COI has sadly continued to this day and it is no more accurate now than it was when dismissed by the COI in 2002.

Victoria College

51. It is perhaps worth observing that Mr Harper has no direct knowledge of the abuse perpetrated by Andrew Jervis-Dykes and the scandal that subsequently embroiled the school. His ignorance of the facts is best illustrated by his assertion that *"even the Bailhache brothers had attended"* [**WS000516/27**]. Neither of them attended the school and, therefore, neither of them has any reason that might cause them to turn a blind eye towards criminal conduct on the part of one of the teachers. The events that Mr Harper has described took place many years before he ever set foot in Jersey, but that has not prevented him in recounting his version of the evidence as if he was part of the original investigation. Specifically Mr Harper has alleged that *"evidence had gone missing… exhibits had disappeared from cabinets and case papers were being removed"* [**WS000516/28**]. This hearsay allegation is also repeated by Mr Power who speaks of the *"stories that evidence and notes had gone missing"* [**WS000536/53**].

52. Mr Harper draws some support for his claims that evidence went missing from Anton Cornelissen. Mr Cornelissen has claimed that when asked by Mr Harper to recover the files relating to the Victoria College investigation, which he had sealed and stored in the police headquarters' basement, he had been unable to locate them: *"I suspect the*

files and research material has been stolen" [**WS000644/27**]. Beyond his suspicion, however, he could offer no evidence to support the claim. In fact, not only is there no evidence to support these accusations of an attempted cover up, but they are demonstrably untrue. Barry Faudemer was able to assist the Committee on this very point and the material which is said to have 'disappeared' is still intact and in the possession of the SOJP [**WS000678/9**]. Not only was Mr Faudemer able to correct Mr Cornelissen's mistake about this, he was also able to offer a different perspective on the original investigation in which he too played a part: *"I do not believe anything untoward happened during the investigation… [or] that there were any efforts made by any person to hamper the investigation"* [**WS000652/32-33**]; and *"at no time were the allegations 'dismissed as rumours' by anybody in a decision making role in the SOJP"* [**WS000678/9**]. Clearly it will be for the Panel to determine which account to accept as accurate; however, when assessing these two witnesses it might assist to take account of the way in which they have chosen to describe the video evidence said to prove the guilt of Jervis-Dykes. Despite conceding that only the hand of an adult male can be seen masturbating another person (and even describing the steps that were taken to try to identify the owner of the hand), Mr Cornelissen positively asserts that the video showed Jervis-Dykes masturbating a pupil [**WS000644/10-11**] – an assumption that Mr Harper has also entertained. Mr Faudemer, on the other hand, is more measured in his approach to this evidence: *"One video that was subsequently reviewed showed a boy lying on a bunk being interfered with by a hand of an adult. The offender could not be identified from the video"* [**WS000678/2**].

53. Trevor Pitman does not, it appears, have any direct knowledge of the Jervis-Dykes case but nonetheless felt able to assert that *"the Board of Governors and those in authority clearly covered up"* sexual offending by Jervis-Dykes [**WS000654/20**]. There is no evidence to support this serious allegation; it has simply been repeated in the hope of providing it with a spurious air of plausibility. Sir Philip Bailhache was chairman of the governing body of Victoria College from 23 January 1995 until 15 July 1996. He *"was not aware of any suggestion of impropriety on Mr Jervis-Dykes' part"* until he was telephoned by the Director of Education on 5 June 1996, who said that an allegation of sexual offending had been made against Mr Jervis-Dykes to the police, and that as a result he had recommended to Jack Hydes, the Headmaster of the College, that Mr Jervis-Dykes be suspended pending further investigation. Mr Hydes

confirmed this to Sir Philip later that day. Sir Philip asked Mr Hydes if there had been any previous cause for concern and was told that there had been a complaint in relation to his behaviour towards a boy on a school sailing trip in 1992, and a complaint that he had watched a pornographic film with pupils in 1994. Sir Philip *"had not previously been made aware of either of these complaints... [He] was not aware of any inappropriate behaviour by Mr Jervis-Dykes until the police investigation had already begun. When [he] was informed of the existence of an allegation against him, Mr Jervis-Dykes had already been suspended by Mr Hydes on the recommendation of Mr Grady... within hours of being notified of the allegation"* [**WS000699/14-15**; exhibit PB10 at **WD009001/84-85**]. There is no evidence whatsoever to support Mr Pitman's suggestion that *"senior figures – at the College, within the Judiciary and politically – had evidently been covering up for years"* [**WS000654/38**].

54. In fact the position is quite the reverse, as is demonstrated by Sir Michael Birt:

"At the conclusion of the investigation, the SOJP reported to me that they did not feel that they had had the cooperation and support of certain staff at Victoria College… I considered that the report [provided to me by the SOJP] raised matters that the Governors ought to be aware of and therefore wrote to them suggesting that they look into the matter raised. As a result they procured the preparation of the Sharp Report." [**WS000608/15**]

Sea Cadets

55. Paul Every became a target after the FBI investigation into internet pornography (Operation Ore) identified that he was one of a number of individuals who had used a credit card to access internet sites that distributed indecent images of children. Mr Harper has openly accused senior officials in the Jersey government and the SOJP as having been responsible for warning Every that he was a person of interest and that his home address was to be searched. The basis for his belief is that Every's computer had software installed upon it which was designed to wipe the memory and that the hard disc had been partially erased shortly before it was seized by the police; therefore, Mr Harper concludes that *"[Every] had been tipped off that he was going to*

be searched" [**WS000516/24**]. Amongst the possible suspects for this alleged corruption Mr Harper named Chief Inspector Andre Bonjour. Mr Harper is not alone in making such an allegation. Mr Power has also suggested that the partial deletion of Every's hard disc was *"as if he knew we were coming… There were suspicions about whether some person 'in the know' had tipped off Paul Every. There was discomfort at the fact that Andre [Bonjour] and Every were close colleagues in the Sea Cadets"* [**WS000536/42**].

56. Though it is not our place to defend the SOJP or Mr Bonjour, this is yet another example of Mr Harper and Mr Power concluding that someone is corrupt where there is no evidence to substantiate the claim. What is truly astonishing, however, is that despite Mr Harper making such serious allegations against a fellow officer he did absolutely nothing to investigate his belief. Although Mr Power is forced to concede that *"these suspicions may have been unfounded"* he clearly did little to ensure that they did not take hold since he observes that *"they were never resolved and became part of the general background which influenced thinking as Operation Rectangle progressed"* [**WS000536/42**]. Just as it is alarming to note that Mr Harper did nothing to test the suspicions he had, it is equally of concern that Mr Power did nothing to ensure that officer in charge of Operation Rectangle was not distracted by unsubstantiated rumours.

57. Mr Harper further asserts that *"it was a long battle to bring charges against Paul Every as the AG kept sending the file back to us despite the Lawyer's Office being satisfied that there was evidence to bring a charge"* [**WS000516/25**]. What Mr Harper has failed to acknowledge is that owing to the partial deletion of Every's hard disc it was necessary to have the computer interrogated by a forensic engineer and that throughout the investigation the LOD provided advice on how best to put together the case against Every. Even the SOJP were not persuaded that Every could properly be charged; in June 2005 the police concluded that *"because there are no images retained on the seized computer and there is no evidence of such images having been viewed there is insufficient evidence to found a prosecution"* [**WD009017/57**].

58. The suggestion that the AG caused a delay where the police legal advisers wanted to authorise charge is, on a careful examination of the documents indicating Mr Harper's

state of knowledge at the time, deliberately misleading. The matter was referred by Laurence O'Donnell to the AG in a memorandum dated 14 June 2005 in which he cited the SOJP's view that there was *"no realistic prospect of conviction against Every for any criminal offence"* [see memorandum of Mr O'Donnell – exhibit WB7 **WD009017/46]**. The AG asked him in a memorandum in response whether he shared the police's view [see memorandum of AG exhibit WB8 **WD009017/48**]. It appears that Mr O'Donnell misunderstood this memorandum as he wrote on 11 July 2005 to DI Steve Megaw, copying in Mr Harper, saying that the AG had reviewed the papers and decided that there was no realistic prospect of conviction [see letter from Mr O'Donnell – exhibit WB9 **WD009017/50**]. Mr Harper emailed the AG on 5 August 2005 in relation to this supposed decision and the AG responded (within a matter of hours) to explain that he had not reviewed the case, much less made a decision, that there had clearly been a misunderstanding, and asked that no one should be informed of any decision until he had had an opportunity to make one [see email exchange – exhibit WB10 **WD009017/52**]. He then sent Mr O'Donnell a memorandum on the same date asking why the police had been told that he had made a decision when he had not even seen the papers and was waiting for a response from Mr O'Donnell [see memorandum of AG – exhibit WB11 **WD009017/54-55**]. The AG referred the matter to Cyril Whelan for advice. On 16 August 2005, following advice from Mr Whelan, the AG wrote to Mr O'Donnell directing him, despite the reluctance of the police to proceed with the allegations, to work with the SOJP to assemble a police file specifically targeting incitement/attempted incitement to distribute indecent images of children as soon as possible and stated that the *"investigation must therefore receive a fast track attention"* [**WD009017/57**]. The evidence establishes that rather than the LOD being responsible for the delay in charge, the AG himself actively encouraged that proceedings be brought.

59. Mr Harper has misunderstood what happened at the LOD. His assertion that Mr O'Donnell was *"concerned with the delay in charging Every"* [**WS000516/25**] is misconceived. In fact, as the documents bear out, Mr O'Donnell misunderstood the AG's instructions about the case, and Mr Harper was informed of this at the time. As William Bailhache pointed out:

"In stark contrast to Mr Harper's assertion that the police and Police Legal Advisers were satisfied that there was evidence to bring a charge, the SOJP did not consider in June 2005 that Every could be prosecuted... Without my direction... this case would not have been prosecuted. Mr Harper's comments are therefore wholly inaccurate and misleading" [**WS000701/21**].

60. Mr Harper was questioned about this aspect of his account and, in light of the battle he had referred to, he was asked if he was (as he appeared to be) suggesting that something improper had been done by the LOD or the AG. Mr Harper replied, *"I am not suggesting anything… I have absolutely no insight into what went on within the AG's office"* [**Day 121/67/21-68/21**]. With that, at least, we are in complete agreement.

61. The evidence establishes that the approach taken to what was unquestionably a complicated case was entirely correct and, were it not for the input of the AG, Every would not have been charged and convicted.

Powell & Romeril

62. Mr Harper draws together his allegations of institutional corruption by offering the example of the investigation into David Powell and Paul Romeril; he claims that he chose to look through old case files *"to ascertain the extent of child abuse allegations on the Island and the extent to which SOJP officers may have interfered in such investigation"* [**WS000516/31**].

63. Given the exercise he undertook was a review of previous decisions, it is trite to observe that Mr Harper has no direct knowledge of the facts of this case. Nevertheless, he suggests that this case was *"particularly horrific"* and *"caused me concern"* [**WS000516/31**] because of the graphic account of being raped on a boat that was provided by one of the victims. In fact the reason Mr Harper now advances for recollecting the case reveal the danger posed by attempting to give evidence about a case you are not familiar with; there were no rapes of any victim and no one was attacked on a boat.

64. Mr Harper relies upon this case as evidence of the extent of some of the corruption he claims to have been engaged in by officers from the SOJP. The basis for his claim is the assertion that *"the telephone records of Powell and Romeril implicated police officer John de la Haye"* [**WS000516/32**]. In fact the evidence did no such thing. Mr Power also cites this case as an example of the failure of the SOJP properly to investigate allegations of corruption: *"the failure to pursue an obvious line of enquiry regarding the text exchange between one of the abusers and a former head of CID was a glaring omission in the investigation"* [**WS000536/44**]. Had the evidence actually demonstrated that there had been *"a text between one of the offenders and John de la Haye"* [**WS000536/43**] then Mr Power's criticism might have been more justifiable. In fact the evidence did no such thing.

65. Romeril told Powell in text messages that he had spoken to a police officer in order to get advice on what approach to take when being interviewed in connection with these offences. When Romeril was interviewed about the text messages, he denied that he had spoken to a police officer and said that he had made it up to calm Powell down. When Powell was spoken to by the independent investigating team he told them that Romeril had subsequently explained to him that the text messages were a lie. There was no evidence, bar the text message from Romeril, to implicate John de la Haye in any misconduct.

66. The independent South Yorkshire Police Investigation (which saw them interview numerous witnesses) did not establish any connection between the defendants and John de la Haye. Indeed, it confirmed that they were *"unable to establish any link whatsoever between John de la Haye and Romeril, except for a possible chance meeting between John de la Haye and the father of the deceased Romeril"* [see paragraph 7.3.2 – **WD007111/44**]. In light of this it is hardly surprising that DI Alison Fossey, who was a member of the investigating team, states, *"I have no suspicions that there was a cover up by any person"* [**WS000687/23**].

67. Mr Harper further relies upon this case as evidence to support his claims that Andre Bonjour was a corrupt officer who had not properly investigated the allegation against John de la Haye. Mr Bonjour's failure to identify the correct mobile telephone for Mr de la Haye is said by Mr Harper to have resulted in the South Yorkshire Police

concluding that there was *"clear evidence found by them of criminal and misconduct matters"* [**WS000516/34**]. This assertion misrepresents the conclusions of the report, the following paragraphs of which are relevant: *"there is insufficient evidence upon which to base a prosecution in respect of any criminal matter"* [see paragraph 9.3 – **WD007111/53**]*; "the Performance of Duty breaches alleged against Chief Inspector Bonjour are… substantiated"* [see paragraph 11.1 – **WD007111/64**]*;* and *"…it is recommended that these breaches can be appropriately and proportionately dealt with by the Deputy Chief Officer"* [see paragraph 11.7 – **WD007111/65**]. In light of those conclusions there is no evidence to substantiate Mr Harper's claim that Mr Bonjour had committed any criminal offence.

68. The allegations were the subject of an advice by Mr Edmonds who concluded that *"this is a clear case for advising the police that there is insufficient evidence for any criminal proceedings… the police should be invited to consider whether they wish to pursue any of the disciplinary matters"* [**WD007220/2-4**]. The matter was personally reviewed by the AG (William Bailhache) who wrote to David Warcup on 22 December 2008 in the following terms:

"I am quite clear in my view that the evidential test is not passed in relation to these complaints and that no criminal proceedings are therefore appropriate. I am also quite clear that the content of the reports shows that there may be matters which could suitably be considered at a disciplinary level. This is of course entirely a matter for you." [see letter from W Bailhache – exhibit WB57 **WD008713/322-323**].

69. Ultimately, in February 2009, after receiving advice from the LOD that *"criminal action against Mr Bonjour was unjustified"*, Mr Warcup gave formal advice to Mr Bonjour in respect of what he found to be disciplinary breaches [**WS000694/38-39**]. Mr Warcup informed Chief Superintendent Varey, who had led the South Yorkshire investigation, of the steps he had taken and Mr Varey stated in correspondence that the sanction was *"quite proportionate to the whole of the investigation"* [**WD007117**].

Conclusion in Relation to ToR 4

70. To what extent the matters outlined above actually assist the Panel is debatable, since (in the main) the allegations that were the subject of Operation Rectangle had nothing to do with corruption. The investigation of historic child abuse is significantly removed from the abuse of the police computer, the squandering of police expenses or the apparent connection between the police and suspects. But these cases are said to provide the necessary background to understanding the opposition that Operation Rectangle faced from those in positions of power, as well as the basis for Mr Harper's purported belief that the prosecution authorities were institutionally corrupt – if our understanding is correct then they do no such thing. Three of the recent AGs are described by Trevor Pitman in particularly intemperate terms:

"[K]ey figures within the Island's judicial system such as the truly notorious Bailhache brothers and Sir Michael Birt for example – should really be facing a court to account for their child protection failures and condoned abuses of the judicial system." [**WS000654/3**]

71. It is perhaps relevant to note that by his own hand William Bailhache has demonstrated his strong views about the prosecution of criminal offences, no matter who is responsible for having committed them:

"I do not myself have any difficulty with the view that serious offences should be investigated by the police particularly so in this small island where there is so much opportunity for real or perceived conflicts of interest. I take the view that the same approach should be adopted to investigations of offences whether thought to have been committed by States employees, committees or members of the public." [see email of 1 April 2003 from W Bailhache to Mr Power re water pollution charges **WD009006**].

72. Not only, therefore, do Mr Harper's examples of corruption (which are enthusiastically seized upon by Mr Pitman) not provide the support that he hopes to derive from them; they are positively contradicted by the words and actions of one of the men he hopes to malign.

73. Insofar as ToR 4 invites the Panel to make any specific findings in respect of the LOD, there is no evidence that the environment had any effect on the response of the LOD to reports of abuse. The claims of institutional corruption are not made out when one examines the evidence whereas the actions of the LOD (for which see below for more detail) provide clear evidence of the approach taken by the Crown Officers to the reports of abuse.

TERM OF REFERENCE 9

74. The Panel is required to consider what if any lessons are to be learned in relation to the actions of the agencies of the government, the justice system and politicians during the period under review, in particular when concerns came to light about child abuse. It has been repeatedly suggested in the context of this ToR that there is an over-arching theme to official actions on the Island which informed all responses to child abuse, referred to as 'the Jersey way'.

75. Mr Harper, like many others is a great believer in the all-encompassing allegation that is 'the Jersey way'; whilst he is a less vociferous exponent of this theory than Trevor Pitman or Deputy Higgins, he made it clear that in his opinion *"anything that could be considered as detrimental to the image of Jersey would simply be ignored and those that stood up to he heard would be criticised"* [**WS000536/98**].

76. To the extent that it is actually necessary (or even possible) to answer the wide nature of some of the claims that have been brought within the ambit of 'the Jersey way' we will do so; however, much of what has been said is either entirely without any support or is wholly irrelevant when it comes to the ToR.

77. It is, however, important to stress that the explicit and implicit suggestions made by some witnesses that the former and current Crown Officers are part of a *"dysfunctional judicial system"* [**WD000706/2**] that controls the political, legal and judicial functions of Jersey are entirely without support. The repeated allegations that there is an 'Establishment' that has an interest in suppressing allegations of corruption or child abuse are nothing more than assertion piled on assertion; a story that has gained currency through re-telling rather than any foundation in fact.

78. One need only consider the witness statement provided by Trevor Pitman in which he feels able to claim, without even attempting to support the suggestion, that Sir Philip and William Bailhache are *"truly notorious"* and *"should not be allowed to preside over courts [as]... their records demonstrate them unfit"* [**WS000654/3**]. The Inquiry has not in fact heard any evidence whatsoever to justify the repeated impugning of the reputation, character and professionalism of current and former Crown Officers.

79. Perhaps the most telling evidence on the point came from John Edmonds. He was asked whether he had ever felt professionally uncomfortable as a result of the decisions made by the LOD in relation to Operation Rectangle and said *"never"*. When asked what he would have done if he had, he explained: *"I had no ties with Jersey when I came. My family, children, grandchild, mother, my wife's father are all in the UK; we would have gone home."* [**Day 126/39/14-24**].

Corroboration

80. The need to address this aspect of the law was first recognised when the AG (Sir Philip Bailhache) chaired a working party which produced a report into the matter in 1993 [exhibit PB2 – **WD009001/5-31**]. The recommendations of the working party were considered by the Education Committee, who in turn forwarded the report to the Legislation Committee for implementation [exhibit PB3 – **WD009001/33-36**]. Sir Philip was not party to the proceedings of those committees and could not help with why the progress of the recommendations stalled [**WS000699/6-7**]. Thereafter the extent to which subsequent AG's were able to influence legislative change is questionable. In light of the delay in addressing the corroboration direction, LOD instructed one of its Crown Advocates to make submissions to the Court of Appeal in support of an application that it would be permissible for a trial judge to decline to give such a direction in the trial of a sexual assault offence. The Court of Appeal refused the application indicating that: *"The requirement of a corroboration direction in cases of alleged sexual offences is long-established in Jersey common law. This Court should hesitate long before undertaking the abolition of the requirement."* [*Ferreira v. AG* (2004) 8 JLR – **WD008999/1-3**].

81. No one has been able to point to a particular case that might have been decided differently had corroboration not been something that had to be considered and, despite Mr Edmonds' observation that the rule appeared as if it might have been treated as a requirement before cases could be prosecuted, there is no evidence to suggest that an allegation that might otherwise have properly been pursued was not proceeded with. Indeed, had the rule been treated as a requirement then very few allegations of sexual offences would ever have been prosecuted. In fact, Mr Edmonds'

evidence was that his impression that the rule was being misapplied might have been *"in part a semantic issue in terms of the way advices are being written.... there isn't a single case where, in my assessment, the fact that there was going to be a mandatory corroboration warning tipped the balance between prosecuting and not prosecuting"* [**Day 126/128/10-20**].

82. The Inquiry's own expert, Nicholas Griffin QC, was guarded in his view about the impact that this requirement had upon any consideration of the strength of the various cases that were considered but (unlike those who have suggested that the rule was a virtual bar to charging historic abuse allegations) did not reach a conclusion that was adverse to the LOD:

"I haven't seen enough I think for me to arrive at a helpful conclusion about [corroboration]… Generally speaking my answer would be yes [the need for supportive evidence was professionally approached]. It's very difficult where you have one person's word against another. It's difficult where you're looking at cases that go back over a number of years and one important factor will be the additional evidence that you can bring to bear, and corroboration obviously is an important element of that." [**Day 133/42/20-43/9**]

83. This assessment is reflected in the comments of those who had to consider cases with this rule in mind:

Sir Philip: *"I have been asked whether the corroboration rule was being applied in such a way that meant that cases were never prosecuted in the absence of such evidence. That was never my understanding; Law Officers take an oath to bring criminals to justice and if there were evidence that a crime had been committed one would be straining to bring a prosecution if possible."* [**WS000699/5-6**]

Sir Michael: *"I do not believe that our hands were unnecessarily tied by the corroboration rule."* [**WS000680/23**]

William Bailhache: *"If a person was <u>automatically</u> not charged because of a lack of corroboration that would be wholly wrong. The prosecutor should calculate as best*

he can whether a Court or jury would be more likely than not to be sure that the uncorroborated complainant was telling the truth in the knowledge that the trial judge would give this corroboration warning." [**WS000701/18**]

Timothy Le Cocq: *"I cannot say that I ever experienced the requirement for corroboration featuring as a barrier or impediment to successful prosecution. Indeed, I cannot recall any cases where charges were not brought as a result of a lack of corroboration."* [**WS000702/9**]

Bridget Shaw: *"the corroboration rule was never a bar to prosecution."* [**WS000691/7**]

84. The evidence of those who are best placed to assist the Panel is clear; the prosecution had to consider the impact that the direction might have upon the tribunal of fact and, therefore, it was a relevant matter when assessing whether a case had a realistic prospect of success; however, the rule was not an automatic bar to suspects being charged.

85. Since there is no evidence before the Panel to suggest that any case would have been dealt with differently were it not for this rule a detailed examination of this evidence is, perhaps, unnecessary, in light of the fact that the rule was abrogated in 2012.

The Media

86. The Inquiry will wish to consider one particular series of actions by those involved in the legal process, specifically the SOJP, when concerns came to light about child abuse, namely the approach of the SOJP to the media and the response of the LOD to the media reporting.

87. There is no better place to start than Matthew Tapp's External Communications Review dated November 2008 [**WD008699**] – that Mr Tapp was the right person for the job was made abundantly clear by Mr Warcup who observes *"he had been a press advisor on other major investigations such as the Soham murders"* [**WS000694/21**]. The review was commissioned by the Chief Executive of the States of Jersey, Bill

Ogley, following a disagreement between Mr Tapp and Mr Power. Questions have been asked about the extent to which there was a conflict arising from Mr Tapp's earlier commission to provide a report to the SOJP. These rather miss the point; the most useful sections of Mr Tapp's report for the Inquiry are not his subjective conclusions but the objective direct comparison between what the police media releases actually said, and what was subsequently reported. This analysis comprehensively debunks the frequently repeated suggestion that Mr Harper did not say anything exaggerated or just plain wrong to the media; it was the media who distorted the truth. It is quite clear that Mr Harper was prepared to provide the press with a quite extraordinary level of detail about what had been found.

88. Mr Harper's astonishing attitude towards the media receives similar treatment in the Met Police Review of Operation Rectangle (published in December 2008), which identified some of the language used in his press releases that led to the frenzy of media reporting:

"The Media Strategy of 13 March had objectives, which included 'minimising journalistic speculation' and 'to manage press interest effectively so as to minimise potential misinformation'. It was therefore surprising that more care was not taken over the words and phrases employed. Examples of language used are as follows:

- *'Potential remains of a child have been recovered'.*
- *'Cellars'.*
- *'Skull fragment'.*
- *'We have found another object of significance in the cellar but will not say what it is'.*
- *'A third chamber'.*
- *'Presumptive tests for blood'.*
- *'Ten of these bone fragments were found yesterday (in an ashey area of Cellar 3) and identified as being human',*
- *'We COULD have the possibility of an unexplained death and evidence of a dead child or children in the cellar'.*
- *'What we do know is that we have more than one set of teeth and we have more than one set of bones'.*

- *'Shackles'.*
- *'Restraints'.*
- *'Children had been dragged from their beds at night screaming and had then disappeared'.*
- *'Lime pit'.*
- *'Most of them were very unlikely to have come out naturally before death (children's teeth)',*
- *'65 teeth COULD come from up to five different children.'"*

89. The Wiltshire Police report following their disciplinary investigation of Mr Power [**WD007874**] is highly critical of the media strategy (such as it was) pursued by the SOJP, commenting that Mr Power's *"management of the media, directly or indirectly, was sufficiently sub-optimal to merit performance proceedings being taken against him"* [**WD007874/200**].

90. The report concluded in relation to Mr Harper's comments to the media on 23 February 2008 that:

"...to suggest that the find was of a child's remains – without concrete evidence to support the contention – was simply irresponsible and reckless, in the extreme. It was bound to ratchet up the media interest to hysterical levels and thus the disclosure simply should not have been made unless and until certainty had been achieved." [**WD007874/230**]

91. The report notes that Mr Harper's language became less and less measured, changing *"from 'potential' to 'partial' with respect to the 'remains of a child"*. The report went on:

"This small but very significant change of wording inevitably created the impression amongst listeners that the 'find' of 23 February 2008 was in fact the remains of a child, albeit only partial... none of the [press reporting in the following days] is an outrageous distortion of the first impression created by the initial announcements of DCO Harper... Two days later the SOJP did attempt to correct the misrepresentation

of the facts by stating on their website 'The SOJP would like to emphasise that all that had been recovered so far from the site are the partial remains of what is believed to have been a child'. This clarification actually compounds the misrepresentation... The SOJP failed to make clear that what had ultimately been found was a very small item which had not yet been fully examined or definitely identified..." [**WD007874/233-34**]

92. Later in the report there is a careful examination of the chronology of the scientific examination of the 'skull fragment', which demonstrates that by 9 April 2008 at the very latest Mr Harper was aware that the item was not human bone and yet continued to describe it as such [**WD007874/250-63**].

93. The report also highlights inappropriate and exaggerated language used in relation to the 'cellars' [**WD007874/236-38**], the 'shackles' [**WD007874/238-39**], the 'bath' [**WD007874/240-41**], the 'lime pits' [**WD007874/241-42**] and the finding of teeth [**WD007874/242-44**].

"The media needed little encouragement to paint a graphic and horrific picture of institutionalised abuse of vulnerable children on the Island. We are clear from the evidence that such reporting was condoned and even encouraged in a number of the States of Jersey Police press releases which variously described the 'partial remains of a child', 'skull', 'shackles', 'bath', 'cellars' and 'blood', none of which transpired to be accurate. Even when the Attorney General challenged CO Power over the nature and effect of media reporting on the fairness of proceedings against defendants charged with child abuse, CO Power's supervisory intervention against his Deputy – the principal architect of the misrepresentation in the media – was only to the extent of forwarding to the Attorney General a copy of the Force's media strategy which, in any event, could hardly have been said to have been adhered to at that point. DCO Harper remained sufficiently emboldened to subsequently publish in the media a direct attack on prosecutors following their refusal to charge suspects whom DCO Harper was determined to see charged. The ensuing exchanges between the lawyers and the police officers signalled an irretrievable breakdown in trust which CO Power seemed either powerless to prevent by virtue of his support for DCO Harper's stance or his inability to properly challenge his Deputy." [**WD007874/26**]

94. As further evidence that the media reporting was directly derived from Mr Harper's own words, the report makes reference to two comments made by Mr Harper which were available to them on film. On 21 May 2008 he said to the BBC:

"[W]e have a dead child or dead children in that cellar; now we don't know yet how they got there, we don't know how they died, but we do know that within that cellar there is at least one dead child and maybe more, and anyone who wants to denigrate that or try and minimise that, then I would ask them to look at themselves." [**WD007874/246**]

95. On 31 July 2008, he said to ITV:

"[N]ow you cannot get away from the fact that we know there are the remains, partial remains of at least five children within those cellars. Now we can't say how they died, we can't say when they died, but the fact remains that there are children's remains buried inside that cellar and that is a horrific thought." [**WD007874/246**]

96. It is quite apparent from the careful examination of statements made to the press that Mr Harper was directly responsible for the impression given that Haut de la Garenne was a charnel house. The report notes that there was an increase in the number of complainants contacting the police after the 23 February 2008 briefing, but states:

"...this could have been achieved with accurate portrayal of the 'finds' without resorting to sensationalism. Victims could have been encouraged to report simply on the basis that a search was being conducted at Haut de la Garenne. It is sad, in light of this, that the grossly naive content of the press releases ultimately caused uncertainty, increased expenditure and damage to the reputation of the enquiry and the States of Jersey." [**WD007874/249**]

97. William Bailhache, then Attorney General, was concerned by the SOJP's media policy and met with Mr Power and Mr Harper on 13 May 2008:

"I made it clear to both of them that the way that the investigation was being managed in the press was a major cause for concern. It was liable to impact on the

administration of criminal justice on the Island and I advised both of them that, whilst it was not my business how the police ran their investigation, it became my business if it was impinging on the prosecution process... I understood the need for a media policy that encouraged complainants to come forwards. I am not critical of that at all. It was a good idea to use the media to reassure complainants that they would be taken seriously, but it was also crucial to emphasise that the prosecutions would be dealt with properly. I am told that Mr Harper felt that there was a perception that complaints of child abuse were not appropriately investigated and prosecuted in Jersey. There was no aspect of the prosecution lawyers' work that justified this perception. While it may have been sensible to use the media to combat any perception and encourage complainants to come forward, it was wrong to create an environment where there was a real risk of obtaining incorrect or false complaints or which would otherwise fuel abuse of process arguments." [**WS000701/40-41**]

98. Mr Power seeks to excuse the actions of his DCO on the grounds that *"the media can sometimes be inaccurate and this is what happened with Operation Rectangle"* [**WS000536/74**]; however, that only raises the question why he did nothing to correct the mistakes or to ensure that Mr Harper did something about it. Mr Power acknowledged in his statement that at the time of the media problems the language used by Mr Harper was "*insufficiently precise"* [**WS000536/85**]; and when asked in evidence about the failure to set the record straight and whether more should have been done to correct inaccurate press reporting, Mr Power conceded that *"of course"* it should have been [**Day 107/86/15-16**]. Given Mr Power himself recognised that he *"had no command of the detail"* and *"did not have either the training or the experience to pass judgment on the operational details of a major crime investigation"* [**WS000536/77&77**], there was only one candidate for the job: Mr Harper.

99. Owing to the deafening silence from the original SOJP team, the new investigating officers had no option but to correct the misleading impression that had been created: *"Gradwell and Warcup were anxious to set the record straight"* [DI Fossey **WS000687/41**].

Press Briefing November 2008

100. The AG and other members of the LOD were alive to the strained relationship between the prosecution lawyers and the SOJP, and to the situation in which the press reporting had placed Operation Rectangle and the individual cases that were to be prosecuted. Soon after Mr Gradwell arrived a meeting was held with the various members of the historic child abuse team in order to discuss *"the way forward in terms of the interaction between the prosecution team and police"* [**WD007451/9**]. Advocate Baker described the meeting as a "positive" one and the police acknowledged that they were "at a new beginning and will be working together" [**WD007451/11**].

101. The LOD were plainly not alone in appreciating that a fresh approach was required. Indeed, almost immediately upon taking up their respective positions, Mr Warcup (the new DCO) and Mr Gradwell (the new SIO for Operation Rectangle) recognised the problem that they faced.

102. Mr Warcup, who was alarmed to discover that Mr Harper was still briefing the media even after he had taken up his position as the new DCO, identified the problem in his witness statement in the following manner:

"The media strategy in use by the SOJP was a key area of concern to me on my arrival. Lenny Harper's approach was characterised by the release of uncorroborated assertions to the media and a failure to correct widespread misunderstandings which arose as a consequence. Mr Harper's actions may have been motivated by a legitimate desire to encourage more witnesses to come forward. However, I did not see any evidence that the process was being managed appropriately or that adequate parameters were placed around this objective. It is important that a consistent account is presented to the press. Any other approach creates a risk that the press will be misled, either by act or omission, which can have substantial implications… The release of and failure to correct unsubstantiated and sensationalist information by Lenny Harper had a considerable negative impact on the SOJP. Questions began to be raised as to whether the SOJP were covering up abuse, whether they were spending too much, or indeed not enough, money on the

investigation and, fundamentally, whether they were capable of investigating the matter properly at all. Additionally, where the public felt misinformed by the SOJP as a result of incorrect information in the public domain, there was a real risk that, contrary to Mr Harper's intentions, potential witnesses would feel inhibited from coming forward to assist…" [**WS000694/16-17**]

103. Mr Gradwell did likewise:

"Mr Harper had informed the media that he had found shackles, human remains and cellars, and that he believed children had been killed at Haut de la Garenne along with various other claims. The investigation team could not present evidence to me that supported these claims. Mr Harper's media performances had clearly had a huge impact on the public perception of the inquiry, as well as upon the investigation team itself. Quite rightly, the public demanded answers to the claims made by Mr Harper…" [**WS000658/14**]

104. If the public was to have confidence at all in the investigation, there was (as both men appreciated) only one proper course open to the SOJP:

"The problem from my perspective was that the public had potentially been misled in relation to the strength of the evidence… The reputational damage was the fact that people were being either persuaded or beginning to believe in certain quarters that the States of Jersey Police could not be trusted to carry out a competent and trustworthy inquiry which would bring offenders to justice when investigating child abuse or child protection matters." [Warcup – **Day 120/12/18-20&27/21-28/1**]

"The States of Jersey Police had released information that proved to be inaccurate, or not representative of the truth. The States of Jersey Police needed to correct that." [Gradwell – **Day 111/146/18-21**]

105. Quite astonishingly, neither Mr Harper nor Mr Power appears to appreciate the damage that they caused through their dealings with the media. Both insist that they did not mislead the press, both insist that the information given to the media was deliberately twisted by journalists, and both believe that there was no need to correct

what had been written. So insistent was Mr Power that nothing needed correcting, he refused to co-operate with Mr Tapp, refused to sanction the proposed press release and insisted that Jersey was full of paedophiles and that there were bodies buried at Haut de la Garenne. Mr Power insisted that the planned press conference should not take place. This was a position that Mr Warcup could not accept:

"I believe that the approach that [Power] was taking was fundamentally wrong. I believe it was a challenge to my integrity and other officers' integrity. I think it was a challenge – a challenge to the integrity of the Law Officers. Primarily it was about the – my personal view was that the public interest in this came first and the public interest was that the issues which were germane at the time needed to be dealt with and could not be dealt with in the way in which he was proposing… I think [holding the briefing] was absolutely a responsible thing, a proper thing to do, a professional thing to do and I think it was the right thing to do. I wasn't doing that out of my own interest or my own self-interest, I was doing it out of the interest to ensure that the inquiries were not undermined… I made it clear to [Power] that if he didn't participate in [the briefing] the net effect, regardless of what I said, would undermine him [because of risk that the prosecutions would fail] or the risk that the States of Jersey Police would be exposed as being in possession of evidence which challenged the earlier assertions and had failed to disclose them." [**Day 120/58/7-60/12**]

106. Thus it was that on 12 November 2008, Mr Warcup held a press conference which had, as Mr Edmonds confirms, two main elements:

"it addressed the misrepresentation of the findings of Operation Rectangle as previously conveyed by Lenny Harper… [and it] communicated that the police remained satisfied that people had been victims of physical and sexual abuse and they were encouraged to come forward" [**WS000698/32**].

107. The November briefing was not sensationalist as Mr Harper and Mr Power have claimed; it was a vital step to ensure that any prosecution arising out of the investigation was protected. Perhaps the clearest indication of the risk Mr Harper ran with his approach to the media is the joint abuse of process application made on behalf of the Donnelly, Wateridge and Aubin defendants. Their lawyers applied to

stay the proceedings against them on the basis that they could not have fair trials because of the publicity concerning Operation Rectangle, as a result of which the pool of potential jurors would be prejudiced. Sir Christopher Pitchers dealt with the application. We note in passing, given the intemperate comments made by Mr Pitman and others about a purported lack of impartiality amongst the Jersey judiciary, that Sir Christopher has a lengthy and honourable pedigree at the Bar and as a member of the judiciary, having been called to the Bar of England and Wales in 1965, appointed as a Circuit Judge in 1986, and as a High Court Judge of England and Wales in 2002, retiring in 2008. He now sits as a Commissioner of the Royal Court of Jersey. He made the following remarks about the publicity during Operation Rectangle:

"What is extraordinary in this case is the way in which the senior investigating officer, Mr Harper, by constant and dramatic press conferences and informal briefings, whipped up a frenzied interest in the inquiry, not in respect of the solid police work that was being done to investigate the serious allegations of child sex abuse, but in respect of what had turned out to be completely unfounded suggestions of multiple murder and torture in secret cellars under the building... Not surprisingly, the press ran with the story with enthusiasm. I have five volumes of press cuttings full of lurid headlines. I pick one completely at random from among dozens of a similar kind: 'Shackles are found in torture dungeon'. They were not shackles, it was not a dungeon, and there is no evidence of torture there. Unsurprisingly, of particular interest to the press was Exhibit JAR/6. This was a small object found in a place under the building which probably pre-dated the investigation. At first sight, the anthropologist who was present thought this might well be part of a child's skull. Having received that information, it was right for the police to investigate further to see whether it was indeed a child's skull or part of it. What was not right was for Mr Harper immediately to call a press conference to announce that the remains of a child had been discovered. In fact, JAR/6 proved, on careful scientific examination, not to be part of a skull at all, but by then the idea that children had been tortured and murdered in the cells was firmly lodged in the public consciousness...

"The potential damage to the court process is illustrated by the fact that it has provided material for the powerfully advanced argument of [defence counsel] that the idea of long-term, widespread torture and murder is so entrenched in the

consciousness of potential jurors that it cannot be eradicated by any direction from the trial judge..." [**WD005903/5-7**].

108. Sir Christopher Pitchers rejected the application on the grounds that (i) Mr Gradwell's press conference in November 2008 *"put the record straight about the findings.... This press conference went a long way to repair the damage that had been done by earlier press publicity"*; (ii) the prejudicial reporting was largely focussed on the 'torture dungeon' and not on historic sexual abuse; (iii) the three defendants were not named in any of the *"lurid stories"*; and (iv) jurors are capable of ignoring prejudicial material and acting fairly when directed properly by the trial judge [**WD005903/5-8**]. It is apparent that Mr Harper's actions caused serious difficulty for the later prosecution of Operation Rectangle suspects; however, his answer to this is simply to claim that *"the judge was misled"* [**Day 122/135/15-16**].

Conclusion in Relation to ToR 9

109. It would not be proper for us to offer any comment on the actions of the government or the politicians and we will leave that to others who are better placed to assist the Panel. We will, however, offer the following observations which are intended to assist the Panel when reviewing the actions of the justice system – whether they are of wider assistance will be for the Panel to judge.

110. The response of the justice system is dealt with in greater detail below and we will not summarise those submissions here; but it is correct to observe that (as the Inquiry's own expert found) the actions of those involved in the justice system were appropriate and professional. The claim made by many of the witnesses that the LOD and the AGs were influenced by what is said to be 'the Jersey way' is spurious and unsupported. When the LOD appreciated that the relationship with the SOJP was not working properly and that the SOJP had caused misleading and inaccurate media coverage, both of which threatened the fairness of the anticipated legal proceedings and the public's perception of the inquiry, they took steps to remedy the situation.

111. The resulting press conference was not sensationalist, it was a vital step to ensuring that the suspects who had been charged could still be prosecuted and that public

confidence in the process was restored. Without the actions of the LOD, which were embraced by the new SOJP team, there was a real risk that the first prosecutions arising out of Operation Rectangle might have failed even to get off the ground.

112. The Panel has received a wealth of evidence to support the claims that some of the staff at Haut de la Garenne were morally corrupt and that once within its walls some of the children were no longer safe. Not all of this evidence was available to the investigating officers but that which was uncovered by Operation Rectangle, quite properly, could have been the subject of press releases and subsequent media reporting (provided of course that the information released did not prejudice any potential proceedings), which could have focused the public's attention on the actual crimes committed and the suffering that had been caused by them. No one could ever have suggested that such an outcome was not the right one. However, what should not have happened is the repeated issuing of inaccurate and misleading press releases that enabled the media to write articles describing horrors that had never actually occurred. This served no useful purpose; it was a disservice to the complainants whose suffering needed no exaggeration; it understandably misled the public creating an expectation that prosecutions of the most serious offences would follow; and it risked prejudicing any prosecution that might be brought. Inevitably, it added fuel to the conspiracy fire and led to claims of a cover up that persist to this day.

TERM OF REFERENCE 13

113. In light of the detailed expert evidence that the Panel has received from the Inquiry's own expert, some areas covered by this ToR are likely to prove easier to resolve. Nicholas Griffin QC reviewed eight prosecution files that were selected for him by solicitors to the Inquiry – doubtless they were chosen because after careful consideration they were believed to offer a representative sample of the working practice of the prosecuting authority – and in summary his conclusion appears to be that the AG, the LOD and the Crown Advocates who were involved in Operation Rectangle all took a professional approach to the decisions they made and that none of those decisions falls outside the scope of what was reasonable in all the circumstances.

114. Whilst we recognise that the Panel has been be permitted to review any of the prosecution files, whether or not it has been examined by Mr Griffin (indeed this very point was made by the Chair before Mr Griffin was called to give evidence), there has been no challenge made of any of the LOD witnesses to suggest that Mr Griffin's conclusions ought not to be accepted as accurate and, furthermore, that they are not relevant when considering other Rectangle prosecutions. There is, we submit, every reason to consider his conclusions as providing an accurate assessment of the working practices of the AG and the LOD.

<u>The Prosecution System</u>

115. The AG is both the principal legal advisor to the Sates of Jersey as well as being the head of the prosecution service. This dual role, which is perfectly understandable in a small jurisdiction (and is equivalent to the role in the other Crown dependencies), has been the cause of some criticism with many all too eager to find fault where none exists. The nature of the role was extensively reviewed by Lord Caswell and his conclusions set out in the independent review of 2010. There is no basis for concluding that he was wrong to find as he did or that any of the evidence he received requires reconsideration. He concluded (amongst other matters) that Jersey had been well served by a succession of distinguished Crown Officers and that the LOD should continue to be responsible for prosecutions.

116. William Bailhache was alive to the challenges posed by his multi-faceted role and his handling of the Operation Rectangle decisions bears this out:

"I was always conscious of potential conflicts and if a conflict of interest did arise, this was easily solved by delegating responsibility. If necessary, Advocates from the private sector would be instructed to act. As AG, I could not distance myself from my duty to take prosecution decisions but I could delegate other areas of work." [**WS000701/45-46**]

117. Thus it was that the AG recognised there was the potential for conflict to arise when taking prosecution decisions in Rectangle and also advising the States in relation to civil liability [see email from William Bailhache to Frank Walker, Bill Ogley and Ben Shenton dated 13 March 2008 – **WD008701/298-299**]. He delegated his responsibility to provide advice to the States to a firm of independent advocates, Mourants, and thereafter had nothing to do with any aspect of the civil claims.

118. The position in which the AG found himself was explained by Tim Le Cocq when he gave evidence:

"…it was quite clear that a lot of the allegations that were coming out were relating to individuals in the care of the States, that the Attorney is of course the legal advisor to the States, as well as being the partie publique and the individual who takes prosecution decisions. It was important I think from the Attorney's point of view to put in place a mechanism where people could have confidence that a decision to prosecute was taken without any regard to the interests of the States; it was taken purely on its merits. Which is why in my view he put forward the system, which meant that it was only in the event that advice was not to prosecute that he wished to test that, to stress test that, as opposed to the other way round. That was my understanding." [**Day 132/23/13-24/2**]

119. John Edmonds also summarised the position as follows:

"The role of the AG requires him to provide legal advice to the States of Jersey…. In normal circumstances I do not believe that there is a conflict with the AG's various roles. Shortly after I had arrived in Jersey in 2008, the AG identified a potential conflict arising from his department providing legal advice to the States of Jersey in relation to the civil claims made by historic abuse survivors. The issue and potential conflict was that the AG might be required to make a decision about whether to prosecute an individual in respect of whom a civil claim was to be made. To avoid any such perceived conflict, the AG indicated to the States that he would not provide advice to the States in relation to any redress scheme. Consequently, the work in relation to this advice went to an external, Jersey-based firm. In my experience any such potential conflicts are routinely identified and managed before any problems arise." [**WS000698/7**]

120. Notwithstanding the care that had been taken to ensure that there was a public separation of the AG's role, those who ought to know better still persist in trying to suggest that there was something improper in the AG continuing to take the prosecution decisions in Operation Rectangle. Mr Power is just one of those who strive to criticise:

"There was a perception that William Bailhache was part of the government and represented the government, therefore would not give witnesses and victims a fair deal. It was difficult to see how he could convince victims that he had their interest at heart when he was at the same time advising the government in whose institutions they had been abused." [**WS000536/99**]

121. Sadly, not only is Mr Power wrong when he suggests the AG was advising the government in connection with Operation Rectangle, he is also wrong when he suggests that the AG should have delegated his responsibility for taking the prosecution decisions arising out of the investigation. This issue was addressed by William Bailhache:

"I am aware that Mr Power has suggested that I ought to have 'delegated' my authority to an independent external lawyer; indeed the same observations were made by Ms Kinnard when she was the Home Affairs Minister. I could not consent to such

a course being taken since their suggestion betrays a fundamental misunderstanding of the responsibilities of the Attorney General. All prosecutions in the Royal Court must be instituted in the name of the Attorney General. I was, therefore, unable to delegate my authority to any other person, except to the limited extent that Crown Advocates are entitled to prosecute in the Royal Court as well as the Law Officers. The arrangements I put in place were designed to ensure independent input into decisions that were ultimately as a matter of law attributable to the Attorney. If there were a perception, as Mr Power suggests, that 'the Law Officers would not give witnesses and victims a fair deal' then it would have been incumbent upon the SOJP to correct this entirely inaccurate impression." [**WS000701/29**]

The Two-Stage Test

122. Prosecution decisions in Jersey are made in accordance with the same two stage test that has been applied in England and Wales for many years and was first set out in writing when the Crown Prosecution Service first came into being in 1986. The Code for Crown Prosecutors requires an objective assessment of the evidence; is a conviction more likely than not? If the evidence passes that test there is then a subjective assessment of the public interest; is it in the public interest that this offender/offence is prosecuted?

123. William Bailhache explained the two-stage charging decision as follows:

"When I arrived as Attorney General in 2000, there was an existing code on the decision to prosecute. This had been issued to Centeniers by my predecessor. I reviewed that code and made one or two small changes although they are not material for the purposes of the current inquiry. I did not review the code again during my tenure. I do not know if it has been changed since, but certainly during my time it was very substantially based upon the equivalent document issued by the CPS or the Director of Public Prosecutions as the case might be. As the code indicates, there are two stages in a decision to prosecute. The first stage is the evidential test. If a case does not pass the evidential test it must not go ahead, however important or serious it may be. If the case does pass the evidential test, the prosecution must decide whether the public interest test has been passed. As far as the evidential test is

concerned, Centeniers and/or Crown Advocates must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each defendant on each charge. They must consider what the defence case may be and how that is likely to affect the prosecution case. A realistic prospect of conviction is an objective test. It means that the Magistrate, a jury or a bench of Jurats properly directed in accordance with the law is more likely than not to convict the defendant of the charge alleged." [**WS000701/11-12**]

124. There is no document before the promulgation of the Code on the Decision to Prosecute (January 2000) which sets out the test or provides guidance on how it should be applied. Nonetheless, it is apparent from the memoranda that the Panel have seen that the Crown Officers and other Advocates were using the two-stage test throughout the period under review. Mr Griffin provides clear evidence to this effect:

"The Code on the Decision to Prosecute in Jersey is dated January 2000. I have not been provided with information to show what was applied before this date. However, it is clear from the documents I have seen that the dual evidential and public interest test was being used by the LOD before 2000" **[WD008989/17**].

125. He clarified in evidence that the 1998 Maguires decision "*refer[red] specifically to the evidential test and the public interest test"* [**Day 133/24/4-7**].

126. Very early on, and a time when Operation Rectangle was thought to involve allegations of torture and murder, William Bailhache made it clear that he thought it was highly unlikely that a case that passed the evidential test would not be prosecuted on public interest grounds: *"I have already made it clear that although the public interest test needs to be considered, it is extremely unlikely that the public interest could lie in anything other than a prosecution if the evidential test were passed"* [**WD0075/22/215-220**]. This expression of opinion did not preclude consideration of the public interest test, indeed it was still a requirement that had to be satisfied before any prosecution could be brought.

The Operation Rectangle System

The legal team

127. William Bailhache recognised that Operation Rectangle posed a unique set of challenges for the LOD and that, given the attitude of some towards the department, it would be vital, if the process were to be accepted as fair, to ensure that the decisions were taken by independent lawyers. In addition *"the scale of what we were looking at was such that I thought it would be unlikely that we could handle those prosecutions inside the LOD"* [**WS000701/27-28**].

128. Accordingly, within days of being informed of the investigation, he formally instructed Crown Advocate Baker and Crown Advocate Whelan to act for the LOD in all cases arising out of the operation and both were advised that they should seek to avoid any potential conflict arising by refusing to accept instructions to defend in any of the cases [see letter of instruction of 11 January 2008 – WB19 **WD007460/352**]. Set out in the body of that letter is the following observation (made at a time when little if any of the evidence had been divulged to the AG): *"I am not sure yet, naturally, how many prosecutions there are likely to be. But it is at least possible in theory that we could be in double figures."* This, of course, runs contrary to the suggestion by Mr Harper that the AG was reluctant to prosecute allegations of child abuse which he seeks to demonstrate through the claimed disinclination to appoint Sara O'Donnell to oversee matters.

129. The conversation that took place between the AG and Mrs O'Donnell was, she recalls, in December 2007 and her understanding of what took place is to the following effect: "*I did not take it from the conversation I had with him that there were going to be no prosecutions. The impression I had was that he was saying, "it's early days, I don't think we'll need you, I am not expecting much to happen"* [**WS000704/4**]. There is plainly nothing sinister in what was said by the AG, since the investigation was still in its infancy and no one could have known what developments there might be; and there is plainly nothing sinister in the AG's refusal to appoint Mrs O'Donnell to the prosecution team since, as William Bailhache points out:

"At the time I appointed Advocate Baker to assist me, Mrs O'Donnell was not Jersey-qualified and could not have acted as the Crown Advocate in the case. It was in any event not desirable to appoint someone with such a close connection to the LOD when there were suggestions by Mr Syvret and others of improper decisions being made: she had previously worked for the LOD and her husband, Mr O'Donnell, was still employed by the LOD" [**WS000701/29-30**].

130. Advocates Baker and Whelan's instructions were to review all the case files and to provide independent advice to the AG; the AG would accept their advice in all cases where the decision was that the case should proceed; in the event that they advised that the case did not satisfy the test for prosecution the AG himself would personally review the case and reach his own conclusion about whether or not the matter ought to go forward. William Bailhache explains that:

*"This was not my usual practice, but it ensured that any decisions to prosecute were taken by a lawyer who was independent of the LOD and therefore divorced from any allegations of bias or prejudice. It also ensured that any decisions not to prosecute were reviewed by me and others in the LOD and, where appropriate, were the subject of further advice by leading counsel… I personally informed Mr Harper of this decision and subsequently provided the name and contact details of the Crown Advocate to him (see Exhibit WB20 [**WD009002**])"* [**WS000701/31**].

131. Mr Power was not content that the AG should play any part in the decision making process: *"I thought the AG should delegate as much of his authority as the law allowed"* [**WS000536/98**]. This view betrays a fundamental misunderstanding of the legal system in Jersey. All prosecutions in Jersey are brought in the name of the AG and he cannot delegate his authority to anyone outside the LOD; particularly to English lawyers since in order to appear in the Royal Court you have to be qualified as a Jersey Advocate.

132. Mr Power suggests that his idea of delegation would offer some sort of reassurance to the wider public whose confidence in the independence of prosecution decisions, he believes, had been undermined: *"it was difficult to see how [the AG] could convince victims that he had their interests at heart when he was at the same time advising the*

government in whose institutions they had been abused" [**WS000536/99**]. This view reveals just how little attention Mr Power paid to the AG's comments in regard to Operation Rectangle. The AG was not advising the government institutions; he was alive to the need to satisfy an objective appearance of impartiality; and he had advised the States to seek assistance from independent Jersey lawyers.

133. John Edmonds was asked questions during the course of his evidence about the AG's approach with particular reference to the question of conflict:

Q *In all your dealings with the Attorney did you ever have any concern that he was making a decision with any underlying improper motive?*

A *No, no… I have always found that he is a man of the highest intellect and I've never had any occasion to doubt his personal integrity.*

Q *Did you ever believe, regardless of his integrity, that there was a conflict in any decision he was required to take?*

A *No.*

Q *Had you believed him to be conflicted in any way, whether it is political, legal, or any other, what would you have done?*

A *I would have told him so… The advice I gave in relation to the Civil Redress Scheme was robust. I would have given him robust advice and I would not have allowed myself to become involved in anything that I regarded as improper or inappropriate.*

Q *Throughout the time that you were involved in decision-making in Operation Rectangle, whether you were making the decisions yourself or considering the decisions of others, did you ever feel uncomfortable professionally with what was being done?*

A *No, never.*

[**Day 126/38/19-39/19**]

134. He was later asked, in relation to Mr Harper's distrust of lawyers and politicians in Jersey:

Q *Did you ever see or hear of anything that might have justified Mr Harper's concerns?*

A *I don't believe I did, no.*

Q *In your view were all the decisions, of which you were aware, made by any BakerPlatt lawyer properly made?*

A *Yes, yes, they were… I never had any concerns about the nature of the advice which BakerPlatt were providing.*

Q *Or the quality of that advice?*

A *No.*

[**Day 126/56/2-13**]

135. John Edmonds had no links to Jersey prior to his arrival in 2008. He had a long and successful career with the Crown Prosecution Service and not even Mr Harper has dared suggest that he is anything other than a man of absolute honesty.

136. Whatever checks and balances the LOD had introduced, it is unlikely that either Mr Harper or Mr Power would ever have been satisfied with the system that was put in place. After all, Mr Harper can barely hide his scorn when speaking of the AG and he confidently asserts that *"the judicial system in Jersey is corrupt"* [**WS000516/98**]; whilst Mr Power suggests that there were *"perception issues arising from the fact that Jersey does not have a prosecution service"* [**WS000536/97**]. Therefore, it comes as no surprise that Mr Harper refused to accept the system and that he still regards it as inadequate, or that Mr Power has describes the arrangements as needing *"a flow chart to be understood"* [**WS000536/107**].

137. Mr Griffin was invited to comment on the arrangements that were put in place by the AG: *"there was a process by which there would be an investigation and a Crown Advocate would be involved in deciding on whether there was sufficient evidence to charge… There was nothing wrong with that [process]."* [**Day 133/16/3-10**]

Access to the Incident Room

138. Notwithstanding the amount of confusion that appears to have been generated in the minds of Mr Harper and Mr Power by an approach that saw two independent Jersey advocates provide all the advice on the Operation Rectangle cases, it seems that the simple request to allow a Simon Thomas, then a member of the English Bar who had

been instructed to assist Advocate Baker, access to the incident room was also too much for Mr Harper. He asserts that it was *"not appropriate"* for a lawyer to be present in the Operation Rectangle incident room and he justifies this *"firm view"* on the basis that *"they would have access… to raw intelligence reports, many of which were implicating members of the AG's staff in past attempts to cover up abuse"* [**WS000536/66**]. It is still unclear what Mr Harper means by this wholly unparticularised accusation but he has produced no evidence of cover ups by LOD staff and, even if he did believe the allegation, he seems to have done nothing to ensure that it was investigated.

139. When Mr Harper eventually relented and agreed to adopt the system that had been recommended he did so in such a way as to render Mr Thomas' assistance almost worthless. John Edmonds confirmed that the room Mr Harper allocated to Mr Thomas was *"in a different building [to the incident room], on the other side of the road and, I would guess, about 100 metres away"* [**Day 126/59/14-17**].

140. Not one of the police officers or lawyers who gave evidence on the point agreed with Mr Harper's view that there was anything sinister, or even unusual, about the presence of a lawyer in the incident room. In fact, the position immediately alarmed Mr Gradwell when he took over as SIO of Operation Rectangle:

"I had been extremely concerned to learn that, before my arrival, lawyers had been kept outside the MIR environment and had not been working closely with the officers during the investigation of cases, which is unusual for an investigation of this scale. I was used to having lawyers working alongside the police team, often based in the investigation room itself, so that they could provide constant advice on the offences being investigated…" [**WS000658/10**]

141. It was also noted by Mr Gradwell when he was asked about this situation when giving evidence that *"[the placing of Mr Thomas outside of the incident room] is against the security recommendations that the SOJP were issued by the Met because it is the moving of confidential material and it does not fully comply with recommended best practice"* [**Day 111/26/21-25**].

142. Mr Harper's approach, which saw him claim that he "*had never known a lawyer to be seated in the incident room*" [**Day 122/99/4-5**], was sadly out of touch with modern practice. Mr Edmonds explained that by 2008 it was commonplace in *"big cases"* in the UK for a CPS lawyer to work within an incident room *"principally because that was the best place to be dealing with unused material because I wanted to see the actual documents… but also one was there for the daily briefings, able to keep up-to-date with where the investigation had progressed to, providing advice and guidance on possible other avenues of the course of the investigation to take"* [**Day 126/60/1-19**].

143. Insofar as Mr Harper might be suggesting that anyone in the incident room would have had access to sensitive intelligence material, doubt is cast upon this by the ACPO Report 1, which forms Appendix C to the Met Report, and which states at Recommendation 10 that *"there is a dedicated intelligence cell with a robust procedure to ensure that information is protected but still recorded on the HOLMES account"* [**WD005156/12**]. Given there was a system in place to protect sensitive material it is difficult to conceive of circumstances in which a lawyer (or anyone else not authorised to see the material) would have had access to police intelligence material without authorisation. Even if circumstances were to arise in which a lawyer might read sensitive material, it is impossible to conceive of any situation in which they would have made improper use of their newly acquired knowledge.

144. John Edmonds confirmed that Mr Harper's professed concerns about security of information were spurious:

> *"…by the time the intelligence was in the Major Incident Room it had been sanitised so you could see the intelligence but not necessarily know the source of the intelligence… I have not seen anything that causes me to believe that [Mr Harper's] concern was justified… The difficulty is how does one deal with the situation where an officer is genuinely holding what are irrational beliefs and fears… I have at no stage seen anything which gives support, if one looks at it objectively, looking at all the facts, to the beliefs that Mr Harper appeared to hold…"* [**Day 126/60/23-64/3**]

145. Mr Gradwell put things more succinctly: *"to think that a solicitor moving into a major incident room to work gives them access to such intelligence is just complete nonsense"* [**Day 111/27/8-11**].

146. It is unlikely that either Mr Harper or Mr Power would ever have accepted assistance from advocates chosen by the LOD without a struggle. Both betray an obvious distrust of lawyers and both appear to struggle with the concept that a lawyer might abide by their professional ethics. The lack of trust is clearly revealed when one considers Mr Power's attitude towards the instruction of Advocate Baker:

"In the period which followed his appointment as the person who would assist the Attorney General with Operation Rectangle, the force was having exchanges with Mr Baker of an entirely different nature. He was at that time representing a man called Curtis Warren who had a few years previously been described as the UK's leading known drug dealer… Warren's defence relied heavily on attacking the process used to gain covert evidence… The point I am making is that during a key stage in Operation Rectangle, the relationships between the Force and Stephen Baker were mostly adversarial and had nothing to do with the abuse enquiry. They were almost entirely in relation to his defence of Curtis Warren. He was by no means the dedicated and independent full-time prosecutor we badly needed." [**WS000536/101**]

147. The professed experience of both Mr Harper and Mr Power is at odds with their obvious failure to appreciate that lawyers are independent of their clients; that they owe an identical duty to each of their clients to represent them to their best of their skill; and that where any conflict arises from competing interests of their clients they are required to return one of the cases. William Bailhache provides a clear analysis of the situation:

"Both Mr Harper and Mr Power have expressed concern at the appointment of Advocate Baker as the independent Crown Advocate. They cited Advocate Baker's representation of Curtis Warren as the cause for the 'adversarial' relationship between the SOJP and Advocate Baker. This betrays a surprising lack of professionalism on the part of both former SOJP officers… Advocate Baker is a professional and, like every good lawyer, I believe was able to distinguish between

one case and another and did not allow his conclusions in the former to affect his attitude towards the latter. It is entirely routine for advocates to prosecute as well as defend and they do so without any conflict occurring. The suggestion that Advocate Baker could not and did not properly advise in respect of Operation Rectangle is entirely without merit." [**WS000701/28-29**]

148. Neither officer, however, is as vociferous in their unsubstantiated allegations as Mr Pitman who chose to voice his offensive criticism of the Island's legal system in particularly strident terms when he described the Jersey justice system as *"a tool of oppression"* [**WS000536/41**]. We do not propose to respond to such comments save to observe that Mr Pitman is undoubtedly in a small minority when he makes such sweeping assertions.

149. The failure of Mr Harper and Mr Power to comprehend the system that the AG had put in place and their apparent refusal to accept that it was the for the AG (as head of the prosecuting authority) to choose what system to adopt or which cases should or should not be prosecuted was brought into stark relief by the decision to charge Claude Wateridge and the press release following the decision not to charge.

<u>Claude Wateridge</u>

150. In January 2008 the AG instructed Stephen Baker and Cyril Whelan to act as Crown Advocates in respect of all Operation Rectangle cases and Mr Harper was advised of the position [see letter of instruction of 11 January 2008 **WD007460**]. The AG wrote to Mr Harper in order to inform him of the arrangements on 17 January 2008 [**WD009002/348**]. In that letter the AG referred to their earlier discussions and explained that he had *"provisionally retained Crown Advocates Whelan and Baker to act for me in any prosecutions which might take place"* and he invited Mr Harper, if he so wanted, to make contact with them through his Chief Clerk (Tim Allen). That Mr Harper was aware of who had been instructed is made abundantly clear by an email from Advocate Whelan in which he refers to having discussed the arrangements for Operation Rectangle in a telephone call that he had with Mr Harper on 21 January 2008 [see Advocate Whelan's email of 8 April 2008 **WD007462**].

151. Despite the situation being understood by Mr Harper, he deliberately went behind the arrangements when a decision on charge in the case of Claude Wateridge came to be made. Mr Harper asserts that both he and Laurence O'Donnell (who the Police Legal Advisor and was based at police headquarters) were of the view that there was sufficient evidence to charge Wateridge. On 30 January 2008 Mr Harper rang the LOD and spoke with Tim Allen who, he claims, advised him that the SOJP had *"enough evidence to charge and prosecute"* and that he *"would not need to check back in with the AG's office"* [**WS000516/71**]. Mr Harper is mistaken in his recollection of events. Mr Allen was not a lawyer with the LOD but was the AG's chief clerk; accordingly, he could not have offered legal advice on the sufficiency of the evidence nor could he suggest that the SOJP would not need to discuss the case with the AG.

152. On the basis of this claimed advice, Mr Harper decided that he had permission to charge Wateridge and was about to embark upon the process when he received a visit from Mr O'Donnell who advised him that the LOD had directed that Wateridge was not to be charged. Furthermore, Mr Harper received clear advice from Advocate Baker that he was not to charge Wateridge [see Advocate Baker's email of 30 January 2008 at 11:51 – **WD007945/337**]. Despite receiving clear advice from the head of the prosecuting authority, Mr Harper ignored what he had been told and had Wateridge charged.

153. The reason for the AG's caution was that neither Advocate Baker nor Advocate Whelan had seen any of the evidence relating to the allegations against Wateridge [see Advocate Baker's email of 30 January 2008 at 13:06 – **WD007945/336**]; accordingly, they had not been able to reach a decision on the strength of the evidence.

154. What possessed Mr Harper to act as he did is unclear. What is clear, however, is that he dismisses the significance of his actions on the basis that having *"had issues with the AG's office when it came to charging and prosecuting corrupt police officers and senior officials"* and *"had already seen a pattern of behaviour"* [**WS000516/72**]; and he attempts to justify them on the basis that *"Wateridge was later convicted"* [**WS000516/73**]. Mr Harper has sought to portray his decision to charge Wateridge as the only reason why that defendant was ever prosecuted: *"Wateridge would never*

have been charged if it weren't for me ignoring the AG's instructions" [**WS000516/73**]. Once again Mr Harper is mistaken in his recollection as the documents prove. The advice provided by Advocates Baker and Whelan was only to delay charge in order to provide them time to consider the matter [see Stephen Baker's email of 30 January 2008 at 16:57 – **WD008127/326-27**]. If the evidence was sufficient to satisfy the test then Wateridge would have been charged.

155. The problems caused by Mr Harper's flagrant refusal to follow advice are amply demonstrated by the way that the case against Wateridge proceeded thereafter. At the time of charge not all of the complainants/witnesses had provided statements to the police [see Lenny Harper's email of 30 January 2008 at 07:39 – **WD008129/3**]. William Bailhache states:

"…It was considered necessary that all material and surrounding circumstances should be taken into account when deciding whether there was sufficient evidence to proceed to prosecution. The importance of looking at the investigation material as a whole was an obvious policing and prosecution policy. I was surprised that Mr Harper did not appear to appreciate this… I was aware that the lawyers were put in a difficult position [by the premature charge] because they were not able properly to advise on disclosure. Despite this… abandoning the prosecution and restarting it at a later date was not an option… The prosecutors were left in an unenviable position of having to proceed with the prosecution despite not being able to undertake a full review of the evidence. I recall that the police continued to produce evidence up until a week before the trial was scheduled to start [resulting in a late application to amend the indictment to add serious allegations]… which cannot be acceptable, particularly given the trial judge has power to refuse to permit the prosecution to rely upon evidence served so late" [**WS000701/34-35**].

156. In light of Mr Harper's actions the AG wrote to Advocates Baker and Whelan to inform them that he had considered the position and decided: *"there should be no further charges until the whole investigation is complete. That will enable a holistic view to be taken about where joinder of charges might be possible and desirable"* [see W Bailhache's email of 11 February 2008 – WB22 **WD008140/18**].

157. It would appear that Mr Harper did not accept that it was for the prosecution, namely the AG, to decide who should be charged and with what offences. That task required careful consideration of all relevant material and unless the documentation was provided it was not possible to conduct an objective assessment of the evidence and to reach a proper conclusion about the prospects of conviction. This duty fell to the AG alone and could not be usurped by a police officer no matter the strength of his personal convictions about a case.

<279 and 281>

The advice

158. Only a few months after the Wateridge debacle, Mr Harper caused problems yet again when he attempted to interfere with the charging process in connection with other Operation Rectangle suspects. This time, <279 and 281> became the focus of his attention; his desire to ensure that they were charged irrespective of the legal advice he received saw him put pressure upon fellow officers, the Honorary police, and eventually accuse one of the independent lawyers assisting the LOD of perverting the course of justice.

159. On 24 June 2008, <279 and 281> were interviewed by the SOJP. Mr Harper maintains that Mr Thomas had *"suggested that we should charge them with grave and criminal assault"* but that after the interview Mr Thomas *"changed his mind"* and told the SOJP that the two suspects ought not to be charged [**WS000516/79**].

160. Mr Harper and Mr Thomas spoke to each other that day and, although their recollection of what was said is at odds with each other, the upshot of the conversation was that Mr Thomas explained that he wanted to review the notes of the suspects' interviews before concluding whether they could be charged. That this had been Mr Thomas' understanding even before <279 and 281> were arrested is apparent from the attendance note he wrote up following a conference with the investigating team at police headquarters four days previously: *"it would be appropriate to arrest each suspect for grave and criminal assault. To do so does not fetter our position at a later stage should we wish to charge for lesser offences… ST will be available by*

telephone on Tuesday afternoon at the conclusion of the interview" [see Mr Thomas' conference note of 20 June 2008 – **WD008943/25**]. In keeping with this discussion, the offences with which <279 and 281> might be charged had not been agreed prior to their being arrested and each member of the team ought to have understood that to be the position. What was also made clear to Mr Harper was that this position was not solely that of Mr Thomas; he also knew that Advocate Baker agreed with the advice he had been given (he was made aware that Mr Thomas had spoken to Advocate Baker about the problem that had arisen and that his firm view was that they could not be charged [see Mr Thomas' telephone attendance note 24 June 2008 – **WD007457/20-24**]).

161. Mr Harper was not happy: *"I was not pleased with this turn of events as I had already obtained permission to charge and I confirmed that this was making a mockery of the system we had agreed"* [**WS000516/80**]. Whatever Mr Harper's understanding (either at the time or now), he did not have permission to charge: it could not have been and was not given before the interviews took place since that would mean that the interviews ought not to have been carried out.

162. It is a basic principle of policing in both the UK and Jersey that once there is sufficient evidence to satisfy the evidential test then the suspect must be charged. It is not permissible to delay charge to conduct an interview once a decision to charge has been made. It is simply inconceivable that an officer of Mr Harper's seniority would have been unaware of this rule. It is not a rule specific to Jersey which might have escaped his notice; the Jersey provisions are almost identical to those in the English Police & Criminal Evidence Act Code of Practice at Code C:16.1. The Jersey rules are to be found at paragraph 17 the Police Procedure and Criminal Evidence Law Codes of Practice:

"When an officer considers that there is sufficient evidence to prosecute a detained person, and that there is sufficient evidence for a prosecution to succeed, and that the person has said all that he or she wishes to say about the offence, the person should without delay (and subject to the following qualification) be brought before the custody officer who shall then be responsible for considering whether or not there is sufficient evidence to provide a realistic prospect of conviction."

163. Part of the evidence that needs to be considered by any prosecution lawyer reviewing the case is the account that the suspect has provided in interview; however, since Mr Harper decided to interview both suspects, he must have known that the LOD had not already decided there was sufficient evidence to proceed; indeed, had Mr Harper received the advice he claimed Mr Thomas gave to him, he should not have interviewed them.

164. That this is the reality of the position is made abundantly clear by the evidence of other police officers who were part of the Rectangle team.

165. DS Andrew Smith (who was the liaison between Mr Harper and Centenier Scaife – see below) was adamant that Mr Harper was wrong:

"[I]t is not and has never been the practice in Jersey for a Law Officer, Crown Advocate or Force Legal Advisor to agree to charge a suspect before that person has been interviewed. This is a basic tenet of our training and of criminal procedure in the Island. It is my vivid recollection that barrister Simon Thomas did not commit to charging Witness 279 and Witness 281 before they were arrested as alleged by Mr Harper in June 2008 and restated in his evidence to the Inquiry. Mr Harper is simply mistaken in this regard" [**WS000712/2**].

166. DI Alison Fossey, who observes that the "*strained relationship between Mr Harmer and the LOD came to a head"* with the case of <279 and 281>, directly contradicts Mr Harper's evidence: *"[there was] no settled decision to charge prior to arrest and interview"* [**WS000687/35&38**].

167. D/Supt Gradwell, who was the SIO for Operation Rectangle, had no doubt that advice to charge given before interview meant no interview:

"This is the standard thing that happens… in the UK and still applies to Jersey. As soon as you have got sufficient evidence to charge you must charge and… stop the interviewing, so in essence what [the position Mr Harper describes] means is that

you're going to arrest somebody and because there's an agreement to charge you can't interview them." [**Day 111/69/5-12**]

The attempt to charge

168. Despite knowing that the lawyers acting for the AG had told him not to charge the two suspects, Mr Harper *"decided that I would go ahead and try to have <279 and 281> charged"* [**WS000516/81**]. He spoke to DS Smith and instructed him to tell the Centenier (Daniel Scaife) to proceed to charge them. Centenier Scaife was not willing to do as requested:

"DS Smith briefed me on the case and explained that DCO Harper had asked for charges to be put, but also made me aware of the fact that Simon Thomas, the legal adviser, had stated that he did not want <289 and 281> to be charged at this time… It was highly unusual for a Centenier to be called on to charge a suspect in circumstances where a legal adviser had requested that they should not be charged." [**WS000657/23-24**]

169. Centenier Scaife noted that even if he had not received a summary of the advice that Mr Thomas had provided he would have referred the matter to a legal advisor. He further clarified his understanding of the position when he gave evidence: *"I think it was accepted practice from day one of Rectangle that Crown Advocates would be making the decision to charge; they would be reviewing the cases and reviewing the evidence… I was aware that from when Rectangle started that was the expectation"* [**Day 108/135/20-136/2**].

170. Centenier Scaife attached particular significance to the view of Mr Thomas: *"all advice from the LOD or Crown Advocates is implicitly sanctioned by the [AG]. A Centenier would need very good reason to question such advice"*; and, *"as far as I was concerned this was a direction which, since it came from the legal adviser appointed by the AG, I was bound to follow"* [**WS000657/7&24**].

171. Centenier Scaife was not the only Honorary Police officer to appreciate the significance of legal advice from the LOD; despite his distrust of the Crown Officers,

even Mr Le Brocq recognised that their legal advice was to be relied upon: *"if you are going to someone for legal advice and they give you advice and they are absolutely happy with it, you would be silly not to go along with it"* [**Day 105/35/14-16**].

172. Mr Harper offers three reasons for what he believes to be Mr Thomas' change of mind: (1) that <279> was unwell; (2) that a witness had called the custody officer to inform him that the wrong people had been arrested; and (3) that witnesses had contacted SOJP to inform them that the suspects were good people. Mr Harper dismisses the ill-health of <279> as irrelevant because she had been assessed as fit to be interviewed; and he suggests that the contact made by third parties was either nothing new or at best only amounted to character evidence. Unlike Mr Thomas, however, Mr Harper does not have any note which purports to offer a contemporaneous record of what was said between them. The day after they spoke, Mr Thomas provided a document to the LOD in which he set out in detail what had been said between him and Mr Harper on 24 June 2008. It is clear from this document that the three reasons advanced by Mr Harper are poor summaries of what was said: (1) the relevance of <279>'s ill-health was not that it somehow precluded a charge or charges being brought but that it meant that she had not been interviewed and he was therefore unable to consider her account; and (2) & (3) the relevance of the contact made by individuals to the SOJP was not merely that they offered character evidence, but that they could potentially give eye witness accounts of what occurred in the household and/or evidence relevant to possible collusion between the complainants.

173. When Mr Harper was challenged about this document his preparedness to see a conspiracy in everything around him came to the fore. Rather than accept that Mr Thomas might have a different recollection than him or that he might even be right, Mr Harper attacked this document as a fabrication:

"I have severe reservations and severe suspicions about when this document was produced… bearing in mind the propensity of the establishment in Jersey to fabricate dates on documents…what I'm suggesting is that this attendance note was put together to answer the criticism that I have made… I'm saying that this document was probably made up long after it is said that it has been made up here, and what I'm

saying also is that there is a precedent for this in this very Inquiry." [**Day 122/54/25-57/16**]

174. In the hope of avoiding Mr Harper making another ill-advised and wholly unmeritorious allegation he was (at the request of the LOD) shown the email that Mr Thomas had sent to Advocate Whelan 25 June 2008 attaching this document. Mr Harper was having none of it: *"I don't think it does answer my queries. In fact it probably increases my suspicions… there appears to be something remarkably different about the date, 24 June; it not only looks as if it has been inserted in but it in fact appears to be not quite the same font*." [**Day 122/86/23-24**].

175. Thus it was that in the course of barely half an hour, Mr Harper had accused Mr Thomas of falsifying documents with the intention that they should mislead the ill-informed reader into believing that they had been written at the relevant time rather than much later; and he had also accused Mr Thomas of dishonestly creating an email that was intended to cover up the first deception and convince people that the document had been produced when Mr Thomas claimed it to have been. Both are very serious accusations to have made of anyone, but they are particularly serious when made in respect of a barrister and when they relate to his professional activities. The ease with which Mr Harper felt able to make such assertion is all the more surprising when he could offer no evidence in support of his claims.

176. Once the allegation had been made the LOD immediately set about providing conclusive evidence of the date and time when the email and its attachment were sent – 25 June 2008 at 10:38. Mr Harper is wrong but to date has not offered any apology or withdrawn his accusations. The episode is, we suggest, a reflection of Mr Harper's habit of making groundless accusations and his consistent refusal to concede when he is found to be in the wrong.

The press release

177. The next mistake that is worthy of consideration is the press release that Mr Harper issued following his failure to force the hand of Centenier Scaife. The press release, which appears to have been sent to every national and international media

organisation for whom Mr Harper had contact details, was ill-judged and was a naked example of finger pointing: *"after consultation with the lawyer appointed by the AG two people were arrested today… the lawyer revised his advice… the SOJP have no alternative, therefore, but to release the two suspects without charge"* [**WD009017/341-342**]. The language could not be plainer and how this was meant to encourage public confidence in the process is anyone's guess, since all it did was to emphasise an apparent lack of harmony among those responsible for bringing defendants to justice.

178. Mr Harper's attempt to justify this course of action is as misconceived as the decision itself: *"I did not want anyone, particularly the victims, to think that this was an SOJP mistake, or worse, a deliberate attempt to suppress the truth"* [**WS000516/81**]. It is not the job of the police to attempt to explain decisions taken by the prosecuting lawyers; especially where doing so causes more injury to public confidence in the process. If Mr Harper had concerns about the advice that he had received from the lawyers acting for the AG then it was to the AG that he needed to turn. Even Mr Power appreciated that the issuing of the press release would do little to help matters: *"I read it and recognised that it would cause problems"* [**WS000536/109**]. And yet Mr Power did nothing to counsel his deputy officer about his chosen course of action.

179. The AG was understandably angered by the press release. He called for a meeting with Mr Power which was held on 25 June 2008. The notes of that meeting record that the AG *"demanded a formal explanation"* and explained that *"this type of release serves only to add fuel to [the allegations that the AG is obstructing the investigation]"* [see notes of meeting –**WD007230/1-2**].

180. Mr Harper produced a report which, when sent to the AG by Mr Power, Mr Power did his best to distance himself from; Mr Power described Mr Harper's report as one that *"sets out his account of events and reflects his view"* [**WD008991/39**]. The report is little more than a rant about the *"the service that we have received from the legal team"* [see the report – **WD005143/2-5**] and fails to provide any sort of sensible explanation for the pre-interview charging advice that Mr Harper claims to have been given.

181. The AG responded in writing to Mr Power on 18 July 2008. He identified the need for charging decisions to be taken by advocates who *"have access to the entirety of the investigation… it is impossible to make charging decisions in individual cases in isolation from the whole investigation"*; he emphasised that as AG *"I am responsible for the prosecution of these cases and it is right that I should have general superintendence of them"*; and he repeated that he had put in place a special charging process *"in order to meet any perceptions of impropriety"* [see email from W Bailhache – **WD007522/215/220**].

The efforts to repair the damage

182. William Bailhache provides clear evidence of the problems that this turn of events caused for Operation Rectangle:

"I was very cross that Mr Harper issued a press release about his view of the release of the <279 and 281> after interview as it was clearly fruitful material for any future abuse of process argument. Mr Harper was openly critical of the conduct of the lawyers. The press release was made against a backdrop of media reports, which he had encouraged or done nothing to rebut that there had been an institutional cover up of child abuse in Jersey. It was an irresponsible press release to make and he risked compromising and prejudicing all future Operation Rectangle cases…

"I felt that it was necessary for me [to issue a press release] to set out the reasons why it was decided that there was insufficient evidence against <279 and 281>. The way that Operation Rectangle was being managed in the press by Mr Harper had a real risk of damaging the public's perception of the criminal justice system as it suggested that the prosecution could not be relied upon to behave properly. This was very serious and I therefore felt that it was appropriate, though unusual, to make occasional press releases on the part of the LOD in order to correct any such misconceptions." [**WS000701/50-53]**

183. On 26 August 2008 the LOD took the unusual step of issuing a press release providing an explanation of the decision making process that was applied to cases of

this sort and setting out the reason why no further action was to be taken. The AG offered the following reassurance to the wider general public:

"I realise that this decision will come as a disappointment to the complainants in the case and possibly to others who have made statements to the police or are considering doing so. I am obviously aware that assertions have been made, without any basis or foundation, that justice will not be done on the child abuse investigations that are taking place. Indeed, it is for that reason that I am making this full statement as to why a decision not to prosecute has been taken in this case. The evidential test has not been passed, and it would be simply wrong to bring the prosecution. I would however like to emphasise that the evidential test is based upon an analysis of the evidence that the police have taken and which might therefore be available at court. I urge all those who have any relevant evidence to give in the current child abuse investigation to contact the police and to make statements. That is the only way the prosecution will be able to reach a fully informed decision on the evidential test in the various cases that come before us for consideration" [see press release – exhibit WB39 **WD007991/1-3**].

184. In light of all the concerns that had been raised about conflict, independence and fairness, when the AG issued his annual review of 2008 he chose to meet these matters head on and to emphasise (once again) the procedure that had been now in operation for 12 months:

"The police are an independent investigative force for whom the Minister for Home Affairs is politically accountable. It is not for the Attorney to try to direct what should or should not be investigated, and although the police have sometimes been asked to look into a particular matter, they have never been directed that no investigation take place…

"The prosecution deal with the product of the police investigation. In deciding whether the evidential test is passed there is of course room for tension between professionals – the police who have investigated and the lawyers whose job it is to argue in Court if there is a prosecution. Sometimes the police and lawyers might

privately disagree over a prosecution. That should only show that the checks and balances in the system work and that each agency is doing its job…

"It is very important that the public should have confidence in the fairness and effectiveness of the criminal justice system… some people seem to find it difficult to distinguish between the criminal justice system from the individuals within it…any impartial review of the prosecution approach to the historic child abuse enquiry immediately demonstrates that the system had included numbers of lawyers both within and outside the LOD all of whom have examined the case files independently. This process demonstrates the prosecution system is working objectively and, I hope, effectively, and I believe has persuaded the vast majority of the public that there is nothing in the challenges to the integrity of the prosecution service which have been made by some." [see AG's Review 2008 – **WD008301**]

185. Whether or not this was an effective means of countering the allegations of impropriety and the sense of distrust that Mr Harper and others had been so keen to foster will be for others to judge. Ultimately, however, it was simply impossible to satisfy all of the critics. Brian Carter, who was an officer of the SOJP and a member of the Child Protection Team at the relevant time, offered the following simple explanation of the problem faced by the LOD: *"some people are convinced that if a decision does not go to their liking it becomes a cover up"* [**WS000647/28**].

<u>The Development of the Operation Rectangle System under Warcup/Gradwell</u>

186. David Warcup took up his post as DCO in August 2008 and was struck by the *"disconnect between the public, victims and investigation team"* [**WS000694/5**]. He was led to believe by Mr Harper that *"the Law Officers were not reaching the right conclusions"* [**WS000694/11**] and he immediately addressed this with the AG. The result of these discussions was that in any case where the LOD decided that no further action would be taken and the investigating officers were unhappy, Mr Warcup would be entitled to raise the matter directly with the AG. This agreement gave the SOJP *"confidence that there had been full consideration and cognisance of the evidence"* before any final decision was taken [**WS000694/11**].

187. The problems that appear to have arisen between the SOJP and the LOD whilst Operation Rectangle was under the control of Mr Harper, and to a limited extent Mr Power, appear to have disappeared after both men had left their position: *"After Lenny Harper's departure in August 2008, we developed a good working relationship with Alison Fossey, Mick Gradwell and David Warcup of the SOJP"* [John Edmonds – **WS000698/9-10**]. The working practices of both men were recognised by those around them as being more in keeping with current policing policies and helped create a prosecution team ethos in which everyone felt that they played a part in the decisions that were taken. DI Fossey, who had been Mr Harper's number two, observes that *"the Operation became more professional and structured under Mr Gradwell… I did notice a difference in the way that that Mr Gradwell worked with the LOD"* [**WS000687/49-54**].

188. Two important developments were introduced, both of which could and should have been part of the operation for many months: a Gold Group was established and began to meet on a weekly basis, which *"facilitated a closer working relationship between the police and the lawyers"* [**WS000698/20**]; and prosecution panel meetings were set up, which represented a *"genuine attempt to prioritise cases that stood a reasonable chance of successful prosecution"* [**WS000687/49**].

189. Despite the *"vague concerns"* that had been relayed by Mr Harper to Mr Warcup about the LOD [**WS000694/11**], Mr Warcup could find no evidence to support them: *"at no time during my dealings with the AG or the subsequent AG did I feel that there were either pressures or suggestions which would compromise the integrity of the investigation or the officers in relation to that"* [**Day 120/33/4-9**]. Such a view is echoed by Mr Edmonds: *"I have at no stage seen anything which gives support, if one looks at it objectively, looking at all the facts, to the beliefs that Mr Harper appeared to hold"* [**Day 126/64/1-3**].

<u>The Griffin Report</u>

190. In light of the Inquiry's approach to Mr Griffin's evidence, we propose to deal with those cases that he was invited to consider and to address the handful of additional cases about which questions were asked of the other witnesses – it must be the case

that the cases about which questions have been asked (of any of the witnesses) were assessed by the Inquiry team as being properly representative of the cases dealt with during Operation Rectangle as a whole. We do not intend to repeat the facts of any of these cases, unless it is necessary so to do, and we do not intend to address any of the other Rectangle investigations unless invited so to do.

191. Mr Griffin's report is the only independent expert evidence as to the appropriateness of the decisions made before the Panel and it should carry considerable weight if and when the Panel choose to assess additional cases that Mr Griffin was not, for whatever reason, asked to consider. His conclusion is that the LOD took a professional approach and that there was no evidence of any external influence.

192. The Panel should be careful, however, to rely only on the relevant parts of Mr Griffin's opinion. In his words:

"I have to assess the evidence and consider whether the decision making process was appropriate and professional in the circumstances, applying the Bolam standard. The test is not what decision I would personally have reached on prosecution in each case. Where I would have reached a different decision on prosecution in an individual case, I have set this out." [**WD008989/9**]

193. Mr Griffin chose to include within his report not only his expert opinion according to the *Bolam* test but also his personal opinion, where that differed. The Panel is not bound by the ordinary rules of evidence but this is not a matter of strict application of rules of admissibility; it is a matter of relevance.

194. Oliver J held in *Midland Bank Trust Co. Ltd. and Another v Hett, Stubbs & Kemp (A Firm)* [1979] Ch. 384 that: "*Clearly, if there is some practice in a particular profession, some accepted standard of conduct which is laid down by a professional institute or sanctioned by common usage, evidence of that can and ought to be received. But evidence which really amounts to no more than an expression of opinion by a particular practitioner of what he thinks that he would have done had he been placed, hypothetically and without the benefit of hindsight, in the position of the defendants, is of little assistance to the court; whilst evidence of the witnesses' view of*

what, as a matter of law, the solicitor's duty was in the particular circumstances of the case is, I should have thought, inadmissible, for that is the very question which it is the court's function to decide."

195. A more recent case confirms this approach. Hildyard J held in *The RBS Rights Issue Litigation* [2015] EWHC 3433 (Ch) that: *"the Court should decline to admit evidence which ex hypothesis is not evidence of any body of expertise but rather the subjective opinion of the intended witness… an expression of the opinion of what the expert would have done in the hypothetical situation is inadmissible"*.

196. The opinion of Mr Griffin about what he would have done in a particular set of circumstances does not assist the Panel in determining the issues set out within ToR 13. The question is not whether one or other lawyer might have made a different decision in any given case. The law is not an exact science and there is frequently no single correct or obvious answer when a charging decision must be made. Mr Griffin's evidence was that *"some of these cases were very difficult from a lawyer's point of view"* [**Day 133/36/19-20**]. Different professionals will come to different, perfectly valid, conclusions: "*Whether the evidence in any particular case satisfies the evidential test and whether the public interest justifies a prosecution is a matter of judgment about which prosecutors might differ"* [*R(S) v. Crown Prosecution Service* [2016] 1 WLR 804, Sir Brian Leveson P at paragraph 19]. The question is whether the decision that was made in each case was made properly, without undue influence, and with a correct application of the law to the facts. Mr Griffin agreed when asked in evidence that where he would have reached a different decision it did not follow that the original decision was not made in a professional manner [**Day 133/9/13-21**]. He concedes in each case where he might personally have decided to charge (namely the 1998 Maguires decision and that in the case of <491>) that the decision not to do so cannot be criticised; that, we suggest, is the only relevant evidence.

The Maguires

197. Few cases have captured the public's imagination in the same way that the Maguire case did. The telling and re-telling has resulted in a tale that has been much abused as proof positive of the desire of those in power to suppress the truth in order to protect

Jersey's reputation. These claims were repeated by many of the witnesses who gave evidence to the Inquiry despite the fact that not only is there almost no evidence to support some of the claims they made but there is in fact positive evidence to contradict much of what they asserted.

198. The decision taken by Sir Michael Birt in 1998 to stop the proceedings was the subject of a declaration setting out the basis upon which he had taken the decision and reflected in the Act of the Royal Court [**WD007977** and **WD008461/155**]. In light of what the AG told the court and given that the act of the court was a public document it is difficult to see how some of the witnesses appear to have got quite so confused.

199. Mr Harper and Mr Power, neither of whom were even in Jersey at the time that these allegations were considered by the SOJP and the Royal Court, have both offered their opinion on the reason why the case did not proceed.

200. The original decision to drop the case after the Magistrate had decided to commit Maguire for trial is said by Mr Power to be the product of a desire to suppress the truth: *"had the matter become one of public knowledge and debate careers could have been damaged and political relations tarnished… anybody is at least entitled to speculate on the potential reputational damage of the Maguire case"* [**WS000536/65**]. Mr Harper is, unusually, a little more reserved in his speculation but nevertheless subscribes to the popular misunderstanding that *"after receiving [the news that Maguire was terminally ill] the AG dropped the case"* [**WS000516/39**]. Mr Pitman, on the other hand, is less restrained. He too regards the illness of Maguire as *"bogus"*, and describes the AG's decision as a *"sickening betrayal of justice"* [**WS000654/77**].

201. Ignoring as one must the desire to indulge in speculation and looking only at the evidence that has been adduced about the 1998 decision, there can be no serious suggestion that this case was dropped on public interest grounds.

202. It is appropriate to start with the evidence of the AG in question, Sir Michael Birt, who provided a detailed account of what had happened.

203. Ian Christmas was the police legal advisor who took the initial decision to charge Jane and Alan Maguire. They were charged with allegations of physical abuse only and the papers that were eventually provided to the LOD made no reference to sexual assaults. It was anticipated that the case would be tried in the Magistrate's Court (a trial date for June 1998 was set); however, Magistrate Trott indicated that he did not consider it a suitable case for the Magistrate's Court and the trial date was used instead to hold an 'old style committal', a hearing in which the Magistrate decides after hearing evidence whether there is a *prima facie* case in respect of each charge such that it can be sent to the Royal Court. Magistrate Trott reserved his decision and in July 1998 committed the Maguires on all but one of the charges.

204. Once the case had been committed to the Royal Court the Law Officers took over the prosecution from the police legal advisors and, as part of the handover, a memorandum on the case was drafted by the lawyer who had advised on charge. On 9 October 1998 Mr Christmas and provided a memorandum in which he observed that he had *"grave reservations as to the prospect of conviction"* and offered the following explanation of why, in those circumstances he had still advised they be charged:

"the decision, therefore, to prosecute was made without any great optimism that the charges would succeed, but with every hope that the very process by which the allegations came to light and the fact that proceedings were investigated, would allow the victims to come to terms with their past and to have confidence that the Jersey authorities had not swept the complaints under the carpet" [**WD007979/3**]

205. Mr Christmas highlighted the difficulties that in his opinion a prosecution would face. He was concerned that the offences *"could be excused as excessive chastisement"*; he was concerned with the *"quality of the victims as witnesses and their age at the time of the allegations"*; and he was concerned that the evidence "*was vague, inconsistent and to some degree uncorroborated"* [**WD007979/3**].

206. In response to the difficulties identified in the memorandum Sir Michael observes as follows:

"The credibility of any witness in a criminal case is always a matter to be considered. If I were faced with a challenging or troubled complainant, that in itself would certainly not have been a reason not to proceed with the prosecution. It is a question of assessing the evidence as a whole to determine whether, notwithstanding a witness' particular difficulties, there is sufficient to proceed to trial...

"Although all of the evidence was similar to the extent that the complainants of the alleged cruel behaviour were all children who had been in their care, when you looked at the individual allegations, there was little similarity" [**WS000608/6**].

207. Mr Christmas offered the following assessment of the case – it is to be noted that Maguire's health did not feature:

"It is my opinion that a combination of factors have conspired to present us with difficult choices and decisions… Even if we were to continue with this prosecution with selective charges against both defendants, we are still faced with the problem of whether we have a realistic prospect of conviction (after a full blown assize trial with all the attendant publicity) bearing in mind the quality and vagueness of our complainant witnesses. I think it is essential to re-evaluate the strength of the prosecution evidence in conjunction with the Children's Service and the police before even considering whether, and on what charges, these defendants should be indicted. In the event that you think we should proceed, may I suggest an immediate conference between all the parties concerned. This was always going to be a difficult case, but I fear that the difficulties have been compounded by failure to resolve this matter one way or the other at the Magistrates' Court." [**WD007979/4**]

208. Mr Harper suggests that Mr Christmas believed that compassion should be a reason to stop the prosecution; he did not. Mr Christmas simply commented that the defence would raise this argument and it played no part in his conclusion.

209. In response to this Sir Michael observes as follows:

"In cases of child abuse, I find it hard to image a case where a proper application of the public interest test would lead to a decision not to prosecute. If a child abuse case

satisfied the evidential test, I can only imagine very rare circumstances where public interest factors would militate against prosecution." [**WS000608/7**]

210. All of the matters identified by Mr Christmas were sufficient to raise concerns and, once the AG was made aware of the memorandum, it should come as no surprise that he asked for the case to be reviewed.

211. The review was provided by Advocate Binnington on 6 November 1998. In the opening sentence he states that he had been asked to assess the case and decide *"whether it would be in the public interest to proceed further"* [**WD007347/1**]. Much has been made of this reference to the public interest and Advocate Binnington has been criticised for failing properly to apply the two stage test. With respect to those who have offered their opinion on the reasoning applied by Advocate Binnington, there is a danger of reading more into the use of the phrase 'public interest' than is perhaps appropriate. Whatever Advocate Binnington meant by the use of that phrase (and of course only he can actually say), it is clear that he reaches his conclusion that the case ought not to continue further *"on a review of the <u>evidence</u>"* which includes: *"(1) The age of the witnesses at the time of the incident. (2) difficulties caused by passage of time. (3) Likely defence witnesses. (4) Likely defence address to the jury/sympathy for the Maguires. (5) Character of the prosecution witnesses."* [**WD007347/1**].

212. The evidential difficulties that were faced by this prosecution were succinctly put by Mr Faudemer (who was one of the investigating officers) in his statement: *"the strength of the case was reduced because there was a lot of conflicting evidence"* [**WS000652/27**]. He expanded upon this when he gave evidence: *"there were some very significant evidential difficulties with this particular case and there were significant opportunities for the defence… it was a problem case"* [**Day 113/85/16-19**]. His observations were echoed by Emma Coxshall (another member of the investigating team) who noted that: *"as a police officer I can understand that a decision that there was insufficient evidence to proceed may have been justified…there was no cover up or conspiracy to allow the Maguires to escape justice"* [**WS00639/12**].

213. Sir Michael was in no doubt as to the basis upon which he was being invited to conclude that the case ought not to continue: "*when one considers Advocate Binnington's reasoning… it is apparent that he is in considering the evidence and applying the evidential test*" [**WS000608/10**].

214. Indeed, even Mr Griffin appears to accept that the reference to public interest is a red herring. Mr Griffin was asked whether Advocate Binnington appears not to have based his conclusion on the public interest test and said:

"He has gone through each of the cases, he has individually reviewed the evidence, and then he has come up with an assessment of general factors that would make a prosecution difficult that are factors that one would consider for the purposes of applying the evidential test, so yes [he appears not to have based his conclusion on the public interest test]. He has also considered the public interest factor and it may be the most accurate way to summarise what's gone on here is that he has just unhelpfully phrased things on the first page of his letter, but to me that indicated a confusion in his mind" [**Day 133/62/15-63/4**].

215. Despite being informed in the letter of instruction that *"the AG is of the view that [Maguire's health] is a matter for [the defence] to raise with us and should not, at present, affect or decision on the case in general"* [**WD007353/29-30**], Advocate Binnington saw fit to include this aspect of the case in his advice. This fact has been seized upon by those keen to disparage the LOD and used as a pretext to claim that the decision to drop the case was made on the basis of Maguire's apparent ill health. Mr Power went so far as to suggest that the AG was at fault for not clarifying the defence contention before accepting it: *"the assertion Alan Maguire had cancer came from his defence advocate… the failure to seek independent confirmation is surprising and possibly alarming"* [**WS000536/62**]. What Mr Power has failed to appreciate (which is perhaps understandable since his knowledge of this case is entirely dependent upon what others have told him) is that the assertion did not simply come from Maguire's Advocate; the defence served a report from the consultant in charge of Maguire's care who attested to the state of Maguire's illness and opined that he would be lucky were he to survive another 6 years [**WD009127/2-3**]. Mr Power's ill-founded criticism would have more force if Maguire's diagnosis had any bearing on

the decision taken. The AG did not consider this aspect of the case as relevant at this stage (*"Maguire's ill health did not have any impact on my decision not to prosecute the case"* [**WS000608/10**]); therefore, it is hardly surprising that the LOD did not seek to waste public money by instructing their own expert.

216. After receiving the memoranda from Mr Christmas and Advocate Binnington, the AG held a conference with both lawyers, the investigating officers and representatives from Children's Services in order to reach an agreed position on the best way forward (in consultation with all the parties that might be affected by the ultimate decision). All aspects of the case were discussed including Advocate Binnington's reference to the public interest. The AG made it clear to all concerned that *"the public interest test only came into effect if there was sufficient evidence and that any decision reached on this case would be based on the evidential test"* [**WS000608/12**]. At that meeting everyone was given the opportunity to share their views and a conclusion was jointly reached by all present that there was *"simply insufficient evidence to have any realistic prospect of a conviction… no one dissented from this view although naturally there was sadness that this decision had to be taken"* [**WD005439/5**].

217. This conference has proved pivotal in Mr Griffin's assessment of Sir Michael's decision:

"I have ultimately concluded that the AG acted to a professionally and competent standard for the following reasons. Whilst the AG had referred to the letter and memoranda provided by Ian Christmas and Crown Advocate Binnington, he had also conducted a review of the evidence during a case conference; he went on to apply the dual evidential test and public interest test in reaching his decision, identifying where Crown Advocate Binnington had fallen into error and apparently not taking into account the suggested poor health of Alan Maguire; and this was a difficult case involving conflicting evidence in which a competent specialist prosecutor could logically have reached the same decision as the AG." [**WD008989/101-102**]

218. The decision was reflected in the words used by the AG on 20 November 1998 when he invited the Royal Court to dismiss the charges: *"the AG declares that he abandons the prosecution against [the Maguires] on the ground that there is insufficient*

evidence to support it" [**WD007977**]. Given this decision was provided in open and the Act has at all times been publically available, it is frankly astonishing that so many people have sought to misrepresent what happened. Had any of those witnesses who have put forward as evidence their ill-informed speculation taken the trouble to enquire what the real position was then much time (and public money) could have been saved.

219. It is disappointing to note that despite the clear documentary evidence that establishes the basis upon which the case was discontinued, Mr Harper persists in perpetuating the myth that health played a part in the decision. In evidence before the Panel and after having been shown the file note setting out the position of all parties to the 1998 conference, Mr Harper claimed that there was an *"acceptance by the prosecution of the terminal illness claim"* [**Day 122/107/4-5**]. Whether this is another example of Mr Harper's refusal to alter his account when confronted with evidence to the contrary will be for the Panel to judge.

220. The case against the Maguires raised its head again in 2008 when William Bailhache (who by that time was AG) was invited to consider further evidence and the SOJP sought to persuade him that it would be appropriate to extradite Maguire from France. Such a request brought with it two immediate problems: (1) in order to bring fresh proceedings the decision of Sir Michael had to be set aside and that could not be done without a proper basis; and (2) in order to extradite the Maguires it would be necessary to establish that there was sufficient evidence to charge and that the case would not falter on procedural grounds. For reasons best known to himself, Mr Harper has refused to accept that the position presented any difficulty: *"it would not be a problem at all to extradite the Maguires on the grounds we were seeking"* [**WS000516/44**]. He even ventured to suggest that the AG's decision to seek advice from two leading English QCs revealed the AG's ignorance of Jersey law: *"It's a matter for the AG, if he felt he didn't know the constitutional law of Jersey it's a matter for him"* [**Day 122/111/2-4**]. Once again he has been shown to have failed to grasp the reality of the position. Mr Griffin agreed in evidence that the instruction of the two QCs was *"a professional approach to have adopted*" [**Day 133/21/17-21**].

221. When first advised that the SJOP wanted to try to re-charge the Maguires, the AG immediately appreciated the problem and sought advice from Advocate Baker and assistance from the Director of the LOD's Criminal Division, John Edmonds. Advocate Baker reviewed the position and concluded that the evidential test was not passed in respect of the new allegations and assessed that the legal issues associated with resurrecting the old allegations were *"extremely difficult"* [**WD008854** and **WD007233**]. John Edmonds agreed with this:

"The decision not to institute proceeding against Alan and Jane Maguire was all about making the right decision. If the right decision meant having to overturn the previous AG's decision and having to deal with an abuse of process argument then we would have done that. You cannot be swayed by public opinion; the easy decision would have been to prosecute, since that was, in many ways the line of least resistance. One should not take a decision on the basis that it is the easy decision; we have a public responsibility and are paid to make difficult decisions. In short, we have to make the decision that is right and which will survive objective scrutiny" [**WS000698/46**].

222. As a result of the difficult decision that faced the LOD, leading counsel was instructed to look at the issues of the fresh allegations and the possible abuse argument that would follow a decision to re-charge.

223. Richard Latham QC was instructed to advise on the merits of bringing fresh proceedings and to assess whether or not there was fresh evidence that justified overturning the decision. He examined the evidence of sexual abuse, which had been available in 1998 but which was not the subject of any charge, and concluded that there were no grounds for bringing a new prosecution [**WD008702/21-33**].

224. First Senior Treasury Counsel Mark Ellison was instructed to advise upon the possible abuse of process application that might result from a decision to bring a new prosecution in circumstances where the AG had previously dicontinued the case on the grounds of evidential sufficiency. He concluded that any defence application to stay the proceedings would be very likely to succeed [**WD007438/1-21**].

225. In light of these two opinions (both of which were well received by Mr Griffin), the AG decided that there were no proper grounds to re-open the decision of Sir Michael and he issued a public statement to this effect in June 2009 [**WD005402/5-11**]. That statement provided a clear and detailed explanation for the course of action that was taken which was intended to avoid confusion among the general public and to ensure that the LOD were not subjected to any allegation of cover up.

226. Notwithstanding this careful document (or the large number of other documents that were shared with the LOD), Mr Power has chosen to assert that "*the lack of documented decisions and a* coherent *audit trail of events is striking"* [**WS000536/63**]. In fact what is striking is Mr Power's deliberate misrepresentation.

227. Fortunately the Panel has the benefit of Mr Griffin's conclusion which was reached after a consideration of the evidence and without having been influenced by such assertions: *"the decision making process regarding prosecution [was] to a professional standard"* [**WD008989/103**].

<7>

228. The case of <7> is one that causes Mr Harper to pause for only a short time before he concludes that something improper is behind the decision not to proceed:

"I wanted to charge him as I felt there was sufficient evidence to proceed against him. I also felt I could charge him on the grounds of similar fact… However, when I sought permission to charge <7> the AG refused due to lack of apparent evidence/corroboration. The AG did not feel that there were 'similar facts'... My unease in the matter was made more acute when I received… unsubstantiated intelligence regarding the relationship between <7> and the AG" [**WS000516/76**].

229. Given that Mr Harper concedes that the information was unsubstantiated and, furthermore, he did nothing to clarify the position – he did not even attempt to contact the AG regarding the matter – it simply beggars belief that he would suggest that this caused him any concern or that he would raise this matter now in evidence. The only reason for making reference to this must be to imply that the decision was predicated

upon a conflict of interest that the AG has kept hidden from the police, and yet there is not a shred of evidence to support this claim.

230. Indeed the position is the polar opposite, as demonstrated by the evidence of William Bailhache:

"I am quite sure that I did not know <7> when the case against him was considered in 2009. Neither do I know him now. I understand that he is a member of the same golf club as I am, but the club has about 1,000 members (though I cannot be sure of the precise number). I do not play a great deal of golf and, when I do, I play with my friends. I am told that [redacted] *described himself as being a nodding acquaintance of mine. I do not believe that he is someone that I have ever met and, to the best of my recollection, I have never even spoken to him…*

"The decision in the <7> case was made by Advocate Baker and considered by Mr Edmonds. I did review Advocate Baker's advice. I considered whether I ought to take external Counsel's advice in London. I decided not to do so. I had no concerns about the advice which I believe I reviewed with some care; and I thought that if I did take further advice I would be spending public money inappropriately – not because I thought there was any doubt about the decision but simply to protect myself" [**WS000701/77-78**].

231. Advocate Baker advised on the case of <7> on 27 March 2009. Mr Edmonds and the Attorney General agreed with him that <7> should not be prosecuted and a press release was issued to that effect on 3 June 2009 **[WD008984**]. Advocate Baker then submitted a second advice dealing with further allegations, which did not result in any different decision being taken by the LOD. Mr Griffin expresses concern that the original decision was taken on the basis of an incomplete file, and comments that he has not seen any documentation confirming the consideration of that second advice by the LOD, but concludes, *"having reviewed the underlying evidence myself, it seems highly unlikely that that would have resulted in a different conclusion as to evidential sufficiency"* [**Day 133/68/25-69/3**]. It is important to emphasise that at the time the LOD concluded that <7> should not be prosecuted they were unaware that the file was incomplete and, therefore, no criticism could be made of them for that. Furthermore, given the second advice is also to the effect that the evidential test is not

passed, even had the original file been complete at the time the LOD reviewed it, it would have made no difference to the outcome.

<491>

232. It has been suggested that <491> was not charged on public interest grounds. The basis for this proposition is Mr Griffin's personal opinion that *"the towel-flicking allegations passed the* evidential *test"* [**WD008989/150**] and that there is no sense in which the *"public interest... feeds back into the evidential test"* [**WD008989/151**]. This led him inexorably but, we suggest, wrongly, to the conclusion that the decision not to prosecute *"was in fact taken by the AG on public interest grounds"* [**WD008989/152**].

233. Mr Griffin's own view that the case did pass the public interest test because *"a tribunal of fact would not have perceived [the towel-flicking allegations] as 'trivial'"* [**WD008989/149**] is not a relevant consideration for the Panel. Mr Griffin is, with respect, in no better position to second-guess a jury or jurats than any other lawyer. What is relevant is the conclusion he reaches after having applied the proper objective test:

"[T]he AG's approach in reaching his decision with regard to the towel-flicking allegations was appropriate and professional in the circumstances... it was legitimate for the AG to find that there were public interest reasons against prosecution, in circumstances where the allegations in question were in some instances over 40 years old, the defendant was elderly and, further, the court might impose a nominal penalty on conviction" **[WD008989/153-154**].

234. Consequently, even if Mr Griffin is correct that the decision in relation to <491> was made on public interest grounds, it is not susceptible to criticism. However, the evidence from those involved in making the decision has been that it was not made on public interest grounds.

235. William Bailhache's understanding was that *"Advocate Baker recommended that the evidential test was not passed and the police agreed with that conclusion. As the*

evidential test was not met there was no need to consider public interest" [**WS000701/71**]. He explained:

"I think that there are circumstances in which the public interest can affect the assessment of the evidential test as well, because the evidential test is whether, properly directed as to the law, a jury is more likely than not to convict, so the prosecutor looks at what a juror is going to make of a prosecution case... and if it's a case which is 30 years old... it may not be in the public interest to prosecute that, but it's also possibly not going to beat the evidential test because you know that a juror, faced with that case, is going to say... was it really an assault? Was there that malicious, criminal intent which is necessary... to bring a juror to the point of convicting?" [**Day 128/32/18-33/14**]

Anthony Watton

236. The case against Anthony Watton is, with respect, an unusual one to consider. He was charged with sexual offences in 2001 but he committed suicide before the allegations against him reached trial. Thereafter, during the course of Operation Rectangle, further allegations came to light (by which time he had been dead for more than seven years).

237. In respect of the material that was gathered after Watton had died, Mr Griffin comments: *"I have seen no police report, documents from external lawyers or from the LOD addressing the case against Anthony Watton in the context of Operation Rectangle"* [**WD008989/219**]. The absence of documentation from any lawyer assessing the evidence against Watton can hardly come as a surprise, since drafting it would have served no useful purpose.

238. Notwithstanding this somewhat surprising observation, Mr Griffin concluded that: *"Operation Rectangle uncovered further highly relevant evidence. However, there is nothing to suggest that a prosecution file was prepared in relation to Anthony Watton…"* [**WD008989/224**]. Had the matter been left there one might have been forgiven for thinking that Mr Griffin intended to convey some criticism of the prosecution when concluding that no prosecution file had been prepared. Fortunately,

this observation was clarified when he gave evidence. He was asked about this and explained:

"I don't here make any adverse finding at all. This is a criminal investigation that's been conducted, as you say, seven or more years after the death of the main suspect, so the fact that there was no file or decision as to charge is understandable in those circumstances." [**Day 133/94/23-95/2**]

239. It is apparent from Mr Griffin's careful analysis that, despite the two instances where he has offered his personal opinion as to what he would have done which differs from the decision taken by the relevant Crown Officer at the time, he has been unable to fault the process adopted or the conclusions reached by the LOD in respect of the Operation Rectangle cases he has considered. No challenge has been made to Mr Griffin's opinion (either generally or in respect of specific cases) and the Panel must, therefore, accept the evidence of the Inquiry's own expert. His conclusions are set out in summary form at the end of his report and the language used is of some significance: the decisions and the decision making process are repeatedly described as *"appropriate and professional"* [**WD008989/226-231**]. These conclusions, which are based upon a careful analysis of the relevant documents, are (unlike some claims which have been made regarding the attitude of successive AGs) reasoned and supported. The Panel need look no further than Mr Griffin's conclusions when determining whether those responsible for deciding upon which cases to prosecute took a professional approach: the simple answer is that they did.

240. It would not be appropriate to close any submission that invites the Panel to accept that the LOD *"took a professional approach"* in deciding which cases to prosecute without addressing the case of <264>. Whilst this was not a case that Mr Griffin was invited to review, it is one that several witnesses were asked to address and, therefore, one about which the Panel has now received differing opinions.

241. Just as it would not be appropriate for the Panel to ignore Mr Griffin's conclusion that any particular decision fell within the bounds of what was reasonable and to substitute its own view as to what should have been done; so it would not be appropriate for the Panel to assess the other prosecution decisions on any basis other than their reasonableness.

242. <264> is a good example of the difficulties that arise when conducting a retrospective second-guessing exercise – and also illustrates the danger of giving undue weight to the evidence of those who are not legal professionals. Mr Robert Bonney, the investigating officer, was asked about the case when he gave evidence and said that he felt that the complainant was credible and that there was *"corroborative evidence… [namely a] propensity to attraction to young boys"* [**Day 114/179/20-22**]. In fact, Advocate Baker's detailed advice concludes that what evidence there was of an attraction to young boys would almost certainly be ruled inadmissible [**WD0005875/22**]. He carefully considered the extent to which the complainant's account was consistent with the contemporaneous records and reached the decision that the evidential test was not met. It is worth pointing out that the assertion by Counsel to the Inquiry during the course of Mr Bonney's evidence that the Court, when sentencing the complainant for his [redacted] <264>, *"thought that* [his allegations of abuse] *could be believed"* [**Day 114/181/12-15**] is incorrect. The judgment of the Court is publicly available [redacted] and indicates that the Court, having received no decisive evidence whether the allegations were true or not, was obliged (according to ordinary principles of fairness) to resolve the matter in favour of the defendant. The Court explicitly did not find as a fact that the allegations were true:

"The Crown say that we should proceed on the basis that the allegations of sexual abuse against [<264>] may or may not be true. We do not think that that is a practical or possible way of proceeding… we have to proceed on one version or the other. Your version is being investigated and is clearly not incredible. We do not think it right to adjourn this case for a lengthy period pending a possible criminal prosecution against [<264>] if there is to be one; therefore, we must proceed on your version of events".

243. The case was extensively and carefully reviewed and a conclusion reached that it did not pass the evidential test. There is no evidence that there was anything improper about this process, or that it was guided by inappropriate considerations. Other lawyers might have made a different decision. That is not to say that there was anything wrong with the decision.

244. A similar point can be made about the Jordans' case. A great deal of time has been spent on examining the sequence of advices, meetings and memoranda that chronicle the progress of the investigation and the reasons why at some stages the opinion was expressed that the case ought not to proceed. This sort of analysis misses the point. The Jordans were charged: not in spite of any policy that suggested the contrary; not after concerted efforts by any party to sway an intransigent LOD determined to bury the case; but after the sort of considered process of consultation and collaboration that cannot be faulted.

The Public Interest Test

245. Much has been made of the public interest question; at times one would be forgiven for thinking that any reference to this part of the two-stage test is, given the nature of the allegations under consideration, somehow improper. With respect to all those who have suggested that the public interest does not come into play where offences of historic abuse are under review, such an approach is to ignore entirely that the prosecution must still be satisfied that any offence that passes the evidential test must still be in the public interest to prosecute. We will not attempt to provide a gloss to the issues that are identified in the Code on the Decision to Prosecute as relevant to the consideration of the public interest (Jersey is not alone in requiring lawyers to consider whether prosecutions are in the public interest). What we will do, however, is to look at those cases that have been critically examined during the course of the evidence in order to see what relevance they have to the issues to be decided by the Panel.

246. The cases of <491>, <819> and Kevin Parr-Burnham have been seized upon as ones where the LOD perhaps made a decision not to prosecute on public interest grounds rather than evidential ones. The case of <491> has already been dealt with above and we do not propose to repeat our submissions; therefore, we now turn to address the cases of <819> and Kevin Parr-Burnham.

247. It is important to emphasise at the outset that there is nothing wrong in principle with making a charging decision after having considered the public interest test. There

must always be a consideration of whether a prosecution is in the public interest since it has never been the case that where there is sufficient evidence a prosecution must take place. The possible application of the public interest test has attracted a certain level of attention owing to a perceived inconsistency between the statement by William Bailhache that *"it is extremely unlikely that the public interest could lie in anything other than a prosecution if the evidential test were passed"* [**WS000701/52]** and his comments in his review of 2008 that:

"...complaints of slaps to the head, being flicked with a wet towel, or being made to take cold showers and the like are so far divorced from the public's perception of the nature of this enquiry that it is right to say that at least in relation to a significant number of the case files received, the complaints, even if capable of being proved to a criminal standard, which in most cases has not been thought possible, are not matters which are suitable for the criminal courts even today, let alone 30 years after the event" [**WS000701/72**]

248. William Bailhache explained in evidence that his view that cases that passed the evidential test should be prosecuted was shaped at a time when *"the view that we had... was that we were looking at... paedophile rings, rapes, sodomies, not indecent assaults over the clothing... later on when it became apparent that we were looking at a rather different sort of offence in some cases, I think it was more difficult to reach the view that prosecutions ought to take place, and I think I summarised it in my Attorney General's Review of 2008"* [**Day 128/17/4-18/3**]. He noted, however, that as far as he could recall there were no decisions taken on public interest grounds [**Day 128/66/8**].

249. There was also a later statement by Timothy Le Cocq in 2010 in relation to *"the investigation of historic child abuse over the last three years and the prosecutions that occurred as a result"*. In answer to the request for comment made by the media he said as follows: *"[T]he only cases we did not prosecute were those that failed the evidential test. There were no decisions not to prosecute on public interest grounds"* [see email from Le Cocq to Jersey Evening Post – **WD007949/20**].

250. Both former AGs were asked about their respective comments when they gave evidence; each of them was reminded about the cases of <819> and Kevin Parr-Burnam; and each had his attention directed to the supporting documents that appear to suggest both cases were not proceeded with on public interest grounds.

251. <819> was a member of staff at Heathfield who was accused of a physical assault (committed in January 2009) on a child in his care involving inappropriate physical restraint. Owing to the date of the offence, it was not and never could have been a case that fell to be considered as part of Operation Rectangle. It would be incorrect, therefore, to assert that the decision was influenced by William Bailhache's 2008 review (which addressed historic allegations) or that Mr Le Cocq's answer (which was directed at Operation Rectangle prosecutions only) was inaccurate. Insofar as the Panel can glean any assistance from a consideration of this matter, the picture that emerges is that two lawyers agreed that the case ought not to proceed but could not agree how to express the decision. Both Mrs O'Donnell and Mr Edmonds and (who were reviewing the case for the LOD) took the view that the tribunal of fact would not be persuaded that the act complained of amounted to a criminal offence. Mrs O'Donnell concluded that this was a public interest decision, whereas Mr Edmonds concluded that *"if an acquittal is more likely that than a conviction the case has failed the evidential test"* [see email exchange between Mr Edmonds and Mrs O'Donnell – **WD007981/1-15**]. Despite the fact that no charges were brought, the LOD was still of the view that the case was *"appropriate for internal disciplinary procedures"* [**WD007981/2**].

252. Kevin Parr-Burnham was the manager of the Heathfield children's home. In 2008 he was investigated for an alleged physical assault consisting of manhandling a child in his care. This was not a case that arose from Operation Rectangle (since the date of the alleged offending was June 2008) or one which involved sexual allegations. John Edmonds sent the AG a memorandum in relation to the case expressing the view that there was no realistic prospect of conviction and that *"criminal proceedings were wholly inappropriate to this type of situation... it is plain that there is no evidence that [the complainant] was either physically or emotionally traumatised by the episode"* [**WD006849/7**]. William Bailhache was asked about the case when he gave evidence and he confirmed that he felt that the matter ought more properly to be resolved by an

internal disciplinary process, that John Edmonds appeared to have reached his decision on the basis of the evidential test, but that he *"took a broader view"* [**Day 128/76/20-81/23**]. Ultimately, the LOD recommended that *"the Children's Service needs to consider giving formal advice and/or training to Parr-Burnham"* [see letter from the LOD to the SOJP – **WD006849/1-2**].

253. It is apparent even from a cursory analysis of the cases of <819> and Kevin Parr-Burnham that neither is relevant to any assessment of Operation Rectangle. Each case turns upon its own facts and neither case provides any support for the suggestion that the test for prosecution was being applied wrongly by the LOD; in fact, both cases demonstrate the care that was taken by those entrusted with taking decisions about which suspects should be charged.

Political or Other Interference

254. The conviction which certain witnesses appear to have in their belief that Jersey is riddled with corruption will be evident from much of the evidence that has been referred to above. What should be equally apparent is the absence of any credible evidence to support these beliefs.

255. At the heart of the complaints is a common theme that is summarised by Mr Pitman in the following words: *"the insidious 'Jersey Way' influence on who and who does not get prosecuted with regard to child abuse allegations and other types of cases"* [**WS000654/93**]. Precisely who is responsible for actually wielding such influence is unclear but it appears to be believed that the Jersey elite (which undoubtedly includes *"the Bailhache brothers and their judicial lackeys"* as Mr Pitman suggests) are able to exert sufficient power upon the judicial process that cases which ought to see the inside of a court room are never even charged.

256. The current and former Crown Officers who took decisions that have been scrutinised as part of the Inquiry of Operation Rectangle have been unanimous in their view that they were not subjected to undue pressure by politicians or anyone else.

Sir Philip said: *"I am aware that it had been suggested… that the Crown Officers are or were reluctant to deal with and prosecute cases of corruption of criminality by police officers or people in positions of power… I utterly refute them"* [**WS000699/10**].

Sir Michael said: *"I never had anyone in a position of political authority attempt to influence or interfere with my prosecution decisions"* [**WS000608/17**].

William Bailhache said: *"Not one single prosecution decision taken by me or those under me in relation to Operation Rectangle was affected by the political or other interference which existed. All those decisions were taken on their legal merits"* [**WS000701/83**].

Timothy Le Cocq said: *"…I was never asked or suggested that I should prosecute someone or should not prosecute someone when I took the decision in connection with these matters"* [**Day 132/27/5-7**]. He went on to emphasise that asking questions was not the same as attempting to exert influence:

"By and large politicians steered pretty well clear of decisions. They were very concerned of course about the publicity and the damage that was happening potentially to the reputation of the Island and the fallout that politicians would expect to be concerned about, but for the most part, subject only perhaps to [Stuart Syvret]… I didn't feel that there was any – perhaps one or two other people asked questions and wanted answers that I didn't feel able to give, but… I never took that as pressure to go in one particular direction or another at all" [**Day 132/30/8-10**].

257. The Panel also received clear evidence on this point from Mr Edmonds who has the advantage of being able to offer an independent view of the activities of the Crown Officers – whilst they might be accused of an aversion to admit to having been influenced, he would not have been the target for untoward influence but would have seen its affect upon the decisions of the AGs:

"I have never, at any stage, seen nor had any grounds to suspect any political or other interference in the proper process of the investigation and prosecution of

criminal allegations. I never saw anything from any politicians suggesting that we should not prosecute in cases where there was sufficient evidence to do so." [**WS000698/21**]

The 2008 Liberation Day Speech

258. It has been suggested by some that Sir Philip's Liberation Day Speech, which he made in May 2008 could be regarded as an attempt by him to influence the LOD in their handling of Operation Rectangle. It was never his intention that anyone should be discouraged from reporting abuse or that anyone receiving such reports should not act upon them:

"My purpose in referring to these matters was to reassure people that they should not feel ashamed of their island, that these sensational stories should not necessarily be believed, and that a balanced judgement as to what had happened would only be possible when the investigation was complete. I wish to make it clear that I was not diminishing the gravity of any child abuse. All child abuse is scandalous. I did not wish to detract from that statement. Similarly, I was not comparing the disgrace of child abuse with the impact that Operation Rectangle was having on Jersey. Perhaps, my choice of words was unfortunate. However, my purpose was to address the island as a whole and to encourage people not to feel ashamed of their history and roots." [**WS000699/3**]

259. One only has to look at the speech as a whole to understand the message that he was trying to convey and, if any doubt remains about his principles one need only look at the manner in which he dealt with abuse offences whilst he sat as a judge in the Royal Court. Between 1995-2010 Sir Philip sentenced many offenders following their conviction for serious sexual offences against children and the way in which he described their conduct is significant when assessing whether it is likely that he would have ever done anything to diminish the seriousness of such offending: *"the Court has a duty to reflect society's abhorrence of this kind of offending"*; *"your behaviour was selfish and repulsive and showed no concern whatsoever for the wellbeing of the child"*; *"the sexual abuse of a child is a crime that causes revulsion on all right-*

thinking people"; and *"whatever sentence is imposed the lost innocence of these children cannot be restored"* [**WS000699/19-22**].

The Power Suspension

260. Another example of improper political interference in Operation Rectangle is said to be the route by which Mr Power was suspended from office. We do not intend to address the extent to which there may be any truth in the claims that his removal from post was a political decision; that is for others to seek to explain since no one at the LOD was involved in the decision making process. However, given the advice that was provided by the SG it would not be right for us to ignore this aspect of the evidence in its entirety.

261. It is important to stress that at no stage was the SG (or anyone else in the LOD) provided with the material that might be used to support the suspension, or asked to comment on its sufficiency. The advice, that was provided by the SG to Bill Ogley and Frank Walker via Ian Crich, was given only in connection with the process itself and not the substance of the decision [see memoranda of advice – **WD009129&WD009097**]:

"[I]t never occurred to me that we would be involved in the decision-making process. We were being asked for advice as to the process and that's the limit we were asked for. It was clear that the responsibility for taking the decision was never going to be our responsibility, it was going to be the responsibility of the minister, or some other body involving the Minister… It's for that reason that we subsequently in our advice made it very clear that it had to be very clear that there had to be a very clear evidential basis… I don't think I had a view as to whether or not it was going to be wise, because we were not really discussing the basis upon which any suspension would happen. We were very much discussing the procedure that would be applied. At that time I wasn't aware and didn't become aware I think for quite some time as to the information that underpinned the decision to suspend." [**Day 132/94/3-97/13]**

262. In light of the nature and extent of the advice given, it would be a fundamental misunderstanding of the SG's involvement if it were to be suggested that the LOD had advised that Mr Power could only be suspended once the Met Police Review had been received.

"I was expecting that there would be a report, that report would be looked at carefully and that would form the basis of the decision… [If I had been aware that the Minister would not see the Met Report but a summary] I would have given the advice I think that we subsequently gave, which is that there really has to be a strong and sufficient basis. I'm not sure it would have been a particular concern necessarily to me that there was a report, or some other different source of information at that time, what I was advising on was the process that you needed to go through. I thought there was going to be a report, that was my understanding, but if there had been some other basis for a suspension then provided it had been evidentially clear and appropriate and sufficient and all of those kinds of things, the fact that it wasn't contained in a formal report wouldn't necessarily have caused me to ring alarm bells." [**Day 132/101/12-102/22**]

263. Whilst we will leave it to others to make submissions on the process that was adopted, it cannot seriously be contended that there were no proper grounds to support the suspension of Mr Power in November 2008: that his supervision of the DCO and his handling of Operation Rectangle were woeful was recognised at the time (it was for those reasons that William Bailhance chose to identify the need for a new media strategy and an improved working relationship between the SOJP and the LOD when Mr Gradwell and Mr Warcup arrived on the Island). These are not matters that were retrospectively identified by the Wiltshire Report; they could have justified a decision to suspend at the time; a decision was nothing to do with the LOD. The purpose in suspending Mr Power was not, as some have suggested, to interfere politically by derailing Operation Rectangle; the purpose was to ensure that the investigation continued on a sounder footing and that, where appropriate, suspects were charged.

The Syvret effect

264. The only source of significant political interference were the actions of the former senator Stuart Syvret, who made considerable efforts to intervene in Operation Rectangle and in prosecution decisions more generally. There is little doubt that Mr Syvret believed that he was acting to support and protect the victims of child abuse; however, his methods were both unhelpful and counterproductive. It proved regrettably easy for Mr Syvret and others to destroy absolutely the faith of certain witnesses and complainants in the Crown Officers and the judiciary by circulating ill-informed and unsubstantiated rumours about 'cover-ups', which inevitably proved extremely difficult to rebut.

265. Mr Syvret actively interfered with a number of prosecutions by *"meeting with complainants and… encouraging [them] to compare their accounts and make sure they agreed with each other."* William Bailhache points out that *"this potential cross-contamination of evidence had serious risks for the success of any prosecutions… It was the responsibility of the police to speak to Mr Syvret to prevent cross-contamination and to explain how his attack on the administration of the Criminal Justice System was undermining the whole investigation. It is disappointing that Messrs Harper and Power did not do more"* [**WS000701/66-67**].

266. He subjected William Bailhache and others to *"a constant barrage of emails"* [**WS000701/65**], then in 2008 he reported allegations to the SOJP that members of the LOD were involved in a criminal conspiracy to prevent child abusers from being prosecuted. Graham Power recalls the extent of the problems that Mr Syvret created:

"[He] made general allegations that the AG [William Bailhache] and his predecessor in that role [Sir Michael Birt]… had a general propensity to direct that there should be no proceedings in abuse cases. He alleged specific 'cover-ups' in the case of the abuse at Victoria College and the case of the Maguires… My first decision is that there would be no criminal investigation unless the 'reasonable suspicion' test was passed… I had to determine how the 'reasonable suspicion' test would be applied and who would help me address this… I agreed a plan [with Timothy Le Cocq, then SG]. Advocate Robert MacRae, who was in private practice locally, and independent of the

Law Officers, would be asked to provide advice… [in relation to] Victoria College and the Maguires and… a random batch of files relating to child abuse in respect of which no action had been taken. Advocate MacRae would review the files and give a written opinion as to the decisions taken. As a form of double-check he would also obtain the written view of a UK barrister based in London…" [**WS000536/66-67**].

267. Mr Power explained in evidence that the outcome of the review (undertaken by an English QC, who Mr Le Cocq confirms is *"a leading barrister"* [**WS000702/9**]) was that all decisions taken were *"within the range of reasonable decisions, based on the evidence which was in the files"* [**Day 107/54/21-23**], and that *"there was no basis for a criminal investigation"* [**Day 107/55/22**]. This is hardly surprising given the absence of any evidence of an Establishment 'cover-up' in any of these cases.

268. William Bailhache points out:

"I was not surprised [by the decision not to launch an investigation] because there were never any grounds for such a complaint. It was pure invention. However, the complaint was capable of having a quite serious impact on the conduct of the prosecution service arising out of Operation Rectangle. Mr Syvret must have known that if a formal investigation had been opened into the Bailiff, Deputy Bailiff and the AG it would have been difficult, if not impossible, to maintain the assertion that the Island's judicial system was able to cope with the child abuse inquiry" [**WS000701/66**].

269. It is notable that Graham Power recalls that William Bailhache *"told me that he had heard of the allegations of cover-up and he wanted them investigated by a police force from outside of the Island"* [**WS000536/67**]. Mr Power was asked about William Bailhache's motivation for making this comment and said, *"I assume that he wanted to feel assured that any investigation would be thoroughly independent"* [**Day 107/52/22-24**]. He was asked if there was any *"question of [William Bailhache] wanting to participate in any kind of cover-up or discourage the investigation"* and said *"no, no, not at all"* [**Day 107/53/3**].

270. Mr Le Cocq comments:

"This was, as far as I can recall, the first time anyone had suggested that there was any difficulty in the Law Officers' approach to prosecuting sex cases. To my knowledge no police officer had suggested that they were unhappy with any charging decision" [**WS000702/10**].

271. The evidence before the Panel is not only that no officer (save Mr Harper) has suggested they were unhappy with the charging decisions, it is in fact that the police have expressed confidence in and agreement with the decisions:

"I do not think there was anything improper in the decisions not to prosecute" – Brian Carter [**WS000647/3**].

"I cannot recall any case where I felt that a decision not to proceed fell wide of the mark" – Emma Coxshall [**WS00639/14**].

"I cannot think of any specific incidents of political interference other than the almost daily missives from Stuart Syvret" – DI Fossey [**WS000687/45**].

272. These observations by SOJP officers who were involved in the investigation of historic child abuse allegations are based on their personal knowledge and experience and, whilst they cannot account for whether others may have been put under pressure, not a single witness has given evidence before the Inquiry to suggest that he was subjected to any pressure whatsoever to investigate the allegations in a particular way.

273. Despite having his allegations of criminal wrongdoing rejected by those who investigated them, Mr Syvret later renewed his claims of conspiracy by applying for judicial review of an alleged failure by the AG to prosecute cases of child abuse. Jonathan Sumption QC (as he then was; he is now a Justice of the Supreme Court of England & Wales) held, in striking out the claim, that *"no grounds have been given by Mr Syvret… for believing that the Attorney General and his advisers were wrong in the view that they took of the available evidence"* [**WD009016/14-32**].

274. Thus, somewhat ironically, the only evidence of interference relates to the continued challenges brought by Mr Syvret. It would be wrong to assess his actions as justified because of his belief that there was a conspiracy by the 'Establishment' to 'cover up' child abuse. No one is entitled to attempt to cause chaos by acting on a belief which is not reasonable. There is no evidence underlying Mr Syvret's convictions.

275. Once again the Panel has the benefit of the independent evidence of Mr Griffin on this point. He was asked whether he had identified *"any reason… to be concerned at all that there may have been anything that could be described as an attempt to cover up the abuse of children, or a deliberate reluctance to pursue people who had allegedly committed abuses of children"* and responded: *"On the eight cases I have looked at I think the answer would be no."* [**Day 133/98/16-22**].

Conclusion in Relation to ToR 13

276. There is, we submit, no evidence before the Panel which would entitle it to conclude that the LOD or any of the Crown Officers took anything other than a professional approach when considering the allegations that were uncovered as part of the historic abuse enquiry.

277. Any potential conflict was addressed appropriately. Independent legal advice was taken on every case, sometimes from several lawyers, in an effort to ensure that the allegations received due attention. And the AG remained outside the decisions to prosecute save and until advice was received that a case ought not to proceed. There is no sensible basis for suggesting that the system that was adopted was anything other than professional and independent.

CONCLUSIONS

278. At the outset of these submissions we indicated that the evidence in connection with Operation Rectangle and the way in which the LOD had conducted itself would support the following particular conclusions:

- *The AG recognised the risk of conflict created by his position and took steps to ensure that it did not arise.*

- *The AG put in place a system that was designed to establish objective independence and provide public confidence.*

- *The system ensured that the material provided by the SOJP was reviewed by independent advocates, assessed by the LOD and, where appropriate, subjected to further analysis by independent English lawyers;*

- *The system resulted in a decision making process that was itself professional and appropriate;*

- *All those who participated in the process undertaken by the LOD acted professionally and in good faith and the process was free from any outside interference; and*

- *The decisions that resulted from that process withstand scrutiny and are reasonable in their conclusions.*

279. We submit that the evidence that covers the entire period under review and which has been received by the Panel, when properly and fairly assessed demonstrates that the claims of corruption and cover up are ill founded and without any support. The evidence that has been put forward does not demonstrate that the bringing of prosecutions was in any way compromised by the political and societal environment that existed at the time. The evidence does not call into question the actions of the

LOD and does not cast doubt upon the integrity of the Law Officers, the Crown Advocates or anyone else involved in the prosecution of these very serious cases.

280. What the evidence does demonstrate is that when evidence was provided to the LOD it was assessed fairly, dispassionately and that the right decisions were taken. The threshold for prosecuting any allegation, no matter how serious, is set deliberately high and the task of those deciding whether or not to charge suspects is a difficult one. The public's opinion, often reached via the media, as to which cases should be taken to court is not always an informed one and, in any event, plays no part when assessing the evidence.

281. The assessments that were carried out have been reviewed and have been demonstrated to be reasonable and professional. Nothing more could or should be asked of a prosecuting authority.

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2 Hare Court, Temple

21 March 2016

Submissions in Reply on behalf of the Law Officers' Department

Oliver Glasgow QC & Sarah Przybylska

2 Hare Court

The Law Officers Department wishes to respond to several of the submissions that have been made by the Jersey Care Leavers' Association ('JCLA') and, for the ease of reference, we have divided our response into the same section numbers as they have done.

Section 6

1. In their section 6, the JCLA outlines a number of propositions which they suggest are relevant to ToR 6: *"Take into account the independent investigations and reports conducted in response to the concerns raised in 2007, and any relevant information that has come to light during the development and progression of the Redress Scheme"*. This is not a ToR which the LOD addressed in its submissions because it is not one which invites the Panel to make any finding; rather it reminds the Panel of material which ought to be considered in relation to its findings more generally. As a result, it is not clear to what end the JCLA raises the matters it does in section 6; there is no conclusion to the section and no indication of what relevance the matters have to any other ToR. Nonetheless, it is necessary for the LOD to address some of the points raised in order to assist the Panel.

2. The JCLA inaccurately sets out the position in their paragraph 6.4, where they submit that Mr Harper *"attracted much criticism and in particular from some of Jersey's politicians, whose ire was roused as a result of the media coverage <u>which they thought</u> sensationalist and misleading. Mr Harper <u>was considered</u> to be responsible for this state of affairs. Mr Power <u>was considered</u> to be ineffectual in his management of Mr Harper and, as a consequence, the perceived failings of Operation Rectangle"* (our emphasis). The overriding impression given is that the three areas of criticism described are mere subjective opinion rather than the inescapable conclusion one can reach on the facts. As set out in the LOD's earlier written submissions dealing with the media (see paragraphs 86 to 99), Mr Harper <u>was</u> responsible for the information given to the media, which <u>was</u> both sensationalist and misleading; the independent senior officers of the Wiltshire Police <u>did</u> conclude that Mr Power had managed Mr Harper ineffectively. The JCLA properly regards Mr Harper as someone who did a great deal to assist the victims of abuse; however, the Panel is unlikely to be assisted in its determination of whether there was any political interference in policing by a misrepresentation of Mr Harper's role in encouraging and facilitating what was

undeniably a counterproductive and inaccurate media portrayal of the investigation and its findings.

3. The reference to the *"Jersey Way"* at paragraphs 6.9 and 6.10 rather unhelpfully assumes precisely what it seeks to prove: the suggestion is that the "Jersey way" is a system of corruption. There is no proper examination of the evidence said to support such a view, only a willingness to perpetuate it by repetition. That is, perhaps, the direct result of there being no evidence before the Inquiry that supports this claim.

4. The criticism of the Wiltshire Report as giving *"insufficient weight to the realities that the SOJP faced in 2007"* at paragraphs 6.11 to 6.13 is surprising and unjustified. It is difficult to conceive of any reviewing body better placed to make such an assessment than one made up of experienced, senior, independent police officers. The writers even refer to these *"realities"* in their executive summary at paragraph 2.19:

   "In coming to our conclusions on the performance of CO Power during Operation Rectangle, this Inquiry has carefully considered the unique context of Jersey in terms of the size of the Force and its Chief Officer cohort, the relative dearth of experience of its Senior Investigating Officers, and the limitations of the resources at its disposal. We have also considered the explanations offered by CO Power in his statement to Operation Haven especially in relation to the 'political' difficulties of making external appointments to the force" [**WD008273/30**].

5. The JCLA goes on to criticise the suspension of Graham Power at paragraphs 6.14 to 6.18 on the basis that Andrew Lewis and Bill Ogley *"expected [Mr Power] to fall on his sword and walk away, and in doing so remove the venom from the HDLG wound… The real show was that a price had to be paid for [Operation Rectangle] and all that went with it and this was to be paid by Mr Power"*. The JCLA does not explain the basis on which it is asserted that Mr Power was disciplined as retribution for the Operation Rectangle investigation. The Panel will examine the procedure followed when suspending Mr Power in order to resolve the issue of whether its timing was politically motivated; however, in the light of the Wiltshire Report, it cannot be suggested that the disciplining of Mr Power was not justified by the

evidence against him (particularly since the JCLA accepts at paragraph 6.27 that Operation Rectangle was not professionally managed).

6. In relation to the procedure followed during the suspension of Mr Power, it is suggested by the JCLA at paragraph 6.44(2) that *"Mr Lewis had been warned by the Solicitor General that the full report should be considered before deciding on any action"*. As set out in the LOD's earlier written submissions (see paragraph 262), the advice of the Solicitor General, Timothy Le Cocq, was not that the full Metropolitan Police Review must be received prior to a decision to suspend, but that there must be sufficient evidence. He understood that the source of that evidence would be the Metropolitan Police Review; that is not to say that he advised that the Review was the only possible source of such evidence: *"if there had been some other basis for a suspension then provided it had been evidentially clear and appropriate and sufficient… the fact that it wasn't contained in a formal report wouldn't necessarily have caused me to ring alarm bells"*: [**Day 132/101/102-22**].

Section 7

7. The JCLA addresses ToR 7: *"consider the experiences of those witnesses who suffered abuse or believe that they suffered abuse, and hear from staff who worked in these services, together with any other relevant witnesses"*. As with ToR 6, this is not a ToR that the LOD sought to address as its purpose is to mandate a certain approach rather than require the Panel to make a finding in relation to any issue. However, in commenting on the accounts given by witnesses at paragraph 7.23, the JCLA deals with the case of the Maguires and say: *"The Crown subsequently abandoned the case. In this submission it is said that it got cold feet."* It would be inappropriate to the Panel to allow this remark to pass without referring to the extensive and detailed section of the LOD's earlier written submissions (see paragraphs 197 to 219) setting out in full the reasoning behind the LOD's careful decision to discontinue the case in 1998. It is inaccurate and misleading to characterise this process as *"getting cold feet"*, not least as Mr Griffin QC considered that Sir Michael Birt *"acted to a professionally and competent standard"* [**WD008989/101**].

Section 13

8. It is submitted by the JCLA that in order to understand the issues that are raised by ToR 13, it is necessary to consider the allegation made by Witness 206 against <7>; in particular, it is suggested at paragraph 13.4 that the Law Officers *"were too easily prepared to dismiss the allegation"* and that they *"acted as judge and jury"* when assessing the allegation.

9. This remark betrays a fundamental misunderstanding of the role played by the prosecuting authority and the obligation that is owed by them to the public. The LOD must assess each allegation provided to it before reaching a decision about whether or not to charge the suspect; in order for a prosecution to be commenced the evidence must be sufficient to establish a realistic prospect of a conviction and the prosecution must be in the public interest.

10. The first part of the two stage test (namely the evidential test) requires that the evidence be subjected to objective analysis and that the LOD decides whether, taken at its highest, a properly directed jury is more likely than not to convict the suspect. Therefore, to criticise the LOD for fulfilling the very role they are required to undertake entirely misrepresents the true position.

11. The assertion that Michael Pick (who was a Civilian Investigator and not an *"officer"*) applied the wrong test is misconceived. First, he did not purport to apply any test, he merely offered his opinion on the evidence since it was for others to assess it; and secondly, the point being made by Mr Pick was that there was no evidence to contradict what Witness 206 had said which might be relevant to any assessment of his reliability. Whilst it may be correct to submit at paragraph 13.4.1 that the allegation was detailed, it was the detail which when objectively scrutinised suggested that the account was inherently implausible.

12. The claim at paragraph 13.4.2 that *"many serious sexual assaults do go unheard"* is irrelevant on the facts of this case. The circumstances in which this offence is alleged to have occurred – in the middle of the day, in a corridor, and in a busy residential

home – mean that it was more likely to be overheard than assaults committed in a less public environment. Furthermore, Mr Pick identifies that the nature of the assault was such that the complainant would have been affected by what had happened and that this would have been obvious to anyone who was in close proximity to the assault. This is not an unreasonable observation to make and just the sort of feature that might influence a jury.

13. The contention at paragraph 13.4.3 that <7> *"was quite possibly at HDLG at the relevant time"* is simply wrong. The clear evidence provided by Witness 206 was that he was only 12 years of age at the time of the assault: *"He said to me 'how old are you?' I remember saying that I was 12 years old. [He] then said to me 'do you want to reach 13?' I know I was cheeky when I was a boy and replied no as it was an unlucky number"* [**WD003588**]. He was born in 1964 and, therefore, turned 13 at some point in 1977. This provides a definite time frame for the possible assault. According to the records of Witness 206, he was resident in Haut de la Garenne in 1976 between 17 January and 2 February but during those 26 days <7> was not working at the home [**WD003581** & **WD008719**]. The only time that their paths could have crossed was in either June or July 1978 when Witness 206 would have been either 13 or 14. Therefore, the submission at paragraph 13.4.4 that the conclusion reached by Advocate Baker is wrong because it was predicated upon a *"misunderstanding of the facts"* is incorrect (because the JCLA has misunderstood the facts).

14. The JCLA suggests at paragraph 13.4.5 that the minute long time frame for the assault described by Witness 206 is an *"unusual if not unique"* feature as it means the witness has been *"candid"* about the briefness of the alleged assault. The implication seems to be that if the witness were giving a false account then he would have alleged a longer period. It is a matter of common sense that some sexual assaults are prolonged and others brief; the duration described would often add nothing to the credibility of the account. There is nothing unusual in a one minute estimate that justifies describing this as *"a crucial piece of evidence that has been overlooked"*. At its highest, this piece of information is another part of the overall description which might justify attributing the description "detailed" to the complainant's account but that of itself does not necessarily make it more credible.

15. The suggestion at paragraph 13.4.6 that *"clarification could have been sought"* in light of the AG's concerns about the physical impracticality of the assault as described by Witness 206 may have caused problems. Whilst there is no reason why the police are not entitled to re-visit a complainant in order to obtain more information about the allegation, there is a risk that in so doing the police might alert the complainant to aspects of the allegation that lack credibility and subsequently be accused of bolstering the complainant's account. In this particular instance, Witness 206 had provided a description of the assault which is regarded as unlikely to be credible by the reviewing prosecutor; however, that is not the reason why the allegation was not taken forward. The AG concluded his note with the following observation: *"there is no corroboration of any of these complaints… a common theme is that they are mostly not credible, either because the boys weren't there at the same time or there are e.g. references to the cellar"* [**WD008893**].

16. The overall analysis of the allegation of Witness 206 provides the following picture: he asserted that the assault took place when he was aged 12 and he recalled particular details of what was said by <7> and by himself which mean that there is no room for error; and yet, Witness 206 and <7> were never in Haut de la Garenne at the same time when Witness 206 was 12 years old. There was, therefore, no need for *"further investigation"* since nothing could be done to remedy this defect.

17. The concluding submission at paragraph 13.6 that *"it is inexplicable that <7> was not charged in relation to this serious allegation"* is without any merit; all the more so since the suggestion that this was the *"logical conclusion of Mr Griffin's advice"* is misconceived. The assessment made by Mr Griffin of the charging decision in respect of the Witness 206 allegation is set out in clear terms: *"Crown Advocate Baker and the LOD properly considered whether to prosecute these complaints [including that of Witness 206]. The decision making process was appropriate and professional in the circumstances."* If there is a logical conclusion to Mr Griffin's report it is to the effect that the decision not to charge <7> with the allegation made by Witness 206 was the correct one.

18. The JCLA goes on to attribute the decision not to charge <7> – something they describe at paragraph 13.6 as an *"unfortunate state of affairs"* – to the perception on the part of the police, the law officers and the politicians. Quite how political interference is said to have affected the charging decision in this (or any other case) is unclear; however, the conclusions of Mr Griffin would suggest that the LOD and the Crown Advocates working for it, whilst not immune to the problems created by the difficult relationship with Mr Harper, were not influenced by this.

19. At paragraph 13.13 the JCLA seeks to criticise Mr Ogley for his concern at the police use of the term 'victim' since this is said to show "*a lack of empathy and understanding*". Such a submission, however, is divorced from the reality of a modern criminal justice system or from an understanding of the principles that underpin it. The CPS and judges alike have repeatedly deprecated the use of the term 'victim' since by its very use it appears to pre-judge the issues that fall to be decided. CPS policies are drafted using the term 'complainant' rather than 'victim' (with particular emphasis being made about this in respect of sexual and domestic allegations) and in the recent phone hacking trials Saunders J observed that the use of the word is *"inappropriate… as the issue that the jury often has to decide is whether the complainant is a victim of crime or not"*. By the date of Mr Ogley's observation some allegations had been proved and, therefore, those complainants ought quite properly to be described as 'victims'; however, that was not correct in respect of any allegation that was yet to be decided.

20. The JCLA submissions move on to consider the media strategy and the impact that the media reporting of Operation Rectangle had upon the working relationship between the SOJP and the LOD. Unfortunately, this submission rather misses the point of the evidence that was presented to the Inquiry; rather than seek to blame the media for their handling of the situation, the evidence in fact points firmly to Mr Harper for his mishandling of the media.

21. The JCLA suggests at paragraph 13.28 that Mr Griffin identified that "*the police and the law officers departed from the high professional standards expected which mean that cases were not considered objectively"*. He did no such thing. It is unclear from where in Mr Griffin's report the JCLA draw support for this rather sweeping

assertion, since he never once makes any such observation, but the case of <279> and <281> is said to be of assistance as the events surrounding a consideration of the evidence against them brought the disquiet between Mr Harper and the LOD to the fore. However, when one examines Mr Griffin's conclusions in respect of this case he concluded that *"the process by which the decision regarding prosecution was made by the Attorney General was appropriate and professional… the Attorney General in reaching his decision that the evidential test was not met had not simply relied on what Crown Advocate Baker had set out… the Attorney General took the opportunity to discuss matters further at a case conference… he properly considered whether this case should be prosecuted"* [**WD008989/53**].

22. The JCLA concludes this part of their submissions at paragraph 13.30 with the assertion that *"the law officers adopted a compromised professional approach that was not free of controversy which can be attributed to the breakdown in trust that existed between the parties"*. This is not the evidence. It is to be regretted that this sort of forthright submission is made without any reference to material which is said to support it but, if it is to be suggested that any analysis of the cases of <7>, and <279> and <281> is of any assistance, the JCLA has fallen into error.

OLIVER GLASGOW QC
SARAH PRZYBYLSKA

2 Hare Court, Temple

8 April 2016

IN THE MATTER OF THE INDEPENDENT JERSEY CARE INQUIRY

FINAL SUBMISSION ON BEHALF OF THE JERSEY CARELEAVERS' ASSOCIATION

Introduction

This submission on behalf of the Jersey Care Leavers' Association ("JCLA") will follow the Independent Jersey Care Inquiry's terms of reference dated 6th March 2013.

For ease of reference and brevity the Independent Jersey Care Inquiry will be referred to as the "IJCI".

Likewise the States of Jersey is referred to in the abbreviated format "SOJ"; and the States of Jersey Police as "SOJP".

1. Establish the type and nature of children's homes and fostering services in Jersey in the period under review, that is the post-war period, with a particular focus on the period after 1960. Consider (in general terms) why children were placed and maintained in these services.

1.1 Children were placed in care for the following reasons:

1. Parental convenience;
2. Destitution;
3. Family breakdown;
4. Parental "social inadequacy";
5. Criminality;
6. Bereavement; and
7. Abandonment.

Examples of the reasons were given by a number of witnesses:

1.1.2 Witnesses 3; 9; and 23 gave evidence of their respective mothers' alcoholism and the impact that this had on family life, and how this led to their being placed in "care".

1.1.3 Witnesses 240 and 674 gave evidence explaining how the death of their respective mothers led them being placed in "care".

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1.1.4 Witness 28 described in his evidence his parents' alcoholism and general destitution and how that led to admission into "care".

1.1.5 Witness 31 describes in her evidence how she was considered to have officially declared as abandoned by her parents.

1.1.6 Witness 50 described in his evidence how family breakdown and in particular the mother leaving home led his being placed in care.

1.1.7 Witness 73 described in his evidence how he became involved in criminality against a backdrop of family breakdown and being placed into care. Similarly witness 780 explains how his addiction to glue sniffing led to admission.

1.1.8 Witness 119 describes a series of factors at play that led to her admission to Haut de la Garenne; parental drunkenness, poverty, and parental indifference and convenience.

1.1.9 Witness 45 described in evidence how he was placed in to care frequently when his mother was pregnant.

1.1.10 Witness 122 is an example of being placed in care for parental "respite".

1.2 In considering the reasons why children were placed in "care" it is important to have regard to the prevailing social conditions and the perception of them. The IJCI is referred, in particular, to paragraphs 7; 32; and 34 of John Rodhouse's statement dated 22nd July 2015 [WD612] for his perception of the mores and issues prevailing in the 1970's. In addition reference should be made to the evidence of Anton Skinner [WS00614].

1.3 Regard should also be had to the Lambert and Wilkinson report [WD7382] which highlights long term factors at play leading to social care interventions for example alcoholism and psychiatric illness [WD7382/17] (see also the statement of Mr. Skinner [WS00614]).

1.4 Anthony le Sueur in his statement [EE000038] provides a concise history of "children's homes" In Jersey. It will be noted how over the decades Jersey progressed from providing children services within an entirely voluntary sector to one which developed under its own aegis. It is submitted that his analysis is significant because of his assessment of the challenges faced by Children's Service in the 21st

2

century (see further). In the following paragraphs attention will be drawn to a number of aspects worthy of particular note based on Mr Le Sueur's evidence.

1.5 Many children taken into care, during the 1950's and 60', were placed at the Sacre Coeur Orphanage (Orphelinat du Sacre Coeur) which was owned and run by the Catholic order "Congregation de la Sainte –Famille d'Amiens". It had been established at the turn of the 20th century to address the lack of provision for poor children in Jersey. Very differing accounts are given of life at Sacre Coeur: see for example the evidence of witnesses 19; 156; 314; 674; and 804. That of witness 19 provides a backdrop for exhibits [WD005585 to 5590]: which explain how the SOJ became increasingly involved in the orphanage.

1.6 The Sacre Coeur cases demonstrate how relatively easy, physically, it was to place a child in care and, indeed, remove them.

1.7 By the early 1960's the structural aspect of care in Jersey was becoming established. The principle care home namely Haut de la Garenne ("HDLG") was created by the SOJ out of what was known as the Jersey Home for Boys and its female equivalent.

1.8 HDLG catered for all children, regardless of age or sex, or background. From 1961 it was the principle "children's home" in Jersey. It carried with it a remand facility (until Les Chenes opened in 1978). An insight for reasons why a child might be admitted to HDLG can be obtained from [WD004583] – the Children's Officer's report for 1967. The largest intake for admission in 1966 was remand by the courts (36), followed by "mother's illness" (20); and parental "social inadequacy" (18). Those admitted for care and protection was relatively low. There is always a story behind every number, but the following year's report [WD004584] should be considered too which suggests a very different picture save that "mother's illness" whilst being a principle cause for admission saw children being admitted elsewhere. A pattern begins to emerge which is not reflected upon in the annual reports. If so that would have influenced HDLG's raison d' etre impacting on both staff and residents (the mixing of "delinquent" children (see [WD4580]) with presumably the non-delinquent, and the shifts in numbers and ratios). Once again reference should be made to the Lambert and Wilkinson report from 1981 [WD7382/12] which highlights longstanding causes and issues behind children being admitted in to care.

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1.9 HDLG became it is submitted the principal vehicle for the provision of care for vulnerable children which no doubt explains its dominance in Operation Rectangle. All that follows from this can be gleaned in particular from Mr. Skinner's evidence [Day 87/114 onwards]. A useful measuring stick that the IJCI might want to have in mind when it has HDLG its its collective mind is this passage from John Rodhouse's statement [WS00612/9]:

42 "I always felt that there was little human warmth for the children at Haut de Ia Garenne; I would not have wanted any child of mine to go there. I recall one young lad who was a resident at Haut de Ia Garenne, and a pupil at my wife's school, spent a day at home with my family. I felt sorry for this young boy, he had little sense of family life but appeared to enjoy helping me to plant potatoes in our garden. Another particularly saddening moment that sticks in my mind involved a conversation that I had with a young girl who was also a resident at Haul de Ia Garenne. During our conversation, she turned around to me and asked; "how should I know anything? I have been in Haut de Ia Garenne all my life". I found that comment particularly upsetting".

1.10 Les Chenes opened in 1978 which was a purpose built facility to take those children having been remanded by the courts.

1.11 The SOJ in the 1960's embarked on the creation of "family group homes" initially at 146 Nicholson Park, and culmination in Norcott Villa, [redacted] The rationale for their development is given by Mr le Sueur in his statement.

1.12 It will be seen that the development of children's homes was ad hoc and piecemeal, supplemented by policy decisions and legislative influences. The death of a house parent would result in the closure of a home with the attendant transfer of children (an example being 13/14 Close De Roncier).

1.13 Funding of these homes and institutions was through a combination of charity, government grant, or direct government funding. The SOJ requirement for parental financial contributions was commonplace. "Boarded out" children were considered a private affair with their keep paid for by their parents [WD4577].

1.14 Mr. Le Sueur set's out in his evidence the history of fostering. The SOJ's approach to and understanding of fostering can be seen at [WD004580] to [WD4584]. Historically relatively large numbers were placed with foster parents on a pro –tem basis because the parents were working (see for example the letter from the Children's Officer to Dr Williams dated 23rd May 1965 [WD002448]). Relatively large numbers of children were French which is a reflection of the times (French migrant workers working on

4

the land). What is clear is that fostering was a major means for finding care for children and this was recognised by Lambert and Wilkinson (WD7382). Nevertheless finding good foster homes was a challenge (see evidence of Mr Skinner inter alia [Day 87/126]). By the 1980's fostering was the dominant means [WD4705] and [WD4587] albeit the ability to recruit was never easy [WD4589] and [WD7382].

1.15 "Illegal" fostering appears to have been a reoccurring theme: see [WD4611].

1.16 In summary the challenges and issues waxed and waned over the years but where always present

2. Determine the organisation (including recruitment and supervision of staff), management, governance and culture of children's homes and any other establishments caring for children, run by the States and in other non-States run establishments providing for children, where abuse has been alleged, in the period under review and consider whether these aspects of these establishments were adequate.

2.1 The pivotal year in a historic context is 1959 when the Children's Section was established under the aegis of the Education Committee of the States of Jersey. Prior to its creation responsibility sat with the Public Instruction Committee and what that meant in practice can be seen at exhibits [EE00153] and [WD4628].

2.2 A useful and revealing précis of the Children's section as of 1981 is found at page 4 of the Lambert and Wilkinson report [WD7382/4]:

"...the original mores on which the Section was founded still apply. The staff and residential provision has altered over the years to meet different demands and organisational structures have been adapted, but the basic approach has not changed, neither has the Committee structure".

2.3 The report should be read alongside the evidence given by John Rodhouse [WD00612] and Anton Skinner [WS00614]. It is clear that the Children's Section suffered as a result of inertia on the part of the Education Committee and the SOJ generally. It was lagging behind both policy wise and legislatively. The excuse [sic] that Jersey was somehow different to the UK and that experts failed to take this into account was factually wrong (Lambert and Wilkinson clearly accepted the differences. Indeed every English county is different, and the UK is made up of many islands with attendant diverse communities) and a poor one.

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2.4 The IJCI could be forgiven when considering the terms of reference for the Lambert and Wilkinson [WD007382/7] report for having a sense of de ja vue. Moreover the structural issues identified in the report and by Mr. Rodhouse in his statement [WS00612/15] and again by Mr. Skinner in his evidence to the IJCI is of a re-occurring nature:

- Funding – competing with other sectors (education and health).
- Lack of policy or policies.
- Lack of political interest.
- Difficulties in recruiting and retaining qualified staff (exacerbated by Jersey's unique housing situation and policies).

2.5 The IJCI is referred to the evidence of Richard Jouault [Day93/52/8] because, it is submitted, it gives an insider's view of the on-going structural issues:

51:24 Q. The reason I ask you such detailed questions about it is
25 whether you think from then on, and for the following
52: 1 years that you were working with Children's Services --
2 and you may have heard me ask in the course of questions
3 with other witnesses -- was Children's Services being
4 still treated as a separate service, almost a -- I'm
5 going to use this phrase tentatively, which I'm sure you
6 will question -- a Cinderella service that had just been
7 attached to the HSSD? What was your sense of that?
8 A. *Yes, I think that's a reasonable view. Lots of services*
9 within Health and Social Services call themselves
10 Cinderella services. That's often ascribed to the
11 Mental Health Service as well. And it is a difficult
12 environment to compete for resources because there is
13 always -- as people talk about the shroud waving that

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14 goes on within an acute setting. So they are
15 a different beast amongst the clinical environment,
16 I think that's fair to say.
17 Q. When preparing, for instance, briefing notes on
18 Children's Services issues who would you call on to have
19 assisted you?
20 A. *I'm not sure I would have prepared briefing notes on*
21 Social Services issues. I would only be preparing notes
22 on corporate issues and if those corporate issues
23 included Social Services I would be going to whoever was
24 the leads of the various elements. It would be entirely
25 dependent on what the issue was I think.
53: 1 Q. You were Director of Performance Management.
2 A. *Yes.*
3 Q. How did you then at that date determine for instance
4 standards to set for social work performance and
5 outcomes?
6 A. *That was one of the elements of the title that*
7 I struggled with mostly. It is alarming to go into
8 a role where half of your title is a subject matter that
9 whilst I fully believe in it, you don't have the tools
10 at your disposal to deliver it. I strongly belief if
11 you can't measure something you can't manage it and we
12 simply didn't have the information systems across the
13 board to allow good measurement to occur. Certainly in
14 Children's Services that was the case. By that time,
15 even then, the system they had, which was called
16 Softbox, was not a good information system. There would
17 be concerns about it actually making it through the

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18 millennium in terms of its ability to proceed, so a real
19 concern about that, but not just in Children's Services,
20 but across the board really.

2.6 In bringing the position up-to-date reference should be made to the evidence of Josephine Olsson given to the inquiry [Day 138 /159/20]:

159:20 A. *I mean there were managers at several different levels*
21 and the senior managers and my experience, my experience
22 of being here, I didn't think that they knew what they
23 were supposed to be doing and sometimes what happens in
24 that circumstance is people just do things anyway
25 because to admit that you actually don't know what
160: 1 you're doing is just too difficult, and the layer below
2 that, the team manager layer, I thought had potential
3 and I wasn't really able in that first period to make
4 a judgment about how able or not able that layer of
5 managers might be because it was obscured by the layer
6 above, but what they were not able to do was to deliver
7 the quality and standard of social work practice that
8 you would expect to see.

2.7 Further in her statement [WS00714/7]: *"They [senior managers] were not equipped to understand the complexities of the social work tasks for which they held senior management responsibility"*.

This was expanded upon in her evidence [Day 138/161/22]:

161:22 Q. In your experience of UK local authorities did similar
23 problems exist there?
24 A. *A lot of my experience has been in London and I would*
25 say those problems don't exist there because people are
162: 1 moving between local authorities very often, so you'll
2 have a lot of movement and a lot of refreshing of ideas
3 and ways of doing things and all the rest of it, just

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4 automatically as a result of that movement. Outside of
5 London I think it's more challenging, or rather it's
6 probably outside of big cities, because I have seen that
7 same kind of capacity for movement in Greater Manchester
8 and other parts of the UK. But Jersey's not entirely
9 unique, so somewhere like Cornwall or Devon would be
10 facing some of the same challenges that Jersey faces.
11 Q. And how did you address that problem?

12 A. *In Jersey?*

13 Q. Yes.

14 A. *I brought in the outside world. So I made some changes*
15 to the leadership and management, but I also brought in
16 external capacity for a learning and development
17 programme and for independent audit.

2.8 Staff having been recruited who in some cases were demonstrably unsuited. This was not an issue solely for Jersey as is evidenced by the number of cases in the UK but, nevertheless, recruitment was and has been an issue. The IJCI is referred to the statement of AS [WS000614/16] para.s. 67 -69. The IJCI has heard how members of staff for example Tony and Morag Jordan, and Gordon Wateridge (all convicted for child abuse offences were employed at HDLG and abused children, and were clearly unsuitable, as recognised by AS in his evidence. The late Jim Thompson one time superintendant on any version had what would politely be described as [redacted] and according to witnesses [redacted] (witness 486) [WS000249]. He was placed at HDLG "*because it suited his circumstances*" [WS000614/11 para.44].

2.9 This is what Mr. Skinner said in his evidence to the IJCI [Day 87/107/16] in relation to Morag Kidd:

107:16 Q. And the description you provide of Morag Kidd as she
17 then was and later Morag Jordan, was this something that
18 others would have been aware of?
19 A. *Having never shared my views, that I recall, with*

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20 anybody in particular I couldn't answer that. I would

21 have thought it was fairly evident that hers was a rough

22 manner in terms of how she spoke about the children and

23 that she would not be anybody's ideal of who should be

24 caring for a group of children.

25 Q. Should she have been working at Haut de la Garenne?

108: 1 A. *No, not in my view*.

2.10 This last sentence eloquently sums-up all that was wrong with Jersey's child care system in the 1970's and 80's – in full view unsuitable people being employed to care for vulnerable children.

2.11 Jersey is not "unique" is the point. It has had decades to address structural issues concerning the provision of measures addressing children's issues. No one is arguing that its equivalents are paragons of virtue or have solved the challenges of child protection issues, or come anywhere close to doing so, far from it, but is has chosen to choose different priorities and has struggled unsuccessfully, as a consequence, to close the gap between provision and reality. For all the goodwill, and improvements made, the failings are all consuming.

3. Examine the political and other oversight of children's homes and fostering services and other establishments run by the States with a particular focus on oversight by the various Education Committees between 1960 and 1995, by the various Health and Social Services Committees between 1996 and 2005, and by ministerial government from 2006 to the current day.

3.1 There are common factors at play throughout the entire period under review:

- Lack of accountability and in particular lack of political accountability;
- Ineffectual and/or inadequate leadership;
- Recruitment issues; and
- Insufficient resources.

3.2 At this juncture the IJCI is referred to the evidence of Mr. Skinner [Day 87/39/8]:

39: 8 Q. In Jersey would it be fair to characterise the

10

population as on the one hand some very wealth[y] people and on the other hand those more marginalised running very very close together?

A. *Yes, I think I said this particularly with regard to the sort of image that Bergerac portrayed that it was an affluent island: it certainly was an affluent island but with enormous poverty. Remember that the Island's main support industries at that time was farming and tourism. In developing the infrastructure there had been an enormous influx, I think at the end of the 18th Century, 19th Century, of particularly Irish workers that came over and did roads, etc, etc. You had people that worked in the farming community that was starting to shrink that came in to sort of dependency on the States. You had second, third, fourth generation families that I would have said were subject to enormous deprivation over a long period of time. So I visited for instance a couple whose children were in care and they were working on a farm and I walked across a field, because I had to tell them one of their children had had an accident on their bike or whatever, and being shown into a room that basically was made out of corrugated iron, and earth on the floor with newspaper on it. So -- and I'm talking then about the 1970s. So Jersey had a lot of poverty, a lot of deprivation alongside this view of it being also a wealthy community. And clearly up until recent times there was a very sort of patriation [patriarchal?] type of community, it was the good and the great, the money deciding on how the feckless and the poor should be dealt with. You know, it wasn't an impressively democratic society.*

11

3.3 Mr Skinner is referring to the 1970's and not the 19th century.

3.4 On considering the evidence of Wendy Kinnard; Anton Skinner, Margaret Baudains; and Josephine Olsson it is submitted that the following conclusions can be drawn:

(1) Children's Services has always had to live under the shadow of "Health"; and

(2) The effect has been that that the Service has not been treated with the political respect that it deserved which has led to funding and recruitment issues, as well as a drag on legislative and procedural change;

3.5 Reports and investigations over the years have identified shortcomings which to varying degrees have been addressed or acknowledged, and this is addressed by Josephine Olsson in her evidence [WS00714]. Her statement provides a very candid account of the issues that have faced the Service and need addressing.

4. Examine the political and societal environment during the period under review and its effect on the oversight of children's homes, fostering services and other establishments run by the States, on the reporting or non-reporting of abuse within or outside such organisations, on the response to those reports of abuse by all agencies and by the public, on the eventual police and any other investigations, and on the eventual outcomes.

4.1 The notion that society has only in recent, and supposedly more, enlightened times come to recognise the existence and prevalence of the sexual abuse of children is a mistaken one and, indeed, deceptively so.

4.2 It is useful to remind ourselves that many of the UK's charities and institutions in the 21st century that exist to promote the welfare of children were founded in the 19th century. On a global basis there are international charities and institutions whose raison d'etre is to protect children, and their creation similarly goes back in many cases to a time when philanthropic attention was very much focused on this need.

4.3 In 1839 Charles Dickens novel Nicholas Nickleby was published with the intention to expose the ugly truth about Yorkshire boarding schools. In the preface to the novel Dickens has this to say about Yorkshire schoolmasters:

"*Traders in the avarice, indifference, or imbecility of parents, and the helplessness of children; ignorant, sordid, brutal men, to whom few considerate persons would have entrusted the board and lodging of a horse or a dog; they formed the worthy*

12

*cornerstone of a structure, which, for absurdity and a magnificent high-minded laissez-aller neglect, has rarely been exceeded in the wo*rld".

4.4 The novel was in part based on the case of William Shaw, the headmaster of Bowes Academy who in 1823 Shaw had been sued for neglect after two pupils became blind because of beatings and poor nutrition (See the *Leeds Intelligence* 23.11.1823).

4.5 In 1857, Tardieu, a French physician published descriptions of thousands of cases of child sexual abuse only for awareness to fall back (Beckett, 2002). In the UK, child cruelty rose to prominence as an issue in the latter part of the nineteenth century in the UK, and this owed much to the philanthropic organisations which were created during the mid-part of the 19th century; for example, the National Society for the Prevention of Cruelty to Children (NSPCC and its sister SNSPCC), Barnardo's, NCH, Waifs and Strays (Parker, 1990).

4.6 This concern for child welfare moved over to the legislative field which in the latter half of the century became increasingly occupied with child centred legislation concerned with education, employment, offending, and prison reform. Continuing into the 20th century we see the passing of the Children Act 1908 which is the first radical and comprehensive piece of legislation concerned with the protection and welfare of the country's children. It was considered in some quarters as revolutionary and by others as a "children's charter".

4.7 Interest in child welfare issues on the part of Parliament can be readily gleaned from Hansard. Two examples will be found at:

HC 15.4.1914 Vol. 61 cc 191-225

HL 20.7.1914 Vol. 17 cc 25 -53

4.8 The former is concerned with the debate on the provisions of the then Criminal Justice Bill and the late Mr. Edgar Jones MP explains his concerns about the prevalence of sexual abuse [sic] in reformatory schools.

4.9 Again Hansard is a useful resource in understanding what was understood about child abuse in subsequent decades. MPs would be exercised still about child cruelty, children smoking (deemed even then as "poisonous" by some), access to alcohol, child "promiscuity", and sexual offences.

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4.10 However, after the First World War the issue of child abuse and, indeed, of child protection more generally, virtually disappeared from the public agenda, with the exception of a report from a Home Office committee in 1926 on sexual offences against young people, which in part forms the backdrop to the Children and Young People's Act 1933. This was considered by its critics as a lost opportunity in not bringing forth a children's *magna carta*.

4.11 Hendrick further comments on the ambivalent attitude towards children during the inter-war years:

> Although throughout the period 1918-45 children made guest appearances as 'victims' - usually of poverty, abuse, ignorance or neglect - their regular employment in the theatre of welfare was as threats in various guises: criminal, racial, social, mental and educational, albeit the word was rarely used openly (Hendrick, 1994, p.207).

4.12 Reference is made again to Mr. Skinner's evidence to the IJCI [Day 87/39/12] which provides an insight into how vulnerable children were regarded in Jersey in more recent times.

4.13 During the period under review regard must be had to the law relating to the physical punishment of children which contained a number of apparent inconsistencies and this relates to the question what was or was not lawful chastisement?.

Criminal law

4.14 Examining the period under review the criminal law was such that parents can use physical punishment with the intention of disciplining their children without being guilty of an offence, as long as the force used is reasonable in the circumstances. This appears to be recognised in the Children (Jersey) Law 1969 which in Article 9 prohibits inter alia assaults but recognises the right to punish.

4.15 On the one hand this means that the law in this area is flexible and so can reflect changes in community standards of what is and is not acceptable. On the other hand the notion has been said to be so imprecise and uncertain that it can provide no clear guidance on what is and is not lawful.

4.16 Because the law does not set out in legislation what is and what is not reasonable, if the defence is raised in court reasonableness must be determined on a case-by-case

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basis. In making this decision the judge, jury or magistrate can be guided by their own experience or knowledge of societal standards, as well as by past court cases.

4.17 There are relatively few reported cases that have comprehensively considered what is reasonable punishment? This is because parents are rarely charged with assaulting their children and also because these cases are usually heard in the lower or Magistrates Courts where decisions are not reported.

4.18 Guidance as to what is and in not reasonable was provided in ***R v Terry*** [1955] VLR 114. In that case it was said that the punishment should be 'moderate and reasonable', should be judged in relation to 'the age, physique and mentality of the child' and should 'be carried out with a reasonable means or instrument' not 'totally unrelated to usual disciplinary practices'. Also relevant is the timing between the misbehaviour and punishment[1] and the repetition or continuity of the punishment.[2]

The use of an instrument

4.19 The use of a cane has been held to be both reasonable (UK, 1994)[3] and unreasonable (Melbourne, 1994); it was also suggested in ***Terry*** that it would be reasonable if applied to a healthy fourteen-year-old boy.

4.20 Instruments and actions which have been held to be unreasonable include: - a hard blow with a closed fist[4] - aiming a gun at a child to frighten the child[5] - tying a child to a tree, gagging the child and driving away[6] - throwing a book at a child[7] - hitting a child with a cricket stump[8] - hitting a child with a wooden spoon, leaving bruising visible four days later on a four year old.[9]

The age, physique and mentality of child

4.21 In ***Terry*** it was said that a child incapable of understanding correction should not be punished. This principle has been applied to a child less than twelve months old,[10] and to children two and a half years old.[11]

Blows to the head

4.22 There is inconsistency in the reported judgments as to whether blows to the head are reasonable or not.

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4.23 Held to be reasonable: - slaps to the face of a well grown and athletic boy leaving some bruising and abrasion[12] - a slap to the face chipping a tooth[13] - beating with a belt causing bruising to the face[14] - a slap around the face bursting an eardrum[15]

4.24 Held to be unreasonable:

- a not very violent strike to the head with the palm of the hand rupturing an eardrum[16]

- striking a child on the head with a piece of wood; slapping a child across the face several times leaving red marks; pulling ears; tapping children on the head with a chair rung (all by a teacher)[17]

- a slap to the face cutting an ear[18]

- ten blows to the head of a two-year-old[19]

Extent of the injury

4.25 In *Byrne v Hebden* it was said that the presence of bruising or welts does not necessarily indicate that the force used was unreasonable,[20] this is also shown by some of the cases above. However, other cases have held that punishment resulting in welts[21] or bruising[22] is unreasonable.

4.26 Clearly there are significant inconsistencies in the case law with the result that it provides minimal assistance in determining the legal limits of physical punishment.

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1 R v Haberstock (1970) 1 CCC (2nd) 433. 2R v Bresnehan Serial No A78/1992. 3 The complete citations for a number of cases were not included in the report by Cashmore and de Haas. 4 R v Terry [1955] VLR 114. 5 R v Hamilton [1891] 12 LR (NSW) Sup Ct. 6. R v Bedelph [1981] 4 A Crim R 192. 7. R v Taylor, The Times 28 December 1983 High Court. 8.Adelaide, 1994; New Zealand, 1994 (NZ Herald 28 June 1994). 9. Higgs v Booth WA (unreported) Supreme Court, A315/316/86, 29 August, 1986. 10. R v Miller [1951] VLR 346. 11. R v Griffin [1869] 11 Cox CC 402; Higgs v Booth WA (unreported) Supreme Court, A315/316/86, 29 August, 1986. 12. White v Weller ex parte White [1959] Qd R 192. 13. R v Haberstock (1970) 1 CCC (2nd) 433. 14. UK, 1992. 15. UK, 1985. 16. Ryan v Fildes [1938] 3 All ER 517. 17. Pemberton v A-G [1978] Tas SR 1. 18. Rome, February 1994. 19. Adelaide, 1994. 20. (1913) St R Qd 233. 21 Ontario, 1992. 22 UK, 1985; Victoria, 1994).

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4.27 Regard should be had to the Administration of Children's Home Regulations 1954 [GD000007] which gives an insight as to what was considered reasonable by way of physical chastisement albeit in England and Wales:

> Punishment
>
> 11.-(1) No corporal punishment except that authorised by paragraph (3) of this Regulation shall be administered by any person except the person in charge of the home or in his illness or absence his duly authorised deputy.
>
> (2) No corporal punishment shall be administered to a girl who has attained the age of ten years or to a boy who has attained the age at which he is no longer required by law to attend school (hereafter referred to as "school leaving age ").
>
> (3) No corporal punishment shall be administered to a child under ten years of age except by smacking his hands with the bare hand of the person administering the punishment.
>
> (4) No corporal punishment shall be administered to a boy who has attained the age of ten years but has not attained school leaving age except the caning of the posterior of the boy with a cane of a type approved by the Secretary of State applied over the boy's ordinary clothing to the extent of six strokes or less.

4.28 It is patently clear that only boys aged between 10 and 15 (the then school leaving age) could be caned. This did not extend to the use of the leather or any other instrument. This appears to be recognised by the SOJ and reference is made to exhibit AS5 [WD007092] a memorandum prepared by the late Jim Thomson (one time superintendant at HDLG) addressed to the late Charles Smith (the then children's officer).

4.29 Anton Skinner in his evidence to the IJCI [Day 87 /94 to 97] explains in evidence what was understood or not as the case maybe. Regard should also be had to the

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evidence of Margaret Baudains who is very specific about corporal punishment not being used but also points out the lack of visible guidance [WS000618/35 paras.194 and195].

4.30 It is against this backdrop that the abuses perpetrated by the likes of Morag and Tony Jordan need to be considered being two individuals who should never been employed to care for children.Mr. Skinner in his evidence to the IJCI on [Day 87/107/29] said in relation Morag Jordan:

107:20 ... *I would*
21 have thought it was fairly evident that hers was a rough
22 manner in terms of how she spoke about the children and
23 that she would not be anybody's ideal of who should be
24 caring for a group of children.
25 Q. Should she have been working at Haut de la Garenne?

108: 1 A. *No, not in my view*.

4.31 In conclusion during the period under review you had State sanctioned physical assaults being committed on children. It may not have been the intention of legislators or policy makers but if Mr Skinner's evidence is accepted a policy vacuum developed, and the reality for children in care the policy was determined by their carers that is the likes of Morag Jordan. The lack of certainty, and apparent inability to provide direction infiltrated all aspects of children policy as was evident in the Maguire case.

<u>Society's attitude</u>

4.32 Witnesses who were in care complained or simply stated that they felt treated as "second class" citizens and regarded as such. Some telling evidence has been given to the IJCI which illustrates the attitude which is possibly prevailing to this day even if subconsciously.

4.33 Frank Walker in his evidence [Day123/17/10]

17:11 ….*I think we all -- I grew*
12 up in Jersey and I regarded Haut de la Garenne as
13 a pretty unpleasant place. I think the general view was
14 Haut de la Garenne was a place where all the naughty

18

15 young people were put and one sort of didn't go anywhere
16 near it, if you like, and didn't think about it and
17 I had absolutely no reason until, as I say, we were
18 informed -- I was informed by Mr Power that there was
19 historical -- there were historical issues which
20 the Police were investigating.

4.34 This passage not only gives an insight into attitude and thinking, but is of course factually inaccurate and offensive to those who were resident at HDLG through no fault of their own.

4.35 Reference should be made again to the evidence of Anton Skinner to the IJCI [Day 87/49] and in particular pages 49; 59; and 117.

Detention

4.36 The SOJ adopted the policy of detaining children in care without judicial sanction or any other lawful authority. Children could be detained for varying period of time from hours to days. The ease with which this occurred is reflected by the fact that it is difficult to know for sure in many cases how long the periods were for. The primary reason for detaining a child was because he or she ran away or to use the SOJ terminology "absconded". The IJCI is referred again to exhibit AS5 [WD007092] which explains in very non-specific terms what detention might mean.

4.37 The policy or practice of detaining children was questioned in 1980 by Dorothy Inglis (the then children's officer) and the IJCI is referred to memoranda [WD007092/7] and [WD007092/8].

4.38 Mr Skinner in his evidence to the IJCI [Day 87/80/15] said this:

80:13 Q. About the use of detention by staff at
14 Haut de la Garenne?

15 A. *Had I -- I don't recall previous individual complaints*
16 from Child Care Officers. I think it was an ongoing
17 dialogue that, you know, the detention rooms should be
18 used as infrequently as possible and for the least
19 amount of time as possible. As I say, during my time

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there, or dealing with Haut de la Garenne, we certainly had the agreement that children might be slept in the detention room if they were still talking that they were going to abscond, but out during the day with the other children in groups where they could be managed. Nobody liked the use of detention rooms but the home was, at that time, dealing with a situation of repeated absconding, it had become a fashion. I'm not talking about that, but there were periods of time in which it became almost like, you know, children talking to the other children about absconding -- when I'm talking about children, I'm talking about young people.

Q. It appears in what you are saying, Mr Skinner, that it was a situation of crisis?

A. *Haut de la Garenne was a total situation of crisis, wasn't it? It was trying to cope with children sent to it by the courts for criminal behaviour, children sent to Haut de la Garenne because they were deemed by the courts to be beyond the control of their parents and children in long-term care and they were trying to cope with all of these needs under one roof with an age range of about 2 to 17.*

4.39 It is clear that the unlawful detainment of children was a practice deployed to manage children as opposed to care for them. Mr Skinner went on to say in his evidence day 87, 28/7/15 to the IJCI:

81:23 A. *They [the children at HDLG] are not being cared for adequately. I think I have made clear all the way through that I wouldn't deem Haut de la Garenne to have been an adequate placement for children because it couldn't possibly meet their needs. It happened to exist. It was -- when I first*

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started the Service it was often operating on full
capacity. There was a large number of children in care.
There weren't other alternatives available for children
and that is the period -- the time you're dealing with.
It's inadequate, I've never suggested Haut de la Garenne
was adequate to the needs of children, neither would
I suggest that the use of an isolation facility was
something to be proud of. It's part of this whole
inadequacy to meet the needs of children through one
institution at that time.

4.40 Once again as set out in 4.31 there was a vacuum that allowed a de facto policy of detention to develop.

4.41 The unhappy and tragic scenario is one where vulnerable children had to be cared for in an institution that was recognised as no longer for purpose. There was a lack of alternatives for example fostering, and so HDLG was the vehicle that was used to manage the children, and done so using a practice were compromised.

The Maguire case

4.42 This case is illustrative of what goes wrong when those charged with child welfare and protection are working in an environment where the interests of children are secondary. It may not be deliberate, but that does not matter, because if the subliminal message is just that then it is equally harmful.

4.43 The Maguire case exposed the lack of policy and training, and objectiveness. Disclosures were made by victims which were not acted on in a timely fashion. The Maguires were "managed out" [sic] as opposed to being thoroughly investigated, disciplined, and prosecuted. Belated attempts to do so were it is submitted compromised by failing to act diligently in the first place.

5. Establish a chronology of significant changes in childcare practice and policy during the period under review, with reference to Jersey and the UK in order to identify the social and professional norms under which the services in Jersey operated throughout the period under review.

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5.1 Jersey has persistently lagged behind the UK throughout the entire period and the IJCI is referred to the evidence of Mr. Skinner [Day 87/32/17]:

32:12 Q. In the introduction to their 1981 report Lambert and
13 Wilkinson referred to Child Care Officers in Jersey
14 feeling -- this was their term -- "*out on a limb from*
15 colleagues in the UK". Did you have a sense in the
16 1970s of practising in isolation?
17 A. *Yes, very much so. We are working in a small island.*
18 We did not have reciprocal arrangements in any great
19 degree with the UK, other than children who had been
20 through the Court that could not be accommodated
21 locally. Therefore your contact with your UK colleagues
22 was entirely different and I think that's fundamental to
23 every aspect about the development of Children's
24 Services at that time. We were not part of a large
25 collegiate, we were a number of individuals on a small
33: 1 island. So the main link we had was reading of Social
2 Work Today and going on courses.

5.2 Jersey found itself possibly by its very nature in the 1970's and 80's in a cul de sac. There was an absence of leadership and interest, and this is what Anton Skinner said to the IJCI: [Day 87/117/5]:

117: 5 ..... *Within an*
6 island it is very easy to become moribund: what is the
7 way out? Because Haut de la Garenne is full, all these
8 group homes are full, clearly they require to be full,
9 we can't return the children home, we can't get enough
10 foster homes; where do we go? It becomes rather like
11 hamster's wheel, doesn't it?

22

5.3 Earlier in his evidence Mr Skinner told the IJCI in evidence that late Charles Smith who was the children's officer in Jersey in the 1970's was effectively a caretaker:

[Day87/49/14] Q. So in answer to my question did you think he [Mr Smith] was an

15 effective Children's Officer, should the Inquiry

16 conclude that that's a no?

17 A. *No, in that that was the time and the period and even*

18 within that time and period I think Charles Smith wasn't

19 an effective developer of services. He was more

20 a caretaker of services that he was looking after.

5.4 It was therefore going to be an uphill struggle to improve the services for vulnerable children, and that is self-evidence just be examining the history of HDLG.

5.5 It is submitted that the IJCI should have regard to the evidence of Margaret Baudains who has given a very detailed history of Children's Services [WS00615]. She explains that in effect when the Children (Jersey) Law 2002 was enacted in 2005 it presented opportunities but also difficult challenges, and she would like to see a review to ensure that it is "fit for purpose". Her evidence should, nevertheless, be considered alongside that of Josephine Olsson who said [WS00714/5]:

18. Professionally, the culture was comparable to the 1990s in the UK. It was hierarchical, paternalistic and patriarchal. It had underdeveloped social work practices and was very different to the current mainstream UK practice. Jersey is unique and takes pride in having its own way of doing things

5.6 It is submitted that Jersey is forever having to "catch-up" and the time lag as is evidenced by the Children (Jersey) Law 2002 being modelled on the Children Act 1989 taking some 16 years to implement. This is indicative of a legislature that lacks the initiative to ensure that Jersey follows the very best in practice.

6. Take into account the independent investigations and reports conducted in response to the concerns raised in 2007, and any relevant information that has come to light during the development and progression of the Redress Scheme.

6.1 What has been brought into sharp focus is the relationship between the States of Jersey Police (SOJP) and government (SOJ).

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6.2 An informative introduction to this section is the recognised resistance on the part of some in Jersey, including the SOJP, to outsiders with the result that not necessarily the best are recruited to fill important posts , and the SOJP finding itself out of harmony with best UK policing practice practise:

e-mail [WD008514] dated 9/12/08 from John Edmonds to William Bailhache:

"*I gather that Mick Gradwell is close to leaving Jersey. He tells me that the reasons for so doing can be summed up in two words, "Duval and Minty". I am unsure exactly what has happened but David Warcup has just gone on leave and Shaun Duval must be in charge - I think for just over a week.*

Quite apart from what that may mean for the future of Operation Rectangle, I think that there is a more serious battle being waged here with David Warcup trying to drag the management of the States of Jersey Police into the 21st century and Duval and Minty resisting for all they are worth. Presumably, part of their plan will be to isolate David Warcup and they will realise that if Gradwell goes, David Warcup's position becomes much more difficult.

In a sense, this is an internal police issue but the island will be much poorer if he leaves".

6.3 Wendy Kinnard in her statement [WS000695/51] says:

"[*there was*] *constant pressure from States Members to prioritise local candidates before they were sufficiently prepared for such a promotion. I attach as my Exhibit WK7 a copy of an email dated 23 January 2008 which is characteristic of correspondence I was receiving from States Members, which states '... at least the island would eventually have its own native in post. Does the island recruit senior police officers from outside its territory*?"

There was clearly during the period under review an underlying tension that existed on the part of those who resented "outsiders" better qualified than, perhaps, they were to fill key positions. The net result is the running of risk that quality of professional services can suffer, and the absence of fresh blood can lead to stagnation. This can be seen in the evidence of DI Alison Fossey [WS00687] and in particular her criticisms of [redacted] [WS00687/48]: [redacted] *did not like to be challenged. In his opinion, I had no right to come to Jersey and start rocking the boat. As far as he was concerned, things should be done his way, or no way".*

6.3 Michael Gradwell and David Warcup were in place following the retirement of Leonard "Lenny" Harper and the suspension of Graham Power. All four were outsiders having been recruited from the UK.

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6.4 Mr. Harper had been the vociferous, vocal and visible voice of Operation Rectangle. He was high profile and seen as someone to be not accepting No as an answer. He attracted much criticism and in particular from some of Jersey's politicians, whose ire was roused as a result of the media coverage which they thought sensationalist and misleading. Mr. Harper was considered to be responsible for this state of affairs. Mr. Power was considered to be ineffectual in his management of Mr. Harper and, as a consequence, the perceived failings of Operation Rectangle.

6.5 Neither Mr Warcup or Mr Gradwell were to have an easy ride themselves. Mr. Warcup was to find himself part of a triumuirative with Bill Ogley and Andrew Lewis.

6.6 Mr Warcup was of the opinion that politicians should stay out of policing, and the police stay out of politics but in September are they not using each other?

In evidence [Day 120/75/10] Mr Warcup was asked:

75:10 Q. You said a moment ago that politicians should have
11 governance oversight but no involvement in operational
12 matters. Weren't you actually seeking to use
13 politicians to influence Graham Power?
14 A. *Seeking to use politicians?*
15 Q. Yes.
16 A. *In terms of line management my understanding at the time*
17 was that I was -- what I said was I had the vain hope,
18 I didn't say I tried to influence them to do it.
19 Q. Well, that was the purpose of the meeting, wasn't it?
20 You say "*In opening the dialogue ... I had the vain hope*
21 that they would revert back to Graham Power ...", so you
22 wanted them to go and talk to Graham Power?
23 A. *I was hoping that they would, yes, but in terms of the*
24 hierarchy here, Bill Ogley was the Chief Executive of
25 the States, he was chair of the Corporate Management

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76: 1 Board and effectively if there was such a thing as
2 a line management that existed then it was more
3 appropriate to have the discussion with him than it was
4 directly with politicians. You used the word
5 "politicians", I use the word "the Chief Executive".
6 Q. Bill Ogley is the Chief Executive, but Deputy Lewis was
7 quite definitely a politician, wasn't he?
8 A. *He was, yes*.
9 Q. And you were hoping that he would intercede to influence
10 Graham Power?
11 A. *Yes, I would agree with that. I was hoping in many*
12 sense -- I was hoping that the influences of the
13 Law Officers' Department over time may have had an
14 influence. I was hoping that somebody may influence
15 Graham Power to take the right course of action.

6.7 The above relates to the lead-up to Mr. Power's suspension on 12th November 2008.

6.8 The IJCI heard from Wendy Kinnard as to the political pressures being brought to bear and the attitude of leading politicians to Operation Rectangle [Day 135/66/17]

66:17 A. *Yes, I do, because as time went on the members of the*
18 Council of Ministers were very exercised about what they
19 perceived to be the reputational damage that was being
20 done to Jersey by the existence of this police inquiry
21 and at various stages I was asked by the Chief Minister
22 and others to either remove the DCO from the media, or
23 get him removed entirely from the investigation and
24 certainly that was indicating to me that they didn't
25 really support the investigation now it had become so
67: 1 large, but were stuck with it frankly.

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6.9 "The Jersey Way"

"*The evidence acquired by this Inquiry suggests that CO POWER felt considerable loyalty to his Deputy, especially regarding DCO HARPER's desire to challenge the 'Jersey way' of the political and legal institutions in the Island which both men felt extended a malign and possibly corrupt influence over the independent pursuit of the truth which CO POWER and DCO HARPER took as their 'mission' in respect of Operation Rectangle*" .Para. 2.4 page 25 "Wiltshire Report" [WD008273].

6.10 The "Jersey Way" is considered to be an ability on the part of those in authority to exercise their will by using the influence that position brings, by bending the rules, or bestowing a benefit or favour. It is a world of shades of grey and shadow. It may be a perception, it may be nothing more, but whatever the IJCI's opinion might be it will recognise from the testimony that it has heard that if it is nothing else it certainly has a corrosive element by being just that.

The "Wiltshire Report" ("Operation Haven")[WD008273]

6.11 The immediate issues that arises with the Wiltshire Report if the IJCI accepts it findings is that it gives insufficient weight to the to the realties that the SOJP faced in 2007/8.

6.12 If Mr Power and Mr Harper can be criticised it has to be recognised that they did not operate in a vacuum, far from it, what were they supposed to do?

6.12.1 Bring in officers from another force? That seems logical and sensible from what we know now, but at the time would this have been politically possible?

6.12.2 The authors of Napier [WD008275] and Wiltshire presumably proceed on the basis that Mr Power would have had unfettered political support but he never did and never would have done. The reasons for this are expanded upon in 6.27.

6.13 Both Mr Power and Mr Harper lacked sufficient up-to-date knowledge in comparison to their UK counterparts, but the SOJP should have had a far deeper operational relationship. Its officers should have had on-going professional development with UK forces. It was inexcusable that none of the SOJP officers had up-to-date experience for the conduct of a major inquiry such as Operation Rectangle. The responsibility for that lies with the SOJ namely the politicians.

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Napier

6.14 The Napier report requires the IJCI to look further at the David Warcup and Bill Ogley relationship but that too which is connected with that of Mr Walker, Wendy Kinnard , and Andrew Lewis.

6.15 Paras. 103 and 107 to 111 of Napier [WD0008275/48] need to be re-visited in light of the evidence given by Mr. Ogley and Andrew Lewis to the IJCI. It is asked to do so because their actions on the basis of the evidence point either to incompetence on their part or a determination to be rid of Mr Power come what may.

6.16 The suspension of Mr Power was long in coming. It is incredulous to suggest that when Mr Lewis and Mr Ogley met Mr. Power on 12th November 2008 his career was not over. They expected him to fall on his sword and walk away, and in doing so remove the venom from the HDLG wound.

6.17 The fact is though Mr. Harper had gone and the animosity created rightly or wrongly be his presence had been removed. What was vexing Mr Warcup, Mr Ogley and Mr Lewis was how best to remedy the impression left earlier in the year about supposed deaths at HDLG. In their eyes Mr Power was not playing ball, but this was a side show. The real show was that a price had to be paid for OR and all that went with it, and this was to be paid by Mr. Power.

6.18 Mr Power had left himself vulnerable by failing to achieve the right balance that need to be struck between the vested interests. Maybe it was an impossible task?

6.19 Undoubtedly there was an inherent weakness in that both Mr. Power and Mr. Harper were nearing the end of the professional careers, and were not up-to-date with the techniques that were needed for a complex investigation in the 21st Century.

6.20 Were it not for Mr. Harper it is questionable that so many witnesses would have come forward. He was high profile, seen to be fearless, and prepared to take whatever action was needed. This is recognised by amongst others Wendy Kinnard.

6.21 If Mr. Harper had not been the man on the scene would we have ever learnt so much about child abuse in Jersey?

6.22 Probably not, and the authors to the various reports are in no better position than the man in the street to answer that question.

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6.23 Had outside officers been brought in (say from Devon and Cornwall Constabulary as mentioned in Wiltshire) would that have been the answer in the round?

6.24 This is one of the great "ifs", but what would not have changed is the underlying issues which would have led inevitably to a day of reckoning.

6.25 Were it not for Operation Rectangle many victims may never have come forward, and Jersey would be none the wiser as to the full extent of child abuse, and what life was like for those in care.

6.26 Operation Rectangle was going to happen sometime, and the problematic issues, that the IJCI has had to grapple with, would have emerged regardless of who the police officers were, and would they have been better placed than Mr. Power and Mr. Harper?

6.27 In one sense as Wiltshire identified OR should have been managed professionally more effectively, and as identified by Nicholas Griffin QC the relationship between SOJP and the law officers would not have been compromised, and the risks to the potential prosecutions not put at risk (for example the abuse of process arguments in the Wateridge trial). Once again though logic dictates asking the question how did this unfortunate state of affairs arise in the first place?

6.28 Returning to the hypothetical but nevertheless necessary question SOJP would have had to manage those problematic issues whoever was in harness:

- The long legacy of child abuse
- Political interference
- Mistrust at varying levels of society
- Resentment of outsiders being brought in for the "top jobs"
- A lack of empathy for child abuse victims
- Not being fully equipped managerially or in experience for a major investigation
- The blurring of politics and policing

This was a heady mixture that had been brewing for many years, and whilst Napier and Wiltshire both making a nodding acquaintance it is no more than that, and this has to be understood and recognised by the IJCI.

6.29 By the summer of 2007 it is clear that the relationship between MR. POWER and the SOJ is an estranged one. The removal of Stuart Syvret and the attempt made to

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involve the SOJP whether thought through or not are illustrative of the underlying tension between the two bodies, and the attitude of the political establishment towards it. This is what Mr. Power said to the IJCI [Day 107/24/13]:

24:13 "*Attempts were made by [Bill Ogley] to draw me into*
14 *this. I was told that my people were 'part of' the*
15 *Island's arrangements and I should show collective*
16 *support by opposing criticisms of the Minister. I was*
17 *taken aback by this but responded in two ways. Firstly*
18 *I said that leaving aside issues of style and manner the*
19 *questions raised by the Minister were valid.*
20 *Particularly in respect of the time it had taken for the*
21 *abuse of a boy in a recent case to come to notice of the*
22 *Police and the apparent failure of Child Protection to*
23 *give it priority."*
24 And you say that the critical case review, must be
25 serious case review:

25: 1 " *... was a poor effort which missed the hard*
2 *questions and I was not surprised that the Minister was*
3 *not impressed.*"
4 You go on then to summarise what you have told us
5 you have said and at the bottom where it says page 57 in
6 the margin:

7 "*The fact that 'I will have nothing to do with this'*
8 *was made clearly. At this [Bill Ogley] said 'In that*
9 *case goodbye' or something very similar. I picked up my*
10 *papers. There was no bad feeling or bad words, we just*
11 *disagreed."*
12 Then as soon you were outside you rang
13 Superintendent Shaun Du Val and tipped him off that

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14 Alison Fossey might face similar difficulties at her

15 meeting.

16 A. *Yes.*

17 Q. So your feeling at the time was there were, as you say,

18 no bad words, no bad feelings, there was simply no bad words, no bad feelings, there was simply

19 a professional disagreement?

20 A. *That is what I wrote in the note. We weren't shouting*
21 at each other and there hadn't been many hard words
22 between us. I contained my anger very well, I thought.
23 I was angry about it then and I think I'm angry about it
24 now, but I just said "Don't involve -- this is not
25 appropriate what you're doing anyway and it's certainly
26: 1 not appropriate you're trying to drag me into it. I'm
2 the chief of police, I'm not getting involved in this
3 political stuff at all" and I think if Ogley hadn't come
4 in at that time and said "In that case goodbye then",
5 that conversation might have continued a bit and it
6 might have got a bit more unpleasant, but I think he
7 brought it to an end very quickly. He could see the way
8 I was going and he brought it -- "Yes, you need to go,
9 we will deal with this".

6.29 Further:

26:19 Q. Despite your feeling at the time there were no bad

20 feelings and no bad words you say that following this

21 meeting and your refusal to support Mr Ogley and

22 Frank Walker:

23 "*... there was irreparable damage to the*

31

24 relationship between me and senior officials in Jersey,
25 and probably also Frank Walker who will have been told
27: 1 about what happened in the meeting. This was a tipping
2 point. I was not part of the 'inner circle' any more.
3 Senior officials seemed to become more guarded around
4 me ..."
5 And you were more guarded as well.
6 A. *That was right. We will all have reflected on it and*
7 they will have concluded that I wasn't one of the gang,
8 and that was true, and I had concluded that too much
9 closeness to some of the senior officials would be
10 professionally compromising for me and so I was
11 professional, formal, but I was uncomfortable from that
12 point and I could sense a change in the mood, yes.
13 Q. Was anything overt ever said to you about what had
14 happened at that meeting?
15 A. *No, no one ever said "Because of what you did we're*
16 going to get you", no, nobody ever said that.
17 Q. You say that there was a change in mood. Did you get
18 the impression that the result was going to be that
19 people were out to get you, rather than that you were
20 just not part of their inner circle any more?
21 A. *I was not part of their inner circle any more…*

6.31 Mr. Ogley in his evidence to the IJCI on [Day 129129/22/11] said:

22:11 Q. The note continues three lines up from the bottom:
12 "*Attempts were made by [Bill Ogley] to draw me into*
13 this. I was told that my people were 'part of' the
14 Island's arrangements and I should show collective
15 support by opposing the criticisms of the minister."

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I think that means opposing the criticisms he was making, not opposing the criticisms of him.

"*I was taken aback by this but responded in two ways. Firstly I said that leaving aside issues of style and manner the ques*tions raised by the Minister were valid."

Then:

" *... the critical case review (SCR?) was a poor effort which missed the hard questions and I was not surprised that the Minister was not impressed*."

So do you remember saying that the Police, and presumably the others at the meeting, should show collective support by opposing the criticisms that Senator Syvret was making?

A. *No, I did not. That is not something I would have said and it's not something I did say. I can remember suggesting that Mr Power should participate in the discussion because the Police were part of the overall government's workforce and they had -- these issues were having an effect on them, but I think that's a very different matter.*

Q. And do you remember Mr Power expressing the view that the questions raised by the Minister were valid and that the SCR was a "poor effort"?

A. No, I don't. I know he raised -- he did say that the questions raised by the Minister could potentially be valid, but my understanding was that that came from knowledge he had from a criminal investigation of which I had no knowledge.

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6.32 It matters not whether Mr. Power's recollection is preferred to that BO although there appears to be little between them on analysis but what matters is that it is demonstrably clear in the SOJ's attempted involvement of the SOJP in a political matter which was on any interpretation a serious political dispute with a minister. This was an extremely serious event which colours much of what happened subsequently. The damage had been done.

6.33 It is difficult to see how any police force, and in particular SOJP, regardless who was at the helm, could have successfully pursued OR without attracting criticism, controversy, and casualties along the way. This is what DI Alison Fossey said on [Day 118/60/23]:

60:23 You come on to deal with Graham Power's departure at
24 175 to 189 {WS000687/42}. You say that his suspension
25 came completely out of the blue and just if I may
61: 1 quoting from paragraph 177 {WS000687/43}, three lines
2 down:
3 *"I always found Mr Power to be a committed,*
4 hard working and thoroughly professional individual.
5 It saddens me that Mr Power's career ended in the way it
6 did. Mistakes were undoubtedly made during
7 Operation Rectangle, but these types of investigations
8 are always controversial and the Police are an easy
9 target."

6.35 Regard should be had at this juncture to Wendy Kinnard's evidence in relation to the political realities that influenced the recruitment of those considered to be "outsiders" and if the IJCI accepts what she says at paragraphs 147 to 150 of her statement [WS000695/47] then the objections of those politicians border abject irresponsibility.

6.36 In her evidence to the IJCI Mrs Kinnard said this in relation to the impact personally for those involved in Operation Rectangle [Day 135/58/13]:

58:13 Q. But why were the police officers, the senior

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14 police officers at risk of losing their jobs?

15 A. *Well, you've got to remember that in this context*
16 Lenny Harper in particular, the DCO, was quite
17 a controversial character anyway, that we had had
18 comments made about the way in which we were dealing
19 with corruption within the Police, why did we want to
20 bring in these professional standards that come from
21 outside and so on, and the feeling that I was feeling
22 there was that then when we were going to be dealing
23 with this other potentially difficult issue that in
24 Jersey you're almost like acting in a goldfish bowl,
25 you're not that one step removed, so even
59: *1 police officers find themselves embroiled sometimes in*
2 controversy in a way that perhaps they wouldn't be in
3 a larger jurisdiction.

6.37 This evidence should be read alongside of that of Alison Fossey referred to above. Maybe they both make a valid point overlooked by Wiltshire and Napier?

6.38 Inevitably it is necessary to examine Graham Power's suspension on the 12th November 2008, because the question to asked and answered is was this a political act designed to remove him from office?

6.39 It is submitted that the evidence unequivocally points to the answer being yes.

6.40 Wendy Kinnard in her evidence made it clear that the suspension of Mr Power had a long run in. To understand this the IJCI must consider the wider background to the positions that Mr Power and Mr Harper held, and not just to the history of OR.

6.41 An important milestone was passed when Frank Walker thought that Mr Harper was briefing the media against him and the SOJ and a through account of this is found in Mrs Kinnard's evidence on Day135

6.42 Further Mrs Kinnard explains how that concern enveloped her and Mr Power:

[Day135/148]: 9 Q. You say in paragraph 209 {WS000695/74} that while you

10 didn't recall this incident subsequently when speaking

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to Wiltshire Police, you now recall that at that meeting:

"*... a threat was made by Bill Ogley to Graham Power that if he did not remove the Deputy Chief, it was quite possible to consider removal of the Chief*."

A. *Yes, that's right. It was a heated meeting and I'm being threatened with being removed, obviously getting a bit upset about that, and my recollection is that Graham Power actually defended me, because the call from the Chief Minister that he would remove me led Graham Power to say "Well, you know, in any other scenario that would be a case of unfair dismissal, there's absolutely no reason why -- no justification for why you should be seeking to remove the Minister", and on the side, if you like, there is this other conversation going on where the Chief Minister is also saying "Also you have to get rid of Lenny Harper" -- this is being said to the Chief, and then the Chief is saying "There's absolutely no reason to get rid of Lenny Harper, he's the one who is the senior investigating officer, there's no justification for getting rid of him", and then what happens is Bill Ogley then gets involved in it and says "Well, if you don't remove the Deputy Chief then there's always the case of considering removing the Chief."*

Q. Do you have a clear recollection of that being said?

A. *Yes. I mean I kind of -- at the time I was giving this statement to Wiltshire it was a very strange scenario in giving that statement because it was much more like a question and answer scenario, rather than giving a statement, which I gather is the approach that's*

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17 adopted when it comes to disciplinary proceedings, so
18 I was tending to be answering questions -- answering
19 direct questions and so I didn't elaborate perhaps as
20 much as I might have done in a situation where I'm able
21 to give a statement of this nature.

6.43 Further in her evidence in relation to her meeting with Andrew Lewis (the deputy minister) [Day135/180/21]:

180:21 Q. And that's what you say in paragraph 278 at page 95

22 {WS000695/95}. You say:

23 "*Andrew Lewis was well aware that suspension would*
24 mean that the Police Chief's career would be destroyed
25 and he assured me that he would stand firm against
181: 1 Frank Walker's pressure and that matters would not come
2 to that."
3 A. *Yes, that was definitely discussed, because suspension*
4 as a neutral act was something that I said really wasn't
5 the case when you were dealing with a very high profile
6 Police Chief. It would be very unlikely that anyone in
7 that scenario would be able to return to work. It was
8 effectively the end of the career and Andrew agreed with
9 me that that would be the scenario if he was suspended.

6.44 Mr Lewis disputes Mrs Kinnard's account of what was said and discussed at the meeting, and he further disputes that any inference should be drawn from the fact that he informed the States that he had read the entire Metropolitan Police report, whereas in fact as he admitted he had not. He had been dependant on information received from David Warcup. The IJCI will need to consider all of this witness's evidence and having done so consider the submission that it is at best unreliable. What can be drawn from this evidence is:

(1) Mr Lewis relied on information supplied by Mr Warcup in deciding whether or not to suspend;

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(2) Mr Lewis had been warned by the Solicitor-General that the full report should be considered before deciding on any action [WD00901/783];

(3) Mr Lewis discussed suspension with Mr. Ogley and the IJCI is referred to: [Day129/62/21]:

Q. Did the Minister, the new minister as he was, ask you to

22 instigate suspension procedures for Mr Power?

23 A. *At some point, yes. At a point, but I can't remember*

24 exactly where on the timeline.

6.45 Regard needs to be had to BO's evidence to the IJCI. It will be noted that according to evidence he would listen to Mr. Warcup's concerns and acted as his mentor (which begs the question why did this senior officer need a mentor?) [Day 129/57/20]. Further [Day 129/62/21]

62:21 A. *No. The real concern amongst all of us at that point,*

22 to be absolutely honest, was that had this been raised

23 then the press conference that was being planned in

24 order to put all of this right could be stopped, because

25 ultimately it would be Mr Power who would decide whether

63: 1 that press conference would go ahead and if challenged

2 there was every possibility that he might dig his heels

3 in, at which point we have a terrible situation if you

4 are interested in justice being served because you would

5 have the inability to put right the sins of the past, as

6 it were, failings, and you would potentially have

7 a major impasse with the Chief of Police and if you can

8 think of a way of handling that better, even with

9 hindsight I can't.

10 Q. So because you were concerned that Mr Power, if he were

11 tipped off about this, might stop the press

12 conference --

13 A. *That was a concern in my head and in the head of others,*

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14 yes.

6.46 What can be discerned from the evidence of AL and BO [Day129/83 and 84] is that Mr Power was going to be suspended regardless of the legal advice [WD00901/783].

6.47 Mr Ogley was questioned by counsel to the IJCI as to the motive to be rid of Mr Power and reference needs to be made to the transcript at [Day129/105 and 106]. The conclusion to be drawn is that Mr Warcup was the new man who was providing the means for the SOJ to exorcise as it saw it the fallout from Operation Rectangle. The plan went awry because it was incompetently implemented as is evidenced by misleading the parties as to existence of the Metropolitan Police report, and the mistaken assumption that Mr Power would resign.

6.48 The suspension of Mr Power is of relevance to the IJCI because it is illustrative of the failings of government because the inadequacies of leadership are exposed. These have to be recognised if jersey is to be able to learn from the mistakes of the past in order to address the policies that will be needed to implement effective children services.

7. Consider the experiences of those witnesses who suffered abuse or believe that they suffered abuse, and hear from staff who worked in these services, together with any other relevant witnesses. It will be for the Committee to determine, by balancing the interests of justice and the public interest against the presumption of openness, whether, and to what extent, all or any of the evidence given to it should be given in private. The Committee, in accordance with Standing Order 147(2), will have the power to conduct hearings in private if the Chairman and members consider this to be appropriate.

7.1 It cannot be disputed that children whilst in the care of the States of Jersey were physically and sexually abused as evidenced by the convictions of Wateridge, Hamon, Aubin, Tony and Morag Jordan,. The Redress Scheme exposed to even greater extent the potential totality of the number of victims far beyond that established by Operation Rectangle.

7.2 The combined effect of this IJCI, the Redress Scheme, and Operation Rectangle has been to expose the breadth and depth of child abuse on Jersey. No corner has escaped:

- Schools;
- Foster placements;

39

- The family home;
- The churches;
- Charitable societies;
- Children's homes.

7.3 The abuse ranged from neglect to physical assaults, and beyond that to rape.

7.4 What will never be known of course is the full extent numerically, and neither will it be possible to establish for certain the number of child abusers.

7.5 What cannot be questioned is the abject horror generated by the abuse and the immense damage inflicted on the victims.

7.6 The Inquiry will be very much alive to the sincere expressions of shock and shame expressed by many witnesses in giving evidence when they learned of what had been happening in their midst.

7.7 The Inquiry has been asked to travel to the immediate aftermath of the second world war and Jersey's liberation on the 9th May 1945.

7.8 Jersey along with Guernsey, Sark, Alderney, and Herm were occupied by the German armed forces following the fall of France in June 1940.

7.9 Many of the islanders sought safety in England, but many stayed. Whilst the civil administration stayed in situ it was, nevertheless, subjected to the requirements of German military rule. Life for the residents became increasingly harsh with rationing and shortages. Matters were compounded when non-Jersey born residents were deported to mainland Europe – some never to return.

7.10 Liberation brought its own challenges for Jersey with the need to rebuild its society, and witness 156 provides a window to look through to understand what life was like for a child "in care" in 1946. He had been evacuated to England, and repatriated to Jersey following liberation. Tragically both his parents had died. Here is an extract from his evidence to the IJCI [Day16/67/14]:

69: 4 here an extract from his experience at Sacré Coeur.

5 He goes on to say at paragraph 4:

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"*The nuns I considered to have been cruel, and the environment particularly harsh*."

And he names here two particular Sisters who stand out as being particularly unkind:

"*The Sisters would pull you about by your hair, and actually lift you off the ground when doing so. They would also clutch hold of your face, and drive their nails into the flesh. I also recall being thrown into a cellar-like room, as a punishment, and being left in the dark. A standard punishment if caught whispering or talking in the dining room was dry bread and water for the rest of that day. The boys to be punished would have been monitored by an older boy charge hand, he would enter the offending boys (ie talking) in his notebook to report back to the nuns.*

"*The sisters were particularly adept at telling fire and brimstone type accounts of where bad boys would be sent to the Devil. They would show us drawings and paintings featuring the Devil with his fork, and children being hurt and killed. I remember on one occasion being dragged by the hair, out of the dining room, and being taken up three flights of stairs and thrown into the belfry tower, and there I was given yet again one of these terrifying stories. It was basically a case of, if you are a good boy you will see God and Jesus, but the Devil is always keeping an eye on you.*

"*These stories were such that I would dream about the Devil at night, and I believe at one stage I was sleep walking.*

"*After being at the Sacred Heart for about a year, and I guess we would be in about 1946, or possibly early*

41

1947, I was told by the nuns that I was going to be sent to the 'Boys' Home' which they described as 'hell'. They told me that I would be plunged into ice cold water, and having come up gasping for breath, would be plunged back down again. They told me that this was the kind of punishment that I would be getting.

"Needless to say I was absolutely terrified at the prospect of being admitted to the Boys' Home, and recall crying when the police turned up to take me there.

"The regime at the Boys' Home was very harsh and there was much hierarchy. What I mean by this is that boys would be employed by the masters to control the other boys. Those boys who were permitted, were allowed to exercise the inflicting of corporal punishment by means of a cane, coat hanger, or occasionally the 'leather' or slipper. Generally speaking though the 'leather' was reserved for the masters. Corporal punishment, and physical abuse, was deployed in order to maintain discipline.

"When I arrived at the home I believe that the bathroom had only recently been installed. I know from my brothers ... that when they arrived there was no bathroom. Given that there was only one bathroom we were only allowed one bath a week. In-between times we would have to strip wash. Hygiene was extremely important in the home, and we were taught to wash, and clean our teeth, looking straight ahead. We were not to look sideways or down at our bodies. If we dropped a towel then this was considered to be 'dirty', and we would be punished for that, and this was generally by means of the application of the 'leather'.

7.11 The following can be understood from this evidence:

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- The deployment of children to care and manage other children;
- The use of corporal punishment;
- The use of physical force to manage children.

7.12 It is questionable whether the use of the "leather" in 1946 was in fact still legal?

Witness 190 said [Day16/103/23]

103:23 "*It was in about 1950 that [redacted] took over the*
24 role of [redacted]. I never knew his first name; it was
25 not our place as children to know the first names of
104: 1 staff. It was after [redacted] took on the role that
2 things changed dramatically for boys in his care.
3 "[redacted] seemed to take great pleasure in
4 inflicting violence upon the boys, disguising that as
5 corporal punishment for supposed misdemeanors carried
6 out by the boys. His favoured punishment I vividly
7 remember as being his large leather belt. He would
8 often strike us on the bare backside using the metal
9 buckle of the belt. This often caused gaping wounds,
10 welts and lasting bruising on the small of my back and
11 buttocks. I remember attending the beach in summer and
12 people openly commenting on the injuries visible on our
13 backs.

This clearly went beyond reasonable chastisement, and the boys were at best victims of common assault. The IJCI is referred to section 4 for further discussion.

7.13 No one is suggesting that the Jersey Home for Boys was some later day Dotheboys Hall but it is a legitimate question to ask how far had care for children over the intervening 130 years improved?

7.14 The testimony of the former residents of HDLG life there on many occasions should give cause for the question to be given serious thought? For them on a daily basis life was impoverished and abusive.

43

7.14 The IJCI has heard evidence of sexual abuse committed by Leslie Hughes and for which he was convicted in 1989. Clos de Sables was a group home that was run from 1964 by [redacted] Hughes. It consisted of two semi detached Council houses converted into a single main house mother, assisted by a second full-time house mother. Witness 283 [WS000725] provides an insider's view on what was like to work at one of these homes. She paints a very unflattering picture: this was not in reality a home as most people would understand it, was a business that provided a roof for children to sleep under. Checks made by the Children's Department were ineffectual because the children were never interviewed alone. Had the Department made the effort to talk to 283 and garner her thoughts and learn of her experiences so much of what followed might have been avoided.

7.15 It transpired that Mr Hughes had been sexually abusing the female residents. Witness 23 gives a considered account at [WS000011].

7.16 Victims endeavoured to report the sexual abuse to for example witness 283 who failed to act, and she explains why she did not do so. An interpretation of her evidence strongly suggests that she did not know what to do demonstrating a lack of training and the absence of policy.

7.17 The IJCI is referred to WD007092 a letter from the then AG to Mr Skinner dated 10/10/1989 with the latter suggesting the former should investigate, inter alia, why 283 did not report?

7.18 Mr Skinner in evidence on [Day 88/5/19] expressed surprise that 283 did not know what to do:

> 5:19 ... *When you considered that*
> *20 the impetus and the investment we were making in trying*
> *21 to develop child abuse procedures and investigative*
> *22 procedures to respond to children in distress, I find it*
> *23 extremely surprising that 283 was told information like*
> *24 that and didn't reveal it.*

7.19 It is unclear from Mr Skinner's evidence what was learnt, if anything, from this tragic episode?

7.20 The next chapter to consider is the Maguire case.

44

7.21 Alan and Jane Maguire were appointed by the SOJ in 1980 as house parents to the group home known as Blanche Pierre. In 1990 allegations of abuse came to light on the part of both of them. They were managed [sic] out by Mr Skinner under the guise of retirement albeit Mrs Maguire continued to be employed by the SOJ. Apparently she was thanked for her services...[WD006633/21].

7.22 Allegations resurfaced in 1997 and this time there was a police investigation which led to both Maguires being committed following a committal hearing for trial. The IJCI is referred to Nicholas Griffin's report for details of the offences that the pair had been charged with suffice it to say they were concerned with assaults and cruelty.

7.23 The Crown subsequently abandoned the case. In this submission it is said that it got cold feet.

7.24 Needless to say there was disappointment on the part of victims and the police (for example Emma Coxshall [WS00639/11].

7.25 The case came back to life with Operation Rectangle and the "old" allegations were revisited along new ones.

7.26 Mr Griffin in his report details the waxing and waning from a prosecution perspective and it is not proposed to repeat his findings, other than to add the following:

(1) An opportunity was lost in 1990 by the SOJ to fully investigate the allegations, and to act whether through a disciplinary process and/or through the police.

(2) The management of the Maguires in 1990 enabled them to muddy the waters subsequently because they could quite correctly point to the fact that they had been "retired" and thanked for their services. Further when Mrs Maguire was subsequently subjected to a disciplinary procedure in 1999 she was able to resign.

(3) There is a sub-conscious attitude through-out the entire Maguire case expressed by key players such as Mr Skinner, and the then law officers, namely they assume they know better than the victims. This may seem a little blunt their handling of the case strongly suggests that they saw it as a difficulty, as opposed to a challenge which needed to be pursued to ensure justice was done and seen to be done.

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7.27 That subconscious way of thinking is illustrated by Mr Skinner in his evidence [Day 89/69/18]:

69:18 THE CHAIR: Mr Skinner, in 1990, in the light of what you
19 acknowledge was -- and I use your words -- an "appalling
20 litany" of actions by Alan Maguire and when you had the
21 interview with [164] and Karen O'Hara on 27 April which
22 highlighted the actions of Jane Maguire, the smacking,
23 hitting of the children and constantly demoralising
24 them, should not your priority then have been first of
25 all their protection?

70: 1 A. *I can't see that I could have acted more swiftly to*
2 protect --
3 THE CHAIR: It took you ten years.
4 A. *No, no, in terms of getting the Maguires removed.*
5 Surely the issue was removing the Maguires from that
6 Group Home to protect the children. I achieved that...

7.28 Mr Skinner further stated:

76:23 A. I think perhaps I haven't made clear enough that the
24 route out was the only route I saw as viable without
25 major collateral damage to the children.

7.29 Further into his evidence Mr Skinner explains his rationale behind moving the Maguires and transferring Mrs Maguire to another post:

80:22 THE CHAIR: Can I pick up a point in relation to
23 Jane Maguire. As we know, she was employed in another
24 capacity in relation to children. Why did you think it
25 appropriate -- notwithstanding what you describe as
81: 1 an appalling litany and the credibility of those who had

46

2 drawn this to your attention, that's [164] and

3 Karen O'Hara, why did you think it appropriate to put

4 her in a position where she still had employment with

5 respect to children?

6 A. *The issue was that she would not have resigned without*

7 challenging all of these allegations.

8 THE CHAIR: But isn't the primary issue for you the

9 protection of the children, not what she would or would

10 not have done?

11 A. *Yes and this I find confusing because I would have seen*

12 my whole raison d'etre at the time as to how to protect

13 those children as swiftly as possible, so that's why

14 I get a little bit confused by -- you know, had there

15 been a series of allegations which I had ignored I could

16 understand that, but if you look at the complexities of

17 actually effectively removing Group Home parents that

18 have been acting as parents to children for a number of

19 years, and that was achieved in a period of weeks in...

7.29 In managing the Maguires out the inevitable question arises; who mattered them or the children that they had abused? This is Mr Skinner's evidence in response:

83: 4 *I couldn't say to somebody "Well, you're suspended and*

5 don't come to the premises." They lived cheek by jowl

6 with --

7 THE CHAIR: As the Children's Officer with the protection of

8 the children your primary concern why could you not have

9 done that immediately?

10 A. *Have removed the Maguires*?

11 THE CHAIR: Yes.

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12 A. *I had nowhere to put them.*

13 THE CHAIR: So the priority was the Maguires and their

14 housing?

15 A. *No, the priority was getting the Maguires out as soon as*
16 possible. But I couldn't say to them "Gather up your
17 belongings and go to the front door" because the
18 Education Committee had a set of arrangements with them
19 by which they lived permanently in that home.

20 PROFESSOR CAMERON: But you were dealing with extremely

21 serious allegations of abuse of children and you left

22 them in the house with the children. Why could you not

23 have removed them to bed and breakfast or somewhere

24 else?

25 A. *At the time they were fully complicit and complying with*
84: 1 what I asked them to do, the removal of things. I did...

7.30 The risks associated with such a mindset that prevailed is recognised by Wendy Kinnard and the IJCI is referred to para.s 24 and 25 of her witness statement [WS000695].

8. Identify how and by what means concerns about abuse were raised and how, and to whom, they were reported. Establish whether systems existed to allow children and others to raise concerns and safeguard their wellbeing, whether these systems were adequate, and any failings they had

8.1 Operation Rectangle and the Redress Scheme have revealed that the many allegations of child abuse would in all likelihood to have remained dormant.

8.2 The Leslie Hughes case is a classic example where sexual abuse takes place under the very noses of staff who then fail to report the disclosures that are made to them [WS000725] and [WS00011].

48

8.3 The Hughes case demonstrates that whatever system was in place at the time, and it is not entirely clear from the evidence in that case what that was, it did not work as is demonstrated by 283's paralysis.

8.4 Reference again should be made to Wendy Kinnard's statement [WS00695] para.s 24 and 25; and to that of Margaret Baudains [WS00615].

8.5 The Maguire case illustrates how child protection failed when disclosures were made and the IJCI is referred again to the evidence of Anton Sinner's evidence on Days 88 and 89 and in particulars for example at Day 89/81/11.

9. Review the actions of the agencies of the government, the justice system and politicians during the period under review, in particular when concerns came to light about child abuse and establish what, if any, lessons are to be learned.

9.1 Any review inevitably has to be conducted through the prism of Operation Rectangle and the suspension of the Chief of Police Graham Power (Mr. Power) and the retirement of his deputy Leonard "Lenny" Harper ("Mr. Harper"). It is unfortunate but necessary to do so. It is unfortunate because it requires examination of what was for many personally a very difficult and troublesome time which had profound consequences. The fact is though that what proceeded beforehand influenced the attitude of the main players on the public stage that was operation Rectangle and the course of events that followed.

9.2 Mr. Power and Mr. Harper were both senior officers recruited from the UK to fill the two most senior police positions in Jersey. Both had distinguished records and had occupied very senior positions in the UK.

9.3 Both officers were considered prior to Rectangle becoming public knowledge to be a breath of fresh air. There was from a minority of officers a degree of resentment that "outsiders", a theme that re- occurs throughout this IJCI, had been brought in to fill he most senior positions.

9.4 Mr. Harper was seen, again, by a minority to be over-zealous in rooting out incompetent and potentially corrupt officers. It is clear that he adopted a zero tolerance policy that was accepted by the SOJ and the majority of officers.

49

9.5 Long established shibboleths were unsettled and the IJCI has heard evidence about the controversy surrounding the possession of firearms and ammunition, and Mr. Harper's attempts to regularise matters which clearly caused disquiet.

9.6 The Inquiry has also heard about Mr. Harper's displeasure on finding that officers who had been dismissed were reinstated on appeal. Rightly or wrongly the perception was being painted by Mr. Harper that Jersey preferred the law to be bent when it suited. Perception can be everything which is running theme in considering the evidence.

9.7 By 2007 Mr. Harper explained in his evidence that there had been two relatively recent and significant investigations in Jersey: the sea cadets and Victoria College. Both cases illustrate police frustration when seeking co-operation from the bodies concerned whether it be over access to records, or more concerning being confronted with opposition to investigation. Once again perception can be everything.

9.8 It is against that background that the SOJ were reviewing files that it was decided to commence Operation Rectangle.

9.9 Senator Stuart Syvret the then minister for Health and Social Services had decided to vociferously to speak out for child abuse victims.

9.10 Very quickly the police operation came under close scrutiny of the SOJ and in particular Mr. Ogley and Mr. Walker.

9.11 It would be wrong and misleading to suggest that any of the politicians condoned child abuse, but the stance they adopted led to the rapid polarisation between those who wanted to aggressively to pursue the investigation and those who had concerns for Jersey's reputation. Some politicians wanted to have it both ways which only served to compound the problem which was being created that is a breakdown in trust.

9.12 Mr. Power and Mr. Harper began to perceive that Rectangle did not have the wholehearted support of their political masters. They along with the general public were conscious of the public row between Mr. Walker and Stuart Syvret. Moreover they had come under pressure to be at best mindful of Jersey's reputation (whatever that was?) and this was publically expressed by the then Bailiff Sir Philip Bailhache on Liberation Day 2008. His evidence to the IJCI was that

50

his choice of words was, perhaps, inappropriate but the impression created was clear [Day 125/101/12].

9.13 By then Syvret had been voted out of office and this in itself reflects the polarisation that had come to exist. The IJCI is referred to section 6 for the consequences that flowed from his removal from office and how it came about.

9.14 Rectangle in 2008 received widespread national and international media coverage. It is interesting to note the attempt to control the media by the SOJ and to do so through a limited number of Jersey media outlets.

9.15 There was a broadly recognised need that there had to be coverage, but there was an equally powerful lobby that considered it damaging primarily because of the damage to Jersey's reputation. Wendy Kinnard provides an inside account of the tension created by the media coverage at paragraphs 159 to 161 of her statement [WC000695/56] : "*Jersey should not 'wash its dirty linen' in public*". She provided further insight into the collective psyche in evidence [Day 135/17/18]

71:18 A. *I don't think they [ministers] particularly were intent on covering*
19 it up as such, I'm certainly not one of those who
20 believes in that sort of conspiracy theory. I think
21 it's more that they would rather the whole matter went
22 away and one of the ways -- if they couldn't make it go
23 away, one of the ways for them to deal with it was to
24 minimise it in their own minds. I think they found it
25 a very difficult issue and often when people find issues
72: 1 difficult the only way they can deal with it is to
2 pretend either it hasn't happened, or to minimise it to
3 such an extent that they make it seem to themselves
4 unimportant and I think that was the kind of approach
5 that was going on around that table.

9.16 Mr. Harper was the principle outlet for that coverage. He was identified with Haut de la Garenne. Victims apparently identified with him. A powerful dynamic was created which only served to excite the media thereby exacerbating its coverage for good or ill. None of this was planned for by any of those in Jersey charged with responsibility for

51

law and order. The SOJP had a media plan but this was neither adhered to nor rigorous enough for the pressures being brought to bear. The IJCI is referred to the statement of Wendy Kinnard [WS00695/55 to 58] and in particular para.s 157; 161; and 164 which provides it is submitted a rational account of the issues and the challenges that they presented.

9.17 Trust on the part of Mr. Harper and Mr. Power towards their political masters had dissipated. They were not alone because the politicians were not united and their support for the SOJP waxed and waned, and was never wholehearted. The IJCI may want to consider Mrs Kinnard's evidence [Day135/127/16]:

> 127:16 Q. If we go on in paragraph 185 {WS000695/65} you say:
>
> 17 "*Interference from politicians continued to such*
> *18 an extent that I felt the need to avoid meetings of the*
> *19 Council of Ministers*."
> 20 And you give an example of one on 6 March when you
> 21 decided not to attend. And you emailed the Chief
> 22 Minister to say:
>
> 23 *"I am determined to prevent the media running*
> *24 a Shenton vs Kinnard story, suggesting that there is*
> *25 infighting in the Council*."
>
> 128: 1 What would that story have been?
>
> 2 A. *Well, I received a number of quite bullying emails from*
> *3 Senator Shenton throughout the period on the Council and*
> *4 he seemed to always take a completely oppositional view.*
> *5 As soon as I tried to answer the questions, some of*
> *6 which were legitimate questions, I tried to give*
> *7 legitimate answers, he would come back with a further*
> *8 sort of bullying or snide comment and I felt very much*
> *9 that he was in a sense setting himself up against me and*
> *10 I really didn't want that scenario to develop and in*
> *11 fact I think I did in the end go to that meeting on*

52

12 6 March. I think Frank Walker persuaded me to go, but

13 I had actually originally said I wasn't going to go, but

14 I think in the end he did persuade me on the basis that

15 he would ensure that Senator Shenton essentially didn't

16 behave in that manner towards me whilst at the Council.

The IJCI is referred to the evidence of Mrs Kinnard one time home affairs minister who resigned in October 2008 [WS00695/58 -60] who explains how her fellow politicians were so concerned about the media coverage, and further sets out their objections to Mr Harper. The submission is that the SOJP did not operate in a vacuum and would only have been too alive to the political machinations. She further explains at [WS00695/69 -70] how she thought that Mr.Walker and others wanted Mr Harper removed for his post. It should be noted in her evidence that Mr Walker called for his colleagues not to interfere, but interference continued, and he likes others was possibly blind as to how their actions would be seen?

9.18 The erosion in trust has exposed how Jersey struggled to manage Operation Rectangle in broadest sense, and in doing so revealed failings in political leadership, policing, and child protection and welfare.

9.19 There are lessons to be learned:

(1) SOJP should have a far deeper and on-going permanent relationship with a neighbouring UK force: for recruitment, training, experience, and operations.

(2) There should be clear boundaries between politicians and the SOJP. The SOJP has to be accountable but this has to be transparent and must be seen to be independent, if that is in the intention, and for this to be protected.

(3) There should be clear guidelines for politicians to follow and respect when it comes to their relationship with the SOJP no matter the issue or circumstance.

(4) There should be clear guidelines for the COM as to their roles and responsibilities viz the SOJP even if they have no direct ministerial responsibility.

(5) Meetings between officers and politicians should always be minuted by a civil servant.

(6) Both SOJP and SOJ should have clear media guidelines and in relation to police matters an appointed spokesperson.

10. Consider how the Education and Health and Social Services Departments dealt with concerns about alleged abuse, what action they took, whether these actions were in line with the policies and procedures of the day, and whether those policies and procedures were adequate.

10.1 The cases of Hughes and the Maguires demonstrated the lack of policies and procedures.

10.2 In the Hughes case it has been seen already (please see section 7 of this submission) that victims made disclosures but witness 283 was unable to take action. She was paralysed through confusion as to what action if any should take.

10.3 In his evidence to IJCI Mr Skinner expressed surprised that 283 did not know want to do, but even if there was a policy, and it is unclear whether there was one, but whatever it was proved inadequate as is demonstrated by what occurred. If Margaret Baudains is correct there probably was no policy in place at the time witness 23 was disclosing to her [WS00615/15 – para.52].

10.4 The confusion was not confined to those working with children at the "coalface" as is evidenced in the Maguire case, and reference is made to section 7.

11. Establish whether, where abuse was suspected, it was reported to the appropriate bodies, including the States of Jersey Police; what action was taken by persons or entities including the police, and whether this was in line with policies and procedures of the day and whether those policies and procedures were adequate.

11.1 It is submitted that the IJCI should consider the evidence of Alison Fossey [WS00687] at this juncture because she provides a comprehensive review of the child abuse dynamic.

11.2 DI Fossey's evidence should be read in conjunction with that of Margaret Baudains [WS00615] and that of Mr Harper [Day121/99/8] and Andre Bonjour [WS00642] and the "South Yorkshire Report" [WD007111].

11.3 The South Yorkshire Report revealed that lines on inquiry were not diligently pursued against a background of what is submitted inadequate management. Mr Bonjour disputes the findings, but for the purpose of the IJCI what is relevant is the structural issues that were identified which echo over the decades.

54

11.3 The content and findings set out in the South Yorkshire Report are foretaste of the issues that emerged in Operation Rectangle and in particular:

(1) Recruitment and retention officers (of calibre);

(2) Training of officers; and

(3) Not having the right man or woman in the right post.

11.4 Both DI Fossey and Mr Harper explain in great detail the investigations referred to in the South Yorkshire Report and it is clear that policies and procedures were inadequate, and sexual abuse allegations exposed that inherent weakness. This is a part of wider picture though, and ties in with the challenges faced by Children's Services. There are common factors:

(1) The struggle to achieve best practice (the UK is the comparitor);

(2) The risk of malaise;

(3) Recruiting and retaining the best people;

(4) Adequate resourcing;

(5) Training.

12. Determine whether the concerns in 2007 were sufficient to justify the States of Jersey Police setting in train 'Operation Rectangle'.

12.1 It is demonstrably clear that the majority of witnesses are of the opinion that OR was necessary and fully justified. OR was the climax of a series of factors at play:

- High profile investigations and prosecutions (Jersey Sea Cadets et al.);
- Two senior officers taking a "fresh" look;
* The Leslie Hughes case
- Senator Syvret;
* Political concerns about past cases of sexual abuse;
- BBC –Panorama and the Maguire case;
- The evolving attitude towards child abuse on the part of the general public; and

55

- Mr. Harper's decision to review abuse related files.

12.2 An important sub-text was concern that victims were losing faith if they had not already lost it in the SOJ Police. The public dispute between Syret and Frank Walker only fuelled, unsurprisingly, concerns about the way Jersey had handled child abuse cases in the past and, moreover, how it was to do so now that OR was underway. It is inconceivable to contemplate ending the investigation.

12.3 Mrs Kinnard in her statement [WS000695/22] explained her own concerns and further at [WS000695/32] she comments on the rise of reported cases.

12.3 Also very much in the foreground was the relationship between SOJP and the Children Services and the IJCI is referred to the evidence of DI Fossey [WS00687] and Margaret Baudains [WS000615] to understand the tension that existed. DI Fossey gives it is submitted an example being her concerns over the competence of [redacted] [WS000687/40].

12.4 In conclusion Operation Rectangle and its aftermath were inevitable because of the compromising and blurred relationship between Jersey's politicians and the SOJP. The cost has been significant financially, ruined reputations, and for the survivors a sense that perhaps they were still second class

13. Establish the process by which files were submitted by the States of Jersey Police to the prosecuting authorities for consideration, and establish –

*** Whether those responsible for deciding on which cases to prosecute took a professional approach;**

*** Whether the process was free from political or other interference at any level.**

13.1 The Inquiry has had the benefit of an opinion form Nicholas Griffin QC.

13.2 To understand the issues the Inquiry should examine the case of witness 206 who made a specific allegation of sexual assault on the part of witness 7.

13.3 Witness 206 alleged that whilst resident at Haut de la Garenne he was the victim of digital penetration on the part of witness 7.

13.4 The law officers were too easily prepared to dismiss the allegation, in particular officers Mr. Pick and Mr. Smith, Advocate Baker, Mr Edmunds, and the attorney general, who

appear to have acted as judge and jury when assessing. Clearly they had to exercise their professional opinion, but there is something worrying about their approach:

13.4.1. "*There is no evidence to refute*" – is that the correct test? No. Witness 206 gives a very detailed account [WS00409], with considerable background information. His allegation is detailed and his account to the reader appears considered and balanced?

13.4.2. "*If it happened people would have heard* "was the observation of Mr. Pick, but would they? How does Mr Pick know? Many serious sexual assaults do go unheard. It is part of the territory that the police and the courts have to contend with. Moreover the alleged assault occurred in an "area out of bounds" which might explain why no-one heard?

13.4.3. It was established that Witness 7 was quite possibly at HDLG at the relevant time.

[WD008719]

13.4.4. Paras. 16 and 17 are factually wrong because 206 and 7 were there at the same time, and so as a result of misunderstanding the facts the wrong conclusion is drawn.

13.4.5. Witness 206 said that the assault was completed within "a minute". It is, perhaps, unusual if not unique for a fabricating witness to be so candid? This has not been considered by the police, the LOD, and is, perhaps, a crucial piece of evidence that has been overlooked.

13.4.6. The Attorney General [WD008792)] makes an observation about how Witness 206's penis could have been touched in the scene described, and so surely an enquiry should have been made? If the officer who took the statement did not seek clarification at the time, that is not 206's fault, and so clarification could have been sought. That having happened the quality of the evidence could and should have been re-assessed.

13.5 The above begs some very simple questions which should have been asked, but do not appear to have been. Was this not a credible witness whose allegation was deserving at least of further investigation?

57

[WD008719]

13.5.1. Paras. 16 and 17 are factually wrong because 206 and 7 were there at the same time, and so as a result of misunderstanding the facts the wrong conclusion is drawn.

13.5.2. Witness 206 said that the assault was completed within “a minute”. It is, perhaps, unusual if not unique for a fabricating witness to be so candid? This has not been considered by the police, the law officers, and is, perhaps, a crucial piece of evidence that has been overlooked.

13.5.3 The Attorney General [WD008792] makes an observation about how Witness 206’s penis could have been touched in the scene described, and so surely an enquiry should have been made? If the officer who took the statement did not seek clarification at the time, that is not 206’s fault, and so clarification could have been sought. That having happened the quality of the evidence could and should have been re-assessed.

13.6 It is inexplicable that witness 7 was not charged in relation to this serious allegation, or at least for further inquiries to have been made before making a decision either way. The logical conclusion of Mr Griffin’s advice is that this is what should have occurred.

13.7 How did this unfortunate state of affairs come about? Once again the answer lies in perception on the part of three parties: the police and in particular Mr. Harper; the law officers, and the politicians.

13.8 A small but vociferous group of politicians thought it acceptable to question the police about the inquiry and not simply in general terms. In a democracy politicians are of course entitled to question and to expect answers, but an invisible or ill-defined line exists in Jersey, which they crossed. They strayed in to territory which is suggestive of their wanting to influence OR. It may not have been their attention but it influence is what it was. Maybe it can be described as soft influence. If you ask the police to manage media coverage because you consider that to date misleading, or potentially so, the risk you are running is that your audience reacts in a way that you might not have intended, or its perception of your actions is adverse. The police do not operate in a vacuum, they like everybody else reacts to the environment they have to operate in.

58

13.8 The police and in particular Mr. Harper and Mr. Power could be forgiven for forming the opinion that there political masters were not in sync with the objectives of Operation Rectangle.

13.9 The politicians were not in sync because they did not understand their role or appreciate the nature of Operation Rectangle.

13.10 The law officers did not operate in a vacuum either. They voiced their concerns with both the politicians and the police about the off stage noises and the impact that this was likely to have on any prosecution. This was a fear fully justified by the Wateridge prosecution which was subjected to an unsuccessful abuse of process application.

13.11 What is striking is that initially the relationships between the three were professionally conducted, but then quickly unravelled because of the press coverage and any latent mistrust or suspicion took on unprecedented ferocity. How did this happen?

13.12 No one anticipated that Operation Rectangle would develop into the major inquiry that it did. All of the parties were unprepared for this as is evidenced by the drama that followed.

13.13 Media coverage, some of which was sensationalist, only served to irritate some quarters but their reaction to it only served to fuel the suspicion and mistrust. It is interesting to note that Bill Ogley disliked the police using the term "victim" when addressing the media. This shows a lack of empathy and understanding, as well as a lack of appreciation of how such an assertion might be perceived?

13.14 Moreover it is clear from Mr. Harper's evidence (see for example para 218 of his first statement dated Nov 2014) that he formed the clear impression that the two most senior political figures at the time in Jersey Mr. Walker and Mr. Ogley did not approve of Operation Rectangle. This perception is clearly not misplaced because of Mr Ogley's expressed unhappiness about the use of the term "victim". Whilst technically correct that no one had yet been convicted in relation to <u>new</u> offences, there had been successful prosecutions in recent times and so there were in fact "victims". Neither Mr Walker or Mr Ogley were alive to the risk that they were running by raising the issue let alone turning it into one.

59

13.15 Mr Ogley’s evidence to the Inquiry on [Day 129/29/2]:

29: 1 Mr Harper's response to you and he says:

2 "*We must not forget there have already been*
3 convictions around this establishment so we know for
4 a fact that there has been abuse involving state run
5 homes."

6 Was he not there making a fair point that it was
7 legitimate to refer to victims because there had
8 actually been proven victims?

9 A. *Absolutely and that's why I accepted -- you will see*
10 there's no response there. But if -- what I do not know
11 and cannot recall is whether in fact he was referring to
12 victims who had been proven victims, or whether they
13 were people who made allegations and might subsequently
14 be proven to be victims and I think it's quite right
15 that I should -- I thought I was being given that email
16 in a spirit of commenting on it, as opposed to being
17 given it to be made aware of it.

18 Q. So did you feel it would be more appropriate for him to
19 refer to alleged victims, or something of the sort, to
20 reflect the fact that proof had not yet necessarily been
21 found yet in all cases?

22 A. *I think in that case, yes, that certainly was my view.*
23 If allegations are made and the Police are investigating
24 them, I don't -- and I still don't -- believe it was for
25 the Police to make the judgment about whether those
30: 1 allegations are founded and a crime has been committed.
2 That is I think the job of the judicial process and
3 the courts and what I had seen to date, at that point,

60

across the UK was not the referral to victims when the Police had not taken cases to court and I thought it was more professional to follow that line, rather than to pre-judge matters.

Q. Do you think if the Police are trying to encourage people to come forward as victims and complainants, it might be legitimate to refer squarely to "victims" to give people the impression they are going to be taken seriously, their concerns aren't going to be dismissed?

A. *I think it's important that somehow a means is found of giving people that surety that they will be taken seriously. I don't know whether the pre-judging, the use of the word "victim" is the right way to do that or not. I'm not an expert in that, I don't have a view about it, but I do think it needs to be thought very carefully about before you launch into using any language in such a serious and important area.*

Q. He goes on in the email to say:

"*It would be very unusual for police officers to make statements of the nature you suggest. I cannot make a statement which rules out the possibility that those currently or previously involved in running any States homes are not implicated in this enquiry. That would be possibly untrue. We will not emphasise that aspect of it however.*"

Again was that a perfectly fair point that he was making?

A. *Yes. I don't know where that has come from because there was no suggestion in anything I have said or*

61

written that he should pull that out.

Q. Well, you had suggested in your email, hadn't you, that he should alter the tense, so homes that "were" run by the States, in order to give some help to current staff who might feel already unfairly singled out?

A. *I don't think I was -- I would hope that altering the tense came from -- as you say, Graham discussed this with me before I saw this, so I presume that I was responding to that, the suggestion that this had happened in the past and I think by altering the text you do not rule out the possibility that it may have happened to date.*

Q. Could we go back to your statement please and to paragraph 54, which is on page 19 {WS000703/19}. You say there:

"*When I raised my concerns about the style and content of public communications being made as part of Operation Rectangle, Graham Power said that he would do his best to keep me out of allegations of interference with the police investigation. As best I can recall, his words were that 'it may be it has to be disclosed to the press that you sought to interfere, but I'll do my best to avoid that'. I interpreted his words as a threat."*

On reflection do you think Mr Power may rightly have been warning you not to intervene in what was an operational policing matter?

A. *No, not in that context, because we had had that discussion, he knew very well that I was well aware of*

62

12 the distinction between what was an operational policing
13 matter and his sole responsibility and I would not do
14 so, but I still am of the view that if you see the way
15 the communication is being handled as potentially
16 prejudicing the outcome of that investigation, or
17 subsequent criminal trials, then it is appropriate to
18 comment to the Police. It is up to them to do what they
19 want with it. I don't think that is interference and
20 that is just my personal view...

13.16 Mr. Walker's evidence in relation to the above to the Inquiry on 14th January 2016 was:

83:22 [Mr. Harper] said
23 that he had a meeting on 22 November 2007 with you and
24 Mr Ogley -- that was the day of the Police press
25 statement -- and he says he was told that what he was
84: 1 doing was going to bring down the Government. Do you
2 remember you or Mr Ogley saying anything like that?
3 A. *Absolutely not and one has to ask I think a fundamental*
4 question: when in the context of a police operation we
5 were dealing with abuse that allegedly took place many
6 years before any of us were in government and had any
7 possible influence over it, why on earth would the
8 disclosure of historic abuse bring down the Government?
9 I've never been able to understand why anyone would make
10 what I consider to be a completely inaccurate statement.
11 Q. He also said that you and Mr Ogley made it clear that
12 you did not want there to be an investigation into
13 historical child abuse?
14 A. *That is totally untrue. If we said to him we were*

63

15 unhappy about the fact that we had to have an
16 investigation, yes, I would accept that, but that didn't
17 in any way translate into being opposed to the fact that
18 the investigation should take place. Let there be no
19 doubt at all, we gave Mr Harper, Mr Power and
20 Operation Rectangle our full and unequivocal capable
21 support. There were States ministers who didn't, one of
22 my ministers didn't, and the evidence in emails I sent
23 to ministers and States members is very clear: let
24 the Police get on with the job, you must not interfere
25 with the police investigation. That was my position at
85: 1 the start, it remained my position and as far as I'm
2 concerned there can be no challenge to that because the
3 evidence is very clear.

13.17 At this juncture one should have regard to Mrs. Kinnard's evidence to the Inquiry on [Day 135/55/23]:

55:23 Q. In paragraph 95 {WS000695/33} you say that you were
24 briefed again in November 2007 and the meeting was
25 between you, Graham Power and Lenny Harper.

56: 1 A. *Yes.*

2 Q. And at that meeting you say:
3 " ... I said that the Council of Ministers 'won't
4 like this one bit. We could all lose our jobs over
5 this'."
6 Why would the Council of Ministers not like it?

7 A. *Well, I have had previous experience of course of trying*
8 to get a women's refuge in Jersey and it took us
9 six years to achieve that and I was not in the States at
10 that time, but I know how the States reacted to the

64

whole issue of domestic violence, which was "It doesn't happen in our island". We had to prove the case, I had to open my house as a temporary refuge before we had one and have women coming into the house to prove the fact that we had an issue of domestic violence that needed addressing. We had quite a hard time politically and so did the then politician who took the matter forward to the States. So I was aware that generally speaking the Government of Jersey is not very content to have these sorts of difficult issues out in the open, and because of my experience of that I thought, well, domestic violence is one thing, child abuse is an even more distressing thing and I really felt that we were going to have a very difficult time in taking this forward within the political environment of Jersey.

57: 1 Q. Even though in the years leading up to this there had been an increasing number of prosecutions and therefore an increased public awareness?

A. *Yes, but the public awareness, because they had been sort of individual cases I don't think the public awareness was all that great and again I think that the view then, certainly of the public, was that these were isolated cases. When we're talking about launching an investigation into historic abuse with named establishments and named organisations, you're talking about a concerted level of abuse far greater than perhaps the people of Jersey were expecting and I felt that this was going to be a politically very difficult scenario and I hadn't -- I had no doubt that my life politically was going to be uncomfortable and I did have concerns about also the officers that were going to be*

65

17 at the forefront of this particular investigation.

18 Q. What made you think that any of you might lose your

19 jobs?

20 A. I *didn't make that comment lightly. I just felt that*

21 was a possibility. I had seen other contentious issues....

13.18 The point to be made is that the "concerns" were not confined to police officers, and clearly the perception that Operation Rectangle ran deep and had a long tail. It matters not whether the Inquiry prefers Mr. Harper's evidence or Mr. Walker's in relation to this because on the latter's account he is painting a picture at best of unease or to use his language "unhappiness". Once again we come to the issue of perception and a lack of appreciation on the part of the political leadership that their use own language and actions ran the risk of impacting on the SOJP. It is interesting to note Mr. Walker's apparent concern that others might interfere hence his warning to them.

13.19 The tipping point was the coverage in relation to potential human finds at Haut de la Garenne. This took the story to a new dimension and excited all those involved. Many of the victims or "alleged" or otherwise had by this stage come forward in the dozens, and could have been forgiven for concluding they were being overlooked. The police stance was that there had to be openness whereas their detractors were concerned that the coverage was sensationalist, damaging to the Island's reputation ,and as the drama unfolded misleading.

13.20 Human remains were never conclusively identified, and it is common ground that whatever was found was not the result of foul play. In many ways it was a non-event that had serious repercussions.

13.21 Mr. Harper kept the public and media fully briefed. He quite correctly explained the position, but having done so expectations were not deftly managed. The criticism that he played to the gallery is unfair, but the absence of regular, planned, and managed media briefings exposed him and the SOJ to criticism.

13.22 Mr. Power by and large allowed Mr. Harper to address the media, and was supported in this by Mrs. Kinnard. Again they are let down by not having a thoroughly worked out media plan. The belated attempt to impose one by the SOJ only served to aggravate the position because trust was breaking down very fast.

66

13.23 Warnings from the law officers were not readily heeded, and the imposition of a senior officer at the SOJP to work alongside the Mr. Harper and the Operation Rectangle officers was not readily accepted by Mr. Harper.

13.24 Mr. Harper had very firm ideas and opinions on how OR should be pursued which were not readily reconcilable with those of the law officers. There will always be debate between professionals but this is usually constructive and healthy. Regretably the antagonism that was below the surface if not at times above that existed between Mr. Harper and the politicians influenced how he reacted with the law officers and it particular Stephen Baker and Simon Thomas and the Attorney General. For Mr. Harper the law officers became part of the wider political problem as he perceived it when they did not work to his script, and the prime example of this is in relation to the decision not to charge 279 and 281 as he had planned. They in turn had to walk a tightrope that ran between ensuring cases were not going to be compromised and effectively trying to keep the police and the SOJ on-side, but this only part of the story.

13.25 DI Alison Fossey said noted that no protocol was drawn up outlining and explaining matters such as designated counsel and the provision of advice about legal or evidential implications of issues arising during the investigation, as would be the norm in the UK. She said:

"'*The working relationship between the Police and Crown Advocate in Operation Rectangle was initially difficult. This was for a variety of reasons and was not conducive to the progress of the enquiry. The approach to case preparation throughout the first 9 months of 2008 was simply to provide the Crown Advocate with a file prior to arrest in order that he might advise on suitable charges. His advice was neither sought nor provided throughout the different investigations which made up Operation Rectangle and even the appointment of Barrister Simon Thomas to work* at *the Police Station did not result in him working closely with the investigators*".

13.26 In his evidence to IJCI Mr. Warcup [Day 120/31/15] said:

31:15 A. … *It is correct to*
16 say that Mr Harper brought this to my attention and it
17 was also brought to my attention by other officers as
18 well, that there was concern that some of the charging

67

19 decisions were not correct. There was also issues
20 related to that which had been made public as well.
21 I approached the Attorney General, spoke to the
22 Attorney General about this and I found the
23 Attorney General to be absolutely receptive to the new
24 proposals that we were putting in place.

The point is that Mr. Harper was not a lone voice. It would be tempting maybe to blame his alone for the difficulties, when this is clearly not the case. It should be remembered that according to the then Attorney General William Bailhache the relationship previously between Mr. Harper and the law officers had been good [Day 127/69/19].

13.27 As identified by Mr Griffin what was taking place was not constructive and it reflected in the quality of the files that the LOD had to work on.

13.28 The net result is as identified by Mr Griffin QC in his report is that the police and the law officers departed from the high professional standards expected which meant that cases were not considered objectively, and an example of that is in relation to the [redacted] complaints *viz* the allegations relating to 279 and 281. Moreover witness 206 has suffered potentially a grave injustice in that his alleged abuser 7 was not prosecuted.

13.29 Following Mr. Harper's retirement a new regime ensured that the SOJP and law officers enjoyed the professional working relationship that should be expected.

13.30 In summary the law officers adopted a compromised professional approach that was not free of controversy which can be attributed to the breakdown in trust that existed between the three parties, and the nucleus for this is the perception that senior politicians were at best lukewarm to Operation Rectangle. The lack of leadership allowed a situation to develop in which very professional and well intentioned senior officers and office holders came to distrust each other and work potentially against the successful prosecution of Operation Rectangle.

14. Set out what lessons can be learned for the current system of residential and foster care services in Jersey and for third party providers of services for children and young people in the Island.

68

14.1 Children in Jersey and not just in care need a voice. It has to be a voice that will be heard in the corridors of power and can hold the legislature to account.

14.2 The IJCI has heard of good intentions, and listened to the evidence of many witnesses who by their own lights have tried to do right, but if it accepts the evidence of Josephine Olsson amongst others it will conclude that there is much to be done. Good intentions will not bring Children's Services into the 21st century and "make it fit for purpose". On the contrary there has to be legislation to ensure that best practice does happen, and that is why the JCLA has proposed the establishment of an ombudsman.

15. Report on any other issues arising during the Inquiry considered to be relevant to the past safety of children in residential or foster care and other establishments run by the States, and whether these issues affect the safety of children in the future.

15.1 A re-occurring theme is Jersey's desire to be independent of the UK, or that is what the IJCI is told, but child abuse is no respecter of geography, and so if it is to equip itself to face the challenges of the future a way has to be found to enable it avail itself of what is best?

15.2 That does not necessitate the compromising of independence or integrity by developing ways that enable the police and social workers, being the two immediate examples, to have on- going professional development with their UK counterparts, or the police to have a permanent relationship with another force.

And I should not have sat here. Everything
Would have been different. For it would have been
Another world

Edward Thomas "As The Team's Head Brass"

ALAN COLLINS

London 16th March 2016

69

IN THE INDEPENDENT JERSEY CARE INQUIRY

RESPONSE ON BEHALF FOR THE JERSEY CARE LEAVERS' ASSOCATION TO THE SUBMISSIONS OF THE PARTIES

Part 1. The Law Officers Department

Preamble

1. Alan and Jane Maguire were never held to account by Jersey's justice system in respect of the serious crimes that they allegedly committed having been entrusted by the SOJ to care for some of the most vulnerable children in the Island.

2. Moreover Jane Maguire was publically thanked by the SOJ for her services, and she and her husband were able to enjoy a free and long retirement.

3. This begs the question how and why this, and some may well say thoroughly unacceptable, state of affairs arose?

4. This is the question that needs to be in the IJCI's mind when considering the LOD's submission.

Analysis of the Submission

5. Much has been made of Advocate Binnington's letter [WD007347]. His words and thoughts have analysed and interpreted, but surely it is the most simple of documents, being both concise, and clear?

6. In simple terms the LOD got cold feet and decided to abandon the case. The evidence for this conclusion lies in [**WD007347**] and Ian Christmas's memorandum [**WD7979**]:

   "(*after a full blown assize trial with all the attendant publicity*)"

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7. Advocate Binnington and Ian Christmas set the scene for the Attorney General's ultimate decision.

8. It does not follow that the law officers concerned were either necessarily incompetent or unprofessional, but equally it does not follow that in the absence of unprofessionalism they were right.

9. What is conspicuous is that a bad apple in the barrel condemns the entire contents. Nicholas Griffin cogently summarises the strengths and weaknesses of the prosecution case, and, in doing so, one is left with the conclusion that the case in 1998 had reasonable prospects which flies in the face of the analysis set out in [**WD7347**]; [**WD7438**]; and [**WD008667**].

10. The AG's note (exhibit MB9) [**WD008667**] takes us only so far. It gives the impression of a holistic approach but provides in fact no detailed analysis. It is true that there is nothing to suggest that he has not exercised his own opinion, but the path to the conclusion he reached surely had been laid for him? If a professional colleague says "I dislike this case because…" then the reader or listener is going to consider and respect that opinion if not necessarily agree with it.

11. Take for example Charge 9 which is concerned with an assault committed by Alan Maguire on a child known as 88.

    At the old style committal under cross-examination witness 164 gave evidence [**WD8849**] as follows:

    ADV LAKEMAN: *In relation to the allegation that you made that Mr. Maguire bragged to you about throwing across the playroom. Uhm... isn't that an exaggeration of exactly what happened. Isn't it rather that he was put in the playroom after having destroyed some cupboards in there?*

    WITNESS: *Mr. Maguire openly bragged that he had thrown the stupid child across the playroom*

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Witness 165 gave evidence [**WD008850**] too under cross examination:

ADV LAKEMAN*: Thank you. Can we come next to the incident where you say was thrown across the playroom. Obviously it's a very serious allegation?*

WITNESS*: It was a very serious event when it happened.*

ADV LAKEMAN: *Well how old would you say was at that time?*

WITNESS*: Seven, eight between seven and eight.*

ADV LAKEMAN*: And I think you told the Court and tell me if I'm wrong that you didn't actually hear the exchange of words that there was between Mr. Maguire and the child?*

WITNESS: *I just remember him screaming at him something about would you ever tidy up or something like that. That type of thing it was tirade of get that play.... Well Alan was very, very loud and it was a tirade of tidy that up blahs, blahs, blahs.*

ADV LAKEMAN*: And the learned Magistrate asked you if you recalled how Mr Maguire picked the child up and you said you couldn't remember?*

WITNESS: *I'm not a 100%, to stand up in Court and say I am. I'm not.*

ADV LAKEMAN*: Well are you 100% about the incident completely?*

WITNESS*: Yes I am. Oh I am 100% because I remember, I don't know if it was the shoulders.... Alan was stood like this 88 was down there and he picked him up.*

ADV LAKEMAN*: And where was your view from?*

WITNESS*: My view was as I say there was a sink unit above that there was a clear glass which was obviously there for reasons that we could see the children playing in*

3

there. And next thing is he goes flying across the room. I didn't miss any part when Mr. Maguire actually placed his hands on 88

ADV LAKEMAN*: So you're saying that you were looking at Mr. Maguire?*

WITNESS*: Mm... Mm.....*

ADV LAKEMAN: Then you had a clear view of what you would say was a projectile coming across the room?

WITNESS*: Totally.*

ADV LAKEMAN*: Well when Mr. Maguire gives his evidence to the Court he will say that you are grossly exaggerating the incident?*

WITNESS: *Well that's Mr. Maguire's statement*.

ADV LAKEMAN: *And it surprising that it was so horrendous that even doesn't recall it himself?*

WITNESS: *No.*

ADV LAKEMAN: *Are you surprised at that?*

WITNESS: *Not at all. No.*

12. The above has been recited because it is submitted, quite, apparent why the magistrate thought there was, indeed, a prima facie case to commit to the Royal Court. Further the file note dated 12/10/98 [**WD007240**] "*Conclusion – there is sufficient evidence to pursue the charge*" appears entirely logical.

13. This is then followed by a volte farce on 6/11/98 when Advocate Binnington effectively demolishes witnesses 164 and 165 [**WD7348]:**

4

*Although 165 will provide an eye-witness account, it is likely that this will be viewed as an exaggeration of facts. Indeed, [*blank*] displays a tendency to use dramatic words in order to get her story across. One gets the impression that she is merely an overly philanthropic care worker who disagreed with what some might regard as the Dickensian style of care provided at the Home.*

164's evidence consists largely of hearsay and her claim that Alan Maguire bragged to her about the incident seems somewhat inconsistent with his behaviour generally of care provided at the Home.

In manuscript: *165 thought to be an unhelpful witness. No recall 6 JH*

It is difficult to see how these comments can be justified given the evidence on which the magistrate committed Alan Maguire to the Royal Court.

An incident plainly occurred because in interview Maguire admitted to having "shook" 88:

Mr. Maguire gives an account of what he deems "the worst time I ever felt I'd punished a child". He recalls an incident in the playroom with 88 when the child ripped some newly fitted cupboard doors off, He states that he shook him, put him outside the door and sent him to his room. He is not questioned further about the incident.

14. This was a case for the jury and not for the LOD to determine who was telling the truth. Clearly the LOD had to be objective when considering the evidence but a line was crossed when they chose to denigrate witness 165. The use of language is telling. It is not a case of being of the opinion that she is, perhaps, mistaken, but on the contrary she is described as an "*overly philanthropic care worker*". The further reference to "*the Dickensian style of care*" speaks for itself.

15. It cannot be said that the reference to Alan Maguire's health is and was a "red herring" para 214 [**WD009421/79**]. A whole paragraph is devoted by Advocate Binnington in his letter to the Attorney General on the subject [**WD007347**]. He clearly saw this as an issue which in one form or another was going to be pose, potentially, a problem for the prosecution. Ian Christmas was alive too to the issue. If Maguire was seriously ill then presumably he might die or become incapacitated

during the course of the trial, it might not even begin. Moreover questions might be asked why was a dying man being tried in the Royal Court? It would be extraordinary if the LOD even for a passing moment gave no thought at all to this risk.

16. Ian Christmas said this in his memorandum dated 9/10/98 [**WD007979**]:

"*I feel sure that Advocate Lakeman will now put pressure on us to abandon the prosecution against Alan Maguire for reasons of compassion, and because it cannot be in the public interest to prosecute a man who is so ill. If we were to abandon the prosecution against Alan Maguire…"*

17. Indeed the AG on 6/11/98 received a copy of the full medical report in relation to Alan Maguire [**WD009127**].

18. What is extraordinary is the concerted effort in 2016 to dismiss Maguire's terminal illness (real or otherwise) as having no significance…

19. Rightly or wrongly Advocate Binnington's letter [**WD7347**] is a model essay on why child abusers are a challenge to prosecute:

- The time gap between abuse and reporting;
- Victims often but not always have "baggage";
- The old canard that victims are only after money;
- Reliability issues;
- Corroboration or lack of; and
- Defendants are not always paragons of respectability.

20. Mr. Griffin recognised that case had its challenges but opined that they were not necessarily insurmountable, but the LOD looked at the case with a distinct lack of enthusiasm. That is the inescapable fact, when for example the Ian Christmas memo. [**WD7979**] or [**WD7348**].

6

21. The above leaves to one side the potential evidence that is detailed in the Dylan Southern report [**WD007092**] (exhibit AS25).

22. Advocate Baker subsequent opined the Maguire should have been tried [**WD7233**]: "*Undoubtedly the procedure should have been left to take its course"*. The Attorney General's decision to drop the case should not allow the decision not to proceed to be obscured.

23. Hindsight is a wonderful gift but in this submission the evidence that the LOD had at the time points to the wrong decision having been made. In conclusion the LOD did not want to pursue a difficult case with the attendant publicity. They chose not to do so not because it was doomed to failure but because it was difficult, and its mind set was at least in part determined by the assumption that Maguire might die anytime soon. And so they chose to judge the case not objectively but with a jaundiced eye as is evidenced by the language used to describe the Crown's witnesses.

24. The Maguires escaped sanction in 1990, and escaped the criminal justice system in 1998. That is the fundamental fact which cannot regardless of myth (real or perceived) and misunderstandings, or conspiracy theories, be washed away. It would not be unreasonable to conclude that they were the beneficiaries of the "Jersey Way":

    In para. 110 of the LOD submission [**WD9241/45**] it is asserted that:

    "*The claim made by many of the witnesses that the LOD and the AGs were influenced by what is said to be 'the Jersey way' is spurious and unsupported*".

    The concerns that the Maguire case raise, it is submitted, are neither spurious or unsupported.

The Consequences

25. The decision not to prosecute the Maguires had profound consequences.

26. The LOD may well complain that the decision to drop the case is enveloped in myth and is misunderstood but that is to miss the point: to abandon a highly sensitive case presented a risk in itself.

27 If myth and misunderstandings did arise then the LOD only had itself to blame for what followed.

7

28. Little thought if any appears to have been given what might happen as a consequence unless it was assumed that Alan Maguire would soon die, and that would be the end of the sorry affair

29. Fate determined otherwise and that decision to abandon the case became the elephant, and not the red herring, in the room.

30. The fact that the Maguires "got away with it" or the perception that they had was inevitably toxic. It cast a shadow both over the SOJP and the LOD.

30. It is and was unrealistic to expect the SOJP to have adopted an entirely charitable opinion on that decision to abandon the case. The LOD may well be right to criticise Mr. Harper and Mr Power for their understanding, or lack of, of the case but they both clearly appreciated the basics: the case should not have been dropped.

31. Invariably resurrecting the case in 2008 was going to be problematic. Clearly much thought was given by the LOD as to how this could be achieved, but it does not mean that what went before was ancient history. Far from it because the case from 1998 cast a long shadow.

Operation Rectangle

32. Shades of the approach adopted in the Maguire case appear in the case of witness 7.

33. The JCLA takes issue with the LOD in respect of its submission because it does not address what it considers to be the inexplicable failure to charge witness 7 in relation the allegation of a serious sexual assault made by witness 206. It is submitted that the logic of Mr Griffin's evidence to the IJCI is such that witness 7 should have been charged.

34. The JCLA is concerned that the evidential issues in relation to other complainants coloured the assessment of witness 206's evidence. In any case the approach adopted by civilian officer Pick was inadequate and, it is unfortunate, that he was neither challenged or questioned by his superiors or for the LOD to have pointed this out.

35. Mr Griffin his evidence to IJCI [**Day 133/73/10/73**]:

> 73:10 A. *Yes. Can I just say, in relation to the comments of*
>
> *11 Civilian Inspector Pick, for me they are not*

8

12 particularly helpful or enlightening comments.

27. Further:

73:13 Q. The next question is in relation to that. When Civilian
14 Inspector Pick comments that there is no evidence to
15 refute 206's allegation, is he applying in your view the
16 correct test as to its credibility?
17 A. *I'm not sure that Civilian Inspector Pick was purporting*
18 to be reviewing this with a strict evidential test in
19 mind, so I'm not sure we need to hold this report up to
20 that type of scrutiny or standard. Having said that,
21 it's not helpful for a prosecutor to be looking for
22 evidence to refute an allegation, rather than also
23 looking for evidence to support it, and it doesn't
24 follow from the description in the statement that other
25 people would have heard what was going on…

76: 2 Q. "One incident only re [witness 7]. Slightly odd that
3 such attack would have taken place out of the blue.
4 Hard to see how the penis was touched if he was lying on
5 his front with head held against the floor. Assault
6 through his clothes."
7 The Jersey Care Leavers' Association ask do you
8 think that in the light of that question raised there,
9 or implicit question there, further inquiry should have
10 been made?

9

11 A. *I think it would have been possible to make further*

12 inquiries, but my reading of the account -- and we have

13 looked at it -- is that it's not a vague account, it's

14 a fairly clear account in itself, so I wouldn't

15 criticise the fact that they hadn't gone back for

16 clarification.

36. There are two points to be made in relation to this evidence:

1. Civilian investigator Pick adopted and applied the wrong approach in investigating the allegation and analysing the evidence; and

2. Witness 206 gave a "*fairly clear account*". What else did the LOD need evidentially before they would have been satisfied that there was a case? In the absence of a confession it is a struggle to see why on the basis of this witness's account the case was not pursued.

37. Again the LOD had tarred witness 206 with the doubts that existed in relation to the other complainants. Mr Griffin at paragraph 4.96 [**WD008989/132**]:

The Attorney General had reached the same conclusion on 11 April 2009, according to his handwritten note:

'There is no corroboration of any of these complaints. Similar fact evidence there is none. There is a different quality in most of the complaints but a common theme is that these are mostly not credible…

I am troubled by the fact the statements in many cases taken after <7> is named in Syvret blog.

I think a jury would reject some of the complaints as incredible and would reject those which carried more credibility. But even in better case, it is one person's word against another. I can't see

10

the evid test is passed.'

38. It is submitted that Mr Griffin's conclusion is wrong in relation to witness 206. The IJCI is referred to the evidence given by Mr. Griffin in relation to this particular case (see paras. 33 to 36 above).

Paras. 146 and 147 [**WD009421/58**]

39. The LOD's submission in relation to what it perceives to be Harper's and Power's attitude towards Advocate Baker may well be correct in one sense, but misplaced in another. Mr. Harper and Mr. Power are quite capable of speaking for themselves, but what cannot be overlooked is the recognised fact that a hitherto constructive and professional relationship between them and the LOD soured and did so quickly.

40. The point has been made before that perception seems to be everything in Jersey. The concerns and unhappiness expressed by Mr. Power and Mr. Harper did not come and go like a spring storm, they were real. Whether justified or not is another matter, but what is striking about the LOD's submission is that it does not appear to recognise this, or how its relationship with the SOJP might be adversely effected [as indeed it was) by the role to be played by Advocate Baker.

Suspension of Graham Power

Para. 263 [**WD9421/96]**

41. The assertion made by the LOD as to why Mr Power was suspended does not sit with what he was told when he was suspended. If the assertion is correct, or believed by the LOD to be so, it demonstrates that it had prejudged the man before giving him a hearing…

Part 2 Closing Submissions of the States of Jersey Police

[redacted] **WD9423/69**]

42. Whilst the SOJP are critical of this witness's testimony the ICJI will remind itself that it has received evidence suggesting that she was subjected to serious sexual abuse whilst resident at HDLG beyond that she possibly recalls.

11

Alleged cover-ups [WD9423/33]

43. Whilst it is accepted that there is no evidence that the SOJP is implicated in any way with any "cover-up" of child abuse allegations it is only right that it is pointed out that the JCLA remains concerned with the standard of professionalism exhibited in some cases and, in particular, that concerning allegations of abuse in relation to witness 7. The most striking example is that of witness 206. This witness and his allegation was not afforded the professional approach that would have been expected. In one sense therefore a serious allegation was not exposed to sunlight.

Operation Rectangle – a command and control issue [WD009423/36]

44. It is agreed that an "outside" officer from a UK force should have been brought in to oversee Operation Rectangle. It may have not been necessary at the beginning but certainly when it became a major inquiry (with many complexities).

45. Hindsight after the event does not assist though. It is submitted that Operation Rectangle may never have come to fruition if Mr Power and Mr Harper had not been at the helm. Moreover, and ironically, we would not know so much about HDLG and Jersey's care system had it not been for the "fallout".

46. We would make the point, again, that neither man operated in a vacuum, and both were very much the product of the circumstances they were having to work in.

47. Neither can it be assumed that "a n other" officer in charge of Operation Rectangle would have had an easier ride or not been confronted with the very same issues. A counterfactual analysis extolling what either Harper or Power should have done is interesting but unhelpful because it obscures the world they were operating in from view.

Political interference

Para. 139 [**WD9423/39**]

48. The JCLA takes issue with the SOJP with what can only be described as an anodyne interpretation of the political reality as amply portrayed in the evidence given by Andrew Lewis and Wendy Kennard just to name two of the witnesses who gave evidence in relation to this. Wanting [sic] Mr Harper "off the case" is a clear example of political interference.

12

Suspension of Graham Power

Paras. 140 and 141 [**WD9423/41**]

49. The suspension is contrary to the SOJP submission very relevant to the IJCI and the terms of reference. This has to be considered and digested because of the prima facie evidence that a number of politicians did not approve of Operation Rectangle, and possibly wanted it closed down. Further that there is prima facie evidence that politicians were interfering with the police operations or at least endeavouring to do so. This culminated in Graham Power's suspension in controversial circumstances. Regardless of whether there was fowl play or not the IJCI no doubt will consider whether there are lessons to be learnt? It is submitted that no police force or the general public can readily afford to lose their chief police officer.

Part 3 Closing submissions of the States of Jersey

50. The JCLA is obliged to point out to the IJCI that it and the survivors had to fight, contrary to the JOC submission [**WD009424/5],** for the Redress Scheme, and there were times when it appeared that the political will for this was at best absent and, indeed, only came about when the issue was forced through commencing proceedings against the States of Jersey in the High Court in London.

51. Whilst not detracting from the importance and significance of the Redress Scheme, and the fact that Jersey should be proud of what it achieved, the point is that survivors had to battle in very difficult circumstances to achieve some form of justice.

Part 4 Closing submission of Michael Gradwell

52. Mr Gradwell makes two interesting observations at para.s 9.6 and 9.7 [**WD009420/17**]:

(1) It is submitted that the IJCI should ask itself how this state of affairs came to pass?

(2) The suspension was a political act and politically motivated. Those who still maintain the counter-arguments for example Mr Lewis (see his submission [WD9419]) should examine the end result as summarised by Mr Gradwell at para. 9.7..

13

53. It submitted that the two are inter-connected causally and the IJCI is referred to the body of the JCLA submission.

29th March 2016

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14

CLOSING SUBMISSIONS – DEPUTY ANDREW LEWIS

1. These submissions, based upon the evidence before the Inquiry, are made on behalf of Deputy Andrew Lewis addressing:

   (i) Appointment of Deputy Lewis as Home Affairs Minister;

   (ii) Suspension of SOJP Chief Officer Graham Power;

   (iii) Allegations of cover ups and political plots;

   (iv) *In camera* debates in the States Assembly; and

   (v) Inquiry processes affecting Deputy Lewis.

Appointment of Deputy Lewis as Home Affairs Minister

2. The Inquiry has heard that Deputy Lewis put himself forward to be Home Affairs Minister in circumstances where no other member of the Council of Ministers had any appetite to do so, due to the fact that Operation Rectangle, in respect of which the Home Affairs Minister had strategic oversight, was deemed to be a political "hot potato". The evidence provided to the Inquiry by Deputy Lewis, Mr Frank Walker, Ms Wendy Kinnard and Mr Bill Ogley all supports this analysis.

Suspension of SOJP Chief Officer Graham Power

3. Deputy Lewis's evidence is that the decision to suspend SOJP Chief Officer Graham Power in November 2008 was based entirely upon evidence placed before him. Deputy Lewis acted with integrity and impartiality remaining within the remit of the Chief Officer's Discipline Code then in force and Jersey law. Deputy Lewis was called upon to make his mind up within a short window on

11 and 12 November 2008 and he did so while at the same time soliciting advice from Bill Ogley, Ian Crich and Solicitor General Timothy Le Cocq QC.

4. The Inquiry has heard a lot of evidence about the suspension process but no evidence that Deputy Lewis made anything other than a good faith decision in what he considered were the best interests of the SOJP and victims of child abuse in the Island.

5. Mr Power has been found to have been responsible for a litany of failures in respect of his oversight of Operation Rectangle and there were also concerns about his capability more widely. There are at least three reports by outside police forces containing substantial and serious criticisms of Mr Power. The Operation Haven I and II reports, undertaken by Wiltshire Police, were commissioned for disciplinary purposes. The suspension decision was upheld by Deputy Lewis's successor as Home Affairs Minister, Senator Ian Le Marquand and also by the Royal Court when Mr Power brought a judicial review action.

6. A contributing factor to Mr Power being too comfortable in his position was a close relationship with Ms Kinnard during her extended time in office as Chair of Home Affairs Committee and as Home Affairs Minister. The Inquiry has failed to secure evidence of written communications which have passed between Ms Kinnard and / or her husband Christopher Harris and Mr Power, including during the currency of this Inquiry. Deputy Lewis considers that these documents would prove the close relationship.

Allegations of cover ups and political plots

7. To the extent that it has been suggested that Deputy Lewis suspended Mr Power in furtherance of a cover up, preventing Operation Rectangle from reaching the truth, the evidence before the Inquiry is that Deputy Lewis was a relatively junior minister who was confronted with a complex and fast moving situation almost immediately upon the resignation of his predecessor Senator Wendy Kinnard.

8. Following Mr Power's suspension, the Inquiry now knows that Operation Rectangle proceeded unhindered for in excess of two additional years under Senior Investigating Officers Mick Gradwell and Alison Fossey, with strategic oversight from Acting Chief Officer David Warcup. Deputy Lewis knows each of the latter three officers to be capable and professional and asserts that it is patently ridiculous to suggest that Mr Warcup, Mr Gradwell or Ms Fossey would allow themselves to be party to the covering up of child abuse. There is indeed no evidence that they were anything other than committed to delivering justice to victims of child abuse as was Deputy Lewis' expectation.

9. It may be natural that prosecutions would come towards the end of an investigation. However, the Inquiry has heard during the course of the evidence that the lawyers tasked with prosecuting cases arising out of Operation Rectangle were experiencing considerable difficulties prior to Mr Power's suspension on the basis that a misleading impression that there had been murders of children at Haut de la Garenne had been allowed to root and efforts to correct the record were being actively countermanded by Mr Power. The lawyers feared that there was a possibility that the Crown could lose the abuse of process applications brought by defence counsel to Michael Aubin, Gordon Wateridge and Claude Donnelly. Mr Power had lost the confidence of key components in the criminal justice system. This is not because those persons were trying to cover up child abuse, but because they did not want prosecutions of abuse perpetrators to fail on abuse of process grounds. Deputy Lewis regrets that the Inquiry has not secured the evidence of Advocates Stephen Baker and Simon Thomas in this regard.

10. Another counter narrative is that Deputy Lewis was an accessory to a plot hatched over a period of months to get rid of the Police Chief. In his evidence Deputy Lewis has entirely refuted this. If there was any such plan, Deputy Lewis was not party to it. In particular, Deputy Lewis was not aware of any such plan when, as Assistant Home Affairs Minister, he met with Senator Kinnard at her home on Saturday 18 October 2008. This is abundantly clear when the totality of the evidence provided by former Senator Kinnard and her husband Christopher Harris, present for part of that meeting, is considered.

11. The Inquiry is aware that there are difficulties with the second draft note of the meeting referred to in paragraph 10 above which has been supplied to the Inquiry by Mr Harris. The Inquiry is further aware that Mr Harris has conceded that a number of the points within the note represent Mr Harris' own thoughts rather than things that were actually discussed at the meeting as initially appeared to have been presented.

***In camera* debates in the States Assembly**

12. We do not consider that it was anticipated by the States of Jersey or the public in the Island that the Inquiry would spent so much time considering what Deputy Lewis did or did not say during the *in camera* debate of 2 December 2008. Deputy Lewis urges the Inquiry to now resist the efforts of Deputy Michael Higgins and a small group of likeminded people to place this irrelevant political issue central stage in the Inquiry's proceedings.

13. Although irrelevant to the Inquiry's Terms of Reference, it was entirely appropriate for Deputy Lewis to describe the document produced by David Warcup on 10 November 2008 as a "*preliminary report*". The document had been described as a "*report*" in the letter from Bill Ogley forwarding the document to Deputy Lewis, and it rather appears that Deputy Lewis simply adopted Mr Ogley's nomenclature. While in the format of a letter, the document is lengthy and detailed and it is simply a matter of semantics how it was in fact described. Deputy Lewis has confirmed that his single reference to seeing the actual Metropolitan Police Report, towards the end of the debate was a simple error made under the pressure of sustained questioning by other politicians. Deputy Lewis has corrected this simple and modest error and urges the Inquiry to agree with him that nothing turns on that error for the purposes of the Inquiry.

14. Mr Power had been expressly informed in correspondence before 2 December 2008 that Deputy Lewis has not seen the actual Metropolitan Police Report, so there can be no suggestion of prejudice to Mr Power in this regard. The Inquiry has heard that Deputy Lewis has not been

permitted to see the actual Metropolitan Police Report on the basis that it contains sensitive personal data of Operation Rectangle complainants.

Process of the Inquiry

15. Deputy Lewis wishes to place on record that he was led to believe when interviewed by Peter Shervington of Eversheds on two occasions that he would not be subjected to cross examination and that the Inquiry was constituted to establish facts rather than make a case either way. We invite the Inquiry Panel to review the tone, style and repetition of questions put to Deputy Lewis by Inquiry Counsel Cathryn McGahey on both of the occasions that he gave live evidence. It is Deputy Lewis' submission that notwithstanding the process generally adopted by the Inquiry, the questioning by Ms McGahey was hostile and contentious and outside the behaviour which would have been expected by Counsel in an inquisitorial rather than adversarial process. In being examined in this way, Deputy Lewis is firmly of the opinion that he was not being treated fairly.

16. A particularly egregious example of this procedural injustice was in that it was unfair of Ms McGahey to assert that it was objectively true that Deputy Lewis has been critical of more people in his witness statement that any other Inquiry witness. This was a factually incorrect assertion and there is of course a significant margin of subjectivity about what is or is not a criticism. Some people have sought to make Deputy Lewis a scapegoat for events in 2008. He has had to robustly set out his position.

Final remarks

17. Deputy Lewis commends the SOJP, which includes Lenny Harper and Graham Power, for launching the Operation Rectangle abuse investigation. They just did not turn out to be the right people to see it through to successful prosecution of perpetrators for a multitude of reasons with which the Inquiry is now very familiar.

18. Deputy Lewis hopes that the Inquiry will finally allow the Island to move on from the events of 2008.

19. Deputy Lewis praises all of the persons who have been brave enough to come forward and give evidence to this Inquiry.

CAREY OLSEN

18 MARCH 2016

IN THE MATTER OF THE INDEPENDENT JERSEY CARE INQUIRY

RESPONSIVE SUBMISSIONS
OF DEPUTY ANDREW LEWIS

Introduction

1. These written Responsive Submissions are filed and served on behalf of Deputy Andrew Lewis.

2. Deputy Lewis has had regard to the written Closing Submissions filed and served by the States of Jersey Police, Government of Jersey, Law Officers' Department and Mick Gradwell and does not join issue with any of the contents.

3. While Deputy Lewis unequivocally supports the aims and aspirations of the JCLA, he joins issue with a number of aspects of the JCLA written Closing Submissions. The remainder of these Responsive Submissions address the following points arising as themes from the JCLA written Closing Submissions:

   (i) Graham Power "estrangement" from Government;

   (ii) Legal advice; and

   (iii) Procedural matters.

4. It has come to our attention in the days immediately preceding the deadline for filing these Responsive Submissions that the JCLA Closing Submissions have been removed from the Inquiry's Magnum database. Deputy Lewis wishes to reserve the right to amend or expand these Responsive Submissions if there are material changes to the original version of the JCLA written Closing Submissions.

Graham Power

5. The JCLA assert at paragraph 6.29 of their written Closing Submissions that it was "*clear*" by the summer of 2007 that the relationship between Mr Power and the States of Jersey was "*an estranged one*". The JCLA say that the reason for this was Mr Power having recused himself from a meeting at which a vote of no confidence in then Senator Stuart Syvret was discussed.

6. Deputy Lewis disputes that there was any such "*estranged*" relationship between Mr Power and the States of Jersey in mid-2007 and suggests that it is hyperbole on the part of the JCLA to say that there was. As Deputy Home Affairs Minister, Deputy Lewis would have had more frequent contact with Mr Power than any other politician save for Senator Kinnard. In consequence, Deputy Lewis would have been proximately placed to sense a breakdown in Mr Power's relationship with the States of Jersey. He did not do so.

7. Members of the Government, including Senator Kinnard, harboured concerns about Mr Power's leadership of the SOJP, unrelated to matters concerning the investigation of child abuse, in the months preceding June 2007. Deputy Lewis has set out the broad areas of concern at paragraphs 32 of his Inquiry witness statement where he refers to:

   (i) an internal problem with bullying within the SOJP which Mr Power's management style appeared to exacerbate in Deputy Lewis' perception;

   (ii) a heavy reliance upon statistics as a driver of SOJP policy; and

   (iii) a perception on the part of Deputy Lewis and others that Mr Power was not particularly visible in the community.

8. Deputy Lewis has provided evidence that he was trying to work with Mr Power to improve performance or counter negative perceptions in the above areas, rather than politically undermine him as appears to be the JCLA's implication. Mr Power has not disputed Deputy Lewis' evidence in this regard. The evidence is simply not suggestive of an "estranged" relationship.

9. At paragraph 94 of his Inquiry witness statement, Deputy Lewis sets out his concern at the breakdown in the relationship between the SOJP and the Customs and Immigration Service. This concern was shared by Senator Kinnard and others within Government. Deputy Lewis went to extraordinary lengths to try to smooth over the differences which had arisen, including personally addressing the officers of the Customs and Immigration Service in order to try to break the deadlock. It would not have been proportionate for Deputy Lewis to fully address the Inquiry with the efforts he made in this regard, but again Deputy Lewis' actions and leadership in relation to the Customs and Immigration issue do not point to Mr Power being "estranged" from Government.

10. Notwithstanding the above, Deputy Lewis is surprised by the contention at paragraph 9.3 of the JCLA submissions that Mr Power was considered to be "*a breath of fresh air*" by any persons. Deputy Lewis recalls that this label may have been attached to Mr Harper by some persons but not to Mr Power. Deputy Lewis' recollection is that Mr Power was regarded by most informed people in Jersey as being of a traditional variety of police officer.

Legal Advice

11. It is a theme arising from the JCLA written Closing Submissionsthat Deputy Lewis "ignored" legal advice from the Attorney General or Solicitor General that he would need to have regard to the actual Metropolitan Police Report before deciding to suspend Mr Power, for example at paragraph 6.44. The Inquiry has seen no evidence that Deputy Lewis ignored any legal advice that was effectively communicated to him. Deputy Lewis is, however, disappointed that not all of the legal advice was in fact effectively communicated to him.

12. Notwithstanding the above, the evidence shows that the police service was insistent that Deputy Lewis could not see the actual Metropolitan Police Report for reasons which are now well known to the Inquiry. As a result, the legal advice which has now emerged before the Inquiry did not address the practical imperatives of the situation.

13. Deputy Lewis was entitled to content himself with the summary report provided by David Warcup. Deputy Lewis was further entitled to expect without further query that the summary report was an accurate summary of the Metropolitan Police findings. Deputy Lewis is not aware of any evidence before the Inquiry that David Warcup's summary of any material inaccuracies which would have caused him to proceed in a different way on 12 November 2008.

14. Deputy Lewis is critical of Inquiry Counsel's attempts to make a case that David Warcup's summary report was inaccurate or misleading when David Warcup gave evidence on 16 December 2015. Deputy Lewis does not consider that anything turns upon the answer to Inquiry Counsel's leading question commencing at line 14 of page 131 of the Day 120 evidence transcript. Deputy Lewis is clear that he read Mr Warcup's summary report several times on the 11 and 12 November 2008. It was and remains clear and readily apparent to Deputy Lewis which parts represent findings by the Metropolitan Police as opposed to those other parts which represent David Warcup's personal opinions. For the record, Deputy Lewis reiterates his view that David Warcup's personal opinions did not carry any less weight than the findings of the outside police force.

Procedural matters

15. There is no evidence that Deputy Lewis was part of any conspiracy to "*be rid of Mr Power come what may*" as averred in paragraph 6.15 of the JCLA written Closing Submissions. Accordingly, the assertion that "*a price had to be paid for Operation Rectangle and all that went with it, and this was to be paid by Mr Power*" is also unevidenced as far as Deputy Lewis is concerned.

16. Deputy Lewis had a better understanding of police matters owing to his role as Deputy Home Affairs Minister than some of his political colleagues. As a result, Deputy Lewis was not as exercised at the time of the misleading and inaccurate publicity surrounding HDLG which emanated from the SOJP prior to Lenny Harper's retirement as evidence before this Inquiry has shown that some colleagues were.

17. Deputy Lewis was not motivated by any sense of recrimination when he suspended Mr Power. On the contrary, Deputy Lewis' core concern was for the future conduct of Operation Rectangle and his fear that the investigation would collapse if David Warcup or Mick Gradwell were to resign in protest due to their articulated position that Mr Power was complicating or vetoing their efforts to comply with applicable police service guidelines.

18. Whether it is right or wrong to categorise a suspension as a "neutral act", that is what Deputy Lewis understood he was engaging in at the time on the basis of advice that was effectively communicated to him. Deputy Lewis was acting on the advice he received from ACPO and others that a disciplinary investigation of a Chief Officer of Police could not be carried out effectively while that Chief Officer remained at his desk and that the Chief Officer could return to his duties if he were exonerated. As things transpired, Mr Power was not exonerated and Deputy Lewis' evidence is that he was taken aback by the extent of the failings on the part of Mr Power which were identified during the independent disciplinary investigation conducted by Wiltshire Police.

19. We are not aware that any credible witness has seriously suggested before the Inquiry that a disciplinary investigation was not merited once the Metropolitan Police interim findings were known.

20. Deputy Lewis disputes that he had any expectation that Graham Power "*would fall on his sword and walk away*" as suggested in paragraph 6.16 of the JCLA written Closing Submissions. Deputy Lewis is very clear that he was willing to listen to any explanations Mr Power might provide at the meeting on 12 November 2008, whatever Bill Ogley's position might have been.

21. Deputy Lewis submits that in its final report the Inquiry must give at least equal attention to the substance of the deficiencies in Mr Power's oversight, command, control and leadership as to the process surrounding Deputy Lewis' decision to suspend Mr Power.

Final

22. Deputy Lewis is disappointed that the JCLA has submitted at paragraph 6.44 of its written Closing Submissions that his evidence to the Inquiry is "*unreliable*" and refutes this entirely. Where Deputy Lewis did make a mistake, when he addressed the States Assembly on 2 December 2008, he has been very open and clear about it, both in his testimony to the Inquiry and on previous and subsequent occasions. Where Deputy Lewis mis-spoke as to details such as dates during passages of his evidence, it is submitted that this is a result of the passage of just short of eight years since the events of November 2008 took place and is to be reasonably expected. Deputy Lewis was not assisted in this regard by Counsel to the Inquiry subjecting him to a more hostile examination than other witnesses before the Inquiry.

23. With regards to paragraph 6.48 of the JCLA written submissions, Deputy Lewis agrees that the experience with Mr Power is illustrative of failings in government. A robust structure should have been in place to ensure that a Deputy Chief of Police could not dominate the thinking of a Chief of Police. Deputy Lewis understands that the situation has improved now that the Independent Jersey Police Authority is in place.

24. Deputy Lewis takes this opportunity to restate the Final Remarks contained in his Closing Submissions.

[redacted]

CAREY OLSEN

8 APRIL 2016