

Witness Name : Trevor Pitman  
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## THE INDEPENDENT JERSEY CARE INQUIRY

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Witness Statement of Trevor Pitman

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I, Trevor Mark Pitman, will say as follows:-

1. I make this statement to the Inquiry in order to give my account of matters I witnessed during my time as a Youth & Community Development professional, a Jersey Politician, and thereafter. Its core focus will quickly be seen to be the exposure of what has become known as the notorious 'Jersey Way' which in truth covers a whole variety of judicial and political abuses. All of which are essential to understand to try and comprehend how the child abuse scandal in Jersey was allowed to roll on for so many decades; and equally how those who have tried to fight for justice – police officers Power and Harper, a handful of politicians, Citizens' Media bloggers, indeed, the victims themselves have regularly been intimidated, their reputations/stories trashed.
2. It should likely be stated at the very beginning that having first won election to the States of Jersey in 2008 as a Deputy for the St. Helier No. 1 district; and having been re-elected in 2011 I was forced out of Office (along with my wife Shona, herself a three-time elected St. Helier Deputy) in January 2014 not by any rejection at the ballot box; but as a consequence of our being made en Désastre; this following a lengthy defamation battle with the Island's

Establishment mouthpiece newspaper, the Jersey Evening Post and one of its clients.

3. I am proud to say that throughout my time in the States Assembly I was one of only a handful of politicians who fought for justice for the victims of State-concealed abuse; the vast majority of States Members simply 'keeping their heads down' on what had been allowed to take place. Though now outside of politics providing this statement is in my view simply a continuation of this.
4. For the record the above legal action arose from the publication in the island's only newspaper of the highly damaging falsehood – just weeks after my swearing into Office - that by my election our income had risen four-fold when in fact it had diminished by several thousand pounds: this due to my Education department salary having been higher than that of my new role. From the reaction of people who approaches my wife and I the 'in it for money' inference of this was clear. Suffice at this point to state that the consequence of losing the action meant that, unlike Members of the European Parliament and elsewhere in Europe, under Jersey law in being made 'en Désastre' (bankrupt) you lose your government seat automatically.
5. Regardless of the above the reason that I have come forward to speak to the Inquiry is obviously not in direct relation to my legal case at all; nor even primarily at least due to my previous career as a professional educator: but simply because I feel that this Inquiry may be the last chance for many of the victims in Jersey to have the opportunity to speak out and have what happened to them at the hands of those meant to protect them whilst in care finally heard. Many victims have, of course, waited, betrayed for forty or more years: time is thus running out.
6. Consequently, my belief that whilst having little faith that any holding to account of the guilty parties will flow from the Inquiry, it is crucial that those few political figures – of which I repeat I am proud to have been one – who fought for the Inquiry to take place and against the traditional 'Jersey Way' of



abuse being once again swept under the carpet now speak up in the victims' support.

7. Above all, perhaps, that someone who has been elected to the States Assembly be brave enough to stand up and publicly state the truth that based upon a detached scrutiny of the evidence key 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. In my view and that of many others such individuals should not be allowed to preside over courts; or decide upon who is or who is not prosecuted for alleged abuse: their records demonstrate them unfit.
8. That this has happened further shows just how inadequate the 'checks and balances' that do – allegedly – exist under the constitution such as in the United Kingdom's Lieutenant-Governor of the Island really are. In fact such failures likely demonstrate only the UK's collusion and condoning of such appalling failures. Indeed, that the Lieutenant-Governor can go on record since my leaving the States to claim that an Attorney General with William Bailhache's record of failure and selective application of the law has 'all the qualities necessary to succeed' as the Island's new Bailiff speaks volumes to this regard. I will return to this within the section on my political experiences.
9. Indeed, all of this goes to the very core of the aforesaid 'Jersey Way' which is in turn at the heart of what the Inquiry team needs to investigate in order to understand just how the Haut de la Garenne scandal and others have been allowed to happen. Indeed, in support of this contention I refer to Paragraph 13 of the Inquiry's Terms of Reference with particular emphasis, as I believe so much of what I have witnessed from personal experience sheds significant light on this key area.
10. Along with a number of senior politicians, civil servants and police chiefs over the years - and not to forget - generations of local media 'professionals' who ducked out of challenging the 'Great and the Good whilst this scandal was

unfolding it is these people at the apex of the local 'justice' system whose failures ensured that the abuse finally exposed due to the tenacity and dedication of the likes of senior police officers Lenny Harper, Graham Power and a handful of other 'whistle-blowers' such as former Senator Stuart Syvret was allowed to go on and on for so many decades.

11. To this regard, as I have said in many speeches: 'silence is not a neutral position'. Although sadly most Jersey politicians seek to convince themselves to the contrary.
12. Having set out all of the above I would further add at this point that I will thus make reference to my own aforesaid legal case and experiences of Jersey's so-called 'justice' system *only* in regard to how a number of legal abuses and non-compliance with – for example - Article 6 of the European Convention on Human Rights (the right to a fair trial) experienced by my wife and I to help shed further disturbing light on the long-standing 'Jersey Way' culture/attitude of indifference to child abuse; those who choose to disregard such abuse, and deliberate manipulation of the law allowed to continue within the judicial system by successive Jersey Bailiffs and Attorney Generals right up to the present day. As it will continue *after* the Inquiry has concluded should this prove to have no real teeth.
13. I believe the importance of the above really cannot not be overstated as beyond any shadow of doubt this is absolutely essential for the Inquiry team to be able to see and understand how Jersey's court and police apparatus is thus manipulated against those who do speak out for the victims and against the continuation of such political and judicial corruption: in our own case as I shall outline, even resulting in my wife being knocked down and injured in front of witnesses on a pedestrian crossing – yet the Police claiming there was 'not enough evidence' to prosecute. More importantly still, of course, how this 'Jersey Way' culture is used and abused to disregard and even silence abuse victims themselves.

14. Political pressure on those who dare 'rock the boat' by questioning and/or challenging the system is also relentless, in turn both brutal and invidious: the reason so many 'keep their head down'?
15. For there is beyond any doubt a culture of fear present in Jersey and this aspect of the 'Jersey Way' is something which the Inquiry also needs to get to grips with in understanding why and how so many things have not been as they should. Indeed, all of what I have outlined above has been witnessed yet again since I first made contact with the Inquiry team; most disturbingly of all within the February 2015 attempt by former Attorney General and Bailiff (Chief Judge) Sir Philip Bailhache to turn public opinion against a final securing of justice for victims via scaremongering tales of 'blank cheques' and '£50.000.000 final costs'.
16. The above named Senator and former Bailiff has of course subsequently also been revealed to be an individual who according to a former Head of Education told him as Jersey's Attorney General not to go to the police regarding the abuse of a child! My evidence throws further light on this disturbing attitude so entrenched within the Jersey Establishment.
17. Finally, given that I not only Chaired a major Scrutiny (Select Committee) Sub-Panel review into the so-called BDO review and consequently many of the fallacies spun by Establishment politicians and their media lackeys about the management of Operation Rectangle; and am also able to give details about significant quantities of hidden evidence relating to child abuse at Haut de la Garenne found - then conveniently 'misaid' after being discovered I feel that it is my responsibility to speak out no matter what.
18. I would nevertheless make it clear from the start that whilst I have listened to a significant number of accounts from victims (more than a dozen in truth) about the abuse which they suffered – and must say that I have not felt concerned as to the truthfulness of a single one of these – I have not come forward to simply repeat their allegations. These tales are for these brave and betrayed survivors to outline being those who suffered these abuses. I

have supported these people to the best of my ability; and in some cases continue to do so even though now forced out of politics.

19. I also feel it necessary to stress for the record that my time as a professional Youth Worker is *not* what I originally intended speaking to the Independent Care Inquiry about; likewise the background to my first standing for election to the States. As I have made clear within my interviews my feeling was and remains that *most* of what I feel to be of key importance was discovered once I had entered politics in 2008. However, since the legal team has specifically asked about this; and in my recognising that some of this – particularly in regard to departmental attitudes arising from political pressure - may be useful in establishing the ‘bigger picture’ I have obviously agreed to do so.
20. My statement of evidence as I view it is thus provided primarily in that it explains and sheds significant light upon the political/judicial attitude, manoeuvrings and even blatant ‘turning of a blind eye’ which both allowed so much of this abuse to happen; and has subsequently attempted to thwart truth and accountability being delivered.
21. Due to so many matters being inter-related, and indeed, the variety of questions I have been asked, this statement is of some considerable length. I have striven to recall all and anything which may be of interest to understanding ‘the Jersey Way’ which so many of us feel lies at the root of so much of what has been allowed to happen. I make no apology for the lengthy response however; and simply reiterate that the COI may obviously use or ignore what I have to say as it sees fit.

## **Background and the Youth Service**

22. I was born on Jersey in January 1960. As a youngster, I was not entirely sure what I wanted to do when I was older, and perhaps because of this found myself following a career in Business Management with a number of local and UK companies. Whilst this was not particularly fulfilling I nevertheless always enjoyed the training side of work I undertook on behalf

of two of these companies with young staff such as school leavers and work experience students. At the same time, possibly also influenced by my having a number of teachers within our family, I eventually decided that I might want to move into the field of education.

23. At the suggestion of my girlfriend of the time I decided to give two or three evenings a week to being a voluntary worker in Jersey's Youth Service. I found this very rewarding indeed and soon decided that this was what I wanted to do professionally and set about looking in to this.
24. At this time as fate would have it the Island's new Principle Youth Officer, the late Mr Peter Gambles was working very hard (as had his predecessor Mr Tom Kier Hardy by all accounts) to move from what had largely been a voluntary worker-led Youth Service focussing on recreational activities; toward putting this on an equal professionally trained (Degree/Diploma-based) footing as with teachers and shifting the emphasis on to personal development and informal education. A big part of this was what may be termed 'experiential learning' (essentially young people learning by being supported to do things for themselves. All of this really clicked with my own thinking.
25. This being the case in 1993 I consequently decided I would need to move to the UK mainland in order that I might train and graduate professionally in 'Youth and Community Development and Informal Education'. To this regard I was subsequently accepted to train at De Montfort University in Leicester. Having successfully graduated I returned to Jersey in late 1996 and – as a vacancy had just arisen – was fortunate enough to be appointed as the full-time professional at the Island's largest youth facility, the Grand Vaux Youth Project.
26. Despite the huge effort being made by Principle Youth Officer Peter Gambles I quickly found out that the Youth Service here in Jersey was not only widely misunderstood; but was also not as respected or adequately funded as it should have been for the huge amount of positive work it delivered. It was

really seen as the poor relation of the Education Department (within which it sat), and was in truth seen - not only by ordinary members of the public - but also by politicians who really should have known better as a voluntary provision – a ‘nice to have’ - rather than a professional one: in essence seen as a vehicle simply for ‘getting kids off the streets’. This was, over the next few years, to become hugely frustrating for many of us who would return newly qualified from Universities. .

27. The Grands Vaux area of Jersey where my new project was based was one of the most economically challenged areas on the Island. There was also still something of a negative image/stigma attached to the ‘Nicky Park’ (Nicholson Park) area in which the project was based which was often as unhelpful as it was outdated and unfair. As fate would have it my parents had actually lived in the neighbourhood at the time I was born; and I had spent the early part of my childhood there. I thus knew that whatever the problems there had also been some really good people there then and it would be no different today. I saw my role as offering an opportunity to go back and try to improve opportunities for the young people who lived in the area now.
28. I would enlarge upon the above to suggest that the Youth Service was then terribly funded set against the amount of work, both educational and recreational which my colleagues and I – and, indeed, the crucial volunteers we depended on - delivered week in/week out. I reiterate this was purely because ‘youth work’ was not seen as a sufficiently important by the States: not least by the individuals who then held the position of President (later Minister) of Education.
29. To this regard I can honestly state that this was probably my first experience of how so many – probably the majority – of States Members have little understanding of social and educational matters. (Something which has improved little if at all even as we move through 2015!)
30. Although it was technically part of the Education Department (later Education, Sport & Culture), the Youth Service did not have – and still does

not have - statutory status so the Education Department was not required to provide specific or anything like adequate funding to guarantee it. In my opinion this lack of statutory status allows Education Ministers to this day to see the service and those who work in; and use it sold short. I should highlight that a much needed attempt to secure this statutory service was eventually brought to the States by my own wife, the then Deputy Shona Pitman in May 2009 but was sadly lost by just one vote.

31. Out of fairness to her – and I admit I hesitate to mention this because it obviously demands praise of my own wife – I should also give credit where it is due in that right from the time she was elected in 2005, understanding much of what was going on Shona sought to push for improvements in crucial areas such as Sessional support staff. She had, of course, been both a volunteer and later a part-time paid Sessional worker at Grands Vaux.
32. It is probably very telling that such intervention and public highlighting of problems was not appreciated by the Great and the Good of the Establishment. Senator Philip Ozouf for example emailed the then Education, Sport & Culture Minister Senator Mike Vibert (another States Member had seen this email and told her of it) encouraging Vibert in attempting to stir things up on the grounds of how Deputy Pitman should not be asking questions about the Youth Service when her husband is a professional youth worker.
33. Instead of showing concern about the actual health and safety issue wagging his political tail obediently Vibert subsequently brought this up in the States. Which probably shows not only the double standards of the Minister but quite possibly his lack of brains: he was Education Minister and felt quite able to do the role – yet his very own wife was a Jersey *school teacher!*
34. Upon reflection I have come to believe that this type of thing shreds great light on the truth of what the former Principle Youth Officer Mr Gambles observed to me when we were once talking about approaches to child abuse and other controversial youth-related matters such as sexuality and drug

issues. It is of course a number of years ago now yet I recall some of this vividly because it struck home so deeply:

35. 'It shouldn't be this way but it is a balancing act; even a battle: Politicians generally will obviously not want the public to think such problems exist in their sphere of influence. But here in Jersey – probably because of the small size of the island - this sensitivity appears almost obsessive.' I will return to this aspect of my experience a little later as I think it sheds significant light on much that would happen years later.
36. To return to the situation of the Youth Service generally I think what was happening at the Grands Vaux Centre then was typical of the Jersey culture at the time, - out of sight means out of mind. In order to try and develop the building from what was effectively a very large and quite run down basic shell (the excellent sports hall aside); and to provide better equipment and learning opportunities my team and I eventually raised more than £250,000. We in fact raised around £72,000 to build a state of the art climbing wall.
37. To help achieve this we also brought in the Social Services Department (the Grands Vaux Family Centre) as a rent-paying tenant, and were also having to go to charities 'cap in hand' and make a case for the funding we needed. The fact is I eventually got securing external funds down to a fine art – which was just as well. At one point – and this is pretty incredible – I was told by the principle Youth officer that succeeded Peter Gambles after his untimely early death that I should stop because our young people's presentations were attracting *too much* support; and thus other projects were losing out because (and this is obviously true) there were only a limited number of institutions one could approach.
38. As I say a key aspect of this aspect of youth work for me 'fired up' as I was being newly professionally qualified from University was empowering young people to prepare the funding cases and present them to the charities to help with their confidence and to teach them new skills. With the money we raised, amongst other things we completely refurbished the whole building,



even, as I say, installing a climbing wall, a fitness centre (gym) and new coffee bar.

39. It seems incredible and probably foolish now but in the first couple of years whilst I was getting this going I was still also often even paying for things – equipment wise – that we needed out of my own pocket. We are not talking thousands of pounds here but it was still money that really should have stayed in my own pocket. I didn't expect any 'Brownie points' points for it either: it was probably daft but one did it because it was needed. I know I was not alone in feeling I had to do this either.
40. It was a tough role as I will enlarge upon below and certainly unfortunately took its toll: in the cases of a number of professional colleagues facing similar experiences – took its toll and seriously so. Indeed for a number of years we had a disappointingly high turnover of professionals and the ridiculous working hours and lack of support was key to this. I nevertheless also found it rewarding as I felt like I was making a difference.
41. Indeed, it was this concept of full-time youth work being a 'vocation' rather than a mere profession which politicians and those at the apex of Education played upon for years; knowing that most of us would always go that extra mile – even in terms of ridiculous and dangerous working hours – and thus side-stepping the clearly needed injection of adequate funding and support staff. Unfortunately we still see the same attitude with professions such as nursing. Due to the low calibre and generally privileged background of most Jersey politicians in senior positions the understanding and approach to socio-economic balance is completely out of kilter.
42. Because it did not have this statutory status, the Youth Service was, apart from key worker costs and maintenance etc in many ways essentially a self-funding service: different projects relied heavily on donations/fund-raising to keep going. Parishes were (rightly) expected to contribute but for years this was a ludicrously 'hit or miss' exercise, with input varying hugely and with no central contract process. The Grands Vaux Youth Centre for example was

situated on the border of two parishes – St. Saviour and St. Helier. St. Saviour was far less supportive and for years contributed just £750 to our funds. St. Helier was much more forward thinking and consequently supportive if you could make a case for what was needed.

43. This hugely varying degree of support was repeated across the Island and in my view demonstrates just how ‘hit or miss’ the process of getting the necessary financial support was. By the time I left the Youth Service following my election to the States we had finally managed to achieve a more formulised agreement with the parishes in the Island but I must state it was a struggle and a long time in coming. Again I would stress the underlying message in this is clear: the Youth Service was neither understood or valued as it should have been; and worse than that neither was the concern for the safety of children/young people by many of those at the apex of the department and politically.
44. The above also illustrates how, despite the first Principle Youth Officer when I was employed being very capable and hardworking, with large scale indifference from senior civil servants at Education and from the supposedly responsible politicians (initially the President of the Education Committee and later an Education Minister) so much of what one could achieve for the young people came down to the relationships you yourself made as the professional worker. I would suggest this problem also showed itself in terms of child protection concerns.
45. I remember being surprised – shocked is the more apt word - by the general lack of rules and regulations that we had to comply with in some areas in the early years. I’m talking safety here at this point. I was especially surprised by the absence of those measures that I would have expected to be in place to protect both the staff and the children. For example, no matter what impression may have been given, there were in reality no written rules whatsoever governing the ratio of children that could safely be looked after or supervised by a handful of staff.

46. On a Friday night for example this could be – and regularly was as the Project became more and more popular – ridiculous. Yet complaints and highlighting these matters regularly fell on deaf ears – particularly after Gambles’ ‘moved upstairs’ so to speak and even more so once he was succeeded by his Training Officer who increasingly handled much of the day-to-day contact with problems raised by ‘frontline’ professional youth workers.
47. If you restricted numbers coming in due to where the Grands Vaux Centre was situated there would still be large numbers on the premises outside. Still ‘our responsibility’ yet we didn’t have the staff numbers to cope and when there were problems such as police being called it always seemed to end up as somehow being ‘the worker’s fault’. After Gambles’ untimely early death I think bowing to political pressure from above worsened significantly.
48. To illustrate the above problem I could regularly have up to 80 teenagers all in one building with a demonstrably too small number of adult workers: on quite a number of occasions just me and one female adult volunteer. Because we were successful in making the centre more appealing and the range of what was available more extensive the downside was that this success obviously pushed the numbers up and made things even more difficult: young people obviously are quite peer-motivated and wanted to go where their friends were going.
49. Eventually I got the rest of the Management Committee’s support (these were all volunteers but did not work at the project itself) to allow me to spend money on additional internal doors to be able to limit access. Yet in truth this often led to more problems with young people becoming frustrated. It was also hardly the best response but without departmental and political support it was a necessary one.
50. It is a fact that I would complain about all of this very vociferously – particularly when I was elected to be the professional Youth Work team’s Union Representative – but I have to say that particularly after the death of the Principle Youth Officer such concerns largely went disregarded. As I

alluded earlier within the upper echelons of Education/ESC there was evidently more concern about not falling foul of the Education President/Minister who wanted provision open and all apparently appearing hunky-dory no matter what.

51. In essence this attitude could be summed up by a saying some of us often used at the time: 'the President (Minister) wants a professional service but he doesn't want to pay for professional level support.'
52. Given the high number of young people attending which we were getting at Grands Vaux during certain years I was actually concerned that I would be hung out to dry if anything like an accident happened, yet there were no legislation/rules in place on a par with class sizes within schools. If one just considers that for a moment you can immediately see not only how potentially dangerous it is but how soul destroying, how frustrating for someone trying to deliver good informal education it is.
53. If the States were really serious about valuing the Youth Service right up this day then it would be given the statutory status Shona tried to secure back in 2009. I personally believe that this would go hand-in-hand with helping to guarantee child protection.
54. The working conditions were thus difficult to say the least. I repeat: the politicians and senior Education figures wanted a 'professional' service but they were not willing to put in the necessary financial resources for adequate staffing. Being a professional youth worker is *not* a 9 to 5 job. It can never be. Indeed, it was a very unhealthy lifestyle. Too many at the top however still thought all the Youth Service did was play ping-pong. Indeed, I actually wrote and produced a report – I think I actually titled it 'Something more than ping-pong' demonstrating what we *did* do to try and get the message through to politicians. The department should still have copies of this.
55. It was not in any way unusual to work in excess of 70 hours a week. Yet you would be paid for only half of this. We were not paid any overtime

whatsoever over all the years I worked for the service. We were meant to have 'time off in lieu' – T.O.I.L. - for the excess hours we had worked, but in reality, that time in lieu was hardly ever taken: it couldn't be – there was simply not the staff to cover for you to do so.

56. We were working such ridiculous long hours and were regularly so exhausted that the professional team used to joke that we should have t-shirts printed which said that we were "Powered by Prozac". It was certainly not a job that one can easily do for a long number of years and is not conducive to quality family life. As I say it took its toll on a number of professionals including me. I hung in there until I felt I had achieved all that I could and felt that now (2008) I could – hopefully – do more by going into politics; but a number of colleagues fell by the wayside for these very reasons – including child protection concerns not being supported.
57. It should be noted that it was common to regularly do a three way split working sessions almost every week: the last of these in the evening meaning that in reality you might get home nearing midnight having done your first work session in the morning. The number of evening sessions we had to work certainly was abused over the years initially and would not have been accepted in many jurisdictions as these were regularly in breach of the UK guidelines. Working twice the hours you are paid for is a safety issue for the professional and it is a safety issue for the young people in your care.
58. Indeed, like much else the reality that for many involved in 'caring' professions I repeat this is seen as a 'vocation' not just a job was grossly exploited by an Education, Sport & Culture department; and ultimately 'political leadership' (I use that term with reservation) who really did not care or even understand the underlying issues at hand. Everything seemed to be about image and appearances – a forerunner of the tick-box culture which would come in after the Kathy Bull Report. I.e. showing you had ticked all of your boxes became more important than the actual work and outcomes of doing good work. Hardly what Bull would have intended.

59. Returning to the issue of child protection itself I would just add that much of the criticism of other safety failings are quite ironic when one considers that the 'in house' training and support professional workers like me and, indeed, the Service's Training Officer eventually put in place to assist volunteer workers in recognising basic tell-tale signs of abuse were actually very good indeed – in stark contrast to the feeding back of information from above once you had flagged something up with your superiors.
60. Whether this was simply a communication problem or those 'at the top' not wanting to risk wide-scale knowledge – and ultimately public knowledge - of any problems or potential scandals I have never been quite sure. It is nevertheless a fact that political control of sensitive issues was clearly something of an obsession as I stated earlier in mentioning a conversation with Mr Gambles.
61. Having just earned my professional qualification prior to my return to Jersey I obviously had very strong and progressive views which involved trying to implement the best practice I had learned at University. I considered that youth work was about empowerment and educating young people to make their own decisions on their future and to be confident to do so. Key aspects of this included tackling what were largely still taboos or 'no go areas' with a Conservative Establishment. The main aspects of this were work around drugs and gay sexuality – and most resistant of all in Jersey, politics.
62. I am aware that I made myself far from popular with those in the higher echelons of Education because I made my opinions known on all of these matters; be they educational or around staffing conditions. In a departmental culture of fear which certainly escalated after the death of Mr Gambles – and I admit then I had no idea how this was prevalent in so many others aspects of life in Jersey - I was one of the only people who stood up and demonstrated backbone. A trait I am proud to say I took with me into politics regardless of what it has cost me in other ways.

63. As I say I spoke out about many issues, safety and child protection; the areas (see above) the Service was shying away from and also the professional workers' hours and salary, and regularly for others who felt unable to do so themselves. Bullying of staff from the top was at one point endemic and if you couldn't stand up to it a nightmare. Indeed, ESC had a reputation as a bullying department to work for particularly in the Senator Mike Vibert years. One colleague eventually actually left the Service because – on top of many of the other issues I have highlighted - he did not feel that he had been supported over a child protection issue he had reported..
64. Professional Youth Workers were not classed as civil servants but were bound by a rigid civil servant linked pay structure which initially kept pay disproportionately low; this in terms of both the wide variety of tasks we had to undertake (educational, child protection, managerial, administrative, fundraiser and even ad hoc caretakers); the very long hours and indeed very anti-social hours. I thus felt that it was my duty to fight to get salaries increased to what they should be. In the end I am proud to say this was achieved and professionals were very well paid in line with the wide-ranging skills and roles necessary.
65. The truth is I suppose I had come into the job with a different attitude to what had gone before; and on top of this though basically being quite a reserved, person (no one in politics will ever believe this but it is true!) I had also been brought up to stand up against what I thought was wrong
66. Previously it had been acceptable to allow children/young people to play ping-pong or netball for hours just so that they had something to do. I had nothing against any of these activities, but was of the opinion that if a child/young person attends a youth centre, then they should leave having had the opportunity to 'learn' something in the process even if they often thought initially that they were just having fun. This is what modern youth work – 'informal education' is all about.

67. I further thought that we should be teaching young people how to fend for themselves, so if they were cooking, we should have been teaching them how to make a healthy, affordable meal for themselves from scratch; and, of course, how to do this safely. This was hugely beneficial because it was regularly apparent that some children/young people had not been fed adequately.
68. Learning team work, shared responsibility and respect for others were central to almost everything we tried to do. It was about ensuring young people and even slightly younger children could 'learn by experience'; still, of course, having fun in the process. It was not sufficiently ambitious to aim simply to keep them occupied for a couple of hours.
69. We had youths between the ages of 12 to 21 attending the centres which were not ideal in terms of finding appropriate activities for all age ranges but it was just about manageable – *when* you could get the necessary support staff. Unfortunately, because of the lack of understanding of those in control of Education and the Youth Service politically and department wise we also had to try and cater each week for children as young as five. I argued that not only was this not youth work but 'play work' it was also not good in terms of child protection.
70. Children of this young age clearly need some resources on top of what they get at home and school; but the fact is this is 'play work' and not what the Youth Service – *any* Youth Service should be trying to cater for. Yet we had to for years. It took years to get this message across and whilst things had improved by the time I stood for election I still believe there is further work to be done. Indeed, in my view ideally we should have a Youth Service funded to cater for 'youths'; and a separate Children's Service funded to provide earlier evening activities for Primary School ages.
71. We also needed – and still need – a designated Children's Minister but unfortunately the majority of Jersey politicians past and present simply do not sufficiently care or understand: they would rather support empty, prestige



posts like the faux Foreign Minister role of 'External Relations Minister' created for Senator Philip Bailhache.

72. I am conscious that I stated above that delivering services under these circumstances was still 'just about manageable'. I should thus make clear that as I shall attempt to explain as we progress the truth was that things could only be 'just about manageable' over a limited length of time: eventually the lack of support staff; over work and long hours etc would take its toll on people.
73. As I indicated at the beginning I did not intend to talk about much of this in making a witness statement but as background I suppose it may be useful to see how things worked: at least in regard to the attitude of those at the top both departmental wise and politically. Observations within this section can thus be disregarded or utilised for further enquiry as the COI sees fit.
74. At Grands Vaux we also championed projects that would allow young people to learn something that they would not ordinarily have the chance to find out about. One of the most rewarding ways of doing this was by securing funding to take young people who had regularly not been anywhere to places outside of the island. Indeed, to this regard I would state that the learning opportunities inherent – if such projects were delivered properly – were second to none.
75. To this regard on one occasion, we ran a nine month long anti-racism project which culminated with twenty young people travelling to Madeira so that they could experience being away from Jersey and learn about diversity. Anti-racism education is something I see very much as an aspect of child protection – particularly within a jurisdiction with a significant ethnic minority such as the Portuguese/Madeiran community. The finances for this had to be generated ourselves but it was worth the effort to know that they would experience something new. I subsequently made such off-island projects a regular aspect of our work. Other groups visiting Britain, France, Spain and even the Greek island of Rhodes.

76. To this regard it is nevertheless interesting, and probably very telling to note, that though my colleagues and I as yet knew no details of the horrendous child abuse having been allowed to take place during 'off-island' trips within the formal – school – education service as evidenced in the private school, Victoria College, Andrew Jervis-Dykes scandal (more about this and related matters later in my specific political evidence it is *that* demonstrative of nearly all that is wrong with Jersey's alleged 'justice' system and those entrusted with running it) trips such as I organised highlighted above had child protection at the very forefront.
77. For example staff ratios were deliberately upped to higher than normal levels and there were ALWAYS staff of both genders. Without this I just would not undertake the projects.
78. This is as I say a stark contrast to what we would learn years later was allowed to take place – year after year – at Victoria College with Jervis-Dykes allowed to regularly be the only member of staff on sailing expeditions he organised as a vehicle to allow him to abuse young boys; and which the Board of Governors and those in authority clearly covered up. It appears to me that there is only one plausible explanation for these different approaches and standards evident in the Youth Service and the private school of Victoria College and that is this.
79. In the Youth Service which I joined you obviously had a small team of largely newly professionally qualified practitioners; many of us still 'fired up' with all of the things we had seen and learnt as best practice at University. For all of the other wider failings in the service we had a system where – even if the feedback was sometimes not as good as it should have been coming back down from 'the top' – the team was small enough, dedicated enough – and across the board highly professional enough - that we could know that our planning and oversight of projects in this sphere would be considered once we had submitted them: we thus put what was right and expected first.

80. In the case of the Victoria College/Jervis-Dykes scandal it has become apparent to me once I finally got to see the Sharp Report into this scandal; and also talked to a number of people who had direct insights in to this – all around the summer of 2012 (this was by pure chance only coming about, as I shall set out later in this statement, upon concerned members of the public contacting Shona and I about the history of one Jurat John Le Breton – a former Vice-Principle at the College - who had been allowed to judge on ‘fact’ and ‘evidence’ in our defamation case) that one could see the full failings at Victoria College were because there were a group of people involved who actually saw child protection and doing something about child abuse as wholly secondary to protecting what they saw as the College’s ‘good name’ and reputation as – apparently – the Island’s ‘premier’ school.
81. The perfect example in many ways of the now notorious ‘Jersey Way’. As I will enlarge upon later figures at the very apex of Jersey’s Judiciary were demonstrably absolutely pivotal to this catastrophe.
82. Recognition that journeying ‘off-island’ with groups of young people to unfamiliar localities offered greatly increased potential for things to go wrong appeared to be far more acutely honed within a small – staff-wise – service such as ours than it did within elitist institutions such as Victoria College: equally, I would suggest, the recognition that anything going wrong could have hugely negative impacts for such a small service.
83. At Victoria College it is surely evident that too many of the ‘great and the good’ at the top of the College hierarchy – including Crown Officers such as sat on the Board of Governors – evidently thought such things were not that serious at all; and/or could certainly be swept under the carpet and buried: as in fact happened for years. Through chance I would in fact learn years later – again in and around the summer of 2012 – that many concerns/warnings and even evidence had been raised with those at the top of Victoria College but evidently had been disregarded.

84. I will talk about the Sharp Report specifically and its now apparently vanished SIX appendices (I would in fact bet money on the COI being prevented from obtaining them) depicting the full scandal at some length further on. However, at this point it is surely correct to suggest that what must be most disturbing of all for the Inquiry team to consider that amongst these group of 'professionals' were not just the College Headmaster, one Jack Hydes (now deceased) and two Vice-principles, Jurat (lay judge) John Le Breton and Piers Baker but a former Education Committee President, then St. Lawrence Constable Iris Le Feuvre and both the Bailiff and Deputy Bailiff of the day. These being Sir Philip Bailhache and Francis Hamon.
85. I subsequently suggest that it really is disturbing to hear contention that the horrific and concealed abuse at Victoria College should not be considered by the Inquiry; allegedly because such abused pupils were apparently 'not in care'. I put it to the Inquiry that the truth at the heart of the principle is that young male pupils who suffered in the Jervis-Dykes' scandal were – as are all children in education – 'in the care' of those overseeing such institutions.
86. Then Bailiff Sir Philip Bailhache – now Senator Sir Philip Bailhache – is of course interestingly now the politician seeking desperately to undermine and curtail the abuse Inquiry callously spinning stories about 'blank cheques' and pulled-from-thin-air and utterly without evidence claims of £50,000,000 costs as I mentioned in my introduction.
87. Yet returning to the Youth Service questions put to me by the COI lawyers, upon reflection I should probably add that I met my wife Shona when she approached the Youth Service about engaging young people in research she was undertaking for her Masters Degree within the Human Rights discipline of International Peace Studies. I mention this because the Youth Service was, and from what I pick up still is, also way ahead of school-based local education regarding anti-racism matters: racially driven bullying obviously being another form of abuse.

88. There must be a message here I would suggest – even if I am not 100% certain what it is. But smaller, highly dedicated and ‘up to the minute’ trained staff teams where it can be seen sloppy work will be all the more readily noticeable and thus be challenged has to play a significant part in my view. The lack of any elitist ‘good name’/‘protect the reputation above all else’ mentality likewise.
89. In something of a paradox this strength of a small, frontline’ professional youth service team is a stark contrast to what I will highlight next where such cutting edge educational approaches in other areas were frowned upon: this emanating not directly from within the service but being passed down from senior Civil Service and political movers and shakers. I feel this is relevant to the Inquiry’s terms of reference in that the issue of a deliberate stifling of political involvement and empowerment through education – i.e. through the development of the confidence to speak out and challenge - may be seen to help feed and maintain the acceptance and non-questioning of the political status quo and those who preside over this. I contend it is not difficult to appreciate how this would/could undermine young people’s confidence to challenge abuse in places like Haut de la Garenne and other institutions.
90. The people who don’t want to be questioned are obviously the very people who have allowed so much abuse to go unchallenged; and if children/young people are empowered to speak out with confidence as we were trying to instil so much of what the Inquiry is hearing about would be far harder to sweep under the carpet in the traditional Establishment ‘Jersey Way’. Indeed, I suggest it easy to see that the manipulations of the ‘Jersey Way’ begin at a very young age and for very good reason. It is often quoted how for decades children should ‘be seen but not heard’. In Jersey under our long-entrenched Establishment I suggest such an old saying takes on a much darker hue.
91. Earlier I also mentioned what might be termed educational ‘taboos’. I quickly came to realise that there were certain things that the States did not like us discussing with young people; and which my immediate superiors were scared of rocking the boat on. I found these incomprehensible at first until I

began to understand more about how Jersey ‘works’ politically. Drug use, particularly the harm reduction approach (this was the area I was also employed within via the UK government’s Drug Prevention Initiative (DPI) in Leicester whilst doing my University course. Also actual sexuality – particularly gay and lesbian sexuality. This is an area of course which often generates huge amounts of torment and bullying for young people questioning their own developing sexuality: so seemed to me wholly bizarre.

92. One of these taboos, and in fact the one to which we faced the most resistance of all was *anything* to do with politics as I highlight above: particularly as regards any giving of information on alternative approaches to political/economic principles which have become the norm in Jersey; and likewise the party-based norm found almost everywhere else in the democratic world. The ‘Jersey Way’ – the way of the Establishment here – is to keep young people, other perhaps than the public school ‘elite’ dumb about politics and their rights. This reality is in fact very relevant to the child abuse which has been allowed to go in Jersey for decades as I will touch upon again later. Knowing what a young person has a right to object to and report is inherently tied up with confidence and sense of self-worth.
93. To first touch briefly on the drug taboo however. I found it particularly difficult not to talk about drugs awareness at the youth centres. It had been a key topic when I had studied in the UK, and from what I could see, it was as much of a problem in Jersey: indeed, the availability of cannabis for example was in my view far more prevalent than it had even been in Leicester: and this, believe me is quite a statement to make.
94. As I say, I had actually been employed within the UK government’s Drug Prevention Initiative (DPI) whilst at University such as undertaking late night street-based work around areas such as the environs of the huge Saffron Lane Estate. Indeed, the truth is that Jersey’s prison would not be a viable financial concern were it not for the staggering number of comparatively minor drug related convictions which regularly criminalise fairly young people.

95. Like child abuse however it is not something most of those in power want in the open in case it is bad for our international image: they would rather such problems were covered up and/or treated as if they did not exist. Similarly the government does not want any serious, open debate on such central issues as whether certain drugs should be legalised; or whether there might in truth be any 'positives' to drugs such as cannabis.
96. Another of the topics that the States did not want us to talk about or recognise when I first took up my post at Grands Vaux was the aforementioned gay and lesbian sexuality. I remember that a colleague - Martin Knight – who we brought into the project through Health had his house covered in graffiti because he had publicised a free phone line for young people to call with any issues about their gay or lesbian sexuality. Instead of making a stand on this those at the top of the Education Department bowed to political pressure and withdrew posters and year planners that the Youth Service had had printed up by which to publicise the contact lines.
97. I believe that the conversation I referred to briefly earlier with the then Principle Youth Officer regarding political attitudes to highlighting abuse actually occurred around this time; though I can no longer be 100 per cent sure.
98. By the time I finally left the Service after my election it must be said that the drug and sexuality taboos situation had improved significantly. The same cannot really be said however about the taboo regarding politics. Inroads have been made but the truth remains those at the top of the Establishment are actually terrified of empowering young people to think and question entrenched political 'givens' – regardless of all the right noises they regularly make.
99. For a jurisdiction which on the surface will look progressive from outside in having reduced the voting age to sixteen prior to the elections of 2008 this will likely seem surprising: yet the facts prove the taboo very much alive and

well. As previously alluded to I believe that this is actually of interest to the Inquiry for the reasons I will briefly enlarge upon here.

100. I personally had always had a keen interest in politics since I was 14 or 15 and saw no reason not to talk to young people about what I perceived to be relevant topics such as their rights as citizens; the inconsistency of ages of consent for various things and how, once they started work their taxes would be spent by Jersey's government. Similarly the concept that if we don't bother to vote we can't really complain about what happens.
101. The fact that I was willing to talk about politics with young people however, and encouraged my support workers to do the same came as a shock to others – even though we were just flagging up information; not telling young people what do think about it or do about it. People – even 'professionals' just do not like rocking the boat in Jersey; they have seen what happens to those that do; the problems they encounter. Ironically enough more than ever since I went in to politics when you consider what has been done through abuse of political power and the 'justice' system to people such as Graham Power, Lenny Harper, Stuart Syvret and obviously – even more ironic – Shona and myself.
102. I would labour the point here in stressing that the above approach was about seeking to encourage young people to think literally and for themselves about things; to question and consider; give out information – but not in any way tell them what or who they should support. Exactly the same approach we use with drugs, sexuality and their own personal rights in fact.
103. The crux of this is the problem that in Jersey the majority of those in power want to keep children/young people politically unaware; and unfortunately submissive. They do not want young people to think for themselves. They do not want young people to know their rights. They ultimately do not want the risk of significant numbers of young people reaching the conclusion that – actually – there really is an alternative to both the Neo-Liberalism policies that drive ever upward immigration and consequently the need to cover the



island with concrete; and of course to the wholly unaccountable shambles of bogus 'independent'; 'consensus' politics.

104. I believe wholeheartedly that this has serious negative implications for undermining young people's ability to respond and protect themselves from abuse.
105. As stated an excellent example of this of relevance to the Independent Care Inquiry can be traced back to the Establishment suppressed Jervis-Dykes child abuse scandal at Victoria College: if the boys abused by Jervis-Dykes had known that the way the Headmaster, two Vice-Principles and even Board of Governors treated the abuse was not just immoral but illegal – for example a clear breach of the then 1969 Children's Law - they could and almost certainly would have acted differently. Quite possibly so would certain parents who complained but were essentially fobbed off and silenced by the school, Board and certain individuals within the Judiciary.
106. 'Elite' politicians and judicial figures (not to mention senior civil servants having their support) allowed by the media to be viewed 'untouchable' helped make an already appallingly difficult system to challenge nigh impossible for such victims. I repeat: with evidence now available that an Attorney General then Bailiff would even order a Head of Education *not* to go to police about child abuse what do we expect?
107. At the bottom line this desire to suppress political awareness and awareness of rights may also be seen as due to it helping maintain the apathy which sees Jersey's voting turnout amongst the worst not just within small Island communities but in the world – particularly with regard to the working class – and thus helps ensure the same self-interested, wealthy people hold on to power.
108. Of course this is denied and will always be but any analysis proves this demonstrable nonsense. Claims to the contrary are sadly nearly always simple spin and a façade in order to appear to do something positive. Indeed,

it is fair to say that since we put all of eggs in the off-shore/tax haven basket Jersey has become all about the projected image.

109. A good example of this is the highlighted fact that the legal voting age was reduced to 16 here in Jersey for the 2008 elections – far in advance of the situation in the UK. It would thus surely make sense for young people to be made aware of what is happening politically, and be able to form their own views on such matters. Yet when it came to the election in stark contrast to party politics in the UK political candidates were not even allowed to offer themselves up for questioning by 16 year olds at all.
110. Indeed, even politically active young people themselves were not allowed to put their own information on notice boards or form discussion groups. Young people from the Jersey Democratic Alliance (JDA) - the party I was Chairman of by the time I stood for election - wished to do this but were denied. Perhaps most telling of all even when a 'student hustings' was organised by some progressive Senatorial candidates the Education Minister would not let schools allow student to have 'school' time to come and attend: it had to be done after school hours meaning many would have to miss their transport home. In fact with twenty one candidates on the platform there were more of us than students.
111. To further highlight this desire of the Jersey Establishment to keep political rights and awareness out of the reach of young people I will briefly outline an incident in 2005. As part of my attempt to modernise the Youth Service, back in around the Spring of that year I decided to run a programme with the youths in my centre which was based on the format of the Question Time television show. With young people we worked very hard to ensure this was accessible to young people from all over the Island by visiting all the other youth projects.
112. We arranged for six politicians to attend so that the young people, who were aged between 14 and 20, could ask them questions. The six were chosen by the young people themselves according to their own awareness. The only

caveat insisted upon was that the panel should include the Education Minister – Senator Mike Vibert - and the Assistant Minister – Deputy Ben Fox - who now had responsibility for the Youth Service. Not surprisingly perhaps as they were then probably the two best known politicians in the Island Senators Stuart Syvret and Ted Vibert were also invited by the group. Syvret also happened to be on Grands Vaux's Management Committee.

113. It was a very successful event and once the young people had gained a bit of confidence the politicians had to work very hard to answer the questions from the young people; questions which ranged across everything from the newly increased smoking age to disability laws. A young person even filmed this with the intent of putting it on the internet. However, a few weeks after the session, I was called in to the Education Department and told that on the instruction of the then President / Minister, the late Senator Mike Vibert it would not be happening again
114. Being none too pleased with this attitude with the opportunity arising I actually tackled the President / Minister about this and was told in what I took as a veiled threat that I needed to limit my role to what was traditionally expected of me. Information about local politics apparently needed to be 'through the curriculum'. This might be fine only it never happened – and from the young people I speak to still hasn't happened to the degree that it should. The intent was clear: as a Youth Worker I shouldn't be encouraging young people to become more politically aware or to question how the Island was run.
115. All of this can be seen to arise from the same Establishment attitude that would not too long afterward be evident within the attacks on Shona once she had been elected for raising concerns about shortcomings in the Youth Service.
116. I must admit that on top of the other problems highlighted above this wholly wrong attitude contributed to a growing disillusionment with the Youth Service. Things were just not as I had at one time imagined them to be. The

lack of ambition to empower young people and assist them to become well informed and involved members of society evident in some of those people at the top of the power structure – department wise and politically - could not help but create a feeling of frustration.

### **Relationship between Youth Services and other Agencies**

117. The Youth Service dealt with a lot of children/young people from what might be at best termed dysfunctional families who had a lot of issues but as far as I can recall, there was really no co-ordinated inter-agency co-operation or relationship of any description to assist us in referring these cases to other departments. Ironically I believe I actually spoke on this subject at a very early attempt at a 'cross-agency seminar' which we in the Youth Service actually organised within the first year or so of my being back in Jersey; so probably during 1997. I do recall it took place at the youth facility at Maufant. Nothing much seemed to come from it however – certainly with regard to the average 'frontline' professionals.
118. My own thoughts began to be that this was not just down to some of the problems touched upon previously and the way in which the Youth Service had traditionally been viewed but also because of what I might term some mid-level and senior figures jealously protecting their own little empires. I actually believe that this 'protecting the empire' mentality also had implications for the abuse that has subsequently been revealed being allowed to take place and go unpunished.
119. be this as it may any information passed between the Youth Service and the various sections within the Health and Social Services Department etc tended to be hit and miss and very much depended on whether you had a good relationship with the relevant health workers on an individual basis. I would not necessarily be able to find out anything about an individual child/young person I was concerned about unless I had a good relationship with my point of contact. What makes this even more surprising is that most

of this was all before Data Protection was taken seriously in Jersey let alone the law having been introduced.

120. In my opinion, a lot of children/young people were probably inappropriately returned home from their time at our youth centres just as it appears they were from schools. For example, children/young people were allowed home to mothers who were on their own and who were addicted to heroin or alcoholics. This was not my decision but because the background was apparently already 'known' when I reported it and the 'relevant services' involved. This type of situation was obviously more worrying when younger children were involved as opposed to teenagers.
121. A couple of other separate cases which I can recall were still left in situations where it would not be uncommon for them (both children, a boy and a girl of around 11/12 to return home from school to find their respective mums drunk and unconscious on the floor. On one occasion which I reported the girl finding her mother unconscious in a pool of blood where she had fallen over drunk and hit her head on a radiator.
122. This young person was so used to such a life to survive – and was evidently so used to hearing the sort of terminology used by Social Workers etc - she had hardened herself to the extent where you often felt it was more like talking to a considered or at least 'resigned to the fact' 35 year old. And yet teachers apparently wondered why she was always tired and wanting to fall asleep at school! With the young woman's consent having her trust I again reported this.
123. As I have said, however, feedback once you had reported this type of thing was very unsatisfactory. Outside of the 'inner circle' you were treated very much on what those at the top appeared to feel was a 'need to know' basis. This was unhelpful to say the least when it came to continuing to work with the young person in question.

124. We did our best for all children/young people we came into contact with but with the best will in the world, the time that these spent at youth centres was a drop in the ocean compared to how their lives were when they were at home or at school. When one did have serious concerns you would pass it on to the Principle Youth Officer or via Mrs S Mason once she became the Training Officer. After the death of Mr Peter Gambles I have to repeat feedback to keep me in the loop was few and far between indeed.
125. This is an important, indeed key issue, which I believe has now improved because staff at the 'frontline' who are the ones to pick up on the problem do need to be kept informed in order to monitor the situation. I repeat that Peter Gambles himself was a very capable man who took a huge interest in trying to modernise the system but he was fighting a one step forward/two steps back kind of battle because there was just so little co-ordinated thinking between departments; and it would seem quite apparent either little concern or understanding at political levels. The main concern as I have stated appeared to be about keeping any problems politically 'under wraps'.
126. In essence I would conclude by saying that individual young people at risk's hopes of problems being picked up were very dependent on front line professionals; and particularly on that individual being trusted and having top notch inter-personal skills. I believe that I can say these were always strengths for me which, so long as I still had contact with the young person through the project, generally enabled me to find out from them what was going on and how they were coping when superiors were not telling me. This was far from perfect but it was all you could do.
127. I also recall one occasion when a 15 year old boy was brought to the youth centre by Social/Children's Services and I could see more or less straight away that there was something not quite right with him. It turned out that he had a history of violence (mum was a heroin addict, 'dad' wasn't there etc) and had – so it was said - apparently (I learned this only later from a member of staff) come close to kicking another young person to death in a UK secure unit.

128. Despite the obvious risks to staff and other children, there had been no communication with me about any of his background prior to this boy/young man being dropped off by Children's Service staff at the youth centre however.
129. What was immediately disturbing and worrying was that the young man – who Social/Children's Services had seen fit to be taking to karate classes – was even brought to the youth project having been allowed to stay dressed in his karate suit! In the long term I could see that such discipline inherent in a martial art *might* be a very positive thing. However given some of the background which would only emerge later one would have to wonder as I shall outline.
130. Without any background or remotely functioning inter agency liaison over this young man we were therefore wholly ill-prepared as by chance I was meant to be on a rare evening off due to the huge amount of hours I was already owed; and a female part-time 'Sessional' worker meant to be in charge. Just consider: a large, well-built young man only recently returned from a secure unit in the UK: I felt no option but to abandon my planned night off and work the shift. The youth was effectively just dumped with us. It wasn't his fault in any way of course.
131. I was also able to find out through contacts – this too had been kept from me - that the young man was not allowed to be left alone with female workers because of his aggression, moods and overt sexualisation in contact with females. I was pretty angry that my female Sessional worker could have been left in a very difficult situation and complained about this and repeated my concerns in the strongest terms possible. Upon reflection I would say that this incident is typical and illustrative of the lack of communication between the other departments and the Youth Service *and* the internal 'top down/need-to-know' problem over those years.

132. It was not a problem actually of the Youth Service's making per se – it was the Jersey political culture: the 'Jersey Way'.
133. What was particularly sad here within a very sad situation generally was that when I managed to speak to staff working with the young man it became clear that Jersey did not really know what to do with him. They saw him as a 'self-fulfilling prophecy' – someone who would almost certainly end up in prison or dead: they were effectively just trying to manage things until he hit adulthood and could be abandoned to whatever happened. Sad indeed.
134. During my time at Youth Services, in an effort to share what we were doing with other departments, I initiated the production of reports which provided background to what we offered and the projects that we were completing each year. These were passed to Peter Gambles. He would then provide them to politicians – most of whom it must be said were apparently not interested. Indeed, I can vividly recall the politician who at one point had political responsibility for the Youth Service – the then Senator Ann Bailhache - telling me about catching political colleagues putting reports/events calendars on the Service received in their mail straight into the bin in the States building..
135. Ironically I would say that it appears some potential improvement for inter-agency relations may, contrary to intent, have later been set back by the introduction of Data Protection legislation. This being due to initial confusion around what could and could not be shared. And also in my view further example of the fact that there was a lack of awareness as to just how professionally qualified the modern Youth Service was: for the record certainly far more so than many working within Social Services and Children's Services then. The Independent Care Inquiry would need to check with current practitioners to see if this has been overcome.
136. We do, of course, now have initiatives such as M.A.S.H. meant to make inter-agency contacts more effective. Yet in speaking to not one but two different



doctors early in 2015 both stated they were not impressed by this at all. This is negative opinion I have encountered elsewhere.

137. To this regard – and I will end on this within this particular part of my statement – by the end of my time in the Youth Service it must be said that almost in paradox to other, more positive developments, a deep concern to both myself and a number of professional colleagues would be the growth of what I can only describe as ‘tick box culture’. There was such a drive for everything to appear perfect to keep the politicians happy that being able to show you had drawn up a policy/had ensured staff had this in place etc that this had become more important than actually delivering the work.
138. What I say about ‘tick-box’ culture is undoubtedly sad but in my view wholly true. Unfortunately this type of thing was one of the developments which arose out of wholly appropriate and necessary interventions like the Kathy Ball report and in stark contrast of course to what was really intended.
139. Mentioning Kathy Ball I should also state whilst I recall it that it was a source of frustration to me and others that when she was in the Island doing her research ‘frontline’ workers like me were not permitted to speak with her – only those higher up the ladder or those personally selected by the Principle Youth Officer (Mrs Mason). Indeed, I requested to speak to her but was refused by the Youth Service. I have no doubt that this was another political decision arising from the ‘Jersey Way’. There was fear as to what people like me would be outspoken enough to say.
140. As chance would have it I even bumped in to Kathy Bull whilst she was at the Education building and told her of this. She said that she was sorry but it had been decided for her who she could and could not talk to in the Youth Service. This probably says it all.
141. Actually, a final point I should probably mention as I now recall it demonstrates what I am trying to get across about this ‘tick box’ culture perfectly. In or around the approximate time Kathy Bull was doing her

research in Jersey – probably a year or two afterward – the then Principle Youth Officer (not Mr Gambles) initiated what was meant to apparently be an Ofsted-style ‘external’ review of the Jersey Youth Service. All well and good.

142. Apart from – to my mind the anomalies that not every project was reviewed the same and it came to my attention that the person brought in to carry out this ‘external’ bill of health was actually a former colleague and friend of the Principle Youth Officer from her time in the UK. To me this highlighted just how much of a negative this ‘tick box’ culture drive could be: it was all about political appearances and impressions.

### **Final thoughts on child protection in Jersey near the time of my decision to stand for election**

143. Whilst training at University and within my work placements I would state that child protection was seen as very much a key issue in the UK and I feel that attitude was not replicated here to the degree that it should have been ‘from the top’. Which I hope I have made clear. Because of my having just completed my professional training I suppose workers like me were more aware than some others. My then colleague Dave Yeltram, who had qualified shortly before me (and who was sadly eventually one of those who actually left because of some of the issues/failings I have highlighted despite loving the work) was one of the few other people on the Island who was really talking about some of the ‘taboo’ issues that we needed to tackle.
144. I would say however that in my view the Youth Service itself did come to put in place some good basic child protection training for volunteer workers and in some ways – such as implementing policy to protect young people from risk in regard to on line (internet) child protection issues were eventually well ahead of schools. Once again this was very much frontline worker inspired and delivered
145. It was quite obvious – and I know I am repeating this point yet it is very important in my view - that cutting edge policy on child protection should

have been formed from the top of ESC, but “the top” - or the very top to be more accurate - seemed to be oblivious or perhaps in denial that horrible things could sometimes happen. Then again, perhaps with the benefit of hindsight gained from what I would learn in politics, the real truth was those at the top knew that whatever might happen in regard to child protection failures it could and would be covered up whether this be by senior civil servants, politicians or via Crown Officers via the closing of ranks in best – or should I say *worst* – ‘Jersey Way’ fashion. The already touched upon tragedies of Victoria College, Haut de la Garenne; Blanche Pierre, ‘Family X’ and elsewhere pretty much in a nutshell?

146. This last group of legal ‘professionals’ for whom it must be said from subsequent political experience concealment or the turning of a ‘blind eye’ was standard practice. Probably I would suggest even ‘official’ practice if obviously unwritten practice. The revelation to the Inquiry from a former Head of Education regarding Senator Philip Bailhache’s true attitude to reported abuse when Attorney General – which I obviously did not know of prior to first being interviewed – only confirm this in my view. More examples/evidence of this a little further on.
147. With regard to the key matters which led to this inquiry it should be said that by 1996 when I became a professional full-time youth worker Haut de la Garenne had already closed. The Victoria College or Jervis-Dykes child abuse cover-up (which I talk about at length within the political evidence section of this statement) was to finally unravel whilst I was a Youth Worker; but as I have said full and coherent details – certainly all of the names, their failings, their ranking in some case right at the very apex of the Jersey Establishment etc - of this were never, ever made known to us as Youth Workers any more than the ordinary public at large – something not surprising given what I was to find out many years later once I had become a politician. However, the very type of ‘sweeping it under carpet’ failings I mention would eventually be seen to be absolutely central to scandal.

148. The aforementioned name of the paedophile teacher at the centre of the scandal Andrew Jervis-Dykes was eventually mentioned; and that this related to off-island boat trips with pupils but that was about it as I have said.
149. Of course it would come to light years later that it had apparently been the then Outdoor Education Manager who was actually linked to the Youth Service team and who was very hot on such issues who allegedly 'blew the whistle' on what senior figures – at the College, within the Judiciary and politically - had evidently been covering up for years by not acting as they should knowing what was going on with Jervis-Dykes' off-Island boat trips. But as I say, certainly none of the details of this collusion to cover the scandal were ever known to me or my colleagues at the Youth Service 'coalface' – any more than other members of the public would know. This is obviously illustrative I suppose of just how effective the 'Jersey Way' was in 'keeping a lid' on things that would be embarrassing..
150. This is probably not that surprising with hindsight for years later in politics I would learn, for example, that even other States Members on the Education Committee of the time were apparently only allowed to read the report into this scandal – the Sharp Report - whilst sitting in a room which they were not allowed to leave with the reports; further still these reports then all being collected up and accounted for once they had finished. I was confided this remarkable story directly by one of Jersey's most respected and long-serving politicians; the former Senator Alan Breckon.
151. I believe it also very telling and of interest to the Inquiry team's investigations that the names of Sir Philip Bailhache and Iris Le Feuvre come up again and again in regard to child protection failings and attempts to play the extent of Jersey's scandals down. More detail on this later as well once we move on to my political experiences specifically. I apologise here but because so much of this overlaps it is very difficult to confine talking about certain issue to just one area. I trust the Inquiry will pull out and collate whatever they think most important.

## The importance of understanding ‘the Jersey Way’

152. As I outline later on in this statement an example such as Victoria College likely demonstrates very well indeed the problem of how ‘the Jersey Way’ attitude amongst senior civil servants, senior politicians and Crown Officers (Attorney Generals, Bailiffs etc) where *appearance* and *image* and protecting their friends and/or associates – whether it be of the exclusive private school so many of them attended – or Jersey’s as a ‘whiter-than-white’ off-shore centre is evidently far more important to them than protecting children from the abuse which ultimately will have allowed Haut de la Garenne and other scandals to happen.
153. Indeed, I would state the opinion that the above example of ‘the Jersey Way’ is of paramount importance to understanding *everything* else the Care Inquiry is looking at and I will focus on this at some length in the political section. For the bottom line is that abuse going on for decades simply could not have happened without this ‘Jersey Way’ mentality. The ‘Jersey Way’ informs the culture and climate of fear existing in Jersey; the political apathy; why so many people do not speak out themselves and the actual abuse and cover-ups. It is I repeat the key to everything. Indeed, should the Inquiry doubt this culture of fear then it is perhaps quite adequate to simply ask: why have so few States Members – even since 2008 – actually ‘put their head above the parapet’ to challenge or even ask questions?
154. Actually, if I may just go back a step to what I referred to as a ‘tick-box’ culture prior to moving on to your interest in my decision to stand for election to the States; I would add that to be fair this growing ‘tick box’ culture also appears to have been a wide-spread development within Jersey in many other areas beyond the Youth Service’. I find this both sad and ironic when one considers that something – a process – meant to actually lead to better practice if not simultaneously supported with adequate funding and staff to enable genuine improvements to take place actually results in a situation where the process and its appearance becomes the *focus* rather than the desired improved *outcomes* themselves.

155. Indeed, I also think it correct to suggest that for many within the current 'Establishment' – political and judicial – finally agreeing to the Inquiry a handful of us fought so long and hard for is likely also just another aspect of this tick box culture necessary for them to get a clean bill of health and thus return to 'normal service' as quickly as possible. The claim will then be that 'lessons have been learned' while more than likely the same old indifference will quickly reform. Certainly this will be the case – in my view – without serious external intervention.
156. After all if one looks at the bigger picture encompassing the present and past two States Assemblies collectively it quickly becomes apparent that the number of those politicians who have actually contributed in real terms to the fight for an Inquiry and justice for the victims is truly tiny. It is probably thus fair to say most others who have belatedly voted for an Inquiry have done so because they know those who have fought are not going away; it is thus better to hope for the best and get the thing out of the way.
157. This said the recent moves to see the Inquiry abandoned due to the red-herring of blank cheque cost promoted by former Attorney General, Bailiff and member of the Victoria College Board of Governors Senator Sir Philip Bailhache being supported, poodle-like, by Establishment non-entities such as the current Education Minister Deputy Rod Bryans is a development almost beyond belief and should be viewed by the COI with the deepest of suspicion. As ESC Minister Bryans is one of the three 'corporate parents' if I can put it that way. Yet he is shamefully going along with his liege lord. It is incredible really.
158. The fear must be that if no holding to account arises from the final report of the Inquiry however – and it must be stated that I doubt the UK Minister for Justice or the Privy Council will give a damn about it the 'Jersey Way' I have highlighted as being central to all of these scandals will just roll on; the abuse of the Jersey 'justice' system as a tool of oppression continuing likewise. Just as with the utterly untenable position in the real world of the so-called 'dual

role' allowing as it does, without a proper separation of powers, unelected Bailiff after unelected Bailiff to interfere and manipulate political matters to protect and conceal longstanding Crown Officer failings in child protection and prosecution matters.

### **My decision to become involved in Politics in 2008 & relevant observations**

159. Again I highlight that I *only* speak about this particular period because I have been asked to do so to provide background as to my decision to move from being a professional educator – a better paid, well pensioned; and far more secure career - in to Jersey politics.
160. Should the Inquiry Committee instead conclude that this is irrelevant I ask that you please simply bypass the following section: it is included only because I was asked. Nevertheless, in answering the questions put to me I stress again that the key areas which I personally believe to be of importance of my time in politics are in examining that which underlies what many in the Island refer to darkly as the frequently mentioned 'Jersey Way' itself and the reality of which I began to see and experience in earnest upon deciding to enter politics:
161. i.e. the attitude to abuse and keeping a lid on it when it is revealed; the closing of senior ranks; cronyism; the powerful people at the heart of this and how a number of them appear within child protection failings and highly dubious responses/actions again, and again and again. Also, of course, the inter-related fact that very little of this could have gone on for so long without a failed – and I would say utterly craven, morally bankrupt, and malleable mainstream media - who have failed for years to undertake the depth of true, professional investigative journalism subsequently demonstrated by mere 'Citizens Media 'bloggers' like Mr Neil McMurray and Mr Rico Sorda.
162. Whether it is pure coincidence that very senior figures from both the local newspaper and TV channel have allegations against them relating to very

serious sexual assaults (more on this later) or indicative of why these journalistic failings happened I must leave to the consideration of the COI.

163. Nevertheless I certainly concede that briefly setting out my own, and, indeed, my wife's entry into politics in this period certainly does also likely have relevance to the investigations of the COI in that it shows starkly what will, and does happen to those who dare 'rock the boat' by pointing out the aforementioned appalling child protection failings of figures like Jersey's Bailiff and his judiciary: just as consideration of what happened to Senator Stuart Syvret and the police chiefs in charge of the Haut de la Garenne investigation has.
164. For in regard to this point about the failings of an all-powerful Bailiff this is exactly what my wife, then the *Deputy* Shona Pitman did. This is in truth why I have agreed to talk about this period. It provides the background to what would otherwise be almost incomprehensible to anyone not understanding that under the 'Lord of the Isles' mentality of successive Bailiffs Jersey is *not* a functioning democracy but a real life Royston Vasey as in TV's the League of Gentlemen black comedy: a kind of neo-feudal throwback hand-in-glove with the Off-Shore finance industry that has captured both the jurisdiction and consequently economic policy making.
165. It must be made clear right away however that my decision to run for election to the States Assembly was not in any way as a result of my concerns specifically in relation to child protection: my concerns were much more widely based. For I was beginning to understand all too much of the way that Jersey was being run, and it was obvious to me that if things stayed the same, that there would be nothing for so many local young people in ten to 15 years' time. So many young people I had worked with were already planning to leave. To use a somewhat clichéd phrase it was increasingly obvious there was 'no Plan B'.
166. The Jersey Establishment was – and still is – absolutely obsessed with the Finance industry which has completely captured this island jurisdiction since



the mid 1990s; much in the same way and with the same negative impacts on life and other industries as those found in 'mono-culture' jurisdictions captured by the oil industry. There was also clearly little understanding of, or willingness to acknowledge and confront just how increasingly precarious 'Off-Shore' or Tax Havens will be in the not too distant future: certainly in my view within as little as ten to twenty years.

167. Indeed, this remains true to this day: as I say, absolutely no 'Plan B' – just a naïve hope that the tax avoidance gravy train will run forever. Or just as plausible: being that those who are allowing this to happen are almost exclusively very wealthy the attitude that by the time the effluent hits the fan they will be off elsewhere having enjoyed things whilst they could; the rest of the community left to deal with the consequences as best they can? This is all relevant when the COI considers the Establishment reaction to facing up the child abuse scandal finally leaking out perhaps best personified in the now infamous 'You're shafting us internationally!' comment from the then Chief Minister Senator Frank Walker made to Senator Syvret in the early days of the Haut de la Garenne cover-up finally breaking internationally.
168. Indeed, one might have thought that the fact the political Left in the Island were proven spot-on about the foundations of sand upon which Jersey's formerly lucrative 'fulfilment industry' had been constructed and flourished (i.e. via exploiting a UK tax loophole) would have kick-started some serious Plan B thinking in government. Yet it has not even as we move on into 2015. We have also been proven right regarding our concerns about the Zero-Ten tax policy shaped to pander to the Finance industry. At time of giving evidence we have a 'black hole' in the region of £150 + million. What more needs to be said?
169. Nevertheless, in 2008 I thus wanted to do something to try and help reclaim my home Island for ordinary working people; and young people in particular before it is too late. We needed to start seeing the 'bigger picture' again politically, economically and socially if I can put it that way. In an extension of my years of youth work I wanted to empower young people to help bring

about positive change themselves so that they could have a long term future. After all it would be them who would pay the price for the Establishment heads buried in the sand today.

170. I'm afraid Jersey has always concentrated on the short term since Finance has held sway and in essence I wanted the States to start putting people before pure profit. Sounds like clear and perfect common sense but in Jersey doing this goes against the grain of the whole 'Jersey Way' which has allowed today's two-tier society of 'haves' and 'have nots' to develop. In essence I went into politics because I wanted to encourage a change in perspective. I wanted Jersey to understand that governing is not all about finance and cannot be run successfully on a purely business model: government must make pounds (tax) work for the people not a section of the people be slaves to pounds.
171. Nevertheless daring to voice these concerns/criticisms immediately places anyone entering local politics at logger heads with those for which 'Off-shore and neo-liberalism is the only way'. A direct consequence of this will always be that one is then tarred as – and these are the favourite Establishment propaganda terms in modern times – 'anti-finance'; 'a wrecker' and generally 'anti-Jersey'. Indeed, these insults would be repeated in the States again and again. Particularly in the years 2008 to 2010 when the JDA was at its height; and the threat of imminent party politics more real than it had been since immediately after the Nazi occupation.
172. Sadly most of the blame for the problems Jersey faces today however is that the political system and democracy in general – certainly our so-called 'justice' system - have been wholly hijacked over the decades by people who generally fall in to two categories (although these both overlap quite often). To this regard then that we have allowed ourselves to be captured and become hugely dependant on Finance is only part of the problem. The industry certainly does now call the economic policy shots – and all that may impact on this - but the inter-related problem I am talking about is the group

who believe that they are, or in some cases want to be the island's power shapers or Establishment 'elite'.

173. Firstly those who hide behind 'tradition' but in fact believe Jersey should, and needs to be run by this type of small and wealthy 'elite' and delude themselves that this is what they are. These are people who though intelligent in some cases still retain the arrogant view that only what social observers like Walter Lippmann and later Chomsky would describe as a 'specialised' class or allegedly 'responsible' men who *must* control political life because the 'bewildered herd' of the rest of us (ordinary people) apparently don't understand the complex issues or what needs to be done in our best interests.
174. I would suggest that the likes of our Bailiffs – certainly the current one and the previous two - and almost all of our senior Establishment politicians in recent times fit into this. They generally have little understanding of the economic struggle faced by so many ordinary working people – most will never have experienced it. Unfortunately it is also true that a great many of these people – probably the majority – are in fact not particularly capable at all but are blinkered to this having often inherited significant wealth or been given power and position (on the condition they don't rock the boat) far beyond their abilities. It all contributes to a set-up which might quite reasonably be argued to be a kind of neo-feudal/neo-liberal hybrid.
175. Secondly, and in many ways these people are even more dangerous, are those who are basically political and social wannabes; and who see becoming a States Member and gaining some kind of title – even something all but meaningless like being a so-called 'Assistant Minister' is the easiest way to achieve this becoming a 'someone'. In effect it is quite apt to state that many of these sad individuals see being a States Member as the nearest they can get to being a local celebrity.
176. An unfortunate offshoot of this mentality is that once gaining that status by being elected they will rarely open their mouths in criticism of the

Establishment majority for fear of losing it. They become what the excellent Citizens' Media blog 'Voiceforchildren' tags 'Silent Assassins' rarely speaking in the States; rarely if ever bringing their own propositions; and always pressing the 'pour' button in support of the Establishment. They survive basically because they do nothing to rock the boat or offend those in the Inner Circle who they want to join. Frankly they are maggots of the worst order.

177. Again in my experience these people are always marked by two specific traits. They are again generally in my experience none too bright as mentioned above and have little understanding of politics, policy and certainly socio-economics; and two, are almost totally malleable to the senior 'important' and 'untouchable' figures above them in being wholly terrified of risking the aforesaid 'rocking the boat'. As it should be easy to discern this is clearly a recipe guaranteed to eventually bring disaster. Such fear of losing position is a de facto license for those above to do what they please without fear of rebuke or challenge. Thus the 'Jersey Way' rolls on. And on...
178. This type of problem looms large when one considers the decades of abuse the Inquiry team is investigating. I will later give a very revealing example of this within a conversation I had with a couple of then political colleagues shortly before Shona and I were forced from political office due to Jersey's highly questionable en Désastre law. Their argument being essentially that it was 'too difficult' standing up as we did. And yet this, as I shall outline, was from two basically nice, wholly pleasant people!
179. Though I would obviously never compare Jersey with 1930s Germany the truth is these 'Bush League' (junior) Establishment wannabes whether in or outside the States are a part of the same sort of petty bureaucrats whose cowardice and silence arising from their desperation to belong to the 'in crowd' and thus be 'important' allowed such appalling atrocities as the treatment of the Jews to happen. Indeed, I repeat in Jersey it is this which I would argue has played a large part – in truth probably the key part - in the

decades of child abuse the Inquiry is investigating to happen and continue for so long.

180. As I said earlier in this statement ‘silence is not a neutral position’ yet for many States Members – in fact the majority it is seen as such. Most disappointing of all this malaise appears to erode the drive to always do the good or right thing even amongst people who are basically wholly nice individuals. I have watched it happen. Too many can’t face the prospect of being attacked the way the few of us who put our head above the parapet are.
181. It is an integral aspect of the now infamous ‘Jersey Way’ I will enlarge upon later. Indeed, in reflecting upon this now I would have to also suggest that on the evidence available – e.g. States votes and speeches on propositions relating to Haut de la Garenne, the fight to get a Committee of Inquiry and the disgraceful misrepresentation of what really happened – regardless of how they will try to camouflage this the vast majority of States Members during my two terms of office don’t actually care about vulnerable children being abused very much if at all; or that there should be justice for everyone regardless. It is shocking to actually hear myself say this yet I don’t doubt its accuracy for a moment. The demonstrable contrivance of Police Chief Graham Power’s never-ending suspension and the tiny number of dissenting voices within the States probably shows this on its own.
182. But to conclude on the underlying reasons for me leaving the Youth Service to enter politics then – and I repeat I talk about this only because the Inquiry team have asked me – back in 2008 it was clear to me that there was a huge gap – a huge imbalance if you like in the necessary emphasis and commitment to the social side of socio-economics. Social housing for example was in truly dire straits and we know that deprived living circumstances can impact significantly on abuse..
183. Indeed, in early 2015 I was shocked to hear from a person who had attended a seminar that the current Social Security Minister, one St. Clement Deputy

Susie Pinel had allegedly claimed that there was 'no poverty in Jersey'. This I'm afraid is the type of spectacular ignorance we are up against. And unfortunately we see it again and again in the handing out of Ministerial jobs.

184. To be fair coming from a politician so unaware of the real world that she stated at a 2014 hustings during her re-election campaign that we really should bring in dog licenses – when these have been in force in the island for decades – I suppose one really should not be too surprised: This is the low type of calibre of individual largely elected as Establishment politicians; and the low calibre I was talking about who in the view of many thus make keeping huge problems under wraps so easy for those at the Establishment's apex.
185. As another example back when I entered politics there was a backlog of essential maintenance to States houses of around £100 million which, in a small and very wealthy island, was as absurd as it was wicked. (once again the Island's media did not report it: this was left to the JDA in a campaign organised by Shona). In my view that this huge sum was allowed to develop was yet another consequence of the elitism, cronyism and sheer incompetence I mention above: the actual Minister in charge whilst this built up for example – one Senator Terry Le Main - not only should have been sacked half-a-dozen times over on his record but never should have been given the position in the first place.
186. Often mocked behind his back by people he no doubt thought were his political friends Le Main was daubed the 'Establishment's Rottweiler' or Attack Dog. Predictably he would become a vociferous – if largely incoherent – critic of Harper and Power's Haut de la Garenne investigation. Just as he would attempt to discredit and mock the political Left every time elections rolled around.
187. I would also stress right away that the climate within the States I discovered once elected was not only a confirmation of the above; but like that evident within departments described earlier one of attempted bullying, fear, control

and cover-up: all of which plays so major a part in trying to understand the child protection failings which the Inquiry team is investigating. This culture feeds into absolutely everything that happens here. To use a term put to me by many former constituents 'Jersey has lost its soul and it's the government that stole it'.

188. Indeed – and I obviously say this as an acknowledged Socialist/Social Democrat – it felt at the time of my deciding to stand for election and to be quite honest still does to this day – that in Jersey the dark shadow of the failed, greed-based politics/economics of Margaret Thatcher has never left: Time has stood still here and we are stuck in the 1980s where greed, money and the promoted distraction of a 'Me! Me! Me!' society and screw the rest are still paramount. Where people and social issues like our entrenched two-tier society – and child abuse is a part of this - are topics that no one wants to deal with in case it damages our reputation as a (faux) 'whiter-than-white' Off-Shore centre in their public airing.
189. Likewise huge non-locally registered companies, so-called 'High Net Value' individuals and, of course, the many vehicles utilised by financial institutions for their super-rich clients pay ever less – in real terms – some even no tax at all; whilst those in 'middle Jersey' and at the bottom get squeezed ever more tightly. I suggest that this reality of a society so entrapped in the Me! Me! Me" ethic I outline is very relevant in seeking to understand how so many people can appear to be so apathetic to what has gone on; and toward the efforts of the few to try and put it right. Where selfishness and greed is promoted as the ideal caring – including what might be called 'family values' - understandably goes out of the window all too often.
190. With direct regard to the breeding ground for abuse to both happen and go unchallenged the increasing drive to mimic UK neo-liberal 'austerity' policies will only make this worse.
191. Nevertheless, in wishing to move on to give evidence on the key issues of importance which I see of most relevance i.e. my experiences in being one of

very few politicians who fought consistently to achieve openness and accountability over the child abuse scandal and the deliberate Establishment trashing of the two senior police officers who – along with former Senator Stuart Syvret - bravely dragged it out into the light I would add only this brief ‘recap’ for the record.

192. My wife Shona was an original member of the Jersey Democratic Alliance (JDA) this being the first real attempt to bring about genuine party politics in sixty years – since straight after the Nazi occupation in fact. The JDA was very much rooted in social democracy and entering politics for altruistic reasons. Shona was elected in 2005 and would go on to win three elections to the States: never, of course, losing her seat via the ballot box: but as with myself losing this only as a consequence of the demonstrably corrupt nature of Sir Michael Birt’s non-ECHR compliant Royal Court in our case as indicated.
193. Not least to this regard being the eventual exposure of successive Bailiffs happily condoning the appointment of individuals with documented histories of disregarding evidence of child abuse – even of attempting to bully victims into silence - to sit as Jurats in the Royal Court. But more on this subject which I believe goes to the heart of shedding light on the true Establishment disregard – many would claim *contempt* for victims of child abuse and its seriousness a little later.
194. The JDA had been founded by Senator Ted Vibert – undoubtedly one of the Islands finest politicians ever. Outspoken and charismatic Vibert was brave enough to finally try and set about bringing some accountability to quash the ‘Old Boys Network’ that runs Jersey as a private club. Though sharing many of the qualities of Senator Stuart Syvret he was the first to really push to achieve this via establishing open and accountable party politics.
195. Though a member of the JDA in 2005 I decided not to stand at this time. As you might understand politics is a pretty insecure profession at the best of times unless you happen to be rich: you could easily work very hard but still



find yourself without a job or income at the next election. Indeed, this is one of the key reasons the rich who have run Jersey like the aforesaid private club for generations resisted introducing a salary for politicians for so long: it kept the peasants they so despised out by default.

196. In regard to myself standing there was also still a significant amount of work which I wanted to complete back in 2005 to feel that I had done all that I could at Grands Vaux; and at the bottom line the truth is I was not at all sure that I could afford to take the significant drop in salary that would result from my becoming a politician.
197. We were then living in the flat I owned in St. Helier and saving toward buying a house. Looking back this is now all pretty ironic given that, as briefly mentioned, only a couple of weeks after my eventual election 'swearing into Office' in 2008 the JEP's then editor Mr Chris Bright would collude with one of their right-wing clients – Mr Roger Trower of the Estate Agents Broadlands - to allow the publication of a full page Christmas 'cartoon' in which the Jersey people, including, of course, those who had voted for us on the back of a social justice election campaign were falsely told we (Shona and I) were now getting '4 x the salary, darling!' by my entering politics! Indeed, Trower and the JEP even depicted Shona and me smirking behind a huge election rosette made not of ribbons but banknotes!
198. The truth was, of course, as stated that in 2008 our income dropped by around £5,000 and I swapped a career with a very good pension and significant security for one with none at all.
199. To explain my election in a little more detail I had finally stood for the States and was elected as a Deputy for St. Helier No. 1 district in the autumn of 2008 – three years after Shona – and was sworn in at the beginning of December. This was obviously very pleasing as not only had I taken over the Chairmanship of the JDA in 2007 and played a key role in the policy manifesto behind a much improved election performance by the party after that of 2005; but was also joining Shona who was herself re-elected in St.

Helier No. 2. This meant we were the first husband and wife ever to be elected to sit in the Chamber. Probably something which will never be repeated?

200. I suppose I should also mention that in standing for this election in 2008 it was then that the 'Jersey Way' culture really first kicked in against me personally; although with hindsight 'anti-Establishment' propositions brought by Shona in the States likely also played a role in this happening; as did the simple fact the JDA were successfully challenging the untouchables. For when I had first announced that I would be standing for election, it had been agreed that I would take all of my holidays in one block so that I would have time to go out and campaign: as a professional educator I obviously fully accepted I needed to be away from my work throughout.
201. Shortly before I was due to take the agreed holidays, however, the authorities decided that 'after high up discussions' (I was eventually told this was allegedly with the Minister for ESC (Education) and the States CEO) I could not use the holidays that I was owed at all; and that any time that I wanted to take off in order to run a campaign would have to be unpaid leave.
202. I was furious. For not only did the ESC Department and Minister know full well that Shona and I had a mortgage to pay; at that point between my deliberately untaken statutory holiday entitlement for the year and the time off in lieu (T.O.I.L.) that I was owed for having to have had work so many hours above my contracted working week over many months without any overtime meant that combined I was actually entitled to almost *three months* off had I wanted to make a Union issue of it.
203. I should point out that ESC knew full well there was no payment option open to me at all – as professional youth workers we never had the possibility of 'overtime' payment. Yet the T.O.I.L. so many of us were owed could in reality hardly ever be taken due to the lack of support staff. I was thus left having to use savings to pay my half of the mortgage whilst I ran my campaign!

204. To add insult to injury I was also told by the Human Resources Manager at ESC that whilst I could not use my holidays to campaign for myself under any circumstances I *would* be allowed to use it if I wanted to campaign for my then political boss – Establishment ESC Minister, Senator Mike Vibert! If ever a ‘law’ can be shown to be farcical it was surely this. I repeat the ‘law’ (part of the States of Jersey Law as I recall) meant that I was able to take paid leave to campaign for others - but I could not use statutory holiday entitlement to run my own campaign! Crazy. To be fair even the HR Manager agreed this was ludicrous.
205. It was obvious to me that this was being done deliberately as an obstruction and, once I had done a little research, that such a move was not compliant with Human Rights legislation. I was later to demonstrate this once I was elected by making it my first act to lodge a 2009 proposition to see this abuse scrapped. The fact that the proposition was successful says it all in my view. I should add that though I was the only States employee to openly challenge this farce at the time others were successfully deterred by the difficulties: I believe just two other employees eventually stood out of an original total of eight which I was aware of.
206. A footnote to all of this is that having been successfully elected the States Education, Sport & Culture department which obviously employed me broke my contract in refusing to pay me the three months notice I was entitled to. This was a not insignificant sum of around £12,000! I had, of course, never resigned as another successful former States employee had. The ‘Jersey Way’ yet again
207. It is also very telling I suggest and relevant to understanding the aforesaid ‘Jersey Way’ so central to how not a few years but decades of child abuse was allowed to continue by the Jersey Establishment that prior to the election the JDA successfully pushed for the law to be changed so political groups can actually be officially registered as a party. Yes, this is how backward and frankly neo-feudal Jersey was. The reason I highlight this however is because during this process the Establishment attempted to have the law

constructed so that every person who wanted to become a member of the JDA would have to hand over their name and address to the Bailiff's Royal Court!

208. The Jersey judiciary who have failed so many child abuse victims also originally went along with this without a murmur which I once again feel is very telling. This abuse of 'the law' was sheer corruption in its most naked form - yet was actually put forward by the Establishment dominated Privileges & Procedures Committee - I don't think this type of brazen abuse has even been tried in places like Zimbabwe. Not only would such a move not be compliant with the European Convention on Human Rights would even breach the farce that is Jersey's regularly manipulated Data Protection Law. Yet the Establishment tried it on anyway.
209. Other than highlighting for the record that the JDA's eventual significant success in 2008 had obviously come on the back of a social justice campaign in tandem with a call for genuine constitutional reform – such as an end to the Bailiff's insidious and wholly negative 'dual role' which sees unelected Judges controlling what elected representatives can say or even bring to the States for debate and even what they may say about child abuse failings (the COI should hopefully be aware of the Bailiff's turning off of the microphone during Senator Stuart Syvret's highlighting of this in his 2007 Christmas speech as 'father of the House') I would like to add only this for the Inquiry team's consideration at this point as I feel the lack of such reform is pivotal to how outrages like Haut de la Garenne have been able to happen.
210. Is it really in any way surprising that Bailiffs and Attorney Generals who have failed so appallingly the victims of abuse have been able to get away with this for so long when they are allowed such demonstrably damaging interference in government and democracy? Indeed, the Inquiry team should ask themselves where else in the modern world would one see it accepted that an unelected judge – a man without a mandate from a single member of the public - be a community's 'First Citizen' handling communiqués with other jurisdictions and wining and dining visiting dignitaries and Heads of State

which in almost every other democracy in the world would be undertaken by the elected Prime Minister or President? It really is as laughable as it is darkly disturbing.

211. Sir Philip Bailhache's 2008 Liberation Day speech claiming the 'real' scandal was not the child abuse but international media reporting - which led to my wife's Vote of No Confidence in him is damning evidence of this.
212. Yet the British Crown and Her Majesty's representative here in the Island – the 'Lieutenant-Governor' – go along with this; just as they have done for some 800 years. And as we have seen yet again in February 2015 *still* says and does nothing as a central figure in so much of what has gone wrong in Jersey child protection wise – Sir Philip Bailhache – attempts to hide in full sight to whip up scare-mongering tales of a £50.000.000 cost of the Inquiry in the hope that the investigations may be curtailed and normal 'Jersey Way' service be resumed with not a one of the major players held to account or questioned even now. And further allows his former Attorney General brother responsible for so many failures to prosecute abusers to be promoted to Bailiff.
213. Upon reflection it is also very relevant at this point to add that in the light of the political climate underlying the child abuse scandals the Inquiry is examining that in entering politics Shona had not only an Environmental Degree but also a Masters in the Human Rights discipline of International Peace Studies. I mention this only because I vividly recall that the then Establishment Senator and Housing Minister, Terry Le Main once said to me that she must have been 'daft to come back to Jersey with a qualification in human rights as we don't have any here'.
214. Humour or not this comment says so much about a jurisdiction which is one of only a handful of places in the world who had still not signed up to the United Nations Convention on the Rights of the Child; and I believe beyond a shadow of a doubt the resistance to this by the Jersey Establishment over so many years is very telling evidence of what I said previously about the

majority of States Members actually not caring very much about the welfare of vulnerable children at all. Is it really in any way surprising that abuse went on for so long?

215. I would ask the COI to consider this a moment. Under Jersey's version of 'ministerial' government we still don't have either a Children's Minister or a Justice Minister. Yet we have a totally superfluous 'Minister for External Relations' I mentioned earlier and are planning a Minister with responsibility for digital commerce!
216. Indeed, what, I ask the Care Inquiry team, does this none signing of the Convention on the Right of the Child say about the Jersey Establishment attitude to child protection if not an indication of political ambivalence at the very best? I again suggest that the Jersey Establishment – be this Bailiff's like Sir Michael Birt and the Bailhache brothers or *most* political Ministers – 'care' only when something is leaked or dragged out into the global spotlight which might damage our precious image as an 'Off-Shore' centre (tax haven).
217. Actually, as a last 'final point' within this 'political background' segment of my statement I should point out that both Shona and I left the JDA (which has since demised) in the summer of 2010. We did so purely because of differences of opinion on how the party was subsequently being run. I was no longer Chairman by then having had to stand down upon my election; as the party's constitution rightly required that the role be held by a non-States Member due to the workload involved. My commitment to social democracy/socialism remains unchanged

### **Haut de la Garenne & 'the Jersey Way' – Experiences as States Member**

218. In early 2008 (as I said I would not be sworn into office until the December following an autumn election) thanks to the efforts of Chief of Police Graham Power and his Senior Investigating Officer Lenny Harper; and indeed that of the then Health & Social Services Minister Senator Stuart Syvret decades of child abuse and its concealment had begun to be dragged into the spotlight. The anger - and I would say this was driven by fear - from within Jersey's Establishment had created a political and judicial climate which was truly

poisonous and almost palpable. The hitherto 'untouchables' were being challenged and they did not like it a bit.

219. Jersey was descended upon by international media organisations from all over the world. It was, I have to say, unlike anything I ever could remember. You could sense the panic from the Establishment who dominated politics (both inside government and without). This is something probably best illustrated for the Inquiry by the now infamous Chief Minister, Senator Frank Walker and Senator Stuart Syvret 'You're shafting us internationally!' incident live on the BBC I highlighted earlier; and the equally infamous and wholly farcical later press conference where the backdrop and chairs were removed before an incredulous world media to try and stop Syvret speaking..
220. In July of that year – having also attempted to bring a proposition ending the dual role of the Bailiff and one seeking to legislate that the Chief Minister must be elected by the public rather than by 53 States Members (intriguingly blocked by the said unelected Bailiff!, Sir Philip Bailhache) – Shona had herself given the abuse cover up a whole new and more focussed public dimension in bringing the aforementioned unprecedented proposition actually calling for a vote of no confidence in Bailiff, Sir Philip Bailhache I touched upon earlier..
221. This is also well worth the COI considering the implications of. It being not just due to Bailhache's outrageously insensitive and offensive speech – i.e. that the global reporting of the abuse allegations was 'the real scandal' rather than the abuse - in hijacking the 2008 Liberation Day celebrations. But also previously little known revelations about his appalling failings in doing nothing to prevent a man he knew to be a convicted paedophile – Mr Roger Holland - from being sworn into the St. Helier Honorary Police whilst Bailhache was Attorney General.
222. The significance of this vote of no confidence really cannot be overstated. Not only was it the first and only time in history a Jersey Bailiff has faced such a public challenge; when one reflects upon what would happen to

Shona a short time afterward at the hands of Sir Philip Bailhache's Attorney General younger brother, William, (now Bailiff with, according to Queen's representative Lieutenant-Governor Sir John McColl, 'all the qualities necessary to succeed') I contend the dark political/judicial machinations by which how 'the Jersey Way' operates become all the clearer still.

223. For the benefit of context here it is worth highlighting that by his own words Sir Philip Bailhache, within an interview with the Jersey Evening Post, demonstrated the deluded sense of superiority inherent within these wholly without public mandate 'First Citizens' when he compared the alleged respect he believed those who hold the Bailiff role must command with the UK's Royal Family! Yes, he really said this (2010). Little wonder then I suggest that a vote of no confidence from a lowly working class backbench elected representative would go down as a very challenge and affront to the aforesaid 800 years of 'tradition'.
224. To return to the reasons Shona brought the vote against the Bailiff in a little more detail however; it is the contention of many who actually know the truth about this disgraceful child protection failing that constitutes the Holland affair that Attorney General Sir Philip Bailhache should have been sacked immediately – and would have been if there was any genuine concern as to law and order in the island from Her Majesty's Privy Council or the government at Westminster. Likewise from the 'Jersey Way's' on Island enabler the Lieutenant-Governor.
225. Of course, unfortunately as we have seen again and again in recent years; whether this be through visiting UK politicians or successive Crown Appointed Lieutenant-Governors there is instead only complete indifference and collusion. Multiple failures and/or abuses by Crown Appointed Judges simply do not matter to the British Monarchy or government – and certainly not to their representatives within the Island.
226. Though unknown at the time I was deeply disturbed to learn after my initial interviews that another witness – a former Head of Education no less – told



the COI that Attorney General Philip Bailhache had told him *not* to go to the police about the abuse of a child. I suggest to the COI the developing picture and multiple examples once again speak volumes as to how decades of abuse at institutions like Haut de la Garenne could and did happen for so long.

227. Thus instead of being sacked as he should at the time of the Roger Holland scandal Sir Philip Bailhache had been promoted to Bailiff – just in time one might say to play a central role in another child protection failure at Victoria College already touched upon - and for years the true, shocking details of what really went on within this astounding and deeply disturbing child protection failure set in motion by Roger Holland was all but airbrushed out of history and the public arena.
228. The truth was, of course, that Bailhache's allowing Holland to be sworn into the Honorary Police was to have truly catastrophic consequences as the direct result was to be more young girls being sexually abused: some of the abuse actually taking place within a police van! Almost as shocking was the fact that the innocent former Constable of St. Helier, Mr Bob Le Brocq was despicably allowed to wrongly take the public blame for what happened. The Establishment lackeys of the mainstream media went along with this of course. Hopefully Mr le Brocq will personally give the COI evidence on this outrageous example of 'the Jersey Way'.
229. Nevertheless, as I say none of this was evidently of any concern to the Queen, Her government, Her Lieutenant-Governor of the time, or hardly anyone at all within the States of Jersey: certainly to not a single political member of the Establishment. They simply closed ranks as they always do – 'the Jersey Way'. All that mattered was to protect their hold on power and – I challenge anyone on the Inquiry to come up with a different, even half-plausible answer – set against this throwing one of their own to the wolves so to speak – no matter how much he deserved it for his incompetence and negligence - for the sake of a few molested young girls just wasn't going to happen. Just as the appalling abuse of children from powerless poor and/or

even dysfunctional families at Haut de la Garenne, Blanche Pierre and other institutions wasn't going to see the Establishment turn on any of its own.

230. The same attitude from within the highest echelons of Jersey's judicial and political Establishment still exists today; and the Inquiry team need to look beyond the smoke and mirrors to see this for itself. Remember this is the pompous and arrogant man who whilst fully aware of his own lamentable record on such issues is, in 2015, now trying to curtail the Inquiry investigation before it reaches him and – hopefully – finally puts him on the stand to answer some very searching questions under the smokescreen of exaggerated costs.
231. Indeed, the lack of fallout for Sir Philip Bailhache over the Holland affair yet again emphasises how the decades of abuse and cover up at Haut de la Garenne could and did happen in the most vivid of illustrations. In Britain the reality without a doubt would have been that the national media would have crucified such a failure; and even if they had not wanted to the 'Establishment' would have been forced to axe him. Here, however, our media kept their heads down at the time and, when Shona's vote of no confidence made the facts more widely known than they had ever been before came out staunchly on Bailhache's side; 'tradition' and being a pillar of the community was evidently a lot more important than his spectacular failing of children. Indeed, unless my memory fails me around this time Bailhache was even given a two page spread to talk about his health issues. No such coverage of course for his child protection failings!
232. Once again I ask the Inquiry team to ponder where else would one see media and elected representatives accept truly disturbing and pathetic excuses such as Sir Philip Bailhache's claims on the theme that at the time 'we didn't really understand how dangerous paedophiles were'? I flag up for the Inquiry that this was the 1990's *not* the Seventeenth century or incident from the fictional pages of Charles Dickens! Or indeed the quite staggering and for a senior Judge equally disturbing contention from Bailhache that it could be thought Holland would 'grow out' of his paedophile tendencies?

233. I challenge the Inquiry – get this former Attorney General, Bailiff and now Minister in and demand answers from him. Answers he has always previously managed to avoid because of the very ‘Jersey Way’ I highlight again and again in this statement.
234. I would actually like to enlarge upon something I said earlier because one of the other most disturbing aspects in all of the Holland abuse scandal was the then St. Helier Constable, Mr Bob Le Brocq, actually being forced quite wrongly to spend several hours in a police cell: blamed for something which was demonstrably in no way his fault. Indeed, even his possessions were removed from his as I understand it when this was done as if he were some kind of common criminal.
235. Sir Philip Bailhache could and should have spoken up on Le Brocq’s behalf as the man truly to blame – yet did not. And this is the type of man subsequently allowed to preside over our Royal Court by both the British Crown and States Members; and thus strut the stage for more than a decade as Jersey’s wholly unelected – and in my view wholly unfit - ‘First Citizen’.
236. Nevertheless, rather than repeat every aspect of this particular scandal here and its illumination of ‘the Jersey Way’ attitude to child abuse I provide for the Inquiry team a report into the Holland affair listed as evidence **TP1**. I also refer the Inquiry to the vote of no confidence proposition brought by Deputy Shona Pitman and the Hansard transcript of the truly shocking debate – or rather lack of one as **TP2** and **TP3** respectively. I similarly also suggest that the Inquiry seek to verify the facts of Bailhache’s child protection failings within the Roger Holland affair by interviewing (if they have not already done so) former St. Helier Constable Bob Le Brocq himself.
237. I humbly also suggest that in reading the above mentioned report the Inquiry team also take special note of the attitude and clear failings further demonstrated by Bailhache’s successor as both Attorney General and Bailiff Sir Michael Birt: not least in his incredible decision that – even after this

disgraceful horror show - the introduction of background checks which would have saved the later victims of Roger Holland should even now *only* apply to *new* Honorary Police officers and not ones already working! As I remember this would not be rectified for another two or so full years and even then, according to what I have been told, with considerable reluctance. Why?

238. As I will outline further on it would eventually become apparent to me that both men, Bailhache and Birt – the one succeeding the other – would again display this ‘Jersey Way’ indifference to child abuse and those willing to ‘look the other way’ when confronted with it in their attitude to allowing the aforesaid disgraced former Vice-Principle, at Victoria College – one John Le Breton - during the Jervis-Dykes child abuse scandal I now return in greater detail to become a Jurat. Bailhache as Bailiff and Birt as Attorney General.
239. Both men subsequently not only allowing an inarguably unfit individual to subsequently be made a Jurat (lay judge) – charged with deciding on *fact* and *evidence* in court cases – but to hold such a role for an incredible 14 years! Le Breton holding a role his clear dishonesty and malleable commitment to evidence and justice demonstrably mark him as wholly unfit to possess through the years of both Crown Officers’ terms as Bailiff – or to spell it out more poignantly CHIEF JUDGE!
240. This appalling failure even including both men Bailhache and Birt allowing Le Breton to sit on child abuse related cases. Indeed, though having ‘retired’ in 2012 after being allowed to sit on the defamation case brought by Shona and myself (I would point out that we knew none of this selective commitment to honesty and justice at the time as I shall later make clear) it really says just how little has changed in the Jersey Establishment’s attitude to child abuse that even with the Care Inquiry taking place in the Island; such is the arrogance of those at the apex of ‘the Jersey Way’ Judicial system that Le Breton was actually brought back out of retirement to sit on the February 2015 abuse case against paedophile Ian Bartlett?

241. Brought back of course under the Royal Court stewardship of none other than Sir Philip Bailhache's brother William. A man who I remind the COI equally disturbingly was described by no less than Jersey's current Lieutenant-Governor Sir John McColl as 'Having all the qualities you need to succeed' as Bailiff! Bartlett of course it emerged bullied his victim into silence. How revealing then that the Sharp Report and one of the former police officers leading the investigation show Le Breton 'bullying' victims of paedophile Andrew Jervis-Dykes into silence! The actions of a man fit to be a Jurat...
242. I repeat the question: has anything at all really changed or been learnt in regard to the attitude from those at the top of Jersey's 'justice' system in the aftermath of Haut de la Garenne? I would suggest to the Inquiry the flaunting of a demonstrably unfit – I would actually use the term demonstrably dishonest and morally bankrupt - individual like John Le Breton on Royal Court's benches says very clearly: nothing at all.
243. At this point I feel I should also draw attention to my own challenge to the now Senator Sir Philip Bailhache on his part in the above: this following our having clashed in the States Chamber after Bailhache had attacked me for raising a significant number of questions regarding the lack of checks and balances in place regarding inappropriate people becoming Jurats; and Le Breton's example in particular. The exchange took place in the States Members' coffee room so there is obviously no transcript of it; but it was witnessed. The exchange in the States itself is of course on Hansard.
244. What I feel to be the most telling part of the Senator's response to challenging him on just how he, as Bailiff, could accept someone who had – as the Sharp Report makes clear – refused to examine and consider hard evidence of child abuse before instead writing to the Victoria College Board of Governors in support of his friend and colleague paedophile Andrew Jervis-Dykes to both become and remain a Jurat is this; and I quote:

245. 'Just because Jurat Le Breton failed to pursue the right course of action once I fail to see how this could be taken as evidence that he might do so again.' I ask the COI: is this really the sort of guarantee people should expect of an individual – *any* individual – whose job it will be to decide a person's fate based on thorough, unbiased consideration of ALL evidence? I suggest not.
246. For the record of completeness Bailhache also stated to me the view – remember he was on the Victoria College Board of Governors, even chairing meetings – that: 'There was no cover up at Victoria College over the Jervis-Dykes case. Just some very naïve people.' Perhaps the COI will be able to persuade the former Bailiff and Attorney General to enlarge upon this statement. If, of course, he is able to recall it?
247. Was he himself 'naïve' or was he simply failing to do his job because he didn't want any embarrassment to his beloved Establishment? I know which my money is on. Worse in his bizarre world view this is of more import than the safety of children or than holding abusers to account?
248. I make this observation simply because I have seen media reports that in regard to the statement from the one time Head of Education, Mr Rodhouse that he was allegedly told by the then Attorney General not to go to the police as he should have done regarding the abuse of a child that Senator Bailhache claims he 'does not recall' the incident. Further still because I have had personal experience of both Bailhache and his successor Sir Michael Birt making such – I might suggest – very convenient claims on matters very relevant to the COI and the issues of abuse.
249. The one relating to Senator Philip Bailhache revolves around the now infamous and quite shameful case of the young woman known as ██████████. Though not involving a child as the complete betrayal of a highly vulnerable young woman by the Jersey Establishment – Judiciary, politicians and church – and one in which Senator Sir Philip Bailhache played a leading role I would suggest this is a case highly relevant to the COI in itself. For what it revolves

around is the calculated Establishment drive to transform the victim [REDACTED] into the villain of the piece.

250. Indeed, the excellent former Deputy of St. Martin Bob Hill has done much work in trying to support this victim of 'the Jersey Way' (I am proud to have also played my part in striving for the truth) so hopefully he may give evidence on the matter to the COI. All I wish to flag up in support of my own evidence and contentions is the following as it demonstrates further evidence of how this 'not recalling' is a strong theme within the Jersey Judiciary when held to account.
251. As is well documented both in Hansard and through a number of political blogs; and even the so-called mainstream media I was approached by two country parish based businessmen who were appalled and concerned to find themselves able to read highly confidential – this including police documents – regarding the [REDACTED] case whilst sitting near to Senator Philip Bailhache on an a flight. Indeed, the businessmen were able to ascertain personal and case details including the true identity of [REDACTED] and personal statements.
252. Such laxity on the part of individuals be they politicians or civil servants – even ignoring whether Bailhache should have even had such confidential documents (one of the excuses for the Chief Minister, Senator Ian Gorst refusing to act on such a serious breach was that it was claimed Senator Bailhache was not acting in an 'official capacity') – has often, as I am sure the COI will be well aware, led in similar cases in the United Kingdom to firm action being taken. Not in Jersey of course.
253. Yet all I wish to flag up in cutting a long and unpleasant saga short is that once again as the pressure mounted; with significant details being provided by myself through the businessmen this same excuse of 'not recalling' was wheeled out. It is a response which a number of observers have suggested to be a lawyer's way of sidestepping actually saying something didn't happen. Viewed alongside the incident alleged by Mr Rodhouse and one I shall outlay in a moment involving Bailhache's successor Sir Michael Birt I

suggest to the COI this sheds some very revealing light on the way Jersey's Judiciary operates when failures are exposed. They simply claim they 'do not recall' knowing full well that no-one in higher authority will hold them to account.

254. Nevertheless to return specifically to the clear and disturbing disregard for the adequate vetting of Jurats I believe the Inquiry really needs to consider not only the final, still strong but nevertheless watered down, Sharp Report into the Victoria College child abuse cover-up which I attach as **TP4** but most definitely also the SIX (6) Appendices to this. I believe this essential for the COI to begin to see just how shocking the behaviour of people like Le Breton and other Victoria College colleagues was in the Jervis-Dykes scandal: and by extension of course how indifferent to abuse and its concealment senior figures at the apex of Jersey's judicial system like the Bailhaches and Birt were and remain.
255. The Inquiry team will, however, undoubtedly be blocked in obtaining official versions of the latter just as both Senator Stuart Syvret and I myself were. Indeed, they will probably be lied to that they don't exist. To this regard I would suggest that the Inquiry team persist for the truth is the Appendices and, according to my information also the TWO earlier versions of the Sharp Report 'belong' jointly to the States Education Committee/Department – not just Victoria College. Should the usual obstruction occur and these not be forthcoming I believe it essential that Stephen Sharp be contacted directly for assistance.
256. As I touched upon earlier in my statement it should also be most revealing for the Inquiry team to note that a core group of individuals seem to appear within these child protection failings in Jersey again and again. As flagged up both Sir Philip Bailhache and former Education Committee President, Constable Iris Le Feuvre sat on the Victoria College Board of Governors during the Jervis-Dykes abuse cover-up. Bailhache, of course, and/or his younger brother William, in truth appear almost everywhere appallingly inexplicable decisions are taken. Sir Michael Birt being not far behind.



257. Even after what she will have clearly known about former Vice-Principle Le Breton's appalling failings at Victoria College such as his failure to comply with the then 1969 Children's Law (bullying victims in to silence/doing nothing about complaints of abuse) and refusing to look at evidence of Jervis-Dykes' abuse - instead writing in support of his friend and colleague the actions of former President of Education Iris Le Feuvre are simply jaw-dropping.. The actions of no less than *three* bailiffs now as of 2015 likewise.
258. Knowledge of such gems as Le Breton's contention that Jervis-Dykes had 'served the College without outstanding competence and conscientiousness'; and that if the police did not prosecute (as the College Board of Governors was hoping) Jervis-Dykes abuse could be viewed as 'unsubstantiated allegations'. Despite all of this Iris Le Feuvre would consequently still be one of the two individuals who would actually put forward John Lyndon Le Breton to become a Jurat within Jersey's highest court – the Royal Court - when he dodged a dismissal bullet by taking 'early retirement' instead of being forced to resign as his Headmaster Jack Hydes and fellow Vice-Principle Piers Baker finally had to.
259. I ask the COI to consider what this says about the Jersey Establishment's attitude to abuse, abusers and the disregard or concealment of this? Therein lies the answer to how so much horrific abuse was allowed to happen for such a long period of time.
260. Throughout Le Breton's 14+ years on the Royal Court benches as a Jurat not a single one of our three most recent Bailiffs – Sir Philip Bailhache; Sir Michael Birt or William Bailhache - challenged the appropriateness or safeness of this at any time. Indeed, when this was finally challenged in 2007 by Senator Stuart Syvret (I did not learn about this complaint until 2014); and by Shona and myself in the summer of 2012 this was first ignored by the Bailhaches and then actually defended by Sir Michael Birt.
261. As further supporting evidence of this I would refer to two incidents. Though they occurred as a consequence of the aftermath of revelations emerging

directly as a consequence of my wife and I inexplicably losing our defamation case (something I will not turn to specifically until the end of my statement) I highlight them now as it seems wholly appropriate to matters at hand here.

262. The first being a letter to us from the Bailiff I will attach as my **TP5**. I suggest it makes revealing reading generally. Yet what I believe to be most telling is both the complete disregard of Sir Michael Birt to face up to and acknowledge what our complaint says about his own failures - let alone those of the Jersey judiciary generally - in allowing John Le Breton to ever become a Jurat in the light of the clear evidence. Secondly, the inter-related issues of his excuse/justification along the lines that all he 'could say was that all who worked with Jurat Le Breton would state him to be scrupulously fair and conscientious in his work.
263. It should be noted that Sir Michael Birt felt able to write such demonstrable garbage even in the light of Le Breton having also been revealed after we had lost our case to have been entertaining a close friend and fellow Jurat who just happened to be both a director of the defendant Jersey Evening Post's owners *and* a member of the family who had founded the newspaper in the lead up to our case going to court!
264. Nevertheless, the second incident relating to the above arose from a meeting my wife and I eventually managed to secure with the Bailiff regarding all that had been revealed – thanks to concerned members of the public – after the court case. I was not allowed to record this interview. However what I feel to be so relevant to the issues at hand within this part of the statement was what was claimed by Birt at the very end. For in regard to our objections/criticisms of Le Breton having been allowed to become a Jurat let alone sit on the case of two politicians who were amongst the few who had stood up in support of the child abuse victims to Sir Michael Birt said this.
265. 'I have to say that I do not recall there ever having been *any* complaint about either Jurat Le Breton's judgement or his integrity prior to your case.'

266. As I trust the COI will have noticed information I set out above prove this to be demonstrably untrue: the then Health & Social Services Minister Senator Stuart Syvret had drawn attention to this in an email as long ago as 2007. The three men who have been the last three incumbents of the Bailiff role – Sir Philip Bailhache, his younger brother William and Sir Michael Birt himself – were all recipients of this email. An email which I now attach as my evidence **TP6**
267. Yet to return to Iris Feuvre – this Constable of St. Lawrence and one time Education Committee President - would also play a pivotal role in fronting a letter written by a senior Civil Servant at Health, one Marnie Baudains, leading to the eventual removal of Health Minister Senator Stuart Syvret in the summer of 2007 when he would not keep quiet about what was coming to light. As if this isn't damning enough Le Feuvre would also be revealed long after the event as the author of the infamous letter written to the paedophile Alan Maguire and his wife thanking them for their work and 'love' whilst overseeing the horrific abuse at the children's home at Blanche Pierre in St. Clement: some victims of whom I know the Inquiry has heard harrowing evidence from.
268. To those who try to dismiss the 'Jersey Way' as fiction and likewise contend that all in Jersey's political and 'justice' systems are as they should be I ask what could be more demonstrably perverse, more morally corrupt than writing a reference for a man known to be accused of horrific child abuse; put forward another individual evidenced as being happy to disregard evidence of horrific child abuse to become a Jurat – and yet in contrast subsequently seeking to try and help engineer the removal of a politician trying to expose child abuse?
269. Indeed, in regard to the abuse investigation and the crucial need the Inquiry team has to try and understand how 'the Jersey Way' allowed all of this abuse to happen as further evidence I would also draw the team's attention to Le Feuvre being quoted in the media – the Jersey Evening Post as I recall - stating how it was Philip and William Bailhache whom she apparently really

'felt sorry for'; they had allegedly 'been through so much'. Incredible, sickening, hard to comprehend sentiments but true: 'the Jersey Way' once again in all of its twisted glory. Just how many times will I get to say this I wonder?

270. But to return specifically to Shona's vote of no confidence in Sir Philip Bailhache again should any further illustration of this 'Jersey Way' and all that I have said thus far be needed; examination of the aforementioned official Hansard record of the debate – or as I indicated – the lack of one and the subsequent vote will reveal that only Shona and two other politicians out of 53 States Members were brave enough to support the vote as evidence clearly demonstrates they should have done. One of these three, of course, being the aforementioned Senator Stuart Syvret who had been removed from his position as Health Minister that same summer due to his uncompromising stance on the abuse cover up and other manifestations of the very same 'Jersey Way'..
271. I recall that listening to the debate - such as it was - I was shocked that despite the overwhelming evidence why members should have supported the no confidence motion – here was a 'First Citizen' after all who regardless of the damning Roger Holland scandal had just dismissed and insulted every child abuse victim in the Island by hijacking Liberation Day to inform the world criticism of Jersey in the international media following Haut de la Garenne was 'the real scandal' rather than the abuse - there was almost zero focus by politicians on the reason why Shona was actually making this proposition.
272. What does this say about Jersey and its 'leaders' of the time – other than to shamelessly proclaim that closing ranks and protecting those 'in the club' will always be more important than the physical, psychological or even sexual abuse of vulnerable children in the States' care?
273. Indeed, there was really no acknowledgment other from the three as to the undeniable fact that the Bailiff had effectively looked the other way and

allowed a convicted paedophile into the honorary police service; and, almost as shockingly, had let someone else – an innocent man - take the blame for this decision (see comments on Constable Bob Le Brocq earlier); and further tried to deflect from his own failings with the most lamentable of excuses. Yes, a tiny few other States Members had been ‘miffed’ over Liberation Day but that was it. When it came to standing up to be counted for the victims their silence was deafening.

274. If I ever doubted ‘the Jersey Way’ people talked about existed at that time then I can state that for me this was a real eye-opener and confirmation even if I didn’t yet understand all that underlay it. Not least to this regard being then Chief Minister Senator Frank Walker’s contention that essentially States Members should not give the vote of no confidence motion credibility by speaking in the debate. Frankly it was embarrassing; and with the benefit of hindsight can now be seen as a foretaste of what was to come. Ignore the serious issues around child protection failings; pretend they do not exist; close ranks in time-honoured ‘jersey Way’ fashion. I repeat that I include this most revealing of non-debates as evidence **TP3** as mentioned.

### **Selective prosecutions & sentencing – Background and child abuse examples**

275. On a personal note upon reflection I do believe a lot of our own problems really started at this very point: problems which would come to a head within the legal abuses evident in our 2012 defamation hearing and subsequently being made en Désastre as a way to silence us and remove us from politics – something the Establishment were obviously unable to achieve via the ballot box. Having by necessity already highlighted the unfit-for-the-role of Jurat behaviour of John Le Breton already I will round up this particular ‘Jersey Way’ saga shedding light on the background of judicial abuse relevant to the Inquiry’s investigations right at the very end of this statement.
276. Suffice to outline at this point that the fact is the Jersey Establishment hated the JDA and those who represented the party with a vengeance right from its very inception in 2004/5; and likewise the very effrontery of some Bolshie

Left-wing peasants from the wrong side of the tracks thinking they could not only dare launch a bona fide political party to challenge the Establishment pro-finance clique who saw government has their personal fiefdom – but actually had enough support from the people to get elected. Now, of course, with this no confidence vote Shona had cranked the challenge up to a whole new level.

277. With Shona also openly and very publicly challenging a politically motivated and discriminatory election law (more detail about this illustration of judicial abuse shortly) they wished to bring in with hindsight we should have known there would be a very heavy price for such fearlessness in standing up for democracy, abuse victims, the vulnerable and disenfranchised and – put at its most fundamental - what is right.
278. Once again suffice to say that with guaranteed carte blanche from a couldn't care less Monarch, Lieutenant-Governor (Andrew Ridgeway at the time as I remember) etc the Bailhache brothers and their judicial lackeys remained free to abuse and pervert the true principles of law and order in whichever form they so wished. And abuse this they did; and in a way which I suggest is wholly relevant to the attitudes to consistent application of the law - and likewise consistent treatment for all – which the COI seeks to understand in the child abuse cover-ups.
279. For to cut a long story short and yet adequately explain: following the proposition to remove the Bailiff, both Shona and Geoff Southern (who had been the third Member to vote in favour of the no confidence vote) were to provide the exponents of 'the Jersey Way' the perfect opportunity for revenge by following through in line with their principles.
280. This arose from another 2008 debate on a proposal by the Privileges & Procedures Committee (which as alluded to had of course tried within the same batch of proposals to make it law that the JDA must give the Bailiff's Royal Court details of every one of our members) to fly in the face of best practice in every democracy in the Western world regarding the active

encouragement of registering of people for postal votes. To achieve this a 'problem' which demonstrably did not exist – and had never existed - was invented by the Establishment and its poodle PPC.

281. Specifically – and it is important to highlight this given that both the rapporteur for PPC and subsequently the Establishment media would deliberately seek to muddy the waters and confuse this with actual postal votes to mislead the public - instead making the giving of assistance to elderly or disabled constituents any candidates may encounter illegal.
282. Effectively thus meaning that these already vulnerable and disenfranchised people – the majority of whom obviously lived in some of the more economically challenged areas of St. Helier and thus could be expected to vote for candidates of the Left - would more than likely not be able to engage in their democratic right to vote in the election at all. Precisely what the Jersey Establishment wanted.
283. For as Mr Daryn Cleworth from the Parish of St. Helier – the parish with more than a third of all voters in the Island - confirmed: they simply did *not* have the manpower to fill the gap once such a new law was introduced.
284. Believing from her Human Rights background that this was illegal being in breach of the ECHR due to its disproportionate and discriminatory impact on these elderly, vulnerable and disabled residents Shona stated in a short speech that because of this she would disregard the law if passed and continue to give the help to any who needed it to register to eventually receive a postal vote. Deputy Geoff Southern (a fellow JDA Deputy) subsequently supported this stance. Come the election campaign of autumn 2008 they were subsequently both true to their word.
285. Tellingly the Article 39A law was evidently so needed and urgent that funnily enough it was not brought in for the Senatorial election in September at all - but *only* for the Deputies election which followed the month after!
286. This meant that standing for election as a Senator (these elections are traditionally dominated by Right-wing candidates due to the heavy weighting

in favour of country voters and the deterring factor for many would be working class candidates of the significant costs of a campaign) I could assist the disabled Mr X to fill out his registration form with impunity. But if returned the following month as a Deputorial candidate and did the same I could be made a criminal.

287. Oh yes – I have to say it yet again: the infamous ‘Jersey Way’ new Bailiff William Bailhache wants to ‘reclaim’ in all of its brazen glory. Again I apologise for labouring the point but this is how modern Jersey ‘works’ and crucially this is the type of deliberate abuse of ‘law’ which underpins what has been allowed to happen to so many victims of abuse. If I am hammering this point home ad infinitum then I hope the COI will understand why.
288. Nevertheless, even though it was common knowledge right from the start of the election campaign that other candidates – both sitting politicians and new candidates – were also braking the new law (Article 39A) regardless just keeping publicly quiet about it - in early 2009, just weeks after a hugely successful election for the JDA, Deputy Shona Pitman and Deputy Geoff Southern were subsequently prosecuted by then Bailiff (Chief Judge) Sir Philip Bailhache’s younger brother, William – who as I say just happened to be Attorney General (Chief Prosecutor)!
289. That is correct in case you thought you had misheard – one brother Chief Judge; the other brother Chief Prosecutor. Basically Jersey is the political/judicial reality of TV’s Hazzard County or an updated ‘rotten borough’ from Blackadder the Third. Only for many people the result isn’t very funny. I ask with all sincerity: is it any wonder my home island has problems with judicial abuse and corruption?
290. Of course on the face of it one may well say ‘well, right or wrong Article 39A was a law passed by the States Assembly and the two deliberately broke it’. I fully appreciate that sentiment and would accept it – were it not for the fact that despite being fully aware of the evidence William Bailhache pursued only selective, clearly politically motivated prosecutions: i.e. he prosecuted Shona and Southern alone yet did not do so with not just one but *two* non-JDA



candidates in the very same St. Helier No. 2 district where Shona and Southern stood!

291. The type of selective prosecution process Bailhache would again follow in child abuse cases such as the infamous Donnelly case. Of course in most cases regardless of the evidence if it suited he would not prosecute at all.
292. Indeed, not only did Attorney General – now Bailiff as of 2015 - William Bailhache pursue these selective, politically motivated prosecutions of Shona and Southern he even had the gall and arrogance to attempt to mislead – that is *lie to* in the real world – the States Assembly when I challenged him on this in March 2009 by denying there had been *any* other cases. As one further piece of evidence to help the Inquiry team understand how the selective justice of ‘the Jersey Way’ attitude works and; how this will clearly be seen to cross over and contaminate child abuse I refer the Inquiry to the Hansard record of 31<sup>st</sup> March 2009.
293. Indeed, I attach a very relevant page from this as my **TP7**. As the COI will see, once impossibly caught out and exposed the Attorney General William Bailhache suddenly ‘recalled’ the JDA members were not the only ones who had breached the law. More on this in a moment. Suffice to highlight for the moment it is clear that under the man who is now Bailiff the law - or its breach - is only important according to who you are.
294. Rather like as is apparent in the selective prosecutions of child abusers.
295. I will reiterate this point for it is beyond doubt so illuminative for the Inquiry to see and understand how the commitment to justice which should be so central, so integral, so crucial to any Judge or Attorney General’s work simply does not exist in Jersey when it comes to our ‘justice’ system under the consecutive stewardships of Sir Philip Bailhache, Sir Michael Birt and William Bailhache likewise. Understand this and one understands with far greater ease and perspicacity the chasm between the weasel word excuses of those at the top of the Jersey ‘justice’ system and the grim reality.

296. The fact is that in the States on that day in 2009 I held up documentary evidence of these two cases. The first was in regard to a candidate who had broken the same Article 39A law but had not been charged – but whose offence had incredibly still been initially felt sufficiently serious to have it filed against... DEPUTY GEOFF SOUTHERN himself! The witness' statement (clearly reluctantly given just as the two disabled people intimidated by the police into giving statements against Shona were) clearly stated how she 'hoped she had not got Mr X (the candidate) into trouble' by his helping her!
297. Predictably enough in best 'Jersey Way' fashion this other candidate's offence (I held this up in the States at the time) was miraculously vanished before Shona and Southern finally went to court. Nevertheless, should the Inquiry team doubt my word on this document's existence and veracity I would be most happy for them to approach Deputy Southern himself to confirm this fact. Indeed, I would like to *insist* upon it!
298. A second non-JDA candidate also breaking the same law in Shona and Southern's district yet not being prosecuted by Attorney General William Bailhache was also evidenced within transcripts arising from Shona's police interview prior to her being charged with assisting two elderly/disabled constituents to register their request to later receive a postal vote.
299. This starkly describes a male individual with a beard and a three letter name beginning with an 'R'. I would obviously not want to give away who this is as the truth is that no one should have been prosecuted for breaking this most malicious of 'laws' whatever their politics
300. While there is thus much more that I could say on this subject however for the record I will simply add that the JDA won all three seats in St. Helier No. 2. Along with Southern the other two, Shona and Debbie De Sousa, were obviously women: with Southern clean-shaven throughout his many years in the States it is readily apparent none of the three JDA candidates had beards! Indeed, there was only one candidate in the district who did.
301. Which would tend to suggest Jersey's police are either spectacularly inept; or that the decision not to prosecute what was in this instance an out and out

Establishment candidate was handed down by Bailhache deliberately; just as he had done with the first non-JDA offender mentioned in the witness statement originally falsely charged against Deputy Southern and then conveniently 'vanished'.

302. Given that a friend who is still an officer in the Jersey police confided in me that he was told by a colleague that instructions not to pursue the two non-JDA candidates I will call Mr A and Mr B allegedly did indeed apparently come direct from the Attorney General's office I would trust the Inquiry team will understand why I believe the answer to lie in the later. Once again 'the Jersey Way'.
303. To use a quotation Shona highlighted at the time – one from Martin Luther King I believe – 'an unjust law is no law at' I would add only that if a law – even one has manifestly immoral as Article 39A is – is going to be enforced by the State at all than it surely should be applied consistently to all: and as I demonstrate this clearly just did not happen.
304. This selective prosecution process by a Jersey Attorney General is highly relevant because it can also be seen again and again in police cases relating to child abuse as I mentioned.
305. Not least in the infamous 'show trail' case of James Donnelly initiated by the same William Bailhache I alluded to earlier; and also the sickening betrayal of justice that was the non-prosecution of the bogusly 'terminally ill' Blanch Pierre abuser Alan Maguire; and his non-extradition a decade later by Sir Michael Birt and Bailhache again respectively if memory serves!
306. It obviously goes without saying that – should funding to continue the Inquiry team's investigations not be suddenly terminated - I really do hope that the Inquiry will be insisting that both Sir Michael Birt and the Bailhache brothers get the opportunity to publicly invent some half-plausible excuses for their huge number of failings under firm questioning. In my opinion upon considering the evidence all three are liars when it proves necessary; their commitment to applying the law fairly and consistently – in my opinion – demonstrably wanting. Indeed in my opinion all three are unfit to hold judicial

roles. Indeed, I believe all three should have faced criminal action. I am not alone in this assessment.

307. All that really needs to be added on William Bailhache's selective and politically motivated prosecutions of Shona herself – who is also of course one of the few of us who have consistently supported the abuse victims - and Geoff Southern alone is to highlight that in another Establishment 'show trial' both obviously pleaded guilty.
308. For the record I feel that I should also state here that Shona herself desperately wished to refuse to pay the fine, so unjust were both the Article 39A 'law' itself and the selective, politically motivated way in which prosecutions were pursued, and opt to serve two months in prison. It was me who pressured her not to go down this route for concern out of possible 'knock on' implications such as negative impact on our subsequent ability to travel: one only has to look at what would happen to U.S. journalist Leah McGrath Goodman after her 'flagging up' by Jersey due to her investigating haut de la Garenne to see how valid my concerns were. Nevertheless, I was wrong and I regret it deeply.
309. Nevertheless, amidst much hot air about how the Royal Court would 'not tolerate' candidates breaking election law (well, unless they were non-JDA or Establishment candidates obviously!) Shona and Southern both ended up with criminal records and large fines which gave the Establishment media, particularly the Jersey Evening Post the opportunity to go into overdrive with a similarly selective version of what really happened; including one of its favourite ploys: the publishing of critical letters from people who did not exist.
310. Once again this is very revealing because in the case of the Jersey Evening Post the journalist who is now the paper's editor had access to the fall facts and supporting documents proving just how selective William Bailhache's prosecutions were yet did not make use of them. The Jersey public – and remember (though such sales figures have dramatically plummeted now – at the time the newspaper was claiming that around 75% of all adults read the

paper) I can say the above about the newspaper having all of this evidence of selective prosecution yet not publishing it with such confidence for one reason: it was me who actually provided this apparent investigative journalist and now newspaper editor Mr Andy Sibcy with them.

311. Oddly the Commissioner spouting this hypocrisy about the Royal Court 'not tolerating' candidates breaking Article 39A in best 'Jersey Way' fashion, one Julian Clyde-Smith also somehow forgot to make any mention in all of this of how his own brother and sister-in-law had both been amongst the proposers for a bearded – and frankly woefully inept - candidate who first complained about alleged breaches of Article 39A having finished a dismal fourth after bragging he would top the poll: a candidate who of course obviously stood to gain the most if the validity of the election could be sufficiently undermined. Not the most blatant instance (by Jersey's appalling standards) of where a judicial recusal should have taken place it is true; but one which would be seen to be indicative of an ever-more brazen abuse over the years which followed.
312. Interestingly, in a case arising years before when the then Establishment Constable of St. Peter was proven to have concealed constituents' completed ballots in his pockets ultimately causing a fractiously close Deputies' election there to be ruled null and void the Bailiff and Attorney General of the day declared that any prosecution of the Constable was 'not in the public interest'!
313. Nor apparently was any type of investigation! The court records I tracked down prove this. Once again further evidence of how the Royal Court and 'justice' is manipulated according to who a person is; and has been so for decades if not centuries. Indeed, the Bailiff of the day actually spoke of what a great friend the Constable he was letting off was. Should I say 'the Jersey Way' again at this point? I'm sure that I should.
314. As an end note to this example the fact is that after Shona and Geoff Southern's prosecution there remained, to my personal knowledge through

either admittance from the individuals or contact from members of the public, at least five successfully elected politicians who had all breached exactly the same article of law.

315. Add in the three non-successful candidates who I am aware of doing the same and I think little more needs to be said about the selective nature of prosecutions pursued by then Jersey Attorney General William Bailhache here. Of course I stress again not a single one of these should have been prosecuted because the Article 39A was as ethically wrong as it was discriminatory. I flag these numbers up only to illustrate the point about selective prosecution.
316. To repeat my earlier comment outlaying the above case is very relevant because it bears witness to the reality that 'justice' in Jersey is entirely arbitrary and dependant on whom you are – not what you might have done. As I also keep saying setting this out is crucial I believe to assist the Inquiry team to understand how this 'Jersey Way' approach and attitude has been applied within the many child abuse scandals being investigated.
317. The Attorney General is the ultimate arbiter in terms of who is prosecuted in Jersey. The office of the Attorney General also cannot, as I understand it, be easily 'judicially reviewed' in any way open to those falling victim to the various incumbent's often inexplicable (in legal perspective) decisions. All very handy and contributing to the continuing abusive mess in which Jersey finds its self.
318. In a nutshell like others who have felt compelled to fight for the victims of Haut de la Garenne and other institutions I believe the truth is that the Jersey Attorney General picks and chooses prosecutions according to whether or not the alleged offender has any desirable/beneficial connections – even friendships - to the Establishment; or a prosecution be highly awkward, damaging or embarrassing.

319. Or whether they might on the other hand instead fall into the category of being outside of the fold so to speak; or even be seen as an out and out opponent or enemy of the established order - in which case a damaging prosecution might be very useful. It seems to me that on the evidence one's fate will revolve around this. The seriousness of the actual 'crime' does not really enter into it.
320. Of course our esteemed Crown Officers will deny it but the evidence speaks for itself as I will demonstrate.

### **Examples of selective prosecution and sentencing in child abuse cases**

321. I would stress that this selective prosecution issue is also intrinsically linked to that of the staggering inconsistency in terms of the sentencing of abuse offenders – or of not even prosecuting them at all.. Something which is obviously of key interest to the COI and the core reason alongside illustrating 'the Jersey Way' why I bring this up in response to my questioning.
322. One example I will give which appears seriously out of kilter with the norm is that of the convicted abuser James Claude Donnelly.
323. Donnelly was convicted in 2009 of abuse offences arising primarily from a long-term sexual relationship with an underage young girl [REDACTED]  
[REDACTED]  
[REDACTED] This later fact of course in no way lessens the seriousness of Donnelly's actions. The first key point I wish to make, however, is that Donnelly received a custodial sentence of 15 years. At the time of first being interviewed for this witness statement this sentence was, as far as I can recollect, then the longest handed out for sexual offences since the infamous 'Beast of Jersey' case back in 1971.
324. Of course, since then in February 2015 with the Inquiry team on Island another paedophile, one Ian Bartlett was suddenly sentenced to 'life' by new Bailiff William Bailhache and a group of Jurats. I would suggest to the Inquiry

team that regardless of Bartlett's evidently horrendous rape and abuse over many years this length of sentence would not have been handed out had the Inquiry been done and dusted. This view is of course something wholly unprovable: but is based upon the inconsistencies over a number of years I highlight here. Like many I see the return to sentencing severity as wholly designed to portray the Jersey judiciary as being 'tough' on serious child abuse offenders when the evidence arising out of Haut de la Garenne and Operation Rectangle etc proves the exact opposite. The more likely scenario is that once the Inquiry is long forgotten Bartlett will just serve the apparent minimum of ten years stated.

325. An intriguing footnote to the Bartlett trial is also the fact that – to the horror of many who know the background - disgraced former Victoria College Vice-Principle/Deputy Head in the Jervis-Dykes child abuse case, and proven disregarder of evidence of child abuse etc, Jurat John Le Breton was brought out of mothballs (he 'retired' in 20012 the Inquiry will recall) to sit and judge on 'fact'. Once again I suggest: how much more needs to be said about the lack of integrity and professionalism within our Bailiff's 'justice' system? A man exposed as happy to disregard evidence of child abuse – even bullying abuse victims into silence according to the police officer investigating Jervis-Dykes reign of abuse – brought back by William Bailhache to sit in judgment on another paedophile!
326. In another aspect of what this case illustrates, and though not wishing to digress too much, I believe it should also be very revealing to the Inquiry team that it consider how despite three other examples of Bartlett's paedophile activities in the 1980s and 1990s each and every one of these had previously been 'dealt with' at Parish Hall inquiry level and had gone no further. Another aspect of 'the Jersey Way' to be sure; for in reality such wholly inappropriate use of the Parish Hall inquiry system has regularly meant that the accused – regardless of the offence – will get off lightly if he or she happens to be from a well-respected family in the parish.



327. If you happened to be from outside of the fold, had a record or just happened to be a bit Bolshie the exact opposite was likely and a person may well end up in court. (Though the parish inquiry system has some genuine merits for minor offences this favouritism issue has always been a problem). The Bartlett case proves the former spectacularly and says so much about the Jersey Establishment's true attitude to child abuse and really should be examined by the Inquiry team.
328. The fact of the matter is however that in the Claude Donnelly child abuse case – which for all of its indisputable wrongness appears to have seen none of the violent sexual abuse and evil intimidation starkly evident in Bartlett's offences – throws up a number of deeply disturbing questions.
329. As alluded to the first clearly apparent matter here lies within the way the Jersey Establishment has sought to portray the heavy sentence as demonstrative of their being 'hard' on abuse arising from the Haut de la Garenne scandal. Indeed, it is to this day regularly portrayed by the Jersey media as one of 'seven' cases arising from this. The fact is, of course, that in reality Donnelly's offences had nothing to do with Haut de la Garenne whatsoever.
330. This was done beyond a shadow of a doubt to muddy the waters and deflect from the lack of judicial action by Attorney General William Bailhache elsewhere – indeed his record is shocking - and the truth that the number of convictions, and crucially even prosecutions, arising once Lenny Harper had retired and Graham Power had been shafted by a politician many have described as no more than an Establishment 'glove-puppet'; a wannabe but nevertheless 'five-minute' Home Affairs Minister, Deputy Andrew Lewis' citing of 'damning' evidence within the Interim Metropolitan Police Report that in truth he had never seen because said 'damning evidence' did not exist were almost non-existent.
331. The Donnelly case gave the Establishment the opportunity to spin themselves as being tough and decisive with an eye-opening (by Jersey

standards) sentence. A con they have just repeated for the benefit of the Inquiry with the Bartlett case. I repeat: just how tough Jersey's Establishment really are can be seen both in the previous non-action following Bartlett's earlier offences and the figures I refer to next.

332. I ask the Inquiry to consider. Given the original number of alleged victims coming forward – I believe this to be 192 with 151 alleged suspects; 121 of these still being alive - even given the established reality that such high profile cases will always see a small percentage of people who were not victims at all but perhaps drawn by the possibility of compensation: the number of convictions and even more tellingly prosecutions was absurdly tiny.

333. As the Inquiry team will no doubt already be well aware this has caused serious disquiet to many of the victims and groups such as the Jersey Care Leavers. Indeed, the Jersey media still mislead the public to this day that there have been 7 convictions related to Haut de la Garenne; when the truth is there have been only 4. This lack of prosecutions by Attorney General William Bailhache desperately needs investigation. And I repeat the view that he must be made to answer for it in public and without being treated with 'kid gloves' either.

334. The second issue here is that the Establishment were, as I say, deeply worried about who Donnelly's victim was: not least about what implications there could be media-wise if she went public. Again this should be of key significance to the Inquiry in examining the true, wholly selective judicial attitude to child abuse by those controlling our Judicial system. I am conscious that I must be very careful here in how I pick my words – because the victim in the Donnelly case does happen to be [REDACTED]

[REDACTED]

[REDACTED] I also acknowledge that I obviously know the victim myself.

335. Indeed, I think that is all the description which I can safely give without revealing the lady's identity: not that a great many people do not already know because they do. I nevertheless have every sympathy for the victim. This must not stop me from saying however that it is widely agreed that had the victim been [REDACTED] the sentence would have – rightly or wrongly - been nothing like the 15 years handed down. The matters I refer to below explain why.
336. I further state that this misuse of sentencing principles and the judicial guidelines simply cannot be acceptable or in line with the European Convention on Human Rights. For as I will outline – and without any intent to underplay the undoubted seriousness of the Donnelly case – examples of far worse, manipulative and even multiple victim abuse has seen the Jersey court hand out sentencing lenient in the extreme, As chance would have it one of the most glaring examples was in a case I have mentioned already: that of Andrew Jervis-Dykes.
337. Yet first of all there is even more problems with the Donnelly prosecution itself and one which goes right to the very heart of what I say about the arbitrary nature of prosecutions and sentencing under the Jersey judiciary of Bailiffs and Attorney Generals. Though most do not know it Donnelly was only one alleged abuser of the victim amongst several: in fact one of 5 according to paperwork that I have seen. Perhaps there were even more? Yet only Donnelly was prosecuted by William Bailhache and this despite compelling evidence from witnesses outlined within material I have seen also being available to the Attorney General that at least two others definitely should have also faced trial; quite possibly even more.
338. Disturbingly however it appears much of this evidence was never put before the court at all for some reason; although that related to an individual I mention below did come out during the trial – even though William Bailhache inexplicably – at least if we did not know of 'the Jersey Way' - did not prosecute him.

339. This most telling of evidence to this regard actually heard publicly in the Royal Court was from both the abuse victim herself *and* the eventually convicted James Claude Donnelly himself: evidence in which both effectively corroborated that of the other. In essence this was the allegation that another man named in the court as the well connected to the Establishment, [REDACTED] [REDACTED] had been sexually abusing the underage victim in a parked car at the SAME TIME as Claude Donnelly on one occasion. [REDACTED] [REDACTED]
340. All who heard it who I have encountered were shocked that given the testimony of both Donnelly and the victim this other individual had somehow not been prosecuted. Indeed, not only was I approached by a member of the public asking me what could be done about this clear inconsistency; I was also subsequently approached by the wife of Claude Donnelly himself - who obviously bares no responsibility for his actions - with regard to her concerns about many aspects of her husband's court process.
341. Whilst I cannot agree with a number of her other contentions I nevertheless must agree with her own concerns about the lack of consistency within both the sentence handed out to her husband set against others; and the fact that at least one and probably two of the other individuals named within the case files were not at least charged by Attorney General William Bailhache given the quality and nature of the evidence.
342. Within the Inquiry's Terms of Reference the issue of whether prosecution and sentencing in cases was as it should be and without inappropriate influence if I may put it that way. I would suggest that what is evident in the Donnelly case demands the most stringent of investigation; and the public questioning of William Bailhache. Unfortunately even in the light of quite blatantly disquieting non-prosecutions as this Attorney General's like Bailhache and his predecessors can hide behind the 'not being able to discuss individual cases' response. And there is no genuine hope of challenging this through

the claimed 'checks and balances' within the Jersey system regardless of what is stated by its apologists.

343. No pun intended but this effectively being a judicial 'get out of jail free' card; and a scam on a par with the excuse/defence used by Jersey's Lieutenant-Governor that 'the UK cannot intervene in 'individual' cases.
344. Just to make my position clear on the above case however: whilst it may be that *all such* serious, long-term and/or violent abuse cases merit sentences of 15 years it is surely inarguable that the type of bizarre inconsistency I highlight cannot be plausible or acceptable at all: justice and its severity or otherwise should rest upon who a person happens to be; or how well they are connected.
345. To the above regard I actually asked a number of States questions on the subject and even met privately with Bailhache's successor as Attorney General, Tim Le Cocq to discuss this. I must state that I was not at all convinced by the explanations/excuses given by Le Cocq in defence of a man who it must be acknowledged was actually his long-term boss; and actually believe that the anomalies – further examples of 'the Jersey Way' in my view - are such that the case should be re-opened.
346. To give an example the new Attorney General's answer to me that his predecessor William Bailhache must have 'found some disparity' causing him to disregard the corroborating evidence of the victim and Donnelly about the alleged joint sexual abuse of her involving Donnelly and ██████████ in a car simply does not stack up. Indeed, while wholly supporting the ethos that everyone is innocent until proven guilty: and adding that not being present when what both the abuse victim and the sole abuser convicted jointly state *did* happen I can form an opinion only on the evidence offered.
347. There was even further disturbing anomalies evident within the paperwork relating to the Donnelly case which I have been given access to. Not least amongst this was a statement from the victim's own brother about another individual he states he personally saw engaged in sexual activity with his

underage sister but who was, once again, not ever prosecuted by William Bailhache for any readily apparent reason. I believe this individual's surname was [REDACTED]

348. As for Mr Donnelly himself I know that his wife appealed directly to the Lieutenant-Governor regarding many of the troubling discrepancies evident in Bailhache's handling of this case I highlight above; including that much evidence of the wider picture involving others apart from Donnelly was not even presented. Equally disturbing being the claim that a signature used on a statement alleged to be Donnelly's was a forgery. Indeed, that the Royal Court had prevented Mrs Donnelly's lawyers from having independent analysis of this carried out!
349. Rather predictably Mrs Donnelly told me that the Lieutenant-Governor did absolutely nothing. Perhaps not surprising in fact because as I have highlighted already: upon Bailhache's January 2015 appointment to become Bailiff and Chief Judge (not to mention unelected 'First Citizen') the same Lieutenant-Governor described Bailhache as having 'all the qualities necessary to succeed'. I make no apologies for repeating this fact: it is quite frankly as damning as it is incredible. Jersey's Lieutenant-Governor is also revealed as being untroubled about the disregard of evidence of child abuse/the bullying of abuse victims by individuals subsequently allowed by Jersey Bailiffs to sit as Jurats.
350. But 'succeed' at exactly what I suggest we can only wonder? My guess, like that of many who have also done the right thing and fought for justice for the victims of abuse at institutions like Haut de la Garenne, is to 'succeed' at maintaining the 'Jersey Way' the UK authorities – be they Monarch, Ministry of Justice or Privy Council fully condone.
351. Mrs Donnelly has told me that she is giving evidence to the Inquiry herself and her having approached me I state for the record that I suggested she do this. Not least because it is quite apparent that there is no one in Jersey willing to look at the issues above from a neutral position: and thus such

clearly unsafe prosecutorial decisions remain unchallengeable in any independent forum. Should any of these matters I briefly set out need clarifying I would state that I hope that the team will seek to do this with her.

352. My **Exhibit TP8** includes examples of the questions I asked in the States in relation to the prosecution of Claude Donnelly and the failure to bring charges against other persons named by Donnelly's victim. I can obviously not provide any transcripts of the private meeting on the subject with Attorney General Le Cocq.
353. In essence it appears that whilst Donnelly most definitely did deserve to be prosecuted his evidently not being 'one of the boys' ensured that whilst he would be prosecuted and made an example of by facing trial undeniably 'better connected' individuals also facing equally damning evidence would not. I repeat: as Attorney General and Bailiff (Chief Judge) respectively throughout this prosecution William and Sir Philip Bailhache should both face serious questioning over what was to play out under their judicial stewardship of this case through the Jersey 'justice' system.
354. And therein lies the key problem I suggest once again: the likes of the Bailhache brothers and Sir Michael Birt etc have thus far been able to avoid any in depth scrutiny and questioning of their records on such matters. Records that it must be said are appallingly inconsistent and in many ways wholly inexplicable.
355. I repeat: attempting to hold such Crown Officer to account as a States Member is all but impossible: the 'get out of jail' card played under such questioning is always the aforementioned one that they can't discuss 'individual' cases. I suggest that if one thinks back to the question put to Shona and me in 2008 as to 'who actually monitors these people?' the core problem becomes clear; as does why the 'Jersey Way' as outlined rolls on and on.

356. Much to the disappointment of many who know the truth about the allegations made about ██████████ during the Donnelly trial ██████████ suddenly died in ██████████ 2015. The feeling voiced by a number of people to my knowledge being that now – just as in the case of UK figures like ██████████ ██████████ – it would now be all the harder to get the truth of what underlay the selective nature of the Donnelly prosecution but not another accused with compelling, corroborated evidence out into the open at last.
357. For the record and absolute clarity as a footnote to the above I feel that I should state that as chance would have it, at around the time of our losing our court case for defamation my wife came to have a financial dispute with ██████████. In short this arose because, at a time when our financial resources were obviously under huge pressure, we discovered that whilst ██████████ ██████████ ██████████ ██████████ ██████████ ██████████
358. This was eventually resolved but what should be stated being highly relevant to what I have set out above in regard to allegations made against ██████████ ██████████ in the Donnelly trial is that ██████████ emailed my political website to offer that if I would put in writing that I would never mention his name on my blog (I never had) he would drop all claim for his alleged legal costs – several thousand pounds or so he claimed. I obviously declined as we viewed such an offer as what I can only describe as an attempt at a bribe. As politicians of principle and integrity we simply would not even even consider such an offer no matter how difficult our financial situation had become as a consequence of a demonstrably non ECHR Article Six compliant trial in Sir Michael Birt's Royal Court. For the record I still have ██████████ email to this day.
359. Having clarified the above to return to the matter of selective and inconsistent application of the law by those at the apex of Jersey's Judicial system upon reflection I think it useful to further illustrate these concerns and my contentions regarding 'the Jersey Way' and inconsistency of both



prosecutions and sentencing here by direct comparison with the aforementioned Victoria College child abuse scandal once again; and in particular the sentencing of their predatory paedophile Head of Maths, Andrew Jervis-Dykes. For the fact is that I believe this one case says almost everything about the impact and workings of 'the Jersey Way'.

360. The aforesaid James Claude Donnelly is, I believe, the only pensioner serving time at H.M. La Moye Prison; being as I recall 69 at the time of conviction. He was, as previously mentioned, sentenced to 15 years. He will serve at least 10 years. Quite possibly rightly so - or possibly not?
361. In stark contrast however Andrew Jervis-Dykes received just 4 years for abusing multiple school boy victims who he took out on deliberately manipulated off-island boat trips over a number of years and plied with alcohol prior to abusing them. Some of this abuse he would actually video: (video of the sort of course his colleague John Le Breton would refuse to examine/consider as evidence prior to being put forward to become a Jurat).
362. Indeed, I don't think it can be overstressed here how important it to appreciate when considering just how inconsistent Jersey sentences are – never mind said staggering fact that a teacher who refused to examine such abuse evidence having been asked to familiarise himself with it prior of course to instead writing glowingly in support of the pervert was then put forward and accepted as a Jurat – that the young boys being filmed suffered such traumatic abuse as being masturbated and/or having oral sex performed on them once they were unable to defend themselves!
363. Yet in spite of this calculated and long-running abuse – years and years of it - Jervis-Dykes as I recall was apparently even out of prison in less than 3 years! The Jersey Establishment including both senior political and judicial figures also tried, as I have highlighted, to keep this whole Victoria College-based scandal (it being the private school attended by every one of the three most recent Bailiffs and so many of Jersey's other traditional 'elites') under

wraps for many years; and indeed were successful for a significant period: more than a decade in fact.

364. It is also beyond question that the Head Master, Jack Hydes and the two Vice-principles – Piers Baker and aforementioned ‘Jurat’ John Le Breton should also have faced prosecution for their part in the child protection failings which were eventually revealed at the College. Former Senator Stuart Syvret, who of course deserves so much political credit for getting the abuse cover-ups made public, has made the above point many times and he is absolutely correct.
365. It is equally revealing – and should be highlighted here whilst I think of it that when the effluent finally hit the fan on the surface both Hydes and Baker finally ‘resigned’, whilst Le Breton managed to dodge the said bullet by initially taking ‘early retirement’ – apparently so it was alleged to me by an insider on contrived [REDACTED]
366. The fact of the matter in best ‘Jersey Way’ fashion is however that in the aftermath all three men were looked after by the Jersey Establishment. Le Breton was as I have outlined put forward to be a prestigious Jurat. Baker on the other hand was given a well-paid States job at Harbours. Headmaster Hydes himself despite his having had to resign in shame, eventually ended up – my source for this came from within Education and Human Resources – with a huge financial package including all of his pension rights!
367. The contrast between not just the sentencing but the whole handling and portrayal of the two cases of James Claude Donnelly and Andrew Jarvis-Dykes could not be more damning. Indeed, the chasm between the later 2015 sentence of Ian Bartlett and Andrew Jarvis-Dykes – the evil of the pair surely being well matched - could also not be more illustrative of ‘the Jersey Way’ mentality and approach to justice which I talk about. As the Inquiry will obviously be fully aware there are guidelines for sentencing lengths. In Jersey however under successive Bailiff stewardships one would have to say such things are clearly seen as irrelevant.

368. I have asked so many questions about selective prosecutions and have never received a satisfactory response. In fact, what was not said has been more revealing. I was so concerned about the flaws in the justice system and the lack of accountability of those in power in Jersey that I made a speech to the States on 25th September 2013. I attach a copy of this speech as my **Exhibit TP9**. This speech has been both lauded (including by victims of abuse) for its portrayal of the true 'Jersey Way' staining our island's reputation; and equally as a deeply offensive and upsetting one which – to its critiques – I should apparently not have made. All I would say was that it was a speech that was off the cuff, without any notes or planning; but one which simply had to be made 'for the record'. I certainly make no apology for it. I also stand by every word. Of course, I would be forced out of the States just three months later...
369. It is probably were recording here that as well as victims such as [REDACTED] and even one of Jervis-Dykes' to highlight just two contacting me to laud the truth of the speech; another who did so immediately afterward – much to my surprise I must say - was Senator Lyndon Farnham, the Assistant Home Affairs Minister at the time. It was 'good that Members like me were brave enough to say such things and make the Assembly feel uncomfortable' so he said: fine if only people like him would then use their positions to actually do something about what has gone on and continues to go on to this day. But they do not.
370. There is obviously much more that could be said about this aspect of the insidious 'Jersey Way' influence on who and who does not get prosecuted with regard to child abuse allegations and other types of cases. I believe the tiny handful of examples I have picked out demonstrate the reality of the problem beyond any doubt. The same can demonstrably be said with regard to sentencing as well. Indeed, upon reflection there is another example relating to this which arises out of the selective application of Jersey's comparatively new Data Protection Law.

371. However, if the Inquiry team do not mind I will leave this for a later section where I need to talk about the treatment of former Senator Stuart Syvret. In conjunction with a necessary, starkly contrasting example involving another then States Deputy, Sean Power who has since been voted out of office by the public in the 2014 election both have direct links to the Haut de la Garenne saga and ‘the Jersey Way’ selective attitude to how issues are dealt with.
372. For now, however, I would like to move on to my experiences as a States Member in regard to the Haut de la Garenne scandal itself; and generally in confronting this within the States. Following on from this in particular my eventual Chairing of the Scrutiny review into the Financial Management of Operation Rectangle and much beyond.

### **HDLG and related experiences in confronting this within the States Assembly**

373. I must concede that I am one of only a handful of Deputies who has raised a lot of controversial questions on the floor of the States Assembly and deliberately so. I make no apologies for this or for the tense atmosphere such actions helped create; similarly for any headlines/news reports both local and international which resulted. These questions simply needed to be asked; the challenges needed to be made. I obviously believe such issues must be challenged and openly – not swept under the carpet or dealt with over a glass of cognac somewhere behind closed doors within the shadowy corridors of power. Indeed, no after States Sittings meetings at the Grand Hotel’s Champagne Lounge for me.
374. Although the Establishment and their lackey media nearly always portrayed any such criticism as about political sides – Left against Right/anti-Establishment against Establishment – my view is that this was just a distraction: there is surely only one ‘side’ to be on through all of this and that is on the ‘side’ of justice, accountability and the victims. I am thus proud of my record in standing up as I have. The vast majority of States Members throughout my two terms in the Assembly – including those who delude

themselves that their silence was being 'neutral' can in my view only be seen as on the side of the abusers and the cover-up merchants.

375. What is actually shameful is that when one looks back there have actually been so very few of us willing to do so. It is true that after my election in 2008 things did appear to be more promising for a positive change in Jersey's political direction than for many years: the Progressive Left and Green politics were more widely represented than for many years. The Establishment certainly felt this and hated it: finally there was not just one or two but a contingent of States Members seeking to hold them to account.
376. It must also be said right away that without the efforts of such people as Stuart Syvret, Mike Higgins, Daniel Wimberley, Montfort Tadier, Bob Hill, Shona Pitman and myself the child abuse Inquiry for which I am giving this statement certainly never would have come to be. Certainly it was necessary to get one of the Establishment's 'own' to bring the final proposition - Senator Francis Le Gresley - as it never would have gotten through brought by any one of named above. But this should not distract from the fact that it is those named above who deserve the real credit – States Assembly wise - for us being where we are today with an Inquiry. The above fact likely shows only too well how petty and 'them' and 'us' Jersey's much-spun 'consensual' really is. A few other members did ask questions from time to time it must be stated: but it is the above named who kept the pressure on and took the resultant flak.
377. I suppose where we are at last today should be seen as a victory as many members of the public still say to me, given the tooth and claw opposition we had to wade through from the Establishment; and' indeed, the lies, misrepresentations and smears thrown at us for doing so through the likes of the Jersey Evening Post and both TV stations at regular intervals.
378. I must nevertheless confess it often does not feel like a victory yet. Without any holding to account, public shaming etc those who let the abuse happen, covered it up and/or destroyed records and evidence will still be getting away

with it all of these years later. For the victims then the Inquiry is their last hope.

379. The fact is after my 2008 election we were asking a lot of difficult and very well researched questions on the floor because in reality it was the only chance that we had to hold people to account due to the way Jersey politics worked - or more accurately *doesn't work!* People were even being named in some cases under Parliamentary Privilege; though intriguingly enough a proposition was brought to have any names mentioned eradicated from the public Hansard record as if this had never happened. This is of course entirely different to the case at Westminster and certainly goes against the principle of what Parliamentary Privilege was constructed for.
380. In case I should forget later it is very important here to mention the part Citizens' Media 'bloggers' like Rico Sorda and Neil McMurray played: such people undertaking real investigative journalism and digging for the truth which puts Jersey's mainstream media to shame. Their support was often very important in pushing for answers in the States. Indeed – again while I think of it – even a Citizens' Media site like the deliberately titled 'Jersey Way' deserves a mention of credit: the individual behind this putting up States' questions and answers on such controversial topics when the public could not hear them anywhere else unless they had listened live.
381. At each States session, it was possible to ask five written questions and two oral questions. The Ministers would receive one week's notice for written questions and five days' notice for the oral questions. As well as the questions with notice, all Ministers would have to answer questions without notice on a rota basis: two being up for these questions during each States Sitting. Mike, Daniel, Bob and I in particular would use this opportunity to ask hard-hitting questions on both Haut de la Garenne and the politically motivated suspension of Chief of Police Graham Power etc regularly.

382. The point being to keep chipping away for the truth – and let the Establishment, both political and judicial, know we were not going to let the issues be kicked into the long grass due to so many non-answers.
383. The Bailiff, who is of course not an elected member of the States, and is thus without any mandate whatsoever from the Jersey public nevertheless had the power to decide which questions could and could not be asked by elected States Members such as myself. The Bailiff is, of course, nothing more than a Judge who in reality should have no place whatsoever in a government Assembly.
384. Most ludicrous of all, of course, this power of veto even extended to questions directly relating to his own actions! If ever the Inquiry should be tempted to think there is no problem with the UK allowing Jersey to sidestep a true separation of powers I suggest they need look no further than this!
385. Furthermore, if something was said during the session that the Bailiff did not like a follow-up question could be ruled ‘out of order’. Often this had no relation to the Standing Orders meant to govern such matters and protect the questioner. Proposers of questions that revolved around corruption and any kind of challenge to the Jersey judiciary regularly found themselves with far less time than mundane questions on public drains, fishery protection and the like. Members with their red light on wanting to speak would somehow not be seen. I repeat: this was often done for no justifiable reason other than that Sir Michael Birt or one of the Bailhache brothers did not like it.
386. Frankly the Speaker’s role of controlling questions and debates was always much more professional and certainly less politically prejudiced whenever the States Greffier was deputizing as he occasionally had to do.
387. The Crown Officers could – and did – interpret Standing Orders any way they saw fit. The ongoing truth of this has actually been seen in stunning fashion only shortly before my final signing off of this statement with Deputy Montfort Tadier having been ejected from a States Sitting on William Bailhache’s order

following a perfectly legitimate political point mentioning Jesus. Similarly If someone who, in Westminster for example, would quite rightly be named by one of us for some reason, then Jersey's newly warped-by-the-Establishment version of Parliamentary Privilege mentioned above would be used and the name would be airbrushed out of history by tampering with the Hansard transcripts.

388. Naming someone is never going to be something that anyone would take lightly – the record shows it has certainly not been abused – yet the rules were changed anyway; this only being made possible with the support of the large number of States Members who pretty much did and said absolutely nothing – at least until another election was on the horizon.
389. It is obviously ridiculous that a Bailiff – an unelected Judge as I say - should have this power but that is another aspect of 'the Jersey Way' and how the Establishment both stifle challenge and debate and thus retain the status quo; never mind protect the guilty. I suggest it is nevertheless very relevant to the Inquiry in attempting to understand how many of the things that have happened came to pass.
390. As should be apparent from what I have already said – along with others - I believe that the Bailiffs and Deputy Bailiffs throughout my time in the States have serious questions to answer in relation to their own conduct relating to the many facets of the child abuse scandal and beyond. Yet they, of course, could not be questioned or held to account other than via a vote of no confidence as in the one highlighted brought by Shona in 2008 before I entered politics.
391. Due to the Establishment majority this would have been something a Bailiff would always survive anyway no matter how wrong they were. Truth be told, however, it is also undoubtedly a fact that throughout my time in the States the number of politicians brave enough to do what Shona did is miniscule: probably no more than three or four throughout two Assemblies of fifty-plus.



392. In an attempt to avoid difficult, controversial questions being prohibited by the Bailiff in advance – when they did this they would also always leave it late so that you did not have time to submit another - the tactic we used was to lead in with a fairly innocuous question to get the Ministers talking and then use our second question to ask what we really wanted to know the answer to. More often than not, of course, we would be fairly sure of the real answer already. The process was used to drag out information into the public arena which would otherwise never see the light of day due to lack of an independent or in any way brave mainstream media.
393. The apparent fact that those handful of us fighting for justice and the truth about Haut de la Garenne; and regularly the truth about the politically motivated and in my view illegal suspension of Chief of Police Graham Power would not let an issue go would attract regular criticism but we felt that we had a duty to keep on asking the same questions – even in slightly different forms - until we got a satisfactory answer.
394. Questions on the eventual serial suspension of Graham Power were almost always met with us being fobbed off with how these matters really could not be discussed due to the various actions and inquiries going on. I have no doubt however that the intention right from the start was to suspend Power until his contract was up; and this is in reality what happened.
395. I vividly recall what I and others found very disturbing when the then Home Affairs Minister Senator Ian Le Marquand stated that he wanted to bring the police ‘back under political control’. The police are surely *not* meant to be under ‘political control’ to a degree that allows their work, investigations and wish to prosecute to be curtailed.
396. This point came to mind again when I was one of three Scrutiny members who met privately – it was not an official or public session – the eventual successor to Power following the David Warcup debacle. In the course of our questioning new Chief of Police Bowron’s comment that he could and would police in ‘whatever way’ the Council of Ministers wanted - ‘softly softly or hard

and crunchy' were terms he also used – sent alarm bells ringing. Once again I found myself thinking: surely you should be policing in whatever way *you* see fit as the professional in charge?

397. I should point out here that I did actually ask Bowron about this that same day and my concerns about doing what the Establishment – the Council of Ministers wanted policing wise. The response was that 'Your Council of Ministers, your Establishment *are* the government, aren't they?' In fairness due to the complete botch of Jersey's cherry-picked version of 'ministerial' government this may technically be true.
398. Yet I still maintain adopting such a sentiment in approaching policing – especially in the light of Power and Harper being crucified because they would *not* bow to Establishment pressure in carrying out their work – was disquieting to say the least. I would have to say that in the years since I have seen nothing to convince me my concerns were without foundation. But I will return to the police a little later.
399. Right from the beginning upon my entering politics the Ministers under questioning, and similarly the Attorney General, were notorious for stonewalling or answering every question but the one you had actually put. Of course to be fair in some cases you would not get a coherent or intelligible answer because the Minister in question just did not know what he or she was talking about anyway..
400. This was actually a sizable problem because with the best will in the world, outside of what my colleague Deputy Mike Higgins tagged the 'Kitchen Cabinet' (the inner circle of four or five), many Ministries – and almost all Assistant Ministerial posts - would be handed over to head-nodding politicians who appeared so thick you would wonder how they found their way home without their name and address sewn into the back of their coats. It really was *that* bad. Indeed, since ministerial government it has become a key aspect of 'the Jersey Way'.

401. I nevertheless attach as my **Exhibit TP10** as an example of questions that I have raised in the States during the period 21 September 2009 to 15 July 2013. A key theme which I should add quickly become apparent once in the States is that when you ask questions, it is made quite clear that it is really not your place to question those in power. As I explained earlier this takes a number of different forms quite separate from the tone and nature of the (non) answers given.
402. To enlarge upon this even further it eventually became quite clear that - like my colleagues highlighted - answers to many of my and our questions would *never* be forthcoming. The reason was obvious: the true answers could/would be implicating and thus damning. Indeed, such sessions were regularly like the famous Jeremy Paxman TV interview when he had to repeat the same question around 30 times. Frankly, farcical. One would complain to the Bailiff or Deputy Bailiff but regularly the answer would be: 'the Minister/AG can answer the question as he sees fit'.
403. A good example of this and what a handful of us were up against was in my being forced – this is the only term I can use - starting the summer of 2012 to ask questions about the already mentioned Jurat quite happy to disregard evidence of child abuse, his thus clearly malleable attitude to child abuse, and the deep flaws within what is clearly an unfit for purpose system itself session, after session, after session.. To the point where the aforesaid former Attorney General and Bailiff who has so many questions to answer in all of this himself, now Senator Sir Philip Bailhache, got up and had an ill-informed diversionary rant about this being allowed. The Speaker of course – I think it was Bailhache junior - allowed Philip Bailhache free rein.
404. These events ultimately led to exchanges already highlighted and, if memory serves, one with William Bailhache when I enquired of him – as he had been Attorney General at the time – whether he could shed any light upon several boxes of evidence relating to letters complaining of abuse at Haut de la Garenne which a member of the public had contacted me about a member of his family discovering hidden up at Highlands. I will return to this important

issue later but to put it on record the answer I was given was: 'I'm afraid I don't recall (*that* term yet again) anything about this. Unfortunately almost all of the records appear to have been inadvertently mislaid or destroyed'.

405. I should point out that I deliberately did not mention any of the names of the States employees I know to have found, taken into their possession or signed for the boxes of evidence. Further still, if Bailhache was to be believed – a huge question in itself in my opinion given his record – then I find myself concluding that whether it be the senior civil servants who had to sign for the material (more on this shortly) or those political figures who *they* will have handed it over to possibly never gave it to the police at all. They need to be questioned.
406. Yet to return to what I was saying about States questioning, as a Deputy, I acknowledge that I was outspoken but the fact is such an approach was regularly needed – particularly in regard to the sort of issues we are talking about here. Too many States Members simply were not brave enough to risk rocking the boat and taking flak in the Establishment media for it; or for fear of candidates being put up against them at the next election and thus risking losing their seats.
407. I must be honest and say I could never understand this cowardice: surely I thought – at least initially we all go into politics to try and change things for the better as we see it; to do what is right? I have to say I believe I was seriously mistaken in such a view. This cowardice even affected people who, leaving politics to one side, were basically very nice people indeed: people I otherwise even like and can enjoy the company of. To me this was nevertheless not acceptable when it came to the child abuse scandal and I'll give the Inquiry a perfect example to highlight this.
408. This arose shortly before it became apparent that Shona and I would be forced out of the States by the clearly politically driven decision to have us made bankrupt following the court case I have already touched upon. In fact I

believe it was probably on the day I made the speech about justice which is included amongst my evidence as **TP9** as stated previously.

409. Whilst working alone down in the States facility room – this is where we have IT access – St. Lawrence Constable Deirdre Mezbourien and St. Helier No. ¾ District Deputy Richard Rondel entered the room together. Haut de la Garenne and child protection issues etc had obviously been on the agenda again and these issues always seemed to make the atmosphere tense as I have described. An exchange consequently unfolded where I felt I needed to be quite frank; blunt if you like about politicians who say nothing on such important issues.
410. What is important, however, is what the pair said to me not my opinions; and that it is why with it coming to mind I am happy – all things considered – to repeat it. In essence this was that they both expressed admiration me for my tenacity and my apparent ‘couldn’t care less’ attitude to the senior figures I was upsetting in pursuing my questions etc. But more tellingly and what is actually most significant and made me – I must admit this – contemptuous was the arguments put by the pair including between them – and I quote – ‘It’s just too difficult to be like you’; ‘these questions just put people’s backs up’; and that ‘Just because we don’t say anything on these issues doesn’t mean we agree with them’.
411. I have to acknowledge that this did all make me both sad and quite angry: even more so when Constable Mezbourien added as if it was some kind of excusing factor that ‘Many of us often don’t even know where you find all of your information’. I think it was the highlighting once again of the issue regarding a States employee (since my first interview he has been given the code of Mr K) facing allegations from more than a dozen different abuse victims that triggered this comment.
412. I vividly remember responding by saying ‘Actually when I hear excuses like that a part of me really won’t miss being out of politics at all. Just how the hell can anyone in the States say they “don’t know” about all of these things?’

Remaining silent *isn't* a neutral position in all of this and it can never be.' The Constable has been in the States since 2005 and even for the Deputy - sitting in between myself and Deputy Mike Higgins since his election in 2011 as he did - he really can have no excuse: you would have to have lived in a cave not to be aware of such things. Or deliberately keep your head in the sand out of fear.

413. Indeed, I would say that if nothing else then with all the headlines, the States questions – the unprecedented character assassinations of two senior police officer *and* a States Senator all of this would absolutely compel an unaware politician to seek out the truth Or so it should.
414. I stress again: I actually like these two people. They are nice people. I believe them to be good people. They are also hardly a part of the Establishment 'inner circle'. Yet their unwillingness to risk being 'shot at' (no pun intended) helps those who are to blame for Haut de la Garenne and so much more to remain unaccountable. Their silence allows the Establishment and its media to paint the few who *do* do what they should be portrayed as just an anti-Establishment minority, conspiracy theorists and regularly worse.
415. I repeat it is cowardice at the end of the day; fear of getting a hard time and possibly upsetting any voters who might not want to hear the unpalatable truth. And the fact that even nice people such as these won't stand up somehow makes it all the more depressing. This however is the prevailing climate democracy has to operate in on the island of Jersey. I must concede of course that the potential fall out of asking such controversial questions can vary dependent upon where a politician is based: as a 'country Deputy' repeated questions regarding the deceit underlying Graham Power's suspension undoubtedly cost Bob Hill his seat.
416. As I say I mention this incident with my two colleagues with some reluctance because it was after all a private conversation and under most scenarios I would thus not do so. But feel I should here because it really does sum up how 'the Jersey Way' rolls on and on: not solely due to the corruption at the

top of the Establishment but also because basically nice, good, decent people, as highlighted are essentially too scared to stand up for what is right. In essence taking the easy way out. Self-preservation I suppose. And whilst a part of me *can* understand it given that what we are talking about is so wrong – so appalling another part of me simply cannot.

417. Indeed, the Constable would say a similar sort of thing to my wife Shona at the time of us being finally made en Désastre: i.e. that ‘I so admire you both for being willing to lose everything in standing up for your principles’. Sad and very telling of ‘the Jersey Way’ culture of fear. Not least because I very much doubt people like the Constable could ever understand that in refusing to give up our principles or shy away from doing what is right whatever we may have lost we actually gain a whole lot more.
418. Like people such as Power and Harper, Syvret, the bloggers, Care Leavers’ leadership etc we all know we can look ourselves in the mirror and know we have done the right thing. The vast majority of States Members will enjoy no such luxury. They are cowards. Or even worse.

### **The myth of the ‘damning’ Metropolitan Police ‘interim report’**

419. The saga of the mythically ‘damning’ Met Police ‘interim report’ which I turn to now actually demonstrates all of what I have just said perfectly. It is also in tandem with the suspension of Graham Power itself absolutely central – absolutely key – to what lies behind the decades of the State-concealed physical and sexual abuse of vulnerable children in its care.
420. I recall that around the time of Graham Power’s suspension – this was shortly before I was sworn into the States but would rumble on throughout my years in the Assembly - Deputy Andrew Lewis was making ridiculous statements claiming he had been left with no alternative but to suspend Graham Power because of the Metropolitan Police “interim report.” As it would transpire however – and though I asked countless questions on the subject in my opinion this was only really brought out and proven years later thanks to my

colleague Deputy Mike Higgins and the brave and excellent Citizens' Media bloggers Neil McMurray and Rico Sorda who published it – this “report” was *not* damning at all. Just as damning even if it had been ‘damning’ it was never meant to be used for such purposes as contrived by Lewis; and the police officer who – in my view – betrayed Power in the hope of career advancement, David Warcup anyway. In fact this reality is beyond doubt.

421. In essence Deputy Andrew Lewis – as indicated an incredibly brief and completely out of his depth ‘fill-in’ as Home Affairs Minister at the request of his close friend Frank Walker after Senator Wendy Kennard resigned, and who would be gone from the States for a whole six years a few weeks after – had, and there is no other way this can really be described, deliberately lied to the States.
422. Indeed, it would not only emerge that Lewis would later actually let slip the conflicting claim that he had in fact *never* seen the Met Interim Report (I attach this as evidence **TP11**) at all; the truth that this document was not in any way damning at all was eventually confirmed by the UK police themselves. I repeat: the reality that this lying Home Affairs Minister had *never* seen a ‘damning’ report or any report at all in fact is revealed within both the Wiltshire Report (attached as **TP12**); and also the Napier Report (attached as **TP13**) if memory serves. Unfortunately for Lewis – perhaps believing the truth buried within an ‘in camera’ States debate not accessible to the public or media - his lies to fellow States Members about ‘damning’ content would be leaked from the Hansard recording during the next Assembly. I will return to this in a moment.
423. You would think that this revelation would have caused widespread political and media outrage but in best ‘Jersey Way’ fashion, apart from we usual suspects – we conspiracy theorists - there was barely a ripple. Interestingly almost seven years after the event and with the Inquiry team in town – due entirely to the indefatigable Voiceforchildren blogger Mr Neil McMurray the Establishment media mouthpiece the Jersey Evening Post suddenly ran a watered down version of the outrageous truth. Of course when I say ‘watered



down' what their editor Sibcy did was ensure the story was all but unintelligible to anyone who did not already know the facts. This cannot have happened by chance: the truth about Lewis giving two entirely different and conflicting accounts simply could not have been clearer.

424. It probably says so much about 'the Jersey Way' I have talked about at such length that when this claim about the report being 'damning' to legitimise Graham Power's suspension was made the States had in fact actually been 'in camera' as mentioned meaning that no-one could listen on the radio as the BBC and other 'reporters' and all members of the public had been removed. The Establishment likes its secrecy – especially when there is blatant corruption to conceal! Of course as I say fortunately during the next Assembly the transcripts of the 2008 'in camera' debate would be most mysteriously leaked. I must say I really have no idea who did it.
425. I reiterate for it is most important: the truth in my view is that this incident is in many ways key to so much of what has happened since and is certainly responsible for allowing the Establishment trashing of the child abuse inquiry generally and the reputations of Graham Power and Lenny Harper which followed to happen. Indeed, what Deputy Andrew Lewis did – on the instruction of then Chief Minister Frank Walker if we are to believe the thrust of the conversation former Deputy Paul Le Claire claims he overheard (more on that in a moment) – was effectively the 'enabling' mechanism which allowed this to be undertaken.
426. And I believe it should be looked upon as such by the Inquiry team; certainly when they are considering the true attitude of those at the apex of Jersey both politically and within the 'justice' system to confronting abuse. Perhaps almost as disturbing in all of this is that it was carried out by Andrew Lewis knowing he was effectively destroying a proud Police career of more than 40 years; and thus besmirching Graham Power's name in the eyes of so many who knew no better for ever. In my honest opinion Andrew Lewis should also actually be facing criminal charges and a jail sentence. .

427. Once achieved this suspension constructed on a lie effectively allowed the investigative work being carried out by Power and Harper to be halted in its tracks. And then, of course, to be destroyed by – in my view - a couple of obliging placemen – perhaps I should really call them Establishment goons - in Warcup and Gradwell. Strong words but this is the only opinion I can form on what I have seen.
428. Those at the top of the judicial, political and in the case of former States CEO Bill Ogley, the civil service tree certainly allowed - and in the view of many of us who have bothered to dig for the truth - actually orchestrated the effective sacking – for this ‘serial suspension’ was no ‘neutral act’ – of a man who had every right to be proud of his career record. We have certainly not had anything like such first class policing by the two Chiefs who have followed.
429. And these people (those within Judiciary, politics and civil service) did it in the view of many of us to bury a child abuse investigation which they feared was damaging Jersey’s reputation as a finance centre and which was feared no doubt to be getting too close to calling some very big Establishment names to account at last. I ask: just how low and despicable – I should probably use the term evil - can some people be? But more about this and what a number of people ‘in the know’ believe to be the related apparent arrest of a very senior Establishment figures nearing being made at the time of Power’s inexplicable suspension a little later.
430. It was clear to me within weeks of being elected and I retain the view now that Graham Power was in truth suspended because he – as with his Senior Investigating Officer Lenny Harper – would not bow to following the traditional way of senior police in Jersey i.e. going along with ‘the Jersey Way’ of covering up abuse or anything that would be politically embarrassing as Establishment politicians and judicial figures wanted; consequently of course leaving the perpetrators and their protectors unchallenged.
431. Remember what I said about 2008 – 2014 Home Affairs Minister Senator Le Marquand’s comment about bringing the police back ‘under political control’!

Power and Harper – even with acknowledged mistakes – had in truth tried to do no more or no less than what they should as honest Police officers

432. As we know this ended with them both paying heavy prices via the Establishment and its media's frenzy of assaults upon their reputations which went in to overdrive after this. I mean it was like a cross between the News of the World – or perhaps in the case of the Jersey Evening Post a little more like a hybrid of the Sunday Sport - and the Nazi-era Volkisher Beobachter: almost every week: basically rabid, character assassination. The obvious lies and inaccuracies and the whole rabid, amateurish tone of the reporting was simply jaw-dropping.
433. I believe it fair to say that some senior figures who have something to hide regarding Haut de la Garenne were both terrified and desperate. Indeed, it is beyond argument that the failings of Jersey's aforesaid Attorney Generals and Bailiffs over the past 20 years alone is also simply jaw-dropping; a truth made even more disturbing by the fact that the likes of the UK Justice Ministers and Lieutenant-Governors here have done nothing over the years to confront and rectify this: nothing at all. Instead we get barely believable comments of praise such as John McColl's January 2015 black comedy about William Bailhache' 'qualities'.
434. The Inquiry team will understand that this Met Police 'interim report' aspect of the Haut de la Garenne scandal alone could take up a whole book. This being the case if I may, as another piece of very telling and informative evidence, I attach as **TP14** transcripts of a blog report on the clear lies told by Home Affairs Minister Deputy Andrew Lewis published in November 2014 by Jersey's biggest Citizens' Media blog – Voiceforchildren. Further still a copy of the mysteriously 'leaked' debate transcript published on Rico Sorda's blog as **TP15**. The Care Inquiry does not have a copy of the original Hansard 'in camera' transcript. I believe it to be indisputable that viewed together with Andrew Lewis' contradictory claims that he had 'never' seen the so-called Met Interim Report his dishonesty becomes irrefutable.

435. As I have said many times before along with Mr Rico Sorda the member of the public behind this blog, Mr Neil McMurray deserves huge credit for so much of the truth coming out. The pair certainly put Jersey's alleged 'professional' or 'accredited' media to shame. Indeed, as I will touch upon in a moment the pair can take most of the credit for my finally demanding to be allowed to initiate the Scrutiny review into Operation Rectangle against stiff and it must be said bitter and quite unpleasant obstruction. I will move on to this in a moment.
436. Not without good reason have the two 'bloggers' been described as little trillion dollar tax haven Jersey's very own version of Watergate journalists Woodward and Bernstein. Indeed, the hatred for the pair from the Jersey Establishment certainly resonates with that displayed by the Nixon government for the American duo.
437. One highly significant matter the Inquiry team will notice by examining the Voiceforchildren article is that – at the bottom line – it is evident that even once a Minister/politician has been exposed quite beyond argument as having lied about the true grounds upon which Chief of Police Graham Power was suspended he can still *not* be held to account by any member of the public for his actions.
438. Indeed, the alleged governing body regarding States Members' behaviour in what is a clear breach of the Ministers *and* Members' Code of Conduct – the Privileges & Procedures Committee – refused to do anything about the matter at all: the 'Jersey Way' yet again. In my view every member of this should be ashamed. For as politicians knowing the truth they *could* do something. This truth is undeniable. They just don't have either the will or the Testicular Fortitude.
439. As a final point on this episode before moving on I should enlarge upon the reference to former Deputy Paul Le Claire earlier. It is a fact – he eventually confirmed this to me directly – that Le Claire claimed that he overheard a conversation in the States building between the then Chief Minister Senator Frank Walker and Deputy Andrew Lewis prior to the suspension; during

which the Chief Minister allegedly stated the need and intent to “get rid of Power”. This can only, I suggest, be seen as adding even further weight to Lewis’ demonstrable lies about a ‘damning’ report which we now know did not exist.

440. I also know that Deputy Le Claire was very scared of what might happen to him and the consequent impact on his family if he spoke out. He told me this in person too. Although Le Claire did – after some pressure I believe from people who felt he simply had to come forward with such evidence; and some none too flattering criticism on the internet when the former soldier was daubed by some as ‘Bravo Zero Zero - mention on the floor of the States that he had overheard this conversation. Unfortunately he gave such a watered down account of what he had told me and a number of others that it did not really illustrate anything to the degree which it clearly could have.
441. When the Napier Report came out I was also surprised that Deputy Le Claire had not come forward to give this evidence in full then. I know that he has been asked by various bloggers and other individuals why he failed to speak to Napier given its seriousness but I am unaware of his response. The Deputy lost his seat (he was another Deputy in my own former District) in 2011 and I rarely bump into him. I am not aware of the evidence the Deputy is to give to the Inquiry but I hope this will be set out in full as he has told it to other States Members. To this regard I would also state for the record that Deputy Le Claire is also someone I consider to be basically a good and decent person so I do hope he will finally do what he knows he should.
442. Intriguingly Paul Le Claire also told a number of us about a letter he received from the editor of the Jersey Evening Post; Mr Chris Bright at the time. Indeed I believe he even showed it to a number of people. He described to some of us as seeing this as a threat – and I can understand why – as according to Paul Le Claire it basically suggested that he should be careful what he said because the newspaper had the power to destroy him. I do not know if this letter was directly linked to the Walker conversation he claimed to

have overheard; but it certainly says a great deal if true and, in my view, should be investigated by the Inquiry team.

443. To be fair when one considers how the Establishment have been able to get away with what they have done to Power and Harper, Stuart Syvret and Shona and myself etc – all key figures who have spoken out against ‘the Jersey Way’ - I suppose that whatever my own feelings about people who ‘keep their heads down’ one can also understand to a degree if they worry about their families: but no matter what it has cost Shona and I personally, as I say, I just can’t condone it. The two of us are incredibly proud of the way we have stood up for the principles of justice; and I am aware that the two officers and former Senator feel the same; and quite rightly too. Of course all of this is nothing compared to the fortitude of the victims of abuse who have somehow kept going – often over a period of decades of disbelieving and intimidation,
444. The way Establishment figures like Sir Philip Bailhache, the Chief Minister and local Church ‘leaders’ have been allowed to transform the [REDACTED] abuse victim [REDACTED] who I mentioned earlier for example into the villain and abuser with the man who failed her – the [REDACTED] now becoming the ‘victim’ only deepens this climate of fear. The Jersey Establishment are simply obsessed with portraying themselves and the system and their friends and counterparts as whiter-than-white and if that necessitates innocent people getting hurt then it is clear they care not a jot about this. They simply can’t abide any of their own being criticised, challenged or exposed.
445. Some people – many people – *most* people in Jersey it appears are just too afraid to speak out. Many people it seems get to the stage where they would rather not know or look the other way than risk having their life or their loved ones’ lives ruined. And this is the culture and climate which – and I know I am hammering this point home again and again - allows the abuse at Haut de la Garenne and other places to go on. Understanding this is absolutely pivotal to the COI appreciating how this all happened. Is still happening as I will give an example of in a moment.

446. I have obviously been the target of abuse and attacks as a result of my reputation both for being outspoken on the floor of the States; and due to the subjects I have tackled; the Establishment figures I have challenged. Likewise because I was one of the few politicians who ran a very well read blog. Indeed, I was probably the first to actually produce a regular political video show – the ‘Bald Truth Review’ (BTR) which used both news and humour to try and raise awareness about what was going on in Jersey. Of course I got even more abuse for this.
447. Nevertheless I am not complaining about this at all: operating in Jersey and in such a climate I accept it just goes with the job. I actually wear this as a badge of honour. This is not to say that it is acceptable or right of course: it clearly is not. Any more than the police under new Chief Mike Bowron doing absolutely nothing about threats and abuses which are clearly in breach of the harassment law if nothing else. These attacks do not arise just out of standing up on the Haut de la Garenne scandal and related matters of course. One can become a target by challenging a whole variety of Establishment sacred cows.
448. For example, wider judicial corruption; judicial non-compliance with the European Convention on Human Rights; tax avoidance; my revealing for the first time ever just how little most of Jersey’s so-called 1.1.K ‘High Net Value immigrants really pay – some as little as a paltry £3.000; the hijacking of the intended ‘independent’ electoral commission and even questioning why a multi-millionaire former mercenary was allowed to have 1.1.K status after this was initially refused and many more besides. I’ve exposed all these types of things. As I say that it rattles the exponents of the ‘Jersey Way’ and hopefully, however slowly, begins to open a few eyes – that I do wear as a badge of honour and proudly.
449. Having said that given that we are talking about this ‘Jersey Way’ and the culture of fear it manifests resulting not only in so few people being willing to speak out about things which are clearly wrong; but also huge voter apathy

among the public, the example relating to former Deputy Paul Le Claire reminds me that I suppose I should briefly outline one particular personal incident which - whether a sick joke as I like to think or a genuine attempt at intimidation - was nevertheless as unpleasant as it was surprising. I have never talked about it before which is a rare thing for me: yet in briefly outlining it I think the Inquiry will understand why.

450. In 2012 not that long after our court case as I recall I received a package – one of those little padded envelopes in fact - containing what appeared to be a very real if not particularly new-looking bullet. This had a paper luggage tag attached and what I can only describe as a threat; basically along the lines of how / needed to shut up. The proverbial bullet with your name on it I suppose was the intended message. This really wasn't something I would have expected being a politician in such a small place as Jersey no matter who you had upset; or with all I have detailed about the 'Jersey Way'. Well, that is certainly what I thought at the time.
451. I mean, although our Off-shore/tax haven activities mean Jersey is always in the top 10 richest jurisdictions on earth in paper terms at least – usually always in the top 6 in fact - we are actually no bigger than many English towns. Indeed, I read the other day somewhere that our population is not even as big as that of a little town like Ipswich for example which certainly puts this into perspective! Yet this bullet in a little padded envelop was stuffed into the mailbox on the garden gate at our former home in St. John.
452. This property was fairly isolated I should point out, 'out in the sticks' so to speak by Jersey standards which made it all the more sinister that someone had come out to deliver this - obviously after dark. The area is certainly not a place most people would drive out to at night unless you lived there. Indeed, after dark you only ever tended to see the odd person passing down the Old Fort Road to fish near La Crete Fort.
453. I suppose on reflection the package never would have made it through the postal system; hence the apparent 'personal' delivery by someone? Anyway,



there was a note on the tag – just a few lines which to me looked like they had been stencilled rather than written free hand - which to enlarge a little essentially suggested, as I interpreted it, that I should stop talking about the finance industry, 1.1. Ks (High Net Value individuals) and Jersey's justice system/child abuse.

454. It also said that the “next one by gun?” I was understandably a bit shocked I can admit; and as I say I have not previously told anyone about this incident. Quite likely Shona would have just laughed it off as she did so well with other unpleasant things but there you go. We've certainly spoken out about other types of threat. The real reason for keeping it to my self was in truth simply due to my mum.
455. This may sound a bit soft for someone with my reputation so I should explain. She was 82 at the time and battling bone cancer. She had already had a few strange phone calls late at night with just breathing/laughing on the other end when she answered. Shona and I were already being harassed on a daily basis of course by a notorious and deeply disturbed internet troll at the time – something which even when later reported the police would do nothing about.
456. I felt this bullet incident would have been bound to get into the media if I had reported it and no doubt been wholly sensationalised. Though I know that my mum (sadly she passed away in 2014) was very proud of the questions I asked and the issues I tackled in politics; given her age and the cancer battle I was concerned that she would have been worried to death about me. Understandably I guess. That it may well have just been a pretty sick joke as much as anything more serious would not have mattered. I simply felt I couldn't risk that whatever my own natural inclination to speak and confront.
457. Truth be told I am also almost certainly not the only 'anti-Establishment' political figure who has had such threats meant to shut them up. I mean, I know it was a different era but the legendary Leftist Jersey politician, the late Deputy Norman Le Brocq – probably the Island's greatest ever in my view - even suffered physical assaults on more than one occasion so I am told. I

would imagine former Senator Stuart Syvret has also had them for sure. One only has to consider the wholly illegal mass police raid on the house he shared with his partner. This will have been about intimidation as much as anything else I am sure.

458. I certainly determined that the incident would not deter me from asking my searching questions and I think my record after this until I was forced out of the States in January 2014 shows that I was true to my convictions. I would also say that I really did not believe there was any point going to the police anyway. Like a handful of others my degree of criticism of the justice system – including the police leadership which had supplanted Graham Power was highly unlikely to have endeared me to them; although I know from inside information I receive many ordinary members of the force supported much of what I did and highlighted. One example of this was following inside contact about a sexual assault by a high-ranking officer who was subsequently simply allowed to leave his position and return to the UK. The ‘Jersey Way’ yet again in what this attitude from both the Chief of Police Bowron and the Home Affairs Minister says about how seriously sexual abuse is taken: let the perpetrator disappear no questions asked; no messy holding to account to stir up the public.

459. Indeed, as events would pan out later – and, indeed, as is still evident within the contempt displayed by the police regarding complaints Shona and I have had to make since being forced out of politics – including Shona being knocked down on a pedestrian crossing in front of three witnesses as recently as September 2014 but the police refusing to prosecute even though the driver also admitted it was his fault – due to there apparently being ‘not enough evidence’ - I was undoubtedly quite right. Indeed, when shortly before we had had to complain – yet again about [REDACTED]

[REDACTED] a female police Sergeant, one Sergeant De Feu, stated that instruction had ‘come down from the Attorney General’ that the Harassment Law had ‘never been meant’ to deal with such abuse. This is wholly untrue.

460. Since Graham Power in my view the police leadership which has followed have been very much a part of the 'Jersey Way' problem. Perhaps as the former Home Affairs Minister wanted: they have been brought back under 'political control'? Indeed, I even once accompanied former Senator Stuart Syvret to the police station in order that he could attempt to file detailed complaints about a whole catalogue of issues. It is evident that none of this was seriously looked in to. Perhaps the COI can ask him to verify this?
461. The only other thing which I would add regarding the bullet incident and possibly the one thing which really made me wonder if it was more serious than I was telling myself was a couple of comments which had been made to me about a year or two before by a couple of our Jersey Establishment Ministers – and two of what Deputy Mike Higgins used to mock as the inner circle 'Kitchen Cabinet' of senior Ministerial figures at that: Senator Freddy Cohen and Senator Philip Ozouf.
462. I can't remember the exact States sitting during which this occurred – you could probably work this out by looking at what was being debated on Hansard – but the fact that Freddy Cohen was one of the politicians means it was definitely prior to the autumn 2011 election as he lost his seat at that time.
463. As well as asking a lot of questions about the preferential tax deals afforded to 1.1.Ks and eventually exposing as I did every year for a while 'graded' breakdowns of how little most of them really paid I also asked questions about a 1.1.K allegedly being involved in arms dealing. Not that I had been given any information that this was being done 'illegally' specifically I should point out: just in regard as to whether this was really the sort of activity Jersey should want to be seen as appropriate for an individual we were giving these High Net Value licences out to?
464. Similarly whether this was actually known about? The individual was after all well known to have previously been a mercenary; and intriguingly it was one

of the Establishment wannabes – actually an Assistant Minister - who had mentioned the alleged arms dealing issue.

465. But to cut to the real point at hand. Having spoken in the Chamber when I came out for a cup of tea standing just outside the Members coffee room in the corridor Senator Philip Ozouf came up to me and said in a lowered voice: 'If I were you I should be very careful regarding the type of people who you are asking questions about,' I simply laughed and he didn't say anything further. However, a few moments later Senator Freddy Cohen also came out of the Chamber and on his way to the stairs he too spoke to me. 'You're very brave', Cohen smirked with one of his cheery grins, 'but not much point being brave if you end up dead is there?'
466. Again I laughed at the time and certainly told a number of people about the incident including Shona. It certainly made no difference to my approach. Was what was said serious or in any way linked to the later incident? I have no way of knowing and like to think probably not deep down. More than likely what the two said simply demonstrates yet again the culture of fear about speaking out so evident in Jersey politics. Possibly how some of these so-called 'top dogs' are actually very scared themselves?
467. I also make no suggestion that my eventual little unwanted gift of the bullet had anything to do with the individual at the heart of my questions at the time. To be fair Senator Freddy Cohen did reveal to me the political figure who was allegedly behind finally getting the former mercenary his 1.1.K status which was an illuminating piece of information to say the least – this apparently being Ben Shenton. But in truth who was behind this unpleasant stunt/threat I simply don't know
468. To this I would add only that though I know I binned the envelop I hung on to the bullet and attached tag - even though I certainly was tempted to simply throw it over the cliff where we lived - meaning to eventually find a way to check out if this was real or not. I'm not a member of a gun club or anything

so it was something I was going to have to think about. I am pretty sure I actually photocopied the tag as well.

469. Unfortunately in our needing to leave our home after our being made en Désastre this has evidently become packed up somewhere amongst all of our possessions. Though I do not believe it to be of any real significance to the Inquiry team's investigations in itself other than it helps further paint the picture of the 'Jersey Way' culture as I have now been asked I have endeavoured to look for the bullet/tag and to provide a photocopy for the Inquiry. I now attach this as **TP16**.

### **Education and Home Affairs Scrutiny Panel Review of the BDO Alto Report**

470. The next matter I feel it important to talk about – and a genuinely important one at that - is the Scrutiny (Select Committee) Sub-Panel investigation I managed to get funded into the 'Issues Surrounding the Financial Management of Operation Rectangle'.
471. This is in fact the title of the review and it arose out of a controversial report commissioned by Home Affairs and undertaken by the firm BDO Alto. This report had subsequently been used again and again by the Establishment media and Establishment politicians generally to float the most damning and fantastical stories and figures supposedly justifying the claims from Graham Power and Lenny Harper's successors – Warcup and Gradwell - that their investigation had been both a shambles and a huge waste of money.
472. Indeed, this report was probably used for as much 'anti' Power and Harper propaganda as the bogusly 'damning' Met Interim report. I think it probably fair to suggest that local media had even won 'awards' based on some of the deeply flawed assumptions and research included in this report.
473. One of the biggest being spun out of this 'research' – a complete fabrication in fact – was the demonstrably untrue lie that the pair had spent – *wasted* was the general message - around £7.5 million pounds. This was guaranteed

to stir up lack of confidence amongst a public who knew no better. Probably precisely what this myth was intended to do? We can see a similar strategy being undertaken now in 2015 with Senator Sir Philip Bailhache attempting to undermine the Care Inquiry itself with groundless scaremongering tales of alleged £50 million costs. The 'Jersey Way' works in many different forms as I say. Though it can be seen that the same handful of powerful people are regularly pulling the strings.

474. Nevertheless, what should first of all be made clear before talking about all of this I suppose is that though as a politician I can take the credit for fighting to make sure the Scrutiny review could be undertaken – no easy task given that, as I shall outline there was huge and quite unpleasantly manifested resistance and threats to this from the Establishment – the fact is that the real kudos for making this important re-evaluation and correction of 'facts' must ultimately be awarded to the two Citizens' Media bloggers mentioned earlier: Neil McMurray and Rico Sorda.
475. I say again - it is not an understatement to suggest that for the victims of child abuse – politically and judicially concealed abuse – in Jersey it is largely thanks to these two men that the Establishment and 'the Jersey Way' wasn't allowed to drown out the political critics once again. I say this because McMurray and Sorda tenaciously pulled together the basic evidence allowing my colleagues and myself to demonstrate a review simply *had* to be taken on.
476. The two bloggers had done a great deal of digging and research and had amassed a lot of information. Senator Stuart Syvret was gone from the States by now – in circumstances I will talk about a little later – and the bloggers approached me I assume (you would have to ask them personally for the precise reasons) because I was one of those few States Members still doggedly trying to get to the truth via the Assembly route. I concede I was certainly the most outspoken and in all honesty the more the Establishment tried to shut me up, attack, insult and intimidate me etc the more I was willing to crank it up.

477. It isn't anything to do with bravery – there just isn't any room for cowardice in politics in my view. If you can't stand up in line with your principles you really should not be there. I thus met with the two bloggers and listened to their concerns about the BDO review and the way the media and a number of politicians in particular were trying to rubbish and smear Power and Harper and their whole investigation with the fervour one might expect from some kind of religious zealots. Looking at the evidence in a detached fashion it was clear the bloggers concerns were very valid.
478. Of course not all of their concerns were eventually found by the Scrutiny team to be justified: but this surely only goes to show how worthwhile the panel's investigation was; how professional we were in undertaking it. It certainly does not undermine their concerns in any way.
479. As I have said it was quite apparent that those at the apex of the Jersey Establishment were rallying the foot-soldiers – cajoling, bullying, whatever necessary to try to shut down any further investigation into the abuse scandal. The then current Chief Minister Senator Terry Le Sueur had gone back on his predecessor' Senator Frank Walker's reluctant promise to have a fully independent inquiry.
480. Other politicians such as Senators Ben Shenton, Jim Perchard (two men who have their own appalling child protection records to answer for in the notorious shambles of Family X case during their stewardship of Health and Social Services) and Deputy Sean Power were even trying to falsely link Lenny Harper's name with the News of the World information for cash scandal. This last matter was particularly heinous as it was demonstrably wholly groundless and even with the massive inquiry in to the scandal in the UK Mr Harper has *never* been accused of such unprofessionalism by anyone with even an iota of either intellect or integrity.
481. Indeed, just why these three States Members attempted such a shameful stunt really demands investigation itself. In my view it can't all be put down to

the three's statements regularly making them appear thicker than a large print cope of War & Peace. Senator Terry Le Main was another Establishment figure who regularly appeared bizarrely desperate to portray Power and Harper in the worst light; rather than focus on what the two officers were trying to shine a light on

482. As the Inquiry may already be aware Perchard had already been highlighted as leaking emails to the infamous UK journalist David Rose who specialises in trying to trash child abuse investigations; and who has also given high profile support to a number of sickening paedophiles themselves including the notorious [REDACTED] to name but one.
483. Operation Rectangle and the huge publicity generated by the child abuse scandal was in my assessment of the evidence simply seen as bad for Jersey by the Establishment, bad for finance and bad for business and also, of course, risked lights being shone where these people really did not want any illumination. It therefore had to be brushed under the carpet and buried: the best way to achieve this being seen as trashing the victims' stories and the two senior police officers' credibility and reputations.
484. Nevertheless, to cut a very long story short once I became aware that the Senior Investigating Officer, Lenny Harper, who had been the subject of very significant criticism in the report, yet had nevertheless not been interviewed to provide any counterbalance to criticism as part of the review, I pushed for the Scrutiny Panel to be allowed to look into the matter in the interest of fairness as hard as I could.
485. This wasn't to be easy as despite my own attitude there appeared a distinct lack of Testicular Fortitude in the air even when it came to some of my colleagues on the ESC/Home Affairs Scrutiny Panel. Whether this was because there was to be an election after the summer recess and the Establishment smear campaign was already taking its toll I don't know. But hard it was.



486. Nevertheless, after my initial meeting with the bloggers, I met with Mike Haden, a trusted, most diligent and highly respected Scrutiny Officer civil servant, and also Deputy Roy Le Herissier, who was Chairman of the Education, Sport & Culture + Home Affairs Scrutiny Panel of which I was the Vice-Chair to raise my concerns and to request a full panel Scrutiny review be supported.
487. As I say sadly Roy really did not want to take this on initially. Truth be told Roy was unlikely to challenge the establishment in this way if he was going to be seen to be leading such a project so I was not at all surprised by his reaction. I say again that in fairness one must remember here that those of us who had challenged the orchestrated trashing of the child abuse investigation; and the suspension of Graham Power had been attacked again and again.
488. There was thus a good possibility that – particularly for those in seats outside of the urban areas – the fallout from the Establishment propaganda that support for Power and Harper’s investigation was misplaced and damaging to Jersey would could carry a high political price come election time. Indeed, for former Metropolitan Police officer, St. Martin Deputy Bob Hill, someone who had done much meticulous work particularly in support of highlighting the appalling treatment of Graham Power it would cost him his seat after half-a-dozen elections.

### **Establishment attempts to obstruct the Scrutiny investigation**

489. The off-shoot was that without my Chairman’s unqualified support the proposal had to be presented to a Scrutiny Chairmen’s Panel who had to give it their blessing before it could be progressed: I had said that I would take on the Chairmanship of a Scrutiny Sub-Panel. The Chairmen’s Panel meeting was thus set up so that I would be arguing the case with Deputy Le Herissier – hopefully – nevertheless supporting me.

490. It is not really for me to comment but I believe the Scrutiny officer could certainly see the validity of what the two bloggers had put forward just as I could. I'm sure Roy Le Herissier could in all honesty as well. The meeting eventually took place in Mourier House in one of the Scrutiny rooms and I must say it was as illuminating as it was embarrassing – all of this thanks to the unprofessional behaviour of the President of the Chairmen's Committee, the aforementioned Senator Ben Shenton. Fortunately Mike Haden was there to take minutes so the pantomime I describe can be verified.
491. Senator Ben Shenton appeared to have a hatred of Lenny Harper in particular which to me seemed to border almost on the pathological: he would even go on about how his wife referred to Lenny Harper as Lenny *Henry* the comedian. Quite what made the Senator's wife such an authority on Harper's ability however he never shared. He must have been able to see the problems I was flagging up; the inconsistencies that needed clarifying but he evidently just did not want to admit them.
492. His attitude seemed to suggest that it was better if the whole abuse investigation could be portrayed as bungled, a waste of taxpayers' money and the blame for it all lain at the feet of the two senior police officers. Maybe within his own strange view of the world this was the best and quickest way for corporate, Finance centre Jersey to get back to business as usual? He was in fairness not only the most populist politician that I have ever encountered; but also an adherent of 'free-market capitalism underscored with – my opinion - very little actual understanding of socio-economics within a caring, modern society.
493. Given that Scrutiny stands or falls by considering evidence I found Shenton's whole attitude infuriating and quite pathetic to be quite honest. Shenton just did not want this review to go ahead and was worked up and belligerent about this. In fact I think the following incident says all I need to say about this.

494. At one point I had to stop the meeting to insist that it was minuted that Shenton – who was almost foaming with anger for some reason objected to our Scrutiny Panel going ahead with the review on the basis that the evidence had apparently been presented to us by someone who was in his words “just a pipe-fitter” (this being an inaccurate reference to one of the bloggers, Mr Sorda).
495. It was a disgraceful not to mention wholly unprofessional attitude and I told Shenton this. To me it smacked of appalling snobbery. In my view it was clearly irrelevant where or from whom this information had come from – what mattered was its quality and I told him so. Of course though neither I nor Deputy Le Herissier could know it then Mr Sorda and Mr McMurray would eventually be proven correct – certainly not in all as I say - but undoubtedly in the vast majority of their contentions: which probably says more about the validity of Ben Shenton’s attitude than anything else.
496. I should acknowledge at this point that there was no love lost between Ben Shenton and I. He had been someone I had voted for back in 2005 having regularly voted for his late father, former Senator Dick Shenton, but had been hugely disappointed by what a deplorable populist I viewed Ben as turning out to be, As I say he had little idea about socio-economics; appeared to loath the ‘working class; and ‘Left-wingers’ who represented them; and evidently thought government could be all but run the same as a business.
497. He also had a truly appalling attendance record at States sittings. Appalling to the point where he became a bit of a joke because he would give pompous speeches about ‘value for money’ and attack ‘Socialists’ and those of us who did ask a lot of questions and bring propositions in an attempt to hold Ministers to account.
498. Fair enough you might say. Only all too often Shenton would then disappear from the States Chamber soon after he had spoken and go off to run his private finance business. All whilst the taxpayers were paying him to be in the

States and that is what I objected to: though not nearly as much as bizarre desire to try and undermine the work of Power and Harper. As it happened because of his regular very early exits from the States someone in the States actually daubed him with the comic name of 'Ben (Gone by) Ten'.

499. Nevertheless, this bizarre and quite evident hatred of Lenny Harper – who he even once mocked in the States as being the comedian 'Lenny Henry' as referred to above is something the COI would have to ask him to explain. Anyway, the farcical offshoot of my challenging the Senator at the above mentioned meeting over the 'pipe-fitter' insult was that Shenton stood up and stormed out of the meeting saying he wasn't going to discuss the matter and wanted nothing to do with it. Senator Sarah Ferguson dutifully took over the Chair and we carried on.
500. With a more professional and less prejudiced atmosphere now prevailing the eventual outcome was that my proposal that a Scrutiny Sub-Panel be set up was accepted and supported. Deputy Le Herissier predictably did not want to Chair this – it's going ahead was clearly going to ruffle some Establishment feathers again as I say – but he did agree, to give him full credit, to sit on this with me chairing it. As I say for this I think he deserves some real kudos because he wasn't seen in the same 'anti-Establishment' light as some of we others. Deputy Le Herissier also saw it through to the end – and this was a review which necessitated some serious hard work.
501. With Deputy Tadier from the main Panel also eventually agreeing to sit on the review – though he very disappointingly quit before the work was concluded - we then opened it up for other States Members from other Scrutiny panels and/or those who were not involved at all to get involved. We wanted four or five Members for obvious reasons: there was going to be a lot of work to undertake; not too much time to complete it; and it was sure to generate a lot of probably quite unpleasant flak.
502. Not surprisingly given the poisonous atmosphere in the States stirred up by the Establishment this was to draw a complete blank with the one exception

of another excellent Scrutiny member from the Environment Panel, the 'Green' Progressive politician, Deputy Daniel Wimberley.

503. In many ways the possibility of having Deputy Wimberley on board was excellent news for he was without doubt one of the most thorough and well-researched politicians ever to be elected to the States Assembly. His approach was in fact utterly meticulous. On the minus side the Establishment hated him almost as much as they hated me. Thus if we had thought that now we had won the support of the Chairmen's Committee (minus Shenton) and had a Sub-Panel in place our work could commence – we already knew we would likely have to work through the holiday period to complete the review – we were to be very much mistaken: 'the Jersey Way' was about to surface yet again.
504. We subsequently found that Home Affairs Minister Senator Ian Le Marquand was trying desperately behind the scenes to have me removed – a strategy that if successful would scupper the whole review. I am aware that he wrote to Ben Shenton and said that I should be removed from my role as Chairman of the Sub-Panel because I was apparently "conflicted". His reasoning for this was because I had adopted an opposite and critical position to his own on the suspension of Chief of Police Graham Power. This was clearly wholly irrelevant and I firmly believe that it was really because he knew that I would be asking difficult questions and was well informed.
505. The difference in my and Le Marquand's approaches to the Power suspension could actually be explained quite simply: I believed in justice and based my assessment of the validity of the suspension on evidence. Le Marquand equally knew the truth but didn't have the Testicular Fortitude to stand up as an Establishment figure and do what was right. Which was a shame because on a personal level I liked the Senator; I simply could not abide his continuing with and defence of the farce begun by the likes of Walker, Ogley and Andrew Lewis.

506. Instead the Home Affairs Minister even went so far as to raise his “concerns” on the floor in the States – the Executive attempting shamelessly to interfere with Scrutiny - and highlighted for the media that he had written to the Chairman’s Committee as well. It was easy to see that the key for him was to try to taint the review before it had even got started: just the same way as with the usual slanted reporting they had undermined the child abuse inquiry itself; and those overseeing it.
507. As I say I knew Le Marquand had no valid grounds for me to be removed and so I stood my ground. Incredibly the Home Affairs Minister subsequently also sought to establish that Deputy Tadier was also ‘conflicted’ pretty much for the same reasons. It is fair to say that atmosphere at the time between much of Scrutiny and the Executive was truly toxic with distrust. In fact this was almost palpable.
508. To move on, once we began the review I recall that some witnesses, such as those behind the BDO Alto review itself, were difficult to the extreme and tried to be obstructive throughout. They too tried to go above my head as Chairman. The aforesaid Mike Haden was assisting me and putting together a list of the people that we needed to interview. Even though I had Mike set up a courtesy meeting with BDO Alto to set some of their concerns at rest they were still obstructive and in my view sought to go behind our backs specifically to avoid being called.
509. I should point out that it is possible to subpoena witnesses for Scrutiny just as it is for a UK Select Committee but we wanted to avoid this if at all possible. We were professional throughout.
510. I should also highlight here that I think BDO ALTO were very worried about being criticised and thus receiving negative publicity as a working business which is all they were at the end of the day. The fact was, however, that whatever flaws that there were to be found – and there were some big ones – attacking them was never our interest or intention. Indeed, we actually went out of our way at my insistence to point out that the regularly ridiculous and

over-the-top Establishment media portrayal of easy to sensationalise aspects of their report was obviously something over which BDO ALTO could have no control. Massive, truly glaring flaws such as the non-interviewing of Lenny Harper was down to their final call however and for this they deserved any criticism they might get: not calling the person central to the matters being looked at; and the person who would be receiving most of the flak to clarify – let alone defend himself – made the whole process a complete farce.

511. Nevertheless the company also certainly made no friends with ridiculous and in my view deeply offensive attempts to extort more than £14,000 from Scrutiny for their effectively going over their report during a two odd hours Scrutiny hearing. Very kindly 'discounted' I should point out from a massive £26,000! Had we agreed to pay this it would have wiped the whole review budget out in one go. I believe to this day that the company was put up to this by the Establishment as another attempt to scupper the review.
512. Of course, knowing that Scrutiny do not pay witnesses (it is obviously different if you are 'buying in' expert advice) under any circumstance I ensured the Scrutiny office politely told BDO ALTO what to do with their bill. Whether it was ever paid from within the Home Affairs budget I do not know but this outrageous and intimidatory attempt to demand a sum that was wholly unjustifiable was never paid by my Scrutiny panel. Indeed, to have done so would have signalled the death knell of the Scrutiny function. Upon reflection maybe this was actually the intention?
513. As I have said it was a truly – in my view glaringly obvious - flaw within the BDO Alto process that they had not interviewed the man who had been at the centre of the Operation Rectangle investigation, Lenny Harper himself – a man who they would hugely criticise despite failing to ensure they had any real knowledge of how and why certain things had to be done. We, of course, did do this. Of course the truth was - which unlike BDO Alto - we quickly established Harper and/or Power were not actually accountable for the financial management at all but rather the Chief Officer of the Home Affairs, Mr Austin-Vautier Department. More on this a little latter.

514. The Financial accounting set-up was in truth a joke and not fair on either side it was so flawed. Yet the fact was the Chief of Police had raised these concerns without anything being done; so it was particularly unfair to hang Harper and he out to dry whilst Home Affairs walked away unblemished which those involved did. I nevertheless do not wish to go through every aspect of a very long and complex review here – and as such attach the completed report: “Issues surrounding the review of Financial Management of Operation Rectangle” as evidence for the Inquiry team as **TP17** – be this as it may there are still a few things I do need to flag up at once.
515. Former Senior Investigating Officer Lenny Harper – a man I would point out whom I had never met (and have still never met) - had retired prior to Graham Power’s suspension and subsequently left the Island for the mainland. We thus set up an audio conference because we considered his evidence to be absolutely critical to the review. I repeat I have no allegiance to Lenny Harper any more than I have to Graham Power or Stuart Syvret who were also eventually witnesses (I did not know Power either) ,but I was aware that in the interests of fairness and transparency, it was crucially important that Harper should be given an opportunity to explain himself.
516. Having heard evidence from various witnesses it became apparent that it was David Warcup who had originally objected to Lenny Harper being interviewed by BDO. I contend that this can only be – and must be – seen as suspicious and indicative of what truly underlay the trashing of the child abuse investigation led by Power and Harper. This is my own opinion and I stand by it.
517. It is also quite apparent that had they been interested in anything more than a substantial sum of payment for their work BDO Alto should surely have told Warcup and Home Affairs where to go if to be limited by such flawed constraints: they really were setting themselves up to be criticised for a report that could demonstrably never be seen as balanced and thus unbiased. I honestly can’t believe that they could not see this.



518. It is also highly interesting and in my view significant that Mick Gradwell – effectively Warcup’s No. 2 - refused to give any evidence to the review. I believe that his evidence would have been pertinent to many of the issues we were considering during the review. Indeed, during the hearings, we became aware that it was Mick Gradwell who had been leaking information to the media during Operation Rectangle – the aforesaid UK journalist David Rose. This was confirmed by the Home Affairs Minister – yet the Jersey Evening Post still continued to try and portray this individual as a hero and to use their ludicrous term a ‘whistle-blower’!
519. I still do not fully understand where his motivation in doing this originated but can only think that it too was part of the establishment plan to trash Lenny Harper and Graham Power. I have subsequently heard it suggested that Mr Gradwell apparently had some ‘history’ with Mr Harper but am unable to shed any light on this. Something else which if true probably should have seen him decline any involvement in such an investigation.
520. As I touched upon briefly earlier it had been reported - and probably became one of the most purveyed pieces of Establishment propaganda - that Lenny Harper and Graham Power had “wasted £7.5 million” on their investigation: truth be told this fabrication was spun with almost zealot-like fervour by Jersey’s mainstream media; particularly the Jersey Evening Post and Channel Television (now ITV). But when we analysed the figures, in their time together they actually spent less than half of that amount. In fact most of that sum was accumulated on Warcup and Gradwell’s watch.
521. This is hugely significant because as should have been starkly apparent to everyone from the Home Affairs department - ultimately responsible let us not forget with regard to accounting – senior politicians and later even to the so-called ‘accredited’, ‘professional’ media who trashed Power and Harper with a vengeance: whilst the pair had a major, large scale crime scene to run Warcup and Gradwell had none of this.

522. Yet the attacks on Power and Harper would continue and the fake £7.5 million myth and other fabrications be continually spun even after my Scrutiny review had exposed them for what they were: misrepresentations and even downright lies.
523. The readily apparent fact of the matter – and this is in my opinion starkly clear from the attitude and attempts at obstruction of President of the Chairmen’s Committee, Senator Ben Shenton and that of Home Affairs Minister Senator Ian Le Marquand - is that senior Establishment figures wanted the work of Power and Harper to be misrepresented to the public; with the obvious consequence that belief in what the pair had tenaciously uncovered would be undermined and the ‘Great and the Good’ who had failed children over so many decades could be protected. I have not repeated the term for a little while so I will use it again here: the ‘Jersey Way’ raises it head yet again.
524. Just how blatant were these lies and the desperation to continue to mislead the public can perhaps best be summed up – if the Inquiry team can track down the footage – when, upon the Scrutiny review’s publication and presentation to the States I went ‘live’ on Channel Television to answer questions on this in my role as review Chairman.
525. I repeat: remember the Scrutiny Panel’s work had blown such favourite fabrications as the £7.5 million slur clean out of the water. Yet unbeknown to me even as I sat in the studio unable to view this Channel were spouting the same demonstrable garbage to their viewers in on screen graphics whilst we spoke.
526. Disgraceful and sickening both. Yet useful in the long term because by such actions can it be seen how insidiously entwined with the Establishment political/judicial drive to mislead the public about Haut de la Garenne Jersey’s media were. The examples of how warped the portrayal of Operation Rectangle was can be seen in numerous examples; and rather than work through every one of them again here as I say I think it best to simply hand

the Inquiry a copy of the Scrutiny Panel review and ask that it be read and viewed against the lies and falsehoods spun by Establishment politicians, media and Power and Harper's successors alike.

527. Nevertheless, if I was to be pushed to highlight just one further example I would likely use that of the furore stirred up regarding the 'who ate what for dinner' nonsense which saw Harper's expenses portrayed by the Jersey media as some kind of lavish, Hollywood style extravaganza. Expenses of course which were in reality hardly outlandish in an expensive place like London; or in my view when set against limits allowed by the Home Affairs Minister and department (who manipulated such an unwarranted stink) to later be run up by members of the Wiltshire Constabulary investigating what had supposedly gone on. Unless of course, my memory completely fails me?
528. Instead – and this surely is something to keep in mind - allowing this matter to be fabricated into something bigger than; and more important than Power and Harper's brave uncovering of decades of child abuse and concealment ignored by their police predecessors. Yes, I am going to say it yet again: 'the Jersey Way'. As former Chief of Police Power himself so perfectly put it into context: How can disputed expenses arising from what officers ate EVER become more important than the concealment of decades of child abuse? It simply cannot – at least to anyone not having a hidden agenda.
529. To this regard I feel it must be stated that Chief of Police Power's huge – and never officially, publicly presented – 62,000 word statement made in response to the Wiltshire investigation and the Jersey mainstream media onslaught stirred up by the Establishment should be essential reading for anyone wanting to actually get beyond the hyperbole.
530. I attach this document as **TP18**. Suffice to add perhaps that the Jersey media and its endless misrepresentation of Harper and Power's investigation is an issue upon which I will need to add even more. Jersey's media I believe – certainly the BBC - have this most revealing document but have never made use of it for the public's benefit. Why?

531. Our Scrutiny report was presented to the States on 9 November 2011 To this day I must state I remain shocked by how unprofessional a number of key elements of the BDO Report process and finding were. Indeed, it should likely be flagged up here that even the initial instructions to conduct the review were flawed and confusing: perhaps deliberately so one must wonder? Please consider: Mr Mike Kellett had been appointed and yet he seems to have had little or no idea what he was actually meant to be doing and whose Terms of Reference he should be working to. Is it simply incompetence or something wholly more suspicious in line with the 'Jersey Way' contentions throughout this statement? I leave the Inquiry to consider...
532. At paragraphs 2.1 to 2.3, the Sub-Panel Report states "Mr. Kellett was originally employed by the States of Jersey Police to undertake an internal review, commissioned by Mr. Warcup, relating to the overall conduct of the HCA investigation by the police. Mr. Kellett, however, was not made aware of this intended task and was given separate instructions which required him to work closely with the BDO Alto review on the use of financial resources. These different instructions were given by Mr. Gradwell and had not been seen or authorised by Mr. Warcup!" Truly incredible – and to think they tried to portray Harper and Power as incompetent?
533. It continues 'Mr. Gradwell's instructions to Mr. Kellett caused confusion about the police consultant's role. Mr. Warcup initially praised Mr. Kellett's work but subsequently decided that it was inappropriate for him to be working on a joint review with BDO on the grounds that it was inappropriate for anyone working for the States of Jersey Police to be investigating matters which were connected to the disciplinary enquiry being conducted by Wiltshire Constabulary'. This surely should have been apparent from the offset.
534. If one was to be blunt – and I am often accused of that – I would say, no longer under the constraint of the Scrutiny process that what was set in motion by Mr Warcup and Mr Gradwell had one thing in common with the finished BDO Alto review itself: both were intrinsically flawed and in many ways utterly shambolic.

535. Actually, I would revise that statement to being *two* things in common: both appeared to have little or any concern that the two senior police officers at the centre of it all – and Harper in particular – should in any way have a fair and detached hearing in order that the truth might be fully established; and established at that beyond any reasonable doubt.
536. Indeed, there are a great many people who have followed the trashing of Power and Harper by the Jersey Establishment who view the review as just another facet of a deliberate hatchet job. I suggest it is easy to see why such views are held.
537. As to my overall own experience as a politician conducting the Scrutiny Sub-Panel investigation as part of the States of Jersey I would have to reiterate that this was one of animosity throughout. The attempts made by Senator Ian Le Marquand to undermine the credibility of both myself and other members of the sub-panel: even to the point of seeking my removal from the panel, were crass but disturbing nonetheless.
538. In my view pure political smoke and mirrors of the lowest order to try and con the public to protect the deliberate trashing of the police investigation. I certainly felt that the Establishment wanted to discredit the Scrutiny Sub-Panel from the start and I believe that upon consideration of the evidence highlighted it would be difficult for anyone to contend otherwise.
539. It has been suggested by many that my refusal to bow to pressure but instead see the Scrutiny review through will – just as some of the other incidents outlined within this statement involving both Shona and myself - eventually have been a factor in the evident legal abuses Shona and I would suffer at the hands of Sir Michael Birt's Royal Court in trying to pursue our defamation case against the Jersey Evening Post and their millionaire client Roger Trower.

540. I accept that this may well be the case – just as events like Shona bringing her vote of no confidence in Sir Philip Bailhache undoubtedly is. I nevertheless always point out that even if true it will never be able to be proven. Similarly what has happened to former Senator Stuart Syvret in response to all of his travails to bring about accountability to ‘the untouchables’ of Jersey’s Establishment: the mechanism for a truly independent root and branch overhaul of Jersey’s does not, as yet exist because of the people in charge and complete indifference – or quite possibly willing collusion of those responsible in the UK itself.
541. Given that the UK does have the power to intervene as we all know, regardless of the excuses not to, should Westminster one day eventually have a Prime Minister principled enough to do things differently – and risk upsetting a lot of powerful people in the process of course – then *perhaps* one day the necessary will finally be undertaken. Indeed, perhaps the new Labour leader Mt Corbyn is that man?
542. Nevertheless, regardless of all this what I must say is that what has been most frustrating of all is that nothing whatsoever has happened here since the Scrutiny Report into the BDO debacle was published. Beyond doubt a truly damning indictment of those Jersey politicians who claim that are not a part of ‘the Jersey Way’.
543. As with *all* Scrutiny reviews which examined areas the Jersey Establishment did not want scrutinised; proposed unwelcome changes or flagged up unflattering shortcomings our review into the financial management of Operation Rectangle as portrayed by BDO Alto was simply ignored. Effectively buried and left to gather dust. This is why Jersey Scrutiny in its present form is a complete waste of a diligent politician’s time: it has no political teeth and serves no other purpose than to tie up ‘opposition’ or ‘backbench’ States Members in time consuming work when their efforts could be far better used elsewhere.

544. This is why following my re-election in 2011 I withdraw from Scrutiny completely and focussed on propositions, representing my constituents, and holding Ministers to account.
545. One of the main findings in the review of course was that we had not been able to fully examine the serious issue with undoubtedly prejudiced mainstream media coverage; but believed that this ought to be considered by a future Scrutiny Panel. The Jersey Evening Post and Channel TV after all have apparently 'won awards' for their reporting on Operation Rectangle. These failings were even – and I think he only publicly agreed with this because we had so dismantled the rubbish previously spun to the point where he worried he would one day face ridicule – eventually supported by the Home Affairs Minister. Unfortunately he was to backtrack on a key promise he made to this regard at the last minute.
546. This had been his agreement – actually voiced as I recall at one of our public Scrutiny meetings – i.e. that the Minister would put out a joint statement with us acknowledging that important aspects of what had been spun to the Jersey public by the media was incorrect and unfair to Mr Power and Mr Harper. As I trust the COI will appreciate such a move would have been hugely powerful.
547. That he finally backtracked on this without any proper explanation to my Scrutiny team was, I believe, eventually down to the fact that these concessions were, in his final analysis and quite possibly there was pressure from his political and judicial Establishment colleagues in the Council of Ministers just too much of a climb down for him to follow through. I nevertheless attach as my **Exhibit TP19** the amended Response dated 15 December 2011 that Ian Le Marquand released.
548. As significant research demonstrates the vast majority of people form their views on the basis of media reporting of these sort of 'out of the ordinary' issues; just as people do regarding most things, other people and events outside of their experience. The Scrutiny Report thus stated at paragraph

248 “it is of paramount importance that the media strive to deal with issues of this magnitude with the highest standards of objectivity. Broadcast media have a special responsibility to use the few words that they have carefully in order to avoid false impressions being left in the minds of the public.”

549. As the example I gave about Channel Television having me on ‘live’ yet simultaneously still pumping out to their viewers the same misinformation demonstrates the ‘accredited’ media remain a real problem in Jersey with regard to how the true facts about Haut de la Garenne have been distorted and suppressed over so many years. They certainly remain a key factor in propping ‘the Jersey Way’ up. As to why this should still be that makes for an interesting question.

550. For example, just what should we read into a couple of revelations/allegations which have arisen from the various investigations – both police and Scrutiny – into Haut de la Garenne; involving as both do a

[REDACTED]

551. The first arose in [REDACTED] in relation to [REDACTED] of Operation Rectangle which I Chaired. At the end of this session the by then former Senator and Health & Social Services Minister Stuart Syvret alleged that [REDACTED] <sup>737</sup>

[REDACTED] – actually the [REDACTED] [REDACTED] I believe, but certainly a [REDACTED]

over a period of decades - was a serial rapist. This was, I should point out, a

[REDACTED]

552. This allegation within such a meeting was obviously as intriguing as it might have been expected to be explosive. [REDACTED] <sup>737</sup> had in the 1970s been the

[REDACTED] elected as a Senator and went on to become a very powerful man in Jersey; not least via [REDACTED] position over many years. In fact I can recall it being alleged by a certain journalist that [REDACTED] <sup>737</sup> ‘had more

[REDACTED] anyone else in Jersey’. True or not the



inference was that this was why so many people were careful what they said about the [REDACTED]

553. As already highlighted I well recall former Deputy Paul Le Claire telling some of us about a letter he said he had from the [REDACTED] in essence telling him that he had better be careful what he said because they [REDACTED] had the power to destroy him. Le Claire's words.
554. Nevertheless, regardless of Le Claire's claims – to which I would add only that I have no reason to doubt them having experienced how [REDACTED] works - it would certainly not be an overstatement of any sort to say that [REDACTED] <sup>737</sup> is considered very much a part of the small group at the very top of the Establishment system in Jersey who appear to be untouchable. On top of his [REDACTED] he has, of course, also been afforded a key and influential role linking with [REDACTED] for example. Certainly [REDACTED] <sup>737</sup> is a key and long entrenched member of the "Old Boys Network" if you like; the very heart of 'the Jersey Way'. Many people it appears from those who have spoken to me certainly seem to be very afraid of him.
555. Yet to get back to what happened at the Scrutiny hearing within a response that is likely just as predictable as it is simultaneously jaw-dropping: not a word of what former Senator Syvret had alleged at the meeting was ever reported: by any of the media present. That these stunning allegations would have been reported had it been someone else named we all agreed was beyond doubt.
556. As I have done elsewhere however in fairness to [REDACTED] <sup>737</sup> I must point out that I obviously cannot say whether there was any truth in these allegations; and that whatever I may think or suspect I adhere to the principle that everyone is innocent until proven guilty. Interestingly – perhaps very tellingly – as fate would later have it in [REDACTED] <sup>737</sup> would sit in the Royal Court throughout the defamation case we brought against [REDACTED] his stare intriguingly fixed continuously; I was not alone in noticing, on the disgraced

senior Jurat, the previously mentioned John Le Breton. A man of course who as former Health Minister Stuart Syvret himself would much later point out could easily be destroyed by [REDACTED] given that the Senator had apparently made known to [REDACTED] the true extent of the Jurat's failings underlying the Sharp investigation.

557. Nevertheless the fact was that in relation to former Senator Syvret's allegations about [REDACTED]<sup>737</sup> himself the fact is I had actually already heard similar rumours before and even knew, by chance, of an individual who claimed that he had been interviewed by the police regarding these claims within the course of an alleged rape investigation. I thus felt pretty comfortable in the belief that some kind of wider allegations must have been made at some point even if I didn't know who by.
558. With a bit of a furore subsequently arising from the fact that whilst what former Senator Syvret had said most definitely should have been included on the official transcripts from the Scrutiny hearing regardless – even if the name was redacted - but was instead omitted despite my protests - ultimately I believe on the word of the Attorney General Tim Le Cocq; indeed, even the witness himself, Mr Syvret was denied the full copy of the transcripts which was surely his right to have – I felt this could not simply be left without investigation.
559. After all I wasn't a mainstream Jersey journalist – I was interested in the truth of what might in some way underlie certain aspects of what our Scrutiny review was trying to investigate. If there was any truth in what had been alleged then it would clearly be of relevance to the concerns raised about the mainstream media's approach which we had commented upon. For here I must reiterate that the fact that so much of the horror stories eventually surfacing post 2007 had somehow never been investigated by any of Jersey's mainstream media organisations is something which has bemused and concerned many.

560. Of course I readily acknowledge that I had no idea that what underlay Mr Syvret's statement was quite plausibly implication of information of the most spectacular and revealing kind. Indeed, information which may for the first time shed light upon the inexplicable and in my view clearly politically motivated – questionably illegal - suspension of Chief of Police Graham Power himself. But to go back a step in the light of all of this internal furore following the comments I decided for my own peace of mind to try and make some discreet enquiries of my own in order to try and establish whether here was yet another example of 'the Jersey Way' or instead just rumour.
561. Not surprisingly - like some others with a reputation for pursuing difficult questions and not being put off – I have over the years built up a fairly extensive array of contacts both here, in the UK. and even beyond. I obviously cannot – and would not under any circumstance divulge any of these contacts. However suffice to say that in this particular instance a source still working within the local police informed me of information which was, I have to say, due to the possible implications in relation to so much that had happened, potentially completely stunning.
562. The crux of what was alleged to me by my contact was that [REDACTED] 737 had indeed been the subject of a number of complaints on the lines of what former Senator Stuart Syvret had claimed in the Scrutiny hearing i.e. serial rape allegations. Not only this but that a full Police investigation was well underway and apparently nearing completion in 2008. Indeed, my source subsequently told me that the Police were actually very, very close to charging [REDACTED] 737 with a number of serious sexual assaults and rapes. This really was staggering to hear.
563. To this degree it was alleged that whilst there were apparently half-a-dozen women who were alleged victims; though most were too terrified to give evidence due to [REDACTED] 737 powerful position it was believed that two women probably would now do so regardless. Shocking as these allegations were even more was to follow. It was actually suggested to me that a number of officers believed that it was because of this then on-going Police investigation

being so advanced to the point where an arrest and charge was imminent that was the true reason for the hurried, shambolic – and inexplicable in the eyes of any detached observer – suspension of their boss, Chief of Police Graham Power being driven through as it was.

564. Whilst I do not know his source I have become aware that such allegations have evidently also been voiced to former Senator Syvret himself. I must also nevertheless repeat again at this point that though I have no reason to doubt the integrity of what was alleged to me by the officer I can of course not verify the underlying truth one way or the other.
565. Because of this having given the matter significant thought I would thus strongly suggest that the Inquiry team contact the former Chief of Police himself in order that he can verify or dismiss the claims of such allegations against 737 and the reality or otherwise of an advanced Police investigation. If it is true that there definitely was a Police investigation and probable arrest looming then I would also suggest that this is beyond doubt incredibly relevant to the Inquiry – not least as it relates to the Establishment suspension and subsequent trashing of Haut de la Garenne investigations.
566. It certainly must be said that if true such an arrest would have been catastrophic for Jersey's Establishment. He was – and indeed remains - a major 'mover and shaker' in Jersey; and coming on the back of an abuse cover-up scandal that had seen Jersey descended upon by journalists from all over the world an arrest of such a major Establishment figure on such serious alleged violent sexual crimes would have shaken those at the apex of 'the Jersey Way's drive to retain the political, judicial – and indeed constitutional – status quo to the very core.
567. It should go without saying that had Chief of Police Power wished to move to arrest and charge 737 with such offences the conflict with the Establishment Attorney General William Bailhache would have been seismic. Indeed, though I do not wish to go into the matter at any great length within

this statement – I would hope that former Senator Syvret will. If true then as we have seen within what has been reported by the Senator and his former partner the current Deputy of Grouville Carolyn Labey regarding the Chief of Police’s desire to press ahead with an investigation into serious planning corruption allegedly involving a number of senior Establishment figures; and Bailhache’s equal determination that pursue these claims he must not the implications would be immense.

568. Yet as I said not a single word has been reported by Jersey’s mainstream media on these allegations about 737 and I suggest that this is very relevant when one considers the so-called ‘Jersey Way’ attitude to both abuse and any criticism of senior political and judicial figures over many decades. Indeed, this may be seen yet again in the second incident I wish to talk about briefly. This being the horrendous allegations of rape and abuse it is claimed were carried out by another former States Senator the late Wilfred Krichefski aka ‘The Fat Man’.

569. First however, as a final note on the serial rapist allegations against 737 made by former Senator Stuart Syvret I have been advised that at least one of these alleged rape victims has actually come forward; willing to give evidence to the Committee of Inquiry. If correct then it seems to me an ideal opportunity for the Inquiry team to attempt to get to the bottom of what are most disturbing and potentially hugely revealing allegations in relation to the true reason why the inexplicable suspension of Graham Power was rushed through so rapidly; even if the COI do not intend to consider the role Jersey’s media has played over so many years in terms of non-reporting.

570. This would surely demand having 737 himself appear. After all everyone who is subject to allegations of serious wrong-doing in relation to the abuse cover-up – and if true these most definitely are relevant for the reasons I have set out - not only merits in-depth questioning of his or her actions; but also the opportunity to defend him or herself. Unfortunately, as to the second major former media figure facing very serious allegations of abuse - actually

allegations against children – any such personal appearance to give evidence is impossible.

571. For the second example relating to the way the Jersey mainstream media selectively report or spin certain stories relating to cases which have grown out of the Haut de la Garenne investigation, I again suggest to the Inquiry it is very illuminating that though the allegations about horrific child abuse said to be carried out by Wilfred Krichefski the Island's media – and in particular Channel Television (now ITV) - have been most scant in providing the Jersey public with full details of exactly who Wilfred Krichefski was alleged to be or what he is alleged to have done. He too of course must be viewed as innocent until proven guilty: but it must be said that what has been claimed is very compelling.
572. Indeed, when one considers the hatchet job and absolute overkill the media including Channel Television have done on Power and Harper (not to mention other 'anti-Establishment' figures who challenged what was going on throughout the abuse cover-up scandal) the contrasting lack of honest, accurate coverage of the Krichefski allegations could not be more profound. Just as with the allegations surrounding [REDACTED] [REDACTED] one surely has to ask: could this have anything to do with the late Wilfred Krichefski's powerful role once held not just within Jersey politics where like [REDACTED] he too had been a Senator but within Jersey's [REDACTED]
573. Krichefski was, after all, not only a founding member of the local TV station but I believe also a senior director; in fact I believe he was the television company's first ever Managing Director? Perhaps the company can confirm or deny this? Wilfred Krichefski, if memory serves, was also a former President of what was once the old Defence Committee. This role included ultimate responsibility for the Jersey Police! Krichefski has, as the Inquiry team knows, been accused of most horrific child abuse. Yet in comparison to external media Jersey's local MSM have been scanty with reporting these details in the extreme. Channel (ITV) more than any; and to my knowledge not once have I heard or seen the TV station acknowledge the long and

senior level links the company has with an alleged abuser of young boys whose abuse earned him the sinister tag of ‘the Fat Man’.

574. Two men then in positions of great power. Two men facing very serious allegations. Yet almost zero – certainly in the case of <sup>737</sup> – reporting or any acknowledgment of the political and roles they played. It is inarguable that the lack of professional investigative journalism displayed over many decades by Jersey’s ‘accredited’ mainstream media undoubtedly played a significant part in allowing the child protection failings of numerous Bailiffs, Attorney Generals, politicians, civil servants and senior Police officers to go unchallenged for so long. After all, how is that in the UK media manage to uncover and report to the public so much regarding abuse that has been swept under the carpet; whilst here in Jersey the contrast could not be more telling? Hearing so much of the testimony of victims; indeed, even the sort of stories which used to circulate when I myself was at school, such journalistic inadequacy is deeply suspicious.
575. Perhaps all of this arises from nothing more than, what would be to most of us, a strangely warped attitude to abuse and perhaps justice/corruption/intimidation generally in line with the ‘it’s better to sweep it under the carpet than risk damaging the Island’s ‘good name’ and reputation’ mind-set I have highlighted previously?
576. Indeed, to turn just briefly to yet another senior Jersey media figure, BBC Jersey ‘main man’ Mr Jon Gripton (I believe he has recently departed to a post in England while I have been away from the Island?) at one point when my wife and I were being harassed and abused horrendously by the infamous local internet troll I mentioned briefly earlier – even to the point of what can only be described as a ‘hate site’ account being set up to attack Shona on Twitter – instead of condemning this Jon Gripton instead saw fit to re-tweet some of the abuse to his then 2000 odd followers.
577. Apparently, according to this very senior mainstream Jersey ‘journalist’ he felt it ‘very amusing’. Does this sum up the Jersey mainstream media’s core

attitude to abuse generally one has to wonder? Complaints were actually made to the BBC about this by members of the public yet nothing happened – apart from his Twitter account disappearing for a while. Incredibly the BBC even denied it had happened at one point when challenged by the now Deputy Sam Mezec. While such behaviour is wholly insignificant set against the allegations of actual horrendous abuse levelled at the other two media figures I mention, I have to suggest all of this raises disturbing questions and ones which you cannot help but think say a lot about both the trashing of the Haut de la Garenne investigation; and why the Jersey media appear to have such a poor record of exposing child abuse set against their UK counterparts.

578. As to the [REDACTED] <sup>73</sup> allegations I suggest that it is surely apparent that searching questions – under subpoena if necessary – simply must be asked of the then Attorney General William Bailhache and every one of the Establishment individuals involved in then Chief of Police Graham Power's inexplicable and demonstrably 'fast-tracked' suspension. Certainly States CEO of the time Bill Ogley; Chief Minister Senator Frank Walker – a close friend and colleague of [REDACTED] <sup>737</sup> through their longstanding positions with the [REDACTED] over many years – and the demonstrably out of his depth and proven liar then Home Affairs Minister Deputy Andrew Lewis. Did any one of them know about these allegations at the time of their involvement in Power's inexplicably hurried suspension? The Care Inquiry needs to clarify this.
579. I say this as well because I share the contention with many others who have actually put in the work to look behind the propaganda that ultimately the clearly groundless and politically motivated suspension of Graham Power holds the key to everything that has happened since. Indeed, as the Napier Report concluded there was not sufficient evidence to support the suspension of Graham Power.
580. Yet what Power's enemies and opponents within the 'Jersey Way' were allowed to do largely by the Island's media refusing to report things accurately was permit the Establishment to not only bring the child abuse



investigation to a shuddering halt; but by removing the Chief of Police from the picture buy themselves time to hunt around for, and even where necessary invent the grounds that would merit their action in retrospect.

581. To this regard the aforesaid Scrutiny Sub-Panel Report – which I can say its members were humbled to hear actually lauded by some as the ‘most defining Scrutiny report of its time’ and even somewhat surprisingly praised by the Home Affairs Minister himself *eventually* and beyond doubt reluctantly - is obviously a document which throws much additional light on ‘the Jersey Way’ attitude at play during all of this.
582. I thus contend that it is most relevant to the Inquiry team’s work and hope that it is considered fully and in the light of the searching for the truth by which it was undertaken. I would also – not for the first time – place on record my thanks and respect to the colleagues who sat with me on it; to the two bloggers whose diligent work convinced us it was necessary; and to then Senator Sarah Fergusson whose support in the face of Ben Shenton’s objections was so important in ensuring it got started at all.
583. Trying to round this part of my statement up to a conclusion I would say that my experiences with the Scrutiny Report – both getting it off the ground and in the Establishment attitude to its evidence-based conclusions subsequently - hugely influenced my approach in politics in future. Indeed, the reaction to the Scrutiny Report demonstrated this stance and the much quoted ‘Jersey Way’ perfectly.
584. Despite what I perceived to be important findings which suggested (as just a few examples) that Jersey ministerial system had a lack of appropriate control mechanisms in position to prevent the Operation Rectangle financial situation in the first place; the strong criticism of State media behaviour; the completely without foundation attacks focusing on bogus fabrications such as millions of pounds of taxpayers’ money Power and Harper had allegedly wasted; the enjoyment of a lavish, ‘Hollywood’ lifestyle at taxpayer’s expense; unnecessary trips to witnesses in Australia etc the Scrutiny Report

had zero impact where it should have mattered: in the States. And although it was given token media attention briefly, it achieved – in my view – absolutely nothing.

585. Other than that it helped ensure that the truth will be recorded for posterity. Probably the same thing that is all the COI's eventual report will do. Not nearly enough but important all the same.
586. Actually, I should probably qualify this, enlarging upon the above I suppose by adding that its benefit and importance will only come about in years to come when we hopefully have people in power whose opinions and actions will not be prisoners to fear and vested interest and the need to cover their tracks. The Committee of Inquiry of course has the opportunity to much enlarge upon the truth exposed by what the Scrutiny Sub-Panel did. Whether they will I do not know. But if they do I hope the brave tenacity and true investigative journalism of the aforesaid Citizen's Media bloggers, McMurray and Sorda will get the credit they deserve in relation to the Scrutiny review coming about.

### **Boxes of hidden evidence relating to abuse at Haut de la Garenne**

587. Now here we have another real 'Jersey Way' gem. Possibly of so much importance that I very nearly insisted we talk about this in the interview first. Hidden – and in my analysis clearly deliberately hidden – crates of evidence that proves beyond doubt the Establishment really was facing complaints about child abuse in the 1970s and 1980s: no matter how much it has been denied. As the COI will note I inadvertently found myself touching upon this earlier with comments I made about asking William Bailhache what he knew about this – if indeed he knew anything at all. Which to recap was what he claimed.
588. Fairly late in my political career a source told me that they were aware of some documents a *lot* of documents - that had been buried in the basement area of the States Property Holdings office up at the Education, Sport &

Culture premises at Highlands. And what was equally intriguing and also disturbing was that this significant amount of material had been stumbled upon not too long after Chief of Police Graham Power had been stitched up, suspended and the child abuse investigation of Lenny Harper effectively put into mothballs.

589. My source – I will obviously not risk revealing the person’s identity here (the CO!’s lawyers know this already and I do not want the individual subjected to any potential recriminations) - came across what was described to me as between three and five large boxes worth when collected together of documents once he had begun to sift through the material whilst clearing out some store space in 2009.. The documents appeared to all relate to Haut de la Garenne.
590. What makes this so disturbing is that these were evidently not just any old paperwork or records. The documents were correspondence between a wide variety of lawyers, parents and Haut de la Garenne’s ‘overlords’ – if I can put it that way - complaining about the abuse of children there.
591. My source stated he informed his superior, a lady named Carol Le Monnier, the Head of Property Holdings, Brian Smith’s PA about these boxes of documents. He also advised me that having done so Carol Le Monnier examined the material to verify its relevance to the abuse inquiry at Haut de la Garenne. In my source’s words it was clear that upon doing so Carol Le Monnier was ‘visibly upset’ at the content. Much of what was read was apparently ‘harrowing’. Not my words...
592. It appears that Carol Le Monnier to her eternal credit then did the correct thing in contacting superiors at the main Property Holdings office situated in Hill Street. According to my source it was then requested that the boxes of documents be immediately transferred to Hill Street. However, what is so important here and evidence of the credit Le Monnier deserves, is that it is stated that whilst Carol Le Monnier agreed to do this she did so *only* upon agreement that upon delivery the boxes would be signed for. My source

further tells me that Carol Le Monnier was accompanied and driven down to Hill Street to deliver this material by another employee Ann Bishop.

593. Again according to my source the boxes were taken into the keeping of David Flowers and Ray Foster and that upon the handover of the quite extensive number of documents in these boxes they *were* signed for.
594. Learning of this my source understandably assumed that the material would be handed over to the senior Police officers who had inherited the Operation Rectangle upon the retirement of Lenny Harper and the sudden suspension of Graham Power. This is obviously quite understandable.
595. My growing concern however arose upon later reflection that even if these boxes *had* been handed over directly to Police this would have been in the time of Mr Warcup and Mr Gradwell who in my view had done so much to try and undermine the Haut de la Garenne investigation set in motion by Power and Harper. If – and it must be an ‘if’ until we can find out for sure – they had instead been handed over to Flowers’ and Foster’s ultimate *political* superior this could also have meant alternatively that the documents were handed over to the politician ultimately overseeing Property Holdings.
596. I believe that at the described time this department will have fallen under the control of the Treasury & Resources Minister who was Senator Philip Ozouf. I suggest that the Senator – or if I am mistaken, his Assistant – need to be questioned by the COI to see what light can be shed on this – if any. The person with political responsibility for Property Holdings may of course never have gotten to see this extensive amount of crucial material at all; or never even have been told about it. Thus all involved need to be questioned.
597. In wondering if all really had been as it should – certainly it is clear that the original finder of this considerable amount of documents and his superior Carol Le Monnier demonstrably *did* do the right thing - I have subsequently tried to locate where these boxes of documents went but have drawn a blank.

I left two messages asking that Carol Le Monnier could please contact Deputy Pitman with no reply.

598. That I got no reply could very well of course mean that she was never even given the messages: I certainly did not say what my request arose from for obvious reasons. I also asked the man who would have then been Attorney General as I have mentioned. With no answers being forthcoming this is why in the course of my first contact with the Inquiry team I provided them with all that I knew. I have to state that I have been deeply disturbed to learn that upon request for them the States now apparently claim that they cannot account for these boxes of a significant amount of evidence.
599. I think it is very, very important that the Inquiry is able to locate these boxes or at the very least find out what has happened to them; particularly in establishing just *who* had them last. Any claims that the material really wasn't important etc without the Inquiry being able to verify this for itself would surely – in my view – need to be treated with the gravest suspicion. Indeed, if the documents (when even quickly initially sorted we must remember are stated as being in the quantity of some three to five boxes worth) have been destroyed or disappeared I would argue that whoever is responsible really must face some kind of criminal action.
600. I am, of course, aware that important documents and records being inexplicably 'missing' is a recurring theme in the scandal arising from the Haut de la Garenne investigation. This in itself I, like others, find hugely suspicious and direct evidence of wrong-doing. My understanding is that the information in those boxes – and certainly the ones I refer to - could add significant weight to some of the stories that many of the victims have been telling both to me, others who have been approached for help and the Inquiry itself.
601. Several boxes of evidence discovered so recently simply can't have disappeared or been 'mislaid' by chance. If they cannot be accounted for I suggest they clearly have been destroyed deliberately and those found to

have last had possession need to be questioned. And if no plausible explanation can be provided they surely need to be charged with attempting to pervert the course of justice.

602. I simply shudder – knowing as I do of victims who have claimed their abuse was complained about to authorities; but has been dismissed and the individuals even threatened with Police action as ‘liars’ – imagining what it would do to such victims. Knowing that evidence that might back up their claims has not only been hidden once; but then be found by someone who was honest only to then be hidden all over again to protect the guilty. Even worse – actually destroyed.
603. I thus trust the Inquiry will leave no stone unturned in trying to locate them; including if necessary subpoenaing all of those identified and alleged to have had possession of the material after its finding – even more so perhaps any and all who might be claimed by these people to have taken ultimate possession. For example, alternatively to being passed to the politician ultimately responsible for the department within which the boxes of evidence were found: could these boxes of Haut de la Garenne evidence have ultimately been handed to the individual at the very top of Jersey’s Civil Service after they had been signed for by the named individuals? Could they even have been claimed by those at the apex of the Jersey Judiciary? We need answers.

#### **‘Missing’ records/documents - a familiar story**

604. Whilst on this subject I am aware of other constituents who have requested details of people who were on what might have operated as a ‘Board of Governors’ or oversight committee at Haut de la Garenne – indeed, my former colleague Deputy Mike Higgins has done this - but this information also apparently cannot be found.

605. I ask the Inquiry to consider and investigate: can this really be in any way plausible? In addition, I know that Shona has tried to assist one of her constituents who is an abuse victim in locating photographs of Haut de la Garenne formerly housed at the public library. Yet when the member of staff – who confidently confirmed that they still ‘had lots of photos’ of the children’s home – looked there was now only one solitary photograph. The member of staff could not explain it.
606. The Library is under the ultimate control of the States of Jersey as I understand it so I ask the Inquiry to consider investigating just how and/or why these seemingly large quantities of material could be vanished away and for what purpose. Did the Police remove them in the course of the original investigations – or were they removed later once Power had been inexplicably suspended; Warcup and Gradwell had been brought in and the orchestrated trashing of the abuse investigation had begun? Again, this could be quite innocent or something more sinister: one would certainly expect a member of the Library’s staff to know if some kind of legitimate order had been made to remove such material.
607. Whilst the two may, of course, be wholly unrelated I raise these concerns due to one of the victims whom I have attempted to assist not only been informed that statements he made to the Police as far back as the 1980s have been ‘misaid’; but has even been threatened with prosecution if he did not drop his claims of abuse at Haut de la Garenne. The claim being that this victim was ‘never there’.
608. Thankfully others at the home can actually recall him there. Just how disturbing is this I ask? The victim happens to be an individual claiming to have suffered abuse including multiple burns with cigarettes: something which having listened to the man accused of doing this give evidence I was both disturbed and pleased to note had been described by a specialist doctor as being consistent in his opinion as a possible cause of multiple scars remaining on the victim’s back.

609. As a final observation on this particular issue I would illustrate the complete implausibility of these missing or mysteriously mislaid records with the following comparison. I outlined at the beginning of this statement in being asked to set out some background that in 1996 I took over what became the Island's biggest youth service facility. The fact is that even now – almost two full decades later – records exist as to who my staff were; who sat on my Management Committee etc.
610. Indeed, even were these records to be somehow wholly destroyed it would still be easily possible to track down and establish who these individuals were simply via the memory of interviewing individuals. I thus ask the Inquiry to consider and subsequently push for answers as to how when it comes to official governing bodies/boards responsible for the welfare of vulnerable children actually taken into the 'care' of much bigger institutions – taken into care by order, we should not forget as opposed to attending a youth provision by their own choice – all of these records of the 'great and the good' who sat on the boards overseeing them apparently cannot be found?
611. Such claims are as ludicrous as they are disturbing: they just could not happen without deliberate intervention/interference.
612. Not every Bailiff, Attorney General, Education or Health Committee President, Civil Servant or Senior Police Officer over all of these years can be dead or have gone 'missing'. Likewise local lawyers who represented families or even children themselves. They must surely be tracked down and all and any living individual subpoenaed to give evidence.
613. It surely also goes without saying but following on from the 'three to five' large boxes worth of hidden documents I have revealed not all records of such things can have plausibly been 'mislaid' either: unless we are talking about an almost World War Two Nazi-like orchestrated destruction to hide the truth and protect the guilty. This does, of course, seem to be the 'Jersey Way' – hide or destroy the evidence, claim you 'don't know' how things could



have happened; say 'what is important is moving forward' and take the flak for such 'unfortunate' mysteries.

614. Knowing, no doubt, that this will all be far more short-lived and less damaging than letting the truth come out. My concern – which I feel I need to document here for the record – is to ask: just what avenues are open – if any – to the COI when this inevitably happens? For without any external and independent intervention being triggered if the COI agrees with these interpretations of a deliberate and orchestrated covering of tracks those who have allowed all of this abuse and subterfuge to happen over so many decades will simply remain in power. For the victims this will be nothing more than yet another huge kick in the teeth. I thus urge the COI to do everything it can to ensure its final report/conclusions are listened to and trigger external intervention as highlighted.
615. To move on from this. Given that I have been asked to recount all and anything which I believe may be of relevance to the Inquiry and its Terms of Reference in their attempting to establish just what has happened regarding the child abuse scandal - and because I see this as being suppressed since I came into politics - there are a handful of other issues which I also think I should briefly flag up before ending this statement. They are matters which are clearly sinister and yet for which half-plausible explanations have never been provided.

### **The truth about the attempts to breach the HDLG Police cordon**

616. I believe that it should be quite apparent that misrepresentation of facts and even downright lies have been employed by the Jersey Establishment in attempting to distract from much of the truth about Haut de la Garenne. One such incident which I believe has never been sufficiently explained – or indeed adequately pursued due to the lies spun is the mysterious attempt by two individuals to cross the new Police cordon upon the children's home first being sealed off. Intriguingly on the part of at least one of the individuals – there were actually two – as she demanded access to 'retrieve documents'!

617. I lodged questions of the Home Affairs Minister, Senator Ian Le Marquand on this subject in March of 2013. The first was a written question on 5<sup>th</sup> March I attach as **TP20**. I also raised the matter orally; quite possibly within a 'questions without notice' session but am afraid I cannot recall the date. The answers as displayed in the attached written format are nevertheless most revealing. This is because the Minister attempts to wholly mislead the States as to the true identity of those involved – doing this even though I know he knew the true answer. So why the subterfuge?
618. The Inquiry will note that the name put forward by the Minister was that of his Ministerial colleague Deputy Kevin Lewis; the smokescreen utilised for the suggestion being because of Lewis' previous link to the site when on the Bergerac BBC TV production team. The fact is however that the Home Affairs Minister knew full well that the politician involved was, indeed, a Ministerial colleague: but no less than the Health & Social Services Minister, Deputy Ann Pryke.
619. I suggest to the Inquiry that this demands robust investigation as former SIO Lenny Harper has stated that Pryke's excuse for demanding access was to retrieve unspecified documents. Secondly because Pryke's late husband, Roger I believe, had actually been a Jersey Police officer and, as I recall, had even been named in relation to linked abuse inquiries as far back as the Jervis-Dykes/Victoria College scandal. Again, I apologise for not having full recollection of this last aspect. Unfortunately there has simply been so much that a few of us tried to look into out of determination to secure justice; both for the abuse victims and the senior Police officers being trashed to protect the guilty and jersey's 'reputation'. I obviously make no allegation of wrongdoing by the Deputy's late husband I should point out; though I am aware that his involvement in inquiries has been criticised elsewhere.
620. I would however once again suggest that a way to verify and clarify all of what I say and its importance (if any) might be by interviewing Lenny Harper and Graham Power themselves. Indeed I think this to be essential. And then

the pair of individuals who evidently *did* try to breach the police cordon for reasons as yet unexplained and which in my view must be considered suspicious.

621. The second individual who attempted to cross the Police cordon was none other than a man who is still a Social Services employee to this day: Mr Danny Wherry. [REDACTED]

622. What, I ask the Inquiry to consider, [REDACTED] ever need to suddenly cross a Police security cordon for – even if he went with a Health Minister? Of course this according to what Scrutiny was told by Mr Harper he did not do. Although it has been started by other sources. Wherry apparently attempting to gain access the day after Pryke, as I understand it. [REDACTED]

[REDACTED] – this attempt to breach the Police cordon needs answer we have as yet been denied.

623. I believe that once again the clear subterfuge evident in these misleading and frankly knowingly dishonest answers from senior political figures – remember this one came from the Home Affairs Minister himself, Senator Ian Le Marquand who would ‘re-suspend’ Graham Power more than once - reveals yet another example of ‘the Jersey Way’. For it is clear the Minister knew the truth even as I did before I asked the question. So I ask again why did the Minister mislead the Assembly? I actually asked him about this afterward. He made no comment other than claiming that he ‘wasn’t’ aware. Completely ridiculous.

624. Indeed, perhaps that Transport & Technical Services Minister Deputy Kevin Lewis knew the finger was falsely being pointed at him yet said nothing also demands answers? Was he being pressured to support this red herring by

remaining silent? If not one would reasonably expect the Minister to be on his feet immediately proclaiming 'Nothing to do with me, Guv!'

### **'Cellars' underneath Haut de la Garenne *did* exist**

625. Following on from the above yet more attempts from the Jersey Establishment to mislead other States Members and, perhaps even more importantly, the public may be seen in regard to the issue of cellars beneath Haut de la Garenne; cellars, of course significant to a number of allegations of child abuse. I ask the Inquiry to keep in mind that under Warcup and Gradwell bogus claims were made that no cellars even existed – just 'cavities'.
626. Given that I believe I am right that former Deputy Bob Hill is (or perhaps has) also given evidence in regard to this – Bob is undoubtedly due the major credit for demonstrating the misinformation on this to be the false propaganda it was – rather than repeat facts I will simply attach as evidence **TP21** of a reference link to a most revealing blog and video featuring former Deputy Hill featured on the Voiceforchildren Citizen's Media blog; the owner of which filmed the video..
627. I would also finally add on the 'cellars' subject that the aforementioned former TTS Minister Deputy Kevin Lewis should also be questioned on the issue: his knowledge of the HDLG site is extensive due to his former 'Bergerac' involvement. For some reason he has not spoken up about a great deal that would surely be useful in de-bunking so many of the Warcup/Gradwell era lies spun to the public by the Establishment media and in the States itself. One of these as I remember is in regard to the truth about the existence and use of the much-mentioned Haut de la Garenne communal bath.

### **The skip driver asked to take away bones**

628. Amongst many disturbing incidents arising out of the Haut de la Garenne scandal was one arising when I was contacted by a member of the public named Mr Roger Rabet. This gentleman told me he had in the past been employed as a skip driver. He was not quite sure of the date but it was whilst the Haut de la Garenne home was still operating. He nevertheless told me in some detail about how he had once been sent to Haut de la Garenne to collect and then dump a skip meant to be filled with rubble.
629. Upon looking at what he was being asked to take away however he stated he was shocked to see that there were bones amongst this rubble. He was quite adamant that to him some of these looked human. As I understand it initially it appears that Mr Rabet had refused to take away the skip so great was his concern. However, having been ordered to do so he demanded that the collection receipt at least be marked with the word 'bones' in order that this could be traced should there be any comeback.
630. With this being refused a compromise was agreed which apparently saw the docket marked not with the word 'bones' but with a circled 'B'. I believe the material including the bones were subsequently dumped at an infill site. The exact location of this I do not know. I advised Mr Rabet to give this evidence to the Police which it seems he had done. I am unaware if Mr Rabet has yet given this evidence to the Inquiry or not.
631. However, I believe its veracity can be verified within Lenny Harper's original Police investigation as upon trying to check this story out I was told that the skip collection docket marked with the circled 'B' for bones had been tracked down. I still to this day regard this episode as not having been fully explained: not least because I believe that the material collected and dumped so many years ago could not be traced. I believe however that Mr Rabet would be a most worthwhile witness as someone who was concerned upon being confronted by an inexplicable and disturbing situation; and who did the right thing. If interviewed there is surely the possibility he may be able to fill in a few more of the gaps.

## **Unexplained 'lime pits' and forced abortions**

632. The Inquiry will be aware that one of the most alarming allegations arising from Haut de la Garenne must be stories of teenage girls having to agree to forced abortions. I have met and talked with such individuals. Nevertheless, given that I believe that this victim has given evidence to the Inquiry I will not repeat this story – as I have said the stories of the victims I have met with and/or supported are for them to set out unless they find it impossible and ask me to do so. I will instead add only this as it is a matter which has disturbed me for a number of years.
633. Testimony was given to the Police investigation alleging that builders were called to Haut de la Garenne to dig and later fill in what was described as 'lime pits'. As it appears to me that there is no readily logical explanation as to why a children's home – *any* children's home – would need to have a lime pit dug; or why these should then need to be quickly filled in I question whether the two incidents I describe may be linked.
634. To the best of my knowledge and in acknowledging that a number of colleagues and I have asked so many questions over the years – both within the States and more discreetly – this 'lime pit' issue has never been satisfactorily explained. I thus believe the Inquiry team should try and establish once and for all the truth regarding this and the allegations of forced, under-age abortions: whether the two are linked and whether enough was done to investigate this once Lenny Harper had run out of time having to retire; and Graham Power had been suspended to shut down their inquiry.

## **The elephant in the room: JAR 06**

635. I have deliberately said little about so much of the evidence uncovered by SIO Mr Lenny Harper's brave and in-depth investigation into Haut de la Garenne. But whilst reams could be written about such ludicrous attempts to dismiss such evidence as the large number of children's teeth apparently falling through the same crack in the floorboards; evidently deeply disturbing

fragments of bone etc; one aspect I must briefly comment upon is that of the much discussed 'skull fragment' which in many ways became the favoured weapon of mocking attack by Harper and Power's enemies and detractors all the way from the Home Affairs Minister to the Establishment goons of Jersey's 'accredited' media.

636. All I wish to flag up for the Committee of Inquiry is one simple question – yet a question which to my mind really is the symbolic elephant in the room in considering the whole manner in which the Establishment has sought to trash and ridicule the whole Haut de la Garenne investigation to protect what they see as Jersey's 'reputation': if this skull fragment (and we should not forget Mr Harper never claimed this meant HDLG was a homicide case) was found to have collagen in it what could have scientifically happened to this when under the stewardship of Mr Warcup and Mr Gradwell the fragment had miraculously changed size, shape and weight? Indeed, the never asked yet logical question to ask was: why did Mr Gradwell even send it off for testing a second time when it had already been eliminated as too old to be relevant to the investigations? What was the motive?
637. The logical conclusion as to why the object had allegedly changed shape, weight, size and texture, just as many people have suggested to me is that the reason is likely to be because the objects analysed simply were no longer one and the same: a conclusion which would raise some truly disturbing questions. I hope the Inquiry will ask them. Mr Gradwell, so keen to discredit Mr Harper, really should finally be held to account himself. And an explanation for how collagen could be found in a coconut be revealed?

### **Leah McGrath-Goodman: the Stasi-style monitoring of a US journalist**

638. Though I suspect some might argue that the following details relating to the American journalist and best-selling author Ms Leah McGrath-Goodman falls outside of the Inquiry's Terms of Reference I would argue to the contrary: the treatment of the journalist – a true investigative journalist simply determined to do what her Jersey counterparts did/would not – speaks volumes about

the 'Jersey Way' which many of us see as central to all of what the COI is investigating happening. Her treatment demonstrates the government attitude to child abuse and the revelation of uncomfortable facts.

639. Indeed, frankly resembling testimony of events occurring under regimes such as that of the Stasi secret police in former Eastern Germany, the treatment to which Ms Goodman was subjected are valid simply because they demonstrate in stark detail the manner in which 'the Jersey Way' is so entrenched within Establishment Jersey; and by which those who threaten to unearth buried secrets are intimidated and harassed; even ruined.
640. Once again I hope that Leah McGrath-Goodman will be called or decide to give evidence. Her experience in being 'flagged up' at the Jersey Establishment's request at an international airport in London; and her subsequent wholly illegal time and manner of incarceration are certainly best described directly by her.
641. However, as the local politician who played a significant part in the eventually successful attempt (most of the credit must go to then Liberal Democrat MP John Hemming) to get a wholly unwarranted two year Visa ban preventing her from re-entering the UK and thus Jersey – the true purpose of the 'UK decision' - overturned I feel that I must provide evidence on at least one aspect of her treatment at the hands of the political clique who have long hijacked our democracy.
642. This evidence relates to what were clearly the beginnings of the 'sledgehammer to crack a nut' response – a response starkly demonstrating the paranoia affecting an Establishment terrified of everything and *anything* resembling any kind of threat - to Ms Goodman's continuing and increasingly known commitment to helping uncover the truth about the Jersey child abuse cover-up; long after other international journalists had given up and moved on to the next story of course. At the heart of this lies the Jersey Immigration authorities based at Maritime House – an organisation which I must highlight I have no animosity toward; nor had I had any previous dealings.



643. Indeed, the leadership of the Immigration office appear to have become disgruntled with me purely because they were – as they were bound to be – eventually drawn into political and public concern over the very dubious and of course controversial action to ban Ms McGrath-Goodman from entering the UK on her way to Jersey. I should add while I think of it that I was of course behind an international ‘on-line’ internet petition calling for Leah’s visa ban to be overturned; doing this as a part of a campaign that as mentioned also saw UK MP John Hemming raising the matter in the House of Commons.
644. Along with attracting thousands of signatures however what I feel was of more importance was the evident ‘hassle’ consequently experienced by the UK Border Control authorities – and no doubt passing up the political chain - from members of the global community calling and emailing them. I know this to be true because I received complaints – both by phone and email - about this and demands that I alter the contact details of the petition.
645. It was claimed aspects of this were no longer correct and was causing much internal annoyance/consternation. I admit that I not only refused to do this – simply ignoring it; but also felt that if it was helping make the whole banning of Leah McGrath-Goodman more of a ‘pain in the butt’ to the UK authorities so to speak then this was a positive step toward getting the injustice resolved. I attach a copy of the lead page from the on-line petition as **TP22**.
646. The fact was then that at pretty much the same time feathers had clearly been ruffled down at Jersey’s Immigration department as well. Indeed, they were clearly disgruntled about the publicity my questions and related public statements of support for Ms McGrath-Goodman were generating. What is really important here – and what I believe is very relevant to the Inquiry in seeking to understand both the ‘Jersey Way’ attitude and political climate; and whether the appropriate political approach to an highly respected international journalist was pursued; or whether the Establishment simply

tried to prevent further global reporting of the scandal arising from what had been exposed at Haut de la Garenne. My money is on the latter.

647. As I hope I have made very clear I believe it to be abundantly obvious that what happened to Ms McGrath-Goodman was simply yet another example of the 'Jersey Way' kicking in from those at the apex of the Jersey Establishment to try and intimidate and silence a stubbornly nose-y international journalist who was refusing to follow the pattern of her local contemporaries by accepting and reporting whatever old propaganda was being spun. Ms McGrath-Goodman to her credit was instead asking pointed, intelligent questions. And she clearly wasn't going to go away without plausible answers.
648. To cut a long story short it came about that my taking up of Leah McGrath-Goodman's visa ban eventually led me to a meeting with the Immigration hierarchy at Maritime House after a few exchanges on the subject. Two things only arising within this meeting do I wish to place on record for what I believe to be their relevance to the Inquiry and what I have just said.
649. The first was the initial – and frankly bizarre 'Jersey Way' contention (they had obviously not noted my approach to politics or the Establishment) that I 'must' accept their statement that they had not been involved in any way in the US journalist's 'flagging up' and redress my statements.
650. This was stressed to me initially I felt quite aggressively. Indeed, the term I use is not my own – the statement that 'I must accept' what they were telling me was exactly what was said. This obviously lasted about two minutes. Civil servants may well be considered as regularly calling the shots and imposing their views on politicians by many in this island but I was certainly not going to accept it.
651. To be quite fair here I nevertheless state for the record that I also fully respect the Immigration officers' right to hold their own position/opinion on what happened. Just as I likewise protect the right to maintain mine. I would

add only to this regard that as I stated I had formed my opinion based on the evidence. As things would transpire whilst the initial 'frosty' atmosphere of the meeting gradually thawed what happened within the meeting would only reinforce my original view.

652. Thus what is of real importance here arose from this difference of opinion and my statement that I only redressed or retracted comments according to seeing evidence to the contrary. As I recall I asked to see any records they had on Ms McGrath-Goodman to this degree. This was important because the officers – there were two in the room most of the time – claimed that Ms McGrath-Goodman had been reported on i.e. 'flagged up' as breaching the terms of her visa to be in Jersey by the long-standing friend whom she was staying with. This seemed to me utterly implausible and I said as much.
653. For the record I should point out that though I have met Ms McGrath-Goodman many times now I do not know the identity of her friend with whom she was apparently staying. I do know that Ms McGrath-Goodman considers the possibility of this having happened wholly ridiculous.
654. It was also claimed that Ms McGrath-Goodman's partner had drawn attention to her in – apparently – approaching local employment agencies for temporary work whilst he was here. I must point out that if such an individual even existed or was in the Island I was unaware of this. I nevertheless also found this explanation implausible and again, as I recall, said so. The outcome was that I again asked to see any records that they had and - quite surprisingly this led to me being offered just that. Or so it at first seemed.
655. The fact is the records I was shown made one thing only abundantly clear: the journalist was being *monitored*. For whilst I recall there were references to both incidents outlined above there was nothing in them whatsoever to explain how the incidents recording/reporting actually came about.
656. I recall making this point and being told – quite probably wholly understandably from a security point of view, but not at all if they wished to

convince me of what was claimed – that the details of the individuals – including the officers - involved was within a different and classified report. I asked to see this but was not surprisingly refused.

657. The point I wish to stress then is that a visitor to the island, and certainly someone who had both been to our shores many times before and was clearly not doing anything criminal or even deliberately underhand (even if one accepts the line that Ms McGrath-Goodman had ‘the wrong visa’ – a bone of contention in itself given the farcical mismatch allowed to develop between mainland and Crown Dependency) was being monitored on the order of Island authorities. It was also acknowledged as I recall that Ms McGrath-Goodman had had no problem with the London-based UK authorities prior to becoming ‘a person of interest’ to the Jersey authorities.
658. Just who would have triggered – initiated – a law-abiding international journalist to be monitored was a question I asked but got no answer to. This in my view needs some answers not least due to the reasons I outline below.
659. Given that during both the Haut de la Garenne furore and subsequently I have spoken to a number of international journalists – and from a variety of countries at that - visiting the Island to research and report I can state that I have not once encountered a single one who ever experienced the same problems as Leah McGrath-Goodman.
660. The one difference in all of this appears to be that she is the one journalist who has come back again and again – and quite publicly so eventually – to investigate all of the events surrounding the Jersey child abuse inquiry.
661. Similarly, by her own admission Ms McGrath-Goodman’s ‘visa problems’ only appear to have arisen when she mentioned this to Immigration officials. I have little doubt the journalists’ ‘flagging up’ was set in motion solely on the instruction of the Jersey Establishment; who at the time had little idea that their actions would become so internationally public.

662. The guarded wording of this meeting left me in no doubt as to where and why the American journalist suddenly came to be of interest to the UK itself. I am of course not suggesting for a minute that all of this originated from the Immigration Office itself. Viewed in tandem with the implausible story about Ms McGrath-Goodman's friend; the refusal to confirm who those actually monitoring Ms McGrath-Goodman's movements and actions were – Immigration officials or rather plain-clothed police – left me in no doubt instruction was coming from the very top of the Jersey Establishment.
663. Whether Home Affairs or the unofficial Jersey 'rulers' of our disgraced and unelected Judiciary is open to question. My money is on the latter.
664. Finally on this subject I repeat the contention that this was all clearly meant to obstruct and intimidate – a warning shot across the bows if you like. Fortunately Leah McGrath-Goodman is evidently made of sterner stuff – the 'stuff' in fact of which Jersey's own mainstream media are so obviously lacking.
665. Why I think this whole saga important and worthy of the Inquiry's consideration is that these wholly over-the-top actions may be seen to echo other matters such as the mass Police raid on the former home of Senator Stuart Syvret and his then partner: they reveal how willing some people in power are to go beyond the legitimate to try and intimidate and silence.
666. For the record I am thus most pleased to have been able to play a small role in seeing Leah McGrath-Goodman's embarrassing travel ban lifted.

### **Evidence that nothing within the Establishment attitude to abuse has changed**

667. One of the regular excuses one hears from within the Jersey Establishment as a vindication to leave the failings and abuses of the past behind; and those responsible unaccountable is that such things 'could not happen today'. Indeed, the States speeches of some of these apologists are littered with such crass platitudes as 'lessons have been learned'; 'we need to move

on'. I will now outline very briefly a case which I was still helping a member of the public to fight at the time of my forced removal from the States; and which demonstrates beyond a shadow of a doubt that nothing at all has been learnt by the defenders of the 'Jersey Way'.

668. I would add at this point that having encouraged the individual in question to come forward himself - so revealing is his case - that I believe he may already have provided a written statement of evidence; likewise the former political colleague, Deputy Mike Higgins, to whom I passed the case on. In adopting the same approach that I have had with other 'victims' – i.e. simply supporting and encouraging them to come forward themselves rather than repeat it all myself – I will outline only the crux of the incident necessary to demonstrating my contention that really nothing is any different from pre-2008.
669. Set out briefly this member of the public I was helping – like hundreds of others he was not actually from within my St. Helier constituency – approached me precisely because he was so concerned by how the authorities – police, courts and Health/Social Service professionals – were dismissing what was immediately obvious as a very serious child protection incident. Indeed, he told me he approached me wholly because I was the most prominent States Member then constantly challenging the Establishment and not backing down until I got answers.
670. The incident at the crux of this contact involved a very young toddler. Indeed, what had taken place – and I will very briefly describe this in a moment – was actually being claimed by all involved as *not* a child protection concern at all. I have to state I found such a contention being made by States professionals' and condoned by their ultimate boss – the Minister for Health & Social Services, Deputy Ann Pryke – horrifying. I would hope the COI will eventually conclude the same; and see the relevance to what they are investigating.
671. The crux of what this incident involved then was the said toddler – the son of the gentleman who contacted me – essentially being used as what I can only

describe as a living prop, a living sex aid if you like; certainly in my view as a stimulant to an oral sex act being undertaken between the mother of the child and an adult male. Without going into too much detail I will simply add that in evidence the toddler is being held in very close proximity to 'the action'. How can all of this be stated with such certainty the Inquiry may rightly ask? The answer – and a most shocking one when one considers the attitude of both police and Health/child care officers to this – is that the whole incident was caught on video!

672. I would make clear that this is not a case of a very young couple living in the one room accommodation of a bed-sit for example having no choice but to snatch some intimacy within difficult living conditions; doing so as discreetly as they can. This was starkly apparent choice within the mother's home lounge: the toddler demonstrably could have been put safely in another room but clearly was not: from my interpretation of the images and discussion with the concerned father because the male involved did not want this done.
673. Although the incident I describe is only a tiny part of a tape that is actually by all accounts around SIX hours long it is nevertheless simply jaw-dropping in my view that both the Police *and* senior Health officers could and would argue that this was not a concern. Remember this did not take place back in the 1940s – it happened in the second decade of the 21<sup>st</sup> Century! Similarly, contention from the Health 'professionals' to the toddler' father suggesting that what had taken place 'wasn't a problem' because the toddler 'won't have understood what was going on' are simply staggering.
674. The strain my former out-of-district 'constituent' has been placed under as a result of all of this – I really wish to leave any further details he may wish (or not) to set out up to him – has obviously been huge. The legal side of securing custody through a court and children's services which would not listen or in truth do their job as they should has cost the father in the region of £100,000. All I do wish to add nevertheless is that having given him political support with written and telephone approaches to the authorities I eventually

demanded and organised a meeting with the Health Minister herself – then Trinity Deputy Ann Pryke (now Housing Minister).

675. This was also to be attended by the two senior Health officers involved: Mr Sean Pointon and Richard Joualt. Two men who I would have to say at the bottom line – in my opinion - are Health/Social Service ‘professionals’ but who clearly do not think toddlers being used as sexual props – perhaps stimulants is a better term – merits classification as a child protection matter!
676. This meeting would eventually last approximately FOUR hours and yet was to leave me with a sense of disbelief.
677. That we have individuals holding Ministerial office despite being as demonstrably useless as a chocolate fireguard is nothing new to me: it is simply the way Establishment Jersey works i.e. happily handing out positions to even the most incapable of ‘head-nodders’ to ensure nobody rocks the boat and States votes can be won without risk to the ‘Kitchen Cabinet’ who call the shots.
678. Nevertheless that a Minister – *any* Minister overseeing such an important and sensitive department as Health (the biggest spending/costing department in Jersey I should also point out) would just sit through this meeting saying next to nothing – not even once questioning an assessment which was clearly as wrong as it was disturbing - whilst her two subordinates waffled; in fact played this incident down and made excuses is something I find to be as shocking as it is incredible.
679. To try and put this in a nutshell perhaps what is of key importance here, at least with regard to the matters being investigated by the COI, is that throughout this marathon meeting neither of the two ‘professionals’ or the Minister would take any responsibility nor admit that their judgement/actions had been flawed.



680. It is evident from correspondence between the father and the police that a similar attitude prevails: something I suggest also very illuminating as to how so many child protection failures keep occurring just as they have evidently done for decades – prior to the professionalism of Power and Harper. Post this pair it is sad to say ‘normal service’ has evidently been resumed?
681. Suffice to conclude that when one considers again this incident was not based on mere hearsay but that the concerned constituent had provided the authorities – Police and Health – with both video and still photographic evidence I believe all of those who somehow reached this incredible ‘not a child protection concern’ decision should be suspended and what happened independently investigated.
682. Truth be told in my opinion both the Health ‘professionals’ should be sacked and Deputy Ann Pryke prevented from holding any similar Ministerial role ever again. Of course – since the 2014 elections she has instead since been handed the role of Housing Minister! I genuinely believe this: the conclusions never mind the lack of willingness to acknowledge errors of judgement are simply staggering. An investigation also needs to be undertaken into who precisely within the police was responsible for reaching such a perverse and worrying conclusion from their side.
683. As to what I said about absolutely nothing having changed whatsoever in regard to the Jersey Establishment attitude and safeguarding toward child abuse – what more demonstrable evidence could one ask? The Minister, her officers and the Police officer who viewed and dismissed the video evidence should certainly be called in to the Inquiry to face questions on the matter. If they are all so confident in their assessment then as I said during the meeting: they should make the facts public and then see just how many of the public agree with them.
684. All of the above can be verified by the gentleman who contacted me: indeed, I believe he has already made a statement on what transpired.

## **The judicial corruption harnessed against former Senator Stuart Syvret**

685. Being aware of some of the background I dearly hope a compromise can be reached in order that former Health & Social Services Minister Senator Stuart Syvret may appear before the Inquiry to give evidence himself. Not only about the uncovering of abuse and the betrayal of the Haut de la Garenne investigation itself; but also about his own treatment by those behind the corrupt black farce that is the Jersey 'judicial' system since highlighting all of this.
686. In the meantime I nevertheless feel that as it appears likely I will be one of only a tiny number of political figures who will be giving evidence – even though many more could and indeed should – I feel somewhat obliged to talk about a small number of elements of this however briefly. Purely because it is relevant to the Inquiry - because all of this yet again shows how the much-mentioned machinations of the 'Jersey Way' – which, as is obviously apparent from the number of times I have mentioned it wholly central to what I contend underlies all that has been allowed to happen - is turned upon those who dare risk challenging the status quo by revealing its dark underbelly..
687. Politically manipulated votes of no confidence to remove Syvret from office; demonstrable abuse of position by an impossibly conflicted Bailiff; illegal police raids; secret courts – the Stuart Syvret saga has all of this and more and it all sprang from his actions upon realising matters were not as they should have been with elements of the Health & Social Services department of which he was first President and then Minister.
688. I stress - what I will briefly outline really is just the tip of the iceberg. The refusal of some of us to let the abuse cover-up be swept under the carpet has seen the reprisals cranked up to overdrive and Syvret has suffered hugely. Equally relevant I would contend this treatment reveals in glorious Technicolor a 'law' or 'justice' apparatus that is anything but *lawful*.

689. Yet those who control it – the Bailhaches, Birts and their underlings like former Attorney General and – surprise, surprise - new 2015 Deputy Bailiff, Tim Le Cocq - get away with it due to the indifference and even collusion of straw men Lieutenant-Governors; likewise Westminster, Monarch and Privy Council. But I repeat the brief points below are just a few of many.
690. I should state for the record that though our political philosophies are fairly similar in many areas I have not always agreed with the former Senator's view or the way he has approached issues on occasion. We have also had our differences as one would expect. Similarly I do not speak here on his behalf; he has not asked me to do so; I have not asked *him* about my mentioning some of his experiences, and ultimately feel it really is for him to tell his story – it is that important and he obviously has so much of importance to tell. Whether he will do so late in the day I do not know.
691. When it comes to challenging political and judicial corruption and the way this Island – my home and Syvret's home after all – has been hijacked and the 'law' manipulated and turned into a weapon of oppression for political ends I nevertheless obviously stand shoulder to shoulder with him every time: upsetting a few corrupt and/or self-important Establishment bullies by a little bluntness is surely far less of an evil than so much that has been allowed to go unchallenged.
692. What I mention briefly here are really then just selected 'snapshots' and in my view they arise as a natural consequence of decades of political and legal abuses and misuses *not* being dealt with by the UK who have ultimate constitutional responsibility as they should have.
693. What perhaps makes it all even worse is that even by the simple ending of the Bailiff's anachronistic - indeed anarchic - 'dual role' allowing these unelected, without public mandate judges to blend politics and 'justice' at will and abuse both to any end they so choose so much that has gone wrong in Jersey could not have happened; or at least could have been rectified once

exposed. The Crown Officers have been described locally as the 'Snake's head' of the 'Jersey Way' and I would have to agree with this contention whole-heartedly.

694. Having said all of this it is actually difficult to know where to start. What can be said with absolute confidence is that everything which has been done via the courts against Syvret is with the ultimate aim of trying to silence him; whether this be by making him bankrupt the same as the Establishment did to us; or by so ruining his reputation with the collusion of a lackey media that he becomes unelectable in the future and thus loses the prospect of such a political platform to fight for the many victims he has supported. Many would say that in regard to this latter point the 'Jersey Way' may have already succeeded.
695. In essence the Establishment have painted Syvret as mad, bad and dangerous to Jersey's reputation and thus prosperity – which is all pretty ironic when one considers the pathological liars who have been allowed to become Jersey's unelected 'First Citizens' over the past decades. Individuals, of course, who have actively orchestrated his abuse – and so many others - at the hands of Jersey's 'justice' system! Not to mention by the aforementioned interference in the political arena where if only Jersey had a proper 'separation of powers' they would have no leverage.
696. As someone else seen as politically outspoken - and a whole lot worse from the Old Boys' Network's point of view – also being very capable of articulating my views it is actually very easy for me to understand where Stuart Syvret's current problems have their root.
697. He was for many years – certainly through his first decade of office – almost a lone opposition to the Establishment in the States on many issues. Indeed, that 'the left' – the political Progressives blessed with a far greater number of people of talent than the Establishment per ratio of elected Members - failed to successfully put aside comparatively minor differences to work together is

a failing which demands reflection in itself.; though something obviously beyond the scope of the COI.

698. What is beyond argument is that the vast majority of States Members who would claim that they are 'independents' and not a part of the Establishment have failed victims by their timidity, silence and in many cases blatant cowardice. The famous Pastor Niemöller quote comes to mind here: in fact it could have been written about the attitude of 95% of the political colleagues I have known over my time in the States when it comes to challenging issues like Haut de la Garenne. Upon reflection it could have been written for 95% of States Members since the Occupation!
699. Nevertheless, even before his problems relating to his actions faced with evidence of child abuse cover-ups Senator Stuart Syvret had already been – illegally in the eyes of many - barred from the States for six months on the order of unelected judge and apologist for paedophiles, Bailiff Sir Philip Bailhache in 1996. This was for refusing to withdraw comments relating to the so-called LLP scandal; the 'Limited Liability Partnership' legislation being a morally bankrupt and frankly bogus piece of law fast-tracked through the States by Establishment figures to benefit the Finance industry and their legal/accounting offshoots.
700. Ironically – due to Jersey's lack of a separation of powers highlighted earlier - the only person Syvret could turn to locally to try and challenge this was the very person – Bailhache – who actually barred him in the first place. Opposing the same LLP scandal in truth cost another political critic of the Establishment, the then Deputy Gary Matthews his seat at the following election. Stuart Syvret's real problems however began when he started speaking publicly about the child abuse and State child protection failures the Inquiry team is investigating now.
701. This was all at roughly the same time as Graham Power and Lenny Harper were in the early stages of the Haut de la Garenne investigation as the Inquiry will know. Indeed, at the beginning it is apparent neither knew of the

others work; though in time the Police would, as I understand it, call Syvret in to make sure the two efforts didn't undermine each other unintentionally.

702. To keep this segment of my statement manageable I think first of all two comparatively early incidents need to be briefly flagged up as in my view they cast telling light on the political climate of fear and oppression in this Island.
703. The first I will briefly mention was the suppression of Syvret's Christmas 2007 States speech as 'Father of the House' where - rightly or wrongly - Syvret had chosen to depart from the usual lightweight frivolities and best wishes to the Bailiff and his Lady wife etc to make a hard-hitting speech about Jersey children suffering abuse.
704. That Syvret's microphone was turned off and the speech thus silenced was - once again - on the order of Bailiff Sir Philip Bailhache. A man, of course, who as I have stressed has so many questions to answer regarding some of Jersey's worst child protection failures. And now a politician as previously mentioned desperately attempting to get the abuse Inquiry shut down via scaremongering stories of £50.000.000 costs/will do nothing to help the victims etc.
705. The second and far more insidious example is with regard to how Syvret came to be removed as the Health Minister earlier that same year. Once again this episode really needs an entire statement – hopefully from Stuart Syvret himself. It is certainly directly entwined with the suspension of Chief of Police Graham Power which would follow at the end of 2008 – and for much the same reasons.
706. What I wish to briefly flag up for the Inquiry however is some background to the manner by which Syvret's removal as Health & Social Services Minister was brought about: essentially the construction of the infamous letter at the heart of this.

707. I would hope that the Inquiry team are already in possession of some kind of statement from former Chief of Police Graham Power for it is surely telling indeed that he himself talks of how he felt the States CEO Bill Ogle and others were attempting to involve him in a 'conspiracy' to have the then Health Minister removed in the lead up to the construction of this letter? If this is not the case I would suggest such a statement be requested as a matter of urgency for it surely goes to the very heart of the 'Jersey Way'.
708. Indeed, I contend that it is imperative that the Inquiry moves Heaven and earth to try and ensure that both Graham Power and Lenny Harper give public evidence – if assurances can be provided that neither man will be harassed by Jersey's bogus judiciary or current Police leadership. Power's insights regarding the background to the removal of Syvret as H & SS Minister would be most revealing given in public and thus without the Jersey mainstream media being able to 're-write' them to paint a different picture for public consumption..
709. In terms of Stuart Syvret's removal from his position as Health Minister, I am aware that Graham Power was called to a Corporate Management Board Meeting in July 2007. In his Affidavit Graham Power states the following in relation to that meeting,
710. "The feeling in the room was tense and there was general talk about the questions asked by the Health Minister and the need for some sort of action in response. I had the feeling that "something was going on" to which I was not a party. After the meeting the Chief Executive, Bill Ogle, asked me to stay behind. Also remaining were the head of States H.R., Ian Crich, the Chief Officer of Health, Mike Pollard and the then Chief Officer of Education, (Tom McKeon who has since retired.)"
711. It continues: "The Chief Executive said that it was anticipated that the Council of Ministers would tomorrow be asked by the then Chief Minister, Senator Frank Walker, to pass a vote of "no confidence" in the Health Minister and that this could result in his removal from office. I was then told of measures

that had apparently been put in place to facilitate this. I was told that the islands Child Protection Committee (C.P.C.) was due to meet at the same time as we were meeting and that arrangements had been made for it to pass a vote of “no confidence” in the Minister. It was then suggested that as the heads of the relevant public services we should do something similar and that this would give support to the proposal that the Chief Minister would bring forward the next day.”

712. What has become quite apparent and speaks volumes for the Establishment attitude to child protection in the island is that far from being an independent and original work apparently signed by the ‘author’ one Iris Le Feuvre in her role on the CPC it is evident, I know from the former Health Minister himself that having pursued the question of authorship it was confirmed to him by Mr Richard Lane who I believe to have then been a Medical Director at Health and Social Services, that with regard to the infamous Jersey Child Protection Committee letter itself, that there was collusion here with one of the then Minister’s senior officers – Marnie Baudains at the very least. The letter in question evidently being faxed by Marnie Baudains immediately following the CPC meeting.
713. Again I can only stress that I hope that former Senator Syvret will talk about the background to this himself. Set alongside Power’s assessment of a conspiracy being engineered by figures such as States CEO Bill Ogley the validity of the letter becomes all the more dubious.
714. Iris Le Feuvre of course is someone I have already had cause to mention in this statement being a central player in the Victoria College Board of Governors child abuse cover up which, as I described, eventually saw the evidenced paedophile supporting/child abuse evidence disregarding Vice-Principle of the College John Le Breton PROPOSED BY HER (with one other) to sit on the Royal Court benches as a Jurat to judge on ‘fact’ in court cases.
715. Royal Court cases which would of course include... child abuse!.



716. Leaving Stuart Syvret aside a moment I would ask that the Committee of Inquiry just consider this last fact again for a moment a man proven as happy to disregard evidence of child abuse (in fact actually bully abuse victims not to make complaints about their abuser according to testimony made to the Care Inquiry since my first interview!) being proposed by a one-time Education Committee President – and accepted by a Judiciary including Bailiffs and Attorney Generals to become a Jurat or lay judge.
717. I have of course referred to Le Breton's appointment and the background to this several times and make no apology for this. For I ask the Inquiry: does any more really need to be said about how inadequate, morally bankrupt and in need of total overhaul Jersey's Establishment and Judicial system are? Iris Le Feuvre's actions both within the Le Breton scenario and the contrived removal of Stuart Syvret only amplify this truth. Should the Care Inquiry doubt the accuracy of my contention then I ask they consider this further fact.
718. Iris Le Feuvre was, of course, also the author of another now infamous letter – this one of reference – full of gushing praise sent to the Maguires of Blanche Pierre children's home abuse shame. I should add that it has been put to me by some that Le Feuvre simply just signed this letter, it being written for her. But whichever is true, I don't see it makes much difference.
719. I thus put it to the Inquiry that this should in itself cast the validity of the said letter and its opinion of Syvret in calling for his dismissal/a vote of no confidence in a very different light and its motivation likewise. As illustrated, below Le Feuvre, even in old age is by all accounts a fanatical supporter of the Establishment and an apologist for 'the Jersey Way' as her numerous statements down the years demonstrate. Yet in my view the merit of this is damned by her very own words and past actions.
720. What I feel I have to say is most disturbing here is that if we look beyond this letter scam Le Feuvre shows herself quite evidently more concerned about protecting those behind so many child protection failings than the vulnerable

children themselves Syvret as the then Health & Social Services Minister was attempting to help.

721. Likewise the truth evident throughout so many of these child protection and related failings that a handful of these same 'big' Establishment names appear over and over – Sir Philip Bailhache, William Bailhache, Sir Michael Birt. So many of these people's actions simply do not stand up to scrutiny. Iris Le Feuvre, though never a Crown Officer, in my opinion needs to be viewed in the very same light..
722. As stated Iris Le Feuvre is a former Education President; but on record as stating that the people she really feels 'sorry for' are not the Haut de la Garenne victims but the Bailhache brothers, Sir Philip and William, who have apparently 'been through so much'. As I have said I may be wrong but I believe these comments were made to the Jersey Evening Post. Simply incredible. And I contend this says so much about how the abuse cover-ups and general failings which the Inquiry team are exploring came to be.
723. Moving on I must also briefly flag up the undoubtedly illegal Police raid on the home Syvret shared with his then partner, Deputy Carolyn Labey. For this also needs highlighting as yet another incident which clearly has its roots in the Haut de la Garenne scandal and other claims of wrongdoing and corruption made by the Senator on his blog and in the States.
724. These include allegations of physical abuse made against the former Director of Education, Sport & Culture Mr Mario Lundy; the cover up and protection of an individual, [REDACTED] <sup>7</sup> [REDACTED] who stands accused of serious abuse by more than a dozen different survivors of Haut de la Garenne [REDACTED] [REDACTED] - [REDACTED] alleged large scale planning corruption; and even of the alleged cover-up of a number of suspicious deaths – Syvret believes killings - at the General Hospital.

725. Should it not be forgotten a 10 strong Police team descended upon the house owned by Ms Labey to remove – I suppose *steal* would be a more apt description - computers and rifle through files – for some reason even feeling the need to go through Deputy Labey's teenage daughter's underwear drawer, or so she told me directly!
726. The fact is that the correct procedure should have been to request that Syvret attend the Police station to answer any questions regarding the content of his blog before any such action be considered – and a proper warrant secured.
727. Yet what happened was that this was allowed to go ahead without objection from not only the Attorney General William Bailhache; but also the Data Protection Commissioner Emma Martin or the then Grouville Constable. Not surprisingly there has never been a word of apology about this Stasi-like raid either. The Constable certainly knew about the raid because he admitted as much to me.
728. Of course I should make clear that Deputy Labey had herself been trying to investigate evidenced allegations of serious planning corruption at the time and Syvret had highlighted this on his blog as well. Corruption allegations, of course, which it is apparent from statements made by the former Chief of Police Graham Power that the then Attorney General William Bailhache had not wanted pursued. This has been made clear by Mr Power within his sizable and in-depth statement.
729. To this regard I simply refer the Inquiry team to the now infamous 'So be it' statement allegedly made by Bailhache to the Chief of Police. I suggest it does not need one to be a rocket scientist to see the relevance of this conflict to Power's soon to come otherwise inexplicable suspension. When one also considers the reality of a police investigation going on into the allegations against Establishment grandee 737 mentioned earlier; had Syvret's partner discovered yet another Establishment scandal regarding planning?

730. I thus also firmly believe that Deputy Labey should be called in order that she may give a firsthand account of all of this.
731. I know for a fact that the Deputy claimed to have a statement from an individual claiming to have witnessed that a huge amount of cash had been handed over to the then Housing Minister, Senator Terry Le Main by a developer. I obviously cannot prove/disprove this either way as I was not there of course. Yet while, as always I make no contention that any person is guilty without a fair trial process, satisfactory explanations for the attitude of Attorney General William Bailhache in not wanting this whole series of startling allegations investigated have never been provided. Likewise the well documented claims that Sir Philip Bailhache demanded Labey must withdraw the allegations and apologise. Was the raid on the Labey/Syvret household looking for evidence to do with the Senator's claims regarding child abuse cover-ups; or was it to do with the claimed planning corruption? We just don't know.
732. What I suggest is of key importance is that there is also a clear pattern here very relevant to the child abuse inquiry because it sees – time and time again – very serious allegations *not* investigated on the order of our Crown Officers. All of this needs to finally be confronted. There are many examples of this which I – as just one former States Member – could give but do not simply because they are otherwise not directly related to child abuse.
733. I know I am talking predominantly about Stuart Syvret here but as it is so intertwined the evidence that Graham Power was simply upsetting too many of the wrong people by his dogged determination to do the job he was being paid for is to my mind overwhelming.
734. Just consider even in the brief run through of various incidents I have spoken about: Haut de la Garenne itself; refusing to go along with the orchestrated sacking of Syvret as Health Minister; the subsequently airbrushed from history 737 serial rape allegations he was having investigated (but

according to my information dropped immediately after Power's suspension); and now refusing to ditch further investigations into planning corruption.

735. It surely stands out like a sore thumb that if anyone – no matter how high profile – keeps rocking the boat and putting the Establishment at risk all means at their disposal within the 'Jersey Way' will be utilised to try and destroy them. Syvret, like Power and Lenny Harper; like Shona and myself are living proof.
736. And as should by now be so apparent the favoured 'weapon' for trying to apply such politically-motivated coups de grâce is the Jersey 'justice' system honed over a number of years by a succession of Bailiffs and Crown Officers such as the Bailhache brothers and Sir Michael Birt to highlight but three into a well-oiled tool of political oppression.
737. Crown Officers who believe that they are untouchable and in reality quite frankly *are* – because the UK has not fulfilled its constitutional responsibilities. Indeed, I should add at this point that with the aforesaid endless run of Straw men Lieutenant-Governors and the complete indifference and even collusion of Justice Ministry and Privy Council in London as a tool of corrupt oppression the Jersey Royal Court is pretty near perfect.
738. Why? Because absolutely NO ONE is monitoring these people or their abuses of the law. And without any such external 'reins' able to be applied Jersey's impossibly interwoven and politically conflicted Bailiffs, and even Attorney Generals really are de facto Feudal overlords wholly free and unfettered to behave as their lust for power dictates.
739. How can I make such a statement about this zero external control so confidently? Even leaving aside all of the many examples of their wholly unchallenged abuses of office and judicial failings I believe that an example from 2008 says it all.

740. For back in 2008, not too long before I first stood for election, the Liberal-Democrat Peer Lord Wallace had come to the Island – as I recall predominantly to speak to the then Treasury & Resources Minister, and soon-to-be Chief Minister, Senator Terry Le Sueur. Shona, who was in her first term of office then, nevertheless managed to secure a private meeting with the Lord for her and myself: my then being Chairman of the JDA political party to discuss many of the things which were going wrong in Jersey. This took place at the Pomme D’Or Hotel.
741. It must be stated for the record that Lord Wallace was both articulate and appeared genuinely interested in Jersey. However, to cut a long story short after discussing some of the concerns touched upon in this statement; as well as matters such as the desperate need for Jersey to have a full and proper separation of powers Lord Wallace turned to us, evidently as concerned as he was surprised and said:
742. ‘It seems to me that no one at all is monitoring these Crown Officers. So can you tell me whose job it actually is to do so?’
743. Shona and I just looked at each other at this point and found we had to smile wryly. ‘*That is* what we were hoping that you could explain to us!’ we replied. The truth I repeat is that regardless of the impression one might receive going by the constitution Jersey’s Crown Officers are a law unto themselves ‘accountable’ only in theory and on paper and this is where so much of the judicial abuse; cover-ups and corruption begin to manifest.
744. Indeed, just what it would take to get some much-needed intervention and a ‘cleaning up’ of the system is hard to imagine. Just look at Philip Bailhache’s staggering child protection failings as Attorney General in the case of the paedophile Honorary Policeman Roger Holland: alone and it is evident he should have been sacked; but was of course instead allowed to receive his ‘Letters Patent’ from the Queen to be promoted to Bailiff!

745. Consider his Liberation Day speech; his failure to prevent a teacher with a documented history of disregarding evidence of child abuse to become a Jurat; his behaviour actually revealed within the Care Inquiry of actually instructing a Head of Education *not* to go to the police about the abuse of a child! The fact can then not be denied: just as I have hammered home throughout this statement the English monarchy of which my island is a 'Crown Peculiar and of which appoints such people just don't give a damn – they never have. Just as is the case with successive British governments.
746. All of this should be worrying to any who care about justice and democracy because when you look back through history beyond the spun myth of these unelected, wholly unaccountable 'First Citizens' you will find a motley crew indeed and we are not just talking dishonest judges and paedophile protectors but also privateers – that's Crown-sponsored pirates to you and me; and even blatant dictators. Not to forget a Nazi collaborator betraying Jersey's Jewish community during the Occupation (whilst tellingly defending his chums in the Freemasons!)
747. This last one being a most illuminative example because this individual was subsequently not just knighted by the UK but even given a Peerage as well. Familiarise oneself with the true facts and it's a history of 'service' that beyond the 'crowbarred' deference is a regularly sordid tale indeed. And yet we continue to let these unelected Judges – 'First Citizens' – bestraddle both our Judiciary *and* Legislature. Is it any wonder we have problems?
748. I acknowledge that I have digressed here in attempting to show the true historical background I know. Yet there is one final issue regarding Stuart Syvret I want to flag up briefly – and I repeat I really do think it essential that some agreement can be reached so that he can enlarge upon this if at all possible in person. This is to flag up as a crucial area of investigation for the Inquiry the abuses set in motion under Sir Michael Birt's stewardship of the Royal Court:
749. Jersey's – and in fact the United Kingdom's - first 'top secret' political trial.

750. A secret court trial that not only saw Syvret denied equality of arms to defend himself. This including even a denial of his right to even call witnesses to expose both some of the lies which were being peddled by at least one of his accusers. Similarly the evidence he had to support the justification in terms of public interest of publishing the allegation. All of this legal abuse being wilfully supported by both the Data Protection Commissioner Emma Martin and the Attorney General.
751. Not to forget Birt of course who knowingly allowed this all to happen under his own Royal Court stewardship.
752. Again to cut an incredibly long and gerrymandered story to something like manageable proportions within an already very lengthy statement in terms of demonstrating how the 'Jersey Way' abuse of the court process operates; and has operated throughout the Haut de la Garenne scandal I will pick out just two particular aspects to highlight.
753. The first is to expose that far from any kind of naturally – perhaps organically is a better term – occurring process the fact that [REDACTED] different individuals who clearly should have gone down the route of a trial for defamation (trust me – I know rather more than I wish I did about such matters!) instead came to rely on the most bizarre manipulations of Jersey's new Data Protection Law to take Stuart Syvret to court over allegations about them on his blog which they wanted taken down was entirely manipulated by the Jersey Establishment to achieve the desired end.
754. The second inter-related fact is to flag up how in regard to one of the individuals supported by the Jersey Attorney General – by now Tim Le Cocq – and Data Protection Commissioner Emma Martin – even once his story and credibility had been totally destroyed by hard evidence from several other victims [REDACTED]  
[REDACTED]





759. It is hardly surprising, I suggest, to learn that this co-ordinated assault on Syvret was anything but naturally occurring in its origins: the issues underlying the cases of all [REDACTED] were so different; as were the walks of life they came from and from which their issues arose.

760. To illustrate: [REDACTED]  
[REDACTED]  
[REDACTED] haut de la Garenne – I have of course mentioned this individual already.. Another man was [REDACTED]  
[REDACTED] I have also referred to.

761. Then we had [REDACTED]  
[REDACTED]  
[REDACTED] Lenny Harper [REDACTED]  
[REDACTED] Haut de la  
Garenne victims.  
[REDACTED]  
[REDACTED]

762. To use the term again it does not take being a rocket scientist to assess the chances of these [REDACTED] coming together naturally or by chance to initiate such a court process are as remote as an England World Cup win.

763. What makes all of this even more disturbing of course is that the [REDACTED] – including the [REDACTED] – were consequently afforded hundreds of thousands of pounds of taxpayers' money; indeed according to one of those involved allegedly seven figure sum overall to enable them to bring the case to court and continue it for years..

764. Stuart Syvret in contrast would be forced to attend a secret court trial where he would not be allowed to defend himself with either the aforesaid equality

of financial arms; evidence or witnesses to support his allegations. Indeed, as a result of questioning which I had no choice but to repeat States sitting after States sitting due to the attempts of the Chief Minister, Senator Ian Gorst to deny the public the right to know the truth it eventually emerged that [REDACTED] had been afforded the better part of half-a-million pounds of taxpayers' money: allegedly just to cover legal advice.

765. Right to the time I was forced out of the States Gorst refused to provide details of the full total of public money utilised to try and effectively silence Syvret on a number of subjects they wished buried once and for all. As indicated above I was at one point advised by a local lawyer - whose identity I will understandably not reveal – that the true total was estimated within legal circles to run to *several* million pounds. And it still isn't over of course!

766. As to the non-throwing out of the case against Syvret even once it was quite clear that what had been written about one of the [REDACTED] plaintiffs' being financially supported with taxpayers' money was completely true I would suggest to the Inquiry that this goes right to the very core of the corruption at the heart of the 'Jersey Way' and demands real investigation by the Inquiry – including answers being demanded of the Attorney General and Data Protection Commissioner themselves.

767. In contrast of course the individual in question, [REDACTED]

[REDACTED]

itself – this being over a period of years continues to be allowed to continue his campaign of harassment by both police and Law Office despite multiple complainants.

768. To spell this out the reason Sir Michael Birt's Royal Court – now William Bailhache's Royal Court – need the ruling against Syvret – a man who has fought so hard on behalf of abuse victims - to stand is in order that they may pursue the ultimate goal of destroying his reputation; further still bankrupting

him to try and silence him politically just as they first did via further judicial irregularities - I should really say outright corruption – to my wife and I a year before. Having to declare the action and ruling against Syvret regarding [REDACTED] [REDACTED] unsafe - and thus null and void as clearly the Court should - would leave this strategy in tatters. Not to mention undoubtedly leaving the State open to damages claims from Mr Syvret himself.

769. As I hope that I have hammered home: why this is so important; so relevant to the COI is this case demonstrates so strikingly how Jersey's 'justice' system meant to help and protect victims is instead being used against those high-profile individuals who have championed abuse victims. Frankly it is utterly shameful. In fact a 'justice' system could hardly be manipulated and betrayed more appallingly.
770. Indeed, It should not be overlooked by the Inquiry when considering the 'Jersey Way' mentality which informs those who so abuse the island's 'justice' system that as a consequence of this secret court abuse and the machinations supporting it Syvret has also been jailed: not once but twice! And all of this – as with the rest of what I have set out throughout this statement - whilst the English Monarch of this 'Crown Dependency'; Her Privy Council, Lieutenant-Governor and the UK government's Justice Minister do nothing.
771. Whilst reiterating that there really is so much more that Stuart Syvret should be able to tell the Inquiry about his abuse at the hands of the Jersey judiciary and by the Establishment generally in his efforts to support the victims of Haut de la Garenne and other institutions I will leave what I have to say at that. I repeat that I genuinely hope agreement can be reached for the former Senator to give evidence in person.
772. Thus nearing the conclusion of what I wish to say within this statement (I am sure there may well be even more incidents which I may recall prior to giving public evidence) this also brings me to the few details I feel I should also set

out about Shona's and my own relevant experiences since becoming embroiled in what is passed off as justice within Jersey's Royal Court..

### **The 'Jersey Way' and my own experiences of 'justice' in being forced out of political office**

773. As I said right at the beginning of these interviews I mention the experiences of Shona and I in relation to Jersey's 'justice' system only as they are relevant to the Inquiry's Terms of Reference.
774. That the following are so is because, in my view, they spell out just about every disturbing fact about the true philosophy – the 'Jersey Way' - inherent within a 'justice' system allowed to be run without fear of external oversight or intervention. Above all it must be said highlighting via first-hand experience the selective and utterly malleable commitment to justice held by those at its apex who control it: this being absolutely central, as I have sought to illustrate, to what has allowed the decades of child abuse finally challenged by Graham Power and Lenny Harper to both flourish and continue for so long.
775. In October of 2014 – having been interviewed twice by lawyers from the COI and prior to finalising this statement – my wife was knocked down on a pedestrian crossing whilst out walking our dog. Thrown over the car bonnet by the impact as a consequence of the driver failing to stop when the traffic lights turned red this incident was witnessed by no fewer than three people. All confirmed that it was the driver's fault. Indeed, the driver also admitted responsibility: his excuse being that the angle of the sun meant that he couldn't tell if the traffic lights were red or green.
776. Yet after three months of procrastination the Police informed us that they would not be prosecuting as apparently 'there wasn't enough evidence' and some incidents 'were just accidents'. Incredible enough one would think. Yet even after six months the Police had still refused to hand over the driver's

insurance details and even denied Shona access to her own Police statement.

777. As a consequence of this appalling impasse my wife eventually decided she would go public and record a short interview for the leading Jersey Citizens' Media blog Voiceforchildren – the very same blog which has done so much to try and bring about justice for the victims of Haut de la Garenne; and who have suffered all the more due to corrupt and unfit-for-purpose Jersey Judicial system. Indeed, it would take this involvement of Jersey's Citizens' Media – the only professional media in our island to finally embarrass the police under the 'leadership' of Mike Bowron to hand over material that should have been forthcoming immediately.
778. Nevertheless, at the time of leaving the island for a number of months (as the COI is aware I will be returning to give public evidence) the driver had still not been prosecuted; even though the Voiceforchildren highlighting of what was going on did force the police to reluctantly 're-open' the case or so we were told. Of course by then it transpired that new statements needed to be taken from the two witnesses who were holiday-makers. The details of the third witness had apparently been 'mislaid'.
779. Rather strange given that he personally told me that he actually worked for the Jersey police! No doubt upon our return we will discover that the case has been closed once again for some reason. I nevertheless attach as my **TP23** a print out of the accompanying text from the Voiceforchildren story and a link reference to the interview.
780. Just like the Syvret scenario I described above and what has happened to the Police Officers Graham Power and Lenny Harper this is relevant to what the COI is investigating because it shows the reality of the continuing 'Jersey Way' experience for those who dare to challenge those who allowed Haut de la Garenne; the Victoria College scandal; Blanche Pierre House: the Roger Holland affair and so many other outrages to happen.

781. What I set out above and below also casts equally telling light on the unfortunate return to the normal 'Jersey Way' policing after the removal of Chief of Police Graham Power. In our case – like a number of others who had fought for a belated justice for the abuse victims – this manifesting not only in the clear abuse of Article Six of the European Convention on Human Rights within our defamation case before the Royal Court; but also in the retribution of a deliberate disregarding of evidenced complaints of threats and harassment.
782. The Care Inquiry will recall my setting out of the years of [REDACTED]  
[REDACTED]  
[REDACTED] whom I mentioned in relation to former Senator Stuart Syvret. Bowron's police force – according to the Sergeant De Feu I quote earlier acting on the instruction of the Attorney General – refusing to do anything about the targeting of my wife by an individual clearly in need of enforced psychiatric intervention.
783. As to our experience of the Jersey court system itself under Sir Michael Birt whilst I could write a book just on these events all I wish to enlarge upon is the following.
784. At the beginning of my statement I gave details of my election in the autumn of 2008 and the publication of a defamatory 'cartoon' depicting Shona and I wrapped within an election rosette made of banknotes, smirking at each and apparently laughing '4 x the salary, darling!': as described giving the public including those who had voted for us the clear – but demonstrably false - impression our income had risen fourfold by my entering politics; equally that we were motivated by money rather than the altruistic, social justice platform upon which we had stood.
785. I need say no more about this itself or the lengthy, drawn out process which followed – more than three years – before we were able to go to court. Suffice to add that we had confirmation from TWO specialist defamation

counsels in London that the ‘cartoon’ and its caption were just that. All that is really relevant to the work of the COI, background information aside, is to understand what would happen in the court process of the Bailiff’s Royal Court.

786. Jersey being run as it is as a rather bizarre hybrid of neo-feudal mini State and ‘off-shore- tax haven we were to be unable to have the defamation case heard by a jury of ordinary people as in the United Kingdom. Instead we learnt we had to have this heard by just *two* Jurats – aforesaid lay judges - who would decide on ‘fact’ and ‘evidence’. The clear problem with this in a defamation case per se was highlighted by many including the highly respected Guardian Legal Network blog, INFFORM – defamation obviously depending upon what ordinary people conclude not two members of an Establishment court.
787. Jersey’s Jurats are always of a certain age, white and of middle class or above status. Indeed, upon initiating research I later discovered there has never been a Jurat of ethnic minority origin – certainly within the past 25 years. Hardly re-assuring if you happen to be two outspoken ‘anti-Establishment’ Left-wing political figures – yet we obviously were left no choice in the matter. Nevertheless with these two Jurats (both having zero legal training) deciding on ‘fact’ they were overseen by one of the small number of UK Commissioners (in reality appointed by the Bailiff) on Jersey’s books.
788. Though several other issues would arise - such as our being denied the right to call witnesses to attest what they thought our portrayal to mean as ordinary members of the public; this in direct conflict to what we learned was outlined within the latest edition of the much-quoted Gatley (the Guardian Legal Network picked up on this too) what I really wish to flag up for the Committee of Inquiry as being highly relevant to the abuse investigation and paragraph 13 in particular is what was to emerge *after* the trial about the background and history of the senior of the two Jurats. I have of course mentioned him; his disturbing record in regard to being confronted with child



abuse, and the equally disturbing reality of the senior Judicial figures who allowed him to hold office already. His involvement in our own case however is crucial to fully understanding the oft-mentioned 'Jersey Way'.

789. For having spent three days in court this pair of Jurats took little more than half an hour to decide the case against us. A decision which would directly lead to us being made bankrupt – even though this made no financial sense to newspaper of their client who had concocted the cartoon: had we stayed in the States they would obviously be able to get significant monies back. Nevertheless, shortly after the court's decision which it must be said shocked a great many people who knew the truth about our financial income background and the damaging and highly misleading falsehood of the '4 x the salary, darling!' message described above members of the public contacted both ourselves and our lawyers with disquieting news about the background and connections of this Jurat – yes, the ubiquitous John Lyndon Le Breton.
790. I make clear once again: prior to this time neither of us had any idea of Le Breton's background such as I have referred to within this statement. The COI will obviously note – very long as this statement is – that back when attaching the letter from Sir Michael Birt as my **TP5** I made mention of John Le Breton and Birt's attitude to his clearly exposed unsuitability to preside over consideration of evidence and 'fact; in a court; and it is this to which I need to return now in concluding this statement.
791. Now not only did it emerge, thanks to the aforesaid members of the public concerned at what had transpired, that this Jurat had indeed been an individual who had refused to consider evidence of child abuse against his friend and Victoria College colleague, the paedophile Andrew Jervis-Dykes; Le Breton had evidently also seen nothing wrong in the lead up to our case in entertaining another friend, one Jurat Sally Le Brocq, whose grandfather had been the accredited true founder of the Jersey Evening Post (first defendant in our case); and a woman who had long been a multi-million pound

shareholder and was *still* on the Board of Directors of the newspaper's owning company the Guiton Group.

792. I have of course already referred to the Stephen Sharp Report which I subsequently managed to get hold of – despite being officially denied a copy upon its request by the then Education Minister, Deputy Patrick Ryan – and attached this as my evidence **TP4**. Nevertheless, the clear unsuitability of a man revealed to have a demonstrably selective, indeed, malleable commitment to the importance and consideration of evidence – *all* evidence being appointed, not to mention allegations of both failing to report child abuse *and* the bullying of pupils not to report abuse being allowed to serve as a Jurat since 1998 is, I feel, crucial for the Care Inquiry to fully understand investigating why so much has gone wrong regarding child protection matters in Jersey.
793. Thus I seek to make it quite clear for the record – prior to limited mention of what the former police officer Mr Cornelissen recently confirmed about Le Breton in regard to his investigating the Victoria College child abuse cover-up - none of this has *ever* been reported by Jersey's media who so trashed the child abuse investigation and those who sought to secure justice for the victims.
794. Thanks solely to the public not only did we learn – unfortunately after Sir Michael Birt had allowed this disgrace to happen - that this Jurat Le Breton had refused to view and consider video evidence of his colleague and friend Jervis-Dykes abusing boys he had plied with alcohol; as described often filming them being masturbated and having oral sex performed on them – this lay judge who had been allowed to sit in judgement of the evidence in our own case and so many others had even *written* in the paedophile's defence instead as I will briefly refer to below! Read what Le Breton was happy to write faced with child abuse and just why Jersey's judicial system has so failed vulnerable children for so many decades becomes crystal clear.

795. In doing so – and I make no apology for repeating this once again - I ask the Care Inquiry to keep in mind that it is now clear that Jersey's last three Bailiffs – three men also having served as Attorney Generals – Sir Philip Bailhache, Sir Michael Birt and William Bailhache all knew about John Le Breton's child protection failures and his willingness to disregard evidence of the most heinous kind: let alone allowed him to be appointed a Jurat; and to continue to this very year (2015) when William Bailhache would recall him from 'retirement' to sit on... a child abuse case!
796. All three also knew – demonstrably so as I prove by my attached copy of an email from the politician who first tried to drag the child abuse cover-up into the open, former health Minister Stuart Syvret as my **TP6**.
797. This being the case I feel it essential to round off by setting out just a few of the never-published, truly sickening plaudits spouted by this Jurat. I suggest they – and the fact Sir Michael Birt and the Bailhache brothers evidently think them quite acceptable go to the very heart of understanding how Haut de la Garenne and so many other child abuse horrors in Jersey came to both happen and no action be taken.
798. Jurat John Le Breton stated that the child abuser Andrew Jervis-Dykes had served the College with 'outstanding competence and conscientiousness!' The care Inquiry team may want to read this twice? A manipulative child abuser of children in his care being described by a Jurat as 'conscientious'!
799. Jurat John Le Breton claimed that without any Police prosecution the abuse - quite evident in the videos he had refused to look at of course - could be thus viewed as 'unsubstantiated allegations'.
800. Jurat Le Breton claimed the paedophile Jervis-Dykes should be allowed to resign with some 'dignity'. Well' he had only abused children he had been entrusted to look after and care for after all...

801. Jurat John Le Breton claimed that if the paedophile Jervis-Dykes was allowed to stay on and work out his resignation notice period – something he pushed the authorities to allow – teaching as Head of Maths no-one would be 'at risk'.
802. All of this having been asked to look at evidence; thus *knowing* evidence existed – but refusing to do so!
803. I think – as do so many who actually know the truth - that all of the above is absolutely damning in showing the true attitude of those who oversee the delivery of 'justice' in Jersey: not just to the protection of vulnerable children but to any who might dare 'rock the boat' and do so from outside of the fold. Yet I think that the letter Shona and I received from Sir Michael Birt to which I referred regarding Le Breton says even more. As does the response Sir Michael Birt also made to our complaint about how this ever could have happened; this coming at the end of a meeting my wife and I had demanded with him at the Bailiff's Chambers:
804. 'I have to say that I do not recall there ever having been *any* complaint about either Jurat Le Breton's judgement or his integrity prior to your case.'
805. I repeat this at the end of this statement because being the demonstrable lie that it clearly is I believe it shows just how arrogant, out of control – how contemptuous of ordinary people and the right of all to be able to rely on justice in line with the European Convention on Human Rights – above all how wholly unfit to hold office those at the apex of Jersey's judiciary are. Let me repeat: Sir Michael Birt, Sir Philip Bailhache and William Bailhache – our three most recent Bailiffs and Chief Judges all knew about John Le Breton's child protection failings and dishonesty.
806. Further still, I highlight this here again because of the reality that if even those with a comparatively high-profile can suffer such abuse within a system meant to ensure justice, the most vulnerable and voiceless of children, such as those finding themselves in institutions like Haut de la Garenne, have no

chance whatsoever. Indeed, grown to deeply damaged adults as so many understandably are they have less than no chance.

807. Sir Michael Birt apparently could 'not recall' any complaint/concerns being received about the man he – and both his predecessor and successor – would allow to sit 'judging' evidence for a period now stretching to some 17 years. As he does to this very year despite having 'retired' after our case. If the COI want to know why abuse happens in Jersey – and has happened for so very long I repeat I believe its members need look no further than this. And I hope they also note within their eventual conclusions that this sorry state of affairs will NEVER change unless they step up to the plate because as history shows no one amongst the UK officials charged with ensuring 'good governance' and 'law and order' in the Island ever acts to say enough is enough.
808. In highlighting the above personal experiences at the end of this very lengthy statement I also ask: is it just me or do we seem to here this 'I do not recall' excuse every time the Chief Judges and unelected 'First Citizens' are caught out and exposed?
809. Sir Philip Bailhache exposed reading confidential documents – including police documents - relating to the victim ██████ in full public view on a plane. Sir Philip Bailhache when exposed telling a former Head of Education *not* to go to the police about the abuse of a child. William Bailhache exposed pursuing selective, politically motivated prosecutions. Sir Michael Birt upon the exposure of his and other Bailiff's having known full well about Jurat John Le Breton's history of disregarding evidence of child abuse. If I may borrow a much-used expression from legal dramas: I rest my case...
810. To thus conclude on this aspect of evidence it is likely sufficient to simply add that though Shona and I knew none of Jurat John Le Breton's aforesaid history of dishonesty and what must be seen as a clear contempt for justice and children abused until after our defamation case and the window for appeal had concluded we were nevertheless denied assistance to have this

clear Mistrial overturned by just about every individual with responsibility for 'law and order' and 'good governance' in the island:

811. Both the Queen's Lieutenant-Governor who – beyond question - has ultimate constitutional responsibility on the island for said law and order/good governance; the Chief Minister; the UK Justice Minister and even the Queen's Privy Council – who actually incredibly claimed that they 'did not have jurisdiction'. The reach of 'the Jersey Way' it appears is very long indeed.
812. To make matters quite clear we had of course been denied the right to appeal not only having learnt of Le Breton's behaviour/record after the month's appeal 'window' had passed; but in the reality that because of the appalling failings outlined above it was clear any appeal through the now exposed, impossibly conflicted Jersey authorities would be futile. The fact that led us to go via the 'political route' requesting assistance from those meant to monitor the untouchables of Jersey 'justice'.
813. Though there is subsequently much more I could set out on this saga most relevant to the COI and its efforts to understand just how Jersey 'justice' really works this may be seen in the final fact I outline below.
814. Having attempted to appeal anyway (as the Lieutenant-Governor advised us!) what was quite clearly a non-ECHR Article Six compliant trial, having had no assistance from the UK bodies indicated above, the Appeal Court – judges meant to be demonstrably independent of course but due to Jersey's unfit for purpose system actually selected/appointed by the Bailiff (forget the Crown Appointment red herring here. Advocate Philip Sinel's submission to the Carswell Inquiry talks about this) - surprise, surprise actually repeated Birt's very same lie amidst a host of inaccuracies:
815. Apparently, or so the Appeal Court stated, there had not been any other complaints about the integrity of Jurat le Breton previously! Now I really do wonder who ever could have given them that idea...

816. None of what underlay our court case – be it the actual lies spun about our income by Trower and the JEP all the way to what happened subsequently was ever reported as it should have merited by the local Jersey media – hardly surprisingly in the case of the newspaper I accept.
817. Why this is relevant to understanding the ‘Jersey Way’ at the heart of what happened in regard to decades of abuse; and upon its final exposure – is this is obviously just as has happened in the trashing and spinning of propaganda regarding Haut de la Garenne and Graham Power and Lenny Harper – even when the truth has been revealed be this via Scrutiny or doggedly determined Citizens Media bloggers. Just has been the case with former Senator Stuart Syvret’s treatment and the notorious ‘secret court’ which ultimately saw him imprisoned.
818. Indeed, it is interesting to note that even the former Home Affairs Minister Senator Le Marquand once stated to me that Le Breton clearly never should have been allowed to sit on my legal case given his background – my being one of the most outspoken critics of concealed abuse. He would never say it publicly of course I am sure?
819. Likewise the long-serving St. Helier Deputy, Jackie Hilton who also once told me how, as a former Centenier she had been ‘shocked’ that Le Breton ‘had ever been allowed to become a Jurat at all. But that just seems to have been how it was in those days.’ Indeed, that I strongly doubt either politician would *ever* repeat their demonstrably correct statements in public – or probably deny they ever said them - I have to add, is in truth just another example of the ‘Jersey Way’: people knowing things are wrong yet still keeping quiet.
820. Nevertheless the first objective the Establishment may have achieved. Fortunately the latter – silencing us - they will never do. Something evidenced yet again by my making this statement in the hope that those who are most important of all – the victims of child abuse of whom Shona and I were amongst the few in the States to stand up and fight – finally get justice.

821. Tellingly the truth of Haut de la Garenne *has* been aired nationally and internationally when professional journalists learn of what goes on: Hopefully this will continue upon the conclusion of the work of the Care Inquiry. Indeed even elements of our own story have been covered within institutions as diverse as Newsweek; the INFORM blog for responsible media; the UK's the People's Voice on line TV channel and even surprisingly the Big Issue in the North magazine; along, of course with numerous blogs despite the media cover-up here.
822. Indeed, Jurat John Le Breton's disturbingly malleable commitment to justice and the 'Jersey Way' that allows all of this to happen has even been highlighted within the House of Commons itself thanks to the same former Liberal-Democrat MP John Hemming who had taken up Leah McGrath-Goodman's case with me.
823. Nevertheless, as many people have – in my opinion – rightly said it can thus surely be seen that with no action and the fact that the 'Jersey Way' still rolls on unchallenged can only demonstrate that support for what it protects goes all the way to the very top of those who should under the constitution be ensuring those powerful individuals who abuse their position in Jersey are held accountable – no matter who they are, and no matter how embarrassing such a holding to account would be.
824. The real victims of 'the Jersey Way' – the victims of child abuse - can only hope those entrusted with overseeing the Care Inquiry will be the people who finally make the long overdue holding to account happen.
825. Whilst so much more could be outlined, with such a long statement as this has become I feel that this is probably a very good place to end; simply repeating once again the question I reported arising from my and Shona's meeting in 2008 with the Liberal-Democrat Peer, Lord Wallace: 'So can you tell me whose job it is exactly to monitor these people?'

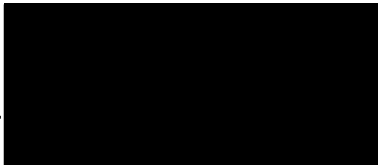


826. In conclusion I just confirm that I am willing to give oral evidence to this Inquiry and, indeed, feel that this is in all honesty essential. This being due to the afore-stated belief that the great majority of Jersey' elected representatives – past and present – who should have so much to say will instead simply 'keep their heads down' out of self-preservation: as has generally been the 'Jersey Way' modus operandi for decades. I thus hope that my answers to the questions asked will be of assistance in as many instances as possible.

827. On behalf of the victims who have contacted me especially – and of whom I have encouraged to come forward to recount their evidence in their own words – I thank the Inquiry team for giving me this opportunity to make a statement. I look forward to answering any arising questions on my evidence in public in due course.

Statement of Truth

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

Signed .....  


**Trevor Pitman**

Dated: 2 November 2015.....

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP1

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**COMMITTEE OF INQUIRY INTO HONORARY POLICE ELECTION PROCEDURES: REPORT**

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**Presented to the States on 3rd December 2002  
by the Committee of Inquiry into  
Honorary Police Election Procedures**

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**STATES OF JERSEY**

**STATES GREFFE**

120

2002

R.C.48

Price code: D

# COMMITTEE OF INQUIRY INTO HONORARY POLICE ELECTION PROCEDURES: REPORT

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**COMMITTEE OF INQUIRY INTO HONORARY POLICE ELECTION PROCEDURES: REPORT**

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**Membership**

President                    Richard Thomas Povey Esq.  
                                     Mrs. Marie-Louise Backhurst  
                                     Geoffrey Henry Charles Coppock Esq.

Clerk to the Committee   Mrs. Kay Tremellen-Frost

## **Introduction**

### Context

On 8th September 2000, Mr. Roger Holland was found guilty by the Royal Court on two counts of indecent assault committed prior to 1992 and was sentenced to a three year probation order, which included a requirement to attend for a minimum of 12 months at Wolvercote Centre, United Kingdom, where he would receive compulsory treatment. The Court indicated that, if he did not co-operate fully with the programme, he would be brought back before the Court and would be likely to receive a custodial sentence.

In the event, on 2nd March 2001, Mr. Holland was brought back to the Royal Court which concluded that Mr. Holland had breached the three year probation order, by failing to abide by requirements of the Wolvercote Centre and to co-operate with treatment. The Court discharged the probation order and instead sentenced him to two years' imprisonment on each count concurrent.

The conviction of Mr. Holland made the public aware that he had a prior conviction for indecent assault in 1986. His apparent ability in 1992 to enter and then remain in the St. Helier Honorary Police whilst having such a conviction raised serious questions as to the procedures that had been followed in the recruitment and monitoring of this officer. It was considered in some quarters to be essential that the procedures followed, or not followed as the case may be, should be investigated in depth so that secure safeguards could be put in place to prevent similar occurrences in the future.

### Appointment of Committee

On 24th April 2001, Deputy R.G. Le Hérisssier of St. Saviour lodged "au Greffe" a proposition (P.67/2001) which stated -

**THE STATES are asked to decide whether they are of opinion -**

in accordance with Article 36B of the States of Jersey Law 1966, as amended, to approve the appointment of a Committee of Inquiry to investigate fully -

- (a) the circumstances through which Mr. Roger Holland was elected and remained a member of the Honorary Police of St. Helier;
  - (b) the current procedures that are in place for the election of persons as members of the Honorary Police;
- and to report back to the States with such recommendations as the Committee considers to be appropriate.

The proposition was adopted by the States on 3rd July 2002, and, on 27th November 2001, the States approved (P.148/2001) the appointment of the President and members of the Committee.

The States voted a budget of £50,000 from the General Reserve to meet any staff, administration, consultancy and other costs incurred. The Finance and Economics Committee agreed to provide initial funding of £25,000 at the start of the inquiry and any balance, if required, when further details of expenditure were known. To date, the Committee has spent about £4,500, mostly in the hire of meeting rooms, the taping of evidence given at oral hearings and the transcription of that evidence.

Methodology

This Committee was sworn in by Jurat P.J. de Veulle on 7th January 2002. Initial meetings established procedures for the Committee and also established which official documents the Committee would need to refer to. An advertisement had been placed in the Jersey Evening Post asking for written submissions to the Committee and requests were also made through the media for information. A number of submissions were received which enabled the Committee to obtain an initial understanding of events. This understanding needed to be tested against oral evidence, and in some cases information was needed from individuals who had not made submissions. On 24th April 2002 the first of a number of public hearings was held. Witnesses were questioned on oath and were given the opportunity to make their own statements to the Committee. There were no bars to attendance at the meetings. Consequently witnesses were able to hear directly, and learn from news media, the testimony of other witnesses. This Committee is satisfied that this had no effect on the process of the Inquiry. These hearings continued until 6th August 2002 with gaps between meetings being necessary due to availability of individuals and the necessary notice being given to witnesses. The Committee members then drafted the report.

This Committee decided that its terms of reference required it to establish, as accurately as possible, the facts regarding the events which occurred and, where appropriate, to comment on those events. If the events of the period covered by this Inquiry are to be properly understood, it is necessary to view them, as far as possible, through the eyes of the participants and in the light of the information available to them at that time without the application of hindsight. The information included in this report is that provided by the oral and written evidence presented to this Committee backed by some individual research by Committee members and the Committee Clerk.

In writing the report certain conventions have been adopted for consistency and ease of reading. The word "Connétable" has been used instead of Constable to ensure that there can be no confusion with Constable's Officer. The title "Chef de Police" has been used in its colloquial sense to distinguish the senior Centenier in the Parish, even though, strictly speaking, the Connétable is still the Chef de Police. Where direct quotations are used either from written or oral evidence the words have been italicised. When an individual is first named in the report their position and name are given. After that only the position name is used until another individual assumed that position. When the report details oral or written evidence given to the Committee, the witness is referred to as the "then" witness.

## CHAPTER 1

### Background

#### Honorary Police

1.1 The principle of a community policing itself has many advantages. The administration of the parishes and policing in Jersey has a distinctive character which has evolved over many centuries. Although changes have been made in response to the requirements of contemporary society difficulties have arisen particularly in urban areas. This is partly because a system developed in rural communities, where the emphasis is on personal knowledge, adapts uneasily to a highly mobile urban society.

1.2 The ranks of Honorary Police Officers are as follows -

Centeniers are the only officers authorised to charge and bail offenders and undertake a significant rôle in Magistrate's Court cases and at Parish Hall inquiries. They also deal with general policing matters.

Vingteniers deal with general policing matters, and undertake certain financial duties for the Parish, including assisting with the Visite du Branchage, although in practice the exact nature of these duties may vary from Parish to Parish.

Constables' Officers assist the Centeniers and Vingteniers of the Parish with general policing matters.

The method of electing honorary police officers has been in existence for nearly five hundred years. The Connétables of the parishes are elected by the electors of that parish. Centeniers, Vingteniers and Constables' Officers who assist the Connétable are also elected, although it is possible that before 1500, sermentés, now known as Constables' Officers, were appointed.

1.3 All honorary police officers must live in the Parish at the time of their election, except that in the case of St. Helier a non-resident ratepayer or the mandataire of a business located in that Parish is eligible. A person may be nominated for election as a member of the honorary police force if, on the day of nomination, that person is at least 20 years of age and less than 70 years of age.

1.4 A number of reports and inquiries over the last two centuries have modified the rôle of the honorary police and a paid police force was established by legislation and is now the States of Jersey Police. Nevertheless certain customary law powers were expressly reserved to a Connétable and a Centenier by Article 3 of the Police Force (Jersey) Law 1974.

#### Child Protection

1.5 In 1988 the then Director of the National Society for the Prevention of Cruelty to Children expressed the opinion that *child abuse is a very secret, disturbing, ill-understood and extraordinarily difficult problem*. He commented further that it required responsible and sensitive reporting as the pressure upon the victim can be enormous.

1.6 In 1989, a child protection team was formed in Jersey and staffed by members of social services. It deals with all types of child abuse, including sexual abuse. In 1991, a total of 80 cases were reported to the team; of these there were 11 prosecutions for sexual abuse and four for physical abuse. The States of Jersey Police has a Family Protection Team which was established in 1990. There is also a Child Protection Committee which consists of representatives of the key agencies and includes a representative of the honorary police. In 1993, a report recommended the use of video recordings in court hearings dealing with child abuse. Work on sexual offenders' legislation is currently underway.

## CHAPTER 2

### Honorary Police Election Procedures

2.1 The deployment of the honorary police is governed by custom and a series of Laws, adopted by the States in the 19th Century, and regularly amended, which determine the ranks and number of police officers in the various parishes and the terms of office. The principal Law is the 'Loi (1853) au sujet des centeniers et officiers de police', the amendments of which occupy no fewer than three pages of the General Index of Jersey Legislation published by the States Greffe. Among other matters, this Law contains provisions relating to the election of Centeniers and Constable's Officers and determines the number of the latter in each parish.

2.2 During the period covered by this report the election of Centeniers was governed partly by the 1853 Law and partly by the 'Loi (1897) sur les élections publiques'. The latter Law was recently repealed and replaced by the Public Elections



(Jersey) Law 2002, although the provisions of this Law relating to the election of Centeniers are not yet in force. The election of Vingteniers is governed by the 'Loi (1871) sur le mode d'élection des Vingteniers', which essentially restated the then existing provisions, and the election of Constable's Officers by the previously mentioned Law of 1853 and the 'Loi (1938) sur les officiers du Connétable'. Both ranks of officer are elected at a Parish Assembly. At present the whole Assembly elects a Vingtenier but the electors of the individual Vingtaines elect the Constable's Officers. St. Helier consists of five Vingtaines; but, for the purpose of electing Constable's Officers, two of these Vingtaines are divided into two Cantons. Up to 30 Constable's Officers may be elected overall in St. Helier; the numbers vary for each Vingtaine or Canton, with a greater complement being elected for the more populated areas of St. Helier, but no Vingtaine elects less than two officers. Candidates for election must be proposed and seconded by Principaux of the parish, or Vingtaine, concerned. If there is more than one candidate for an office, the nomination and election take place the same night. After election, honorary police officers are required to attend the Royal Court to take an oath of office. This usually takes place on the Friday immediately following their election. All members of the honorary police serve a three-year term and may be re-elected.

2.3 The holding of an election for Centenier is ordered by the Royal Court and, to that end, the Connétable of the parish concerned is required by law to inform the Attorney General at least six weeks in advance that a Centenier's term of office has expired. This procedure does not apply to Vingteniers or Constable's Officers.

2.4 Although officers of the honorary police are elected (either by universal suffrage or by rate-payers entitled to participate in a Parish Assembly), they are ultimately responsible to the Attorney General for efficient and fair policing.

### CHAPTER 3

#### Honorary Police Discipline Procedures

3.1 At the time of Mr. Holland's election in 1992 the legislation in force regarding police conduct was the Police Force (Jersey) Law 1974 and the Honorary Police (Jersey) Regulations 1977 (R&O - 6480). The provisions of the Regulations regarding complaints against members of the Honorary Police were repealed and replaced by the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 2000 (R&O 110/2000) which came into force on 1st January 2001.

3.2 Under the Honorary Police (Jersey) Regulations 1977, a complaint against a member of the Honorary Police had to be investigated by the Connétable of the Parish in which that member served and the Connétable was required to inform the Attorney General of the complaint as soon as possible.

3.3 At any stage of his investigation into a complaint against a member of the Honorary Police a Connétable could, and if the Attorney General directed, should, refer the matter for investigation by a panel of Connétables and Centeniers appointed by the Attorney General for that purpose.

3.4 The Defence Committee, as it then was, if requested by the Connétable or the panel investigating a complaint, was required to place at the disposal of that Connétable a member of the States of Jersey Police Force of the rank of Inspector or above.

3.5 Following any investigation the Connétable or the panel was obliged to submit a report to the Attorney General.

3.6 The Attorney General could require a member of the Honorary Police to resign his office, if, after consulting with the Connétable of the Parish in which that member served, the Attorney General was satisfied that the member had by some act or default rendered himself unfit to carry out his duties.

3.7 The Attorney General also had the authority to suspend any member of the Honorary Police from office, if, following consultation with the Connétable, he was satisfied that the conduct of the member fell short of the highest standard required of the Honorary Police. He also had the power to suspend a member of the Honorary Police during the course of an investigation into a complaint against that member.

3.8 A member of the Honorary Police who was required to resign, or who had been suspended, had the right of appeal against the decision on the grounds that the decision was unreasonable having regard to all the circumstances. The appeal would be heard and determined by a panel of three Jurats of the Royal Court appointed by the Bailiff.

### CHAPTER 4

#### How Mr. Roger Holland was elected

#### 4.1. The events

4.1.1 In 1986, Mr. Roger Holland, who was 21 years old, and was an active member of a division of the St. John Ambulance Brigade, was arrested and charged with indecent assault on a minor who was mentally retarded. The minor had accepted a lift from Mr. Holland whom she knew from that Brigade.

4.1.2 The investigating officer, Detective Constable B. Duffy, recorded in his report that Mr. Holland, during the course of questioning, admitted to another indecent assault on a minor. This admission was followed up by the States of Jersey Police. However, the parents of the victim did not wish to pursue the matter as they wished to protect her from any distress that might be caused by the investigation process. Consequently, to date, Mr. Holland has not been prosecuted for this admitted assault.

4.1.3 The investigating officer advised Mr. Holland that he should seek medical help and noted in his report that Mr. Holland had sought psychiatric help of his own volition and had an appointment with Mr. J. Hollywood, Consultant Clinical Psychologist, prior to his appearance in Court.

4.1.4 The investigating officer informed his senior officer and one of the then senior officers of the St. John's Ambulance Brigade, who was also an officer of the States of Jersey Police, of his concerns about Mr. Holland's behaviour.

4.1.5 Mr. Holland appeared before the Jersey Magistrate's Court on 10th October 1986 on a charge of indecent assault on a minor, pleaded guilty and received a sentence of one year's probation. On 2nd June 1987, just under eight months later, the Magistrate's Court approved an early discharge of the probation order on grounds of good progress.

4.1.6 It appears that Mr. Holland remained a member of the St. John Ambulance Brigade until 1988. In 1988 and 199 Mr. Holland applied to join the St. Helier Parish Civil Emergency Team, declaring his conviction of indecent assault on both occasions and on the later application declaring a motoring conviction.

4.1.7 Police records were sought and on both occasions the conviction for indecent assault was disclosed. On the earlier occasion the report was accompanied by a copy of the charge sheet of the Magistrate's Court together with a copy of the original report submitted by the arresting officer of the States of Jersey Police. A manuscript note added to the copy of the police report indicates that the then Connétable of St. Helier, the late Mr. Fred Clarke and the then Town Greffier Mr. Patrick Freeley, considered consulting Mr. Hollywood about Mr. Holland.

4.1.8 On 15th March 1992, Mr. Holland submitted an application as a prospective candidate for Constable's Officer for the Parish of St. Helier. On his application form he declared that he had one previous conviction.

4.1.9 The practice at that time in the Parish of St. Helier was for potential recruits to the Honorary Police to complete an application form and to undergo a familiarisation process, usually of three months' duration, effectively shadowing a senior officer. This enabled applicants to understand the nature of honorary police work and see whether it suited them. It also gave the parish authorities the opportunity to assess applicants' suitability for service. At some stage in the process, an applicant would be interviewed by a panel comprising a senior Centenier (at the time in question, this was usually Centenier M. Paton) and a senior Vingtenier (usually Vingtenier M. Couriard). In the absence of evidence on the matter, this Committee has concluded that Mr. Holland's suitability for honorary police service was never assessed in this way.

4.1.10 On 18th March 1992, the Town Greffier wrote to the Chief Officer of the States of Jersey Police Force requesting a criminal record search. There does not appear to have been a reply to this letter. However, as noted above, previous requests by the same Town Greffier following the application of Mr. Holland to become a member of the Parish Civil Emergency Team had been replied to in full.

4.1.11 On 19th March 1992, the Town Greffier wrote to Mr. Holland telling him that the Connétable considered that he would be unable to accept him as a probationary officer *in view of the unfortunate incident which took place in 1986*.

4.1.12 However, the letter also stated that if Mr. Holland wished to put forward an application to become a member of the Honorary Police he could always get a proposer and seconder and put forward his nomination at a Parish Assembly. This letter was copied to Centenier Paton, and Vingtenier Couriard.

4.1.13 On 9th June 1992 the monthly meeting of the St. Helier Honorary Police discussed, among other matters recruitment. The minute of that discussion reads: *Vingtenier Mahé reported that there was one recruit that was almost ready to join. He added that two candidates that had been turned down might stand for election. Vingtenier Holmes felt that if these candidates wanted to stand they should be allowed to and let the Royal Court decide if they were desirable. It was felt that it could harm recruitment if official candidates were beaten at (sic) election. No officers present were opposed to the election*

of the two men and if they were prepared to face the possible rejection of the court they should be allowed to stand. From the evidence submitted, this Committee is satisfied that one of the two candidates referred to was Mr. Holland.

4.1.14 Apart from the Connétable, who chaired the meeting, others present who have given evidence to this Committee were Chef de Police Centenier P. Davies, Centenier R.L. Le Brocq (later Connétable), and Vingteniers M. Couri, P. Haynes and E. Mahé. Centenier M. Patton and Vingtenier W. Rousseau were not present. The minutes were taken by the Town Greffier, Mr. Patrick (Paddy) Freeley.

4.1.15 On 22nd June 1992, the Town Greffier wrote to Mr. Holland stating that the Connétable had directed him to ask Mr. Holland to complete a Constable's Officer Prospective Candidates form. In response to the question: *Are any convictions recorded by the police?*, the answer on the form was: *Yes*.

4.1.16 On 7th July 1992, Mr. Holland, having been duly proposed and seconded, was elected unopposed at an Assembly of Electors to be a Constable's Officer for the Canton de Bas de la Vingtaine de la Ville. No record has been traced of who proposed and seconded him, and no witness has been able to tell this Committee who those people were. In accordance with normal practice, Mr. Holland, together with four other successful candidates in different Cantons and Vingtaines, was warned to appear before the Royal Court on 10th July 1992 at 10.00 a.m. in order to take the oath of office as a Constable's Officer.

4.1.17 On 8th July 1992, the Town Greffier formally wrote to Mr. Holland on behalf of the Connétable congratulating him on his successful election and reminding him to appear before the Royal Court on Friday 10th July 1992 at 10.00 a.m. to take the oath of office as Constable's Officer. Also on 8th July 1992 the Connétable wrote to the Attorney General, Philip Bailhache, informing him of the names of persons elected as Constable's Officers at the Parish Assembly on 7th July 1992, and notifying him that they had been warned to appear before the Royal Court. This letter was in standard form and was not accompanied by police records for any of the elected officers. A similar letter was sent to the Judicial Greffier so that he might sign the new officers' warrant cards.

4.1.18 The oath of office for a member of the Honorary Police is administered by the Royal Court after it has heard any observations of the Attorney General as to whether or not the oath should be administered. It is for the purpose of these observations (known technically as "moving conclusions") that the Attorney General requires to know whether the officer concerned has any previous convictions.

4.1.19 There was a conflict of evidence regarding the requirement to inform the Attorney General of the criminal records, if any, of prospective honorary police officers. The then Attorney General insisted that this was a matter for the Connétable, and correspondence from his successor supports that understanding. However, in written evidence to this Committee, the then Clerk to the Attorney General paints a different picture. She stated 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. My requests to the Criminal Records Office were made by telephone and that office would fax the records through to us with no other paperwork being created. Criminal records are not usually kept on file as a safeguard against a Data Protection breach. She also stated: Should I or one of my colleagues have omitted to do this, it would have been picked by the Attorney General or Solicitor General before going to the Samedi Court for the swearing in process. However, in written evidence, the Attorney General has challenged that recollection. He stated that it would have been impractical to have undertaken such checks as a matter of course because of the short time between receipt of notification of the elections and the appearance of the officer before the Royal Court.*

4.1.20 Whatever the procedure in place at the time, the then Attorney General, in oral evidence, stated that he was not aware of Mr. Holland's previous conviction before he was sworn in.

4.1.21 On 10th July 1992 at 10.00 a.m., Mr. Holland was sworn in before the Royal Court as a Constable's Officer, the Attorney General having moved that the oath be administered.

4.1.22 That same day, an anonymous letter, dated 8th July 1992, was received at the Law Officers' Department. The letter read: *Reading today's J.E.P. I notice with horror that a Mr. Roger Arthur Holland has been elected as Constable's Officer for the Parish of St. Helier. My reason for being concerned is that Mr. Holland was recently convicted of an Indecent assault on a retarded child whilst he held a position of trust as a St. Johns Ambulance Instructor; surely people of this calibre can not be allowed to hold office in the Jersey Parish Police".*

4.1.23 Under procedures in place at the time in the Law Officers' Department for receiving and distributing incoming mail, it is almost certain that this letter was not seen by anyone in authority until after the Attorney General had returned from the Royal Court that morning. In due course, the letter was passed to the Attorney General, who initialled it and his Clerk sent a copy of the letter under cover of a compliments slip to the Town Greffier asking for comment.

4.1.24 The then Attorney General stated in oral evidence to this Committee that this was the first time he had become aware of Mr. Holland's conviction.

4.1.25 On 14th July 1992, a file note written by the Clerk to the Attorney General records a telephone call from the Town Greffier in the following terms: *Mr. Holland had been trying to get into the Honorary Police for a number of years and had previously been dissuaded because of the offence complained of. However, this was in 1986 and he was put on Probation for a period of one year, which Order was discharged after only 6 months duration, so the offence could not have been considered a particularly serious one.*

*In addition to this he has been on Advisory Committees and has given good service to the Parish in many ways. Paddy received a number of references from respectable parishioners which he could send you if you wish to see them. All in all, the Constable did not feel he could oppose his wish to join the honorary service any longer as this offence is now six years ago.*

4.1.26 The then Attorney General told this Committee that he could not remember whether he had any conversations with the Connétable regarding Mr. Holland but he had accepted the advice recorded in the telephone message that in all the circumstances Mr. Holland's membership of the St. Helier Honorary Police should not be opposed.

4.1.27 The then Attorney General told this Committee that, in his view, the Magistrate must have decided that the original offence was *clearly not very serious* because it had resulted merely in a probation order. It was also in Mr. Holland's favour that the probation order had been discharged early on the grounds of *good progress*. Furthermore, the conviction had been six years earlier and, so far as anyone was aware at the time, Mr. Holland had not re-offended. The then Attorney General told this Committee that, in the light of these facts, even if he had been aware of them before Mr. Holland had been sworn in, he *would very likely have agreed that the matter was in the past and would have moved that the oath be administered*. This statement was made, however, apparently without the knowledge that Mr. Holland had confessed to another indecent assault at the time of his first conviction.

4.1.28 The then Attorney General made the point to this Committee that the swearing-in of an honorary police officer before the Royal Court process is a solemn affair, and to ask the Court to *review shortly after the swearing in* an honorary police officer's suitability for continuing in office would have been a very serious matter. Furthermore, the threshold for making that petition would have been higher than if the question were asked before he had been sworn in.

4.1.29 In the event, the Attorney General decided not to refer the matter of Mr. Holland's previous conviction to the Royal Court.

4.1.30 The then Attorney General agreed with the suggestion made by a member of this Committee that, once an officer with a previous conviction had been sworn in, and therefore accepted by the Royal Court, the previous conviction from his record would be of no further account in determining the officer's suitability to remain in office. Thus at this point Mr. Holland had been accepted formally as a member of the honorary police, in spite of his previous conviction, and for all future purposes, his conviction was effectively regarded as spent.

## 4.2 Comments on the events

4.2.1 It is clear from correspondence that Connétable Clarke was unwilling to accept Mr. Holland into any aspect of parish service, despite the latter's very persistent attempts to become involved. Thus the letter of 19th March 1992 appears to mark a sea-change in the Connétable's attitude, whether intended or not. Although the letter stated clearly that the Connétable would not accept Mr. Holland as a probationary police officer, it also conceded that he might offer himself as a candidate for election as a Constable's Officer. It can be fairly argued that that part of the letter simply stated the obvious and was not an inducement for Mr. Holland to stand for election. However, given the Connétable's repeated attempts to discourage Mr. Holland from joining the St. Helier honorary service in any capacity, this Committee would have expected the letter to point out that, if Mr. Holland were elected as an honorary police officer, his police record could be made available to the Royal Court and might result in him not being sworn in.

4.2.2 This unexplained omission was compounded by the letter of 22nd June 1992. This informed Mr. Holland that the Connétable had directed the Town Greffier to send him a candidate's application form but again without referring to the possibility of the previous conviction coming to the attention of the Royal Court. The then Town Greffier stated in oral evidence that he had attempted privately to dissuade Mr. Holland from standing for office because of the risk of embarrassment, if the Royal Court declined to administer the oath of office to him. However, that attempt had been unsuccessful. A further unfortunate consequence of the letter of 19th March 1992 was that Mr. Holland eventually joined the St. Helier Honorary Police without apparently undergoing a proper probationary period, or meeting the interview panel.

4.2.3 The minutes of the Honorary Police meeting of 9th June 1992 regarding recruitment do not record the discussion which this Committee believes must have taken place. It is apparent that the matter of candidates with police records was a concern to some officers. This Committee has received no evidence that the Connétable's earlier discouragement of Mr. Holland was mentioned at that meeting, which is strange considering it was formally recorded in correspondence with Mr. Holland. The decision to leave the matter to the Royal Court could be interpreted in two ways, either it was purposive with the intention that the meeting's concerns would be brought to the Court's attention (however that might be done) or there was, in effect, a collective acceptance that events were to be allowed to take their course. Whatever the intention of the meeting, it seemed that the latter course prevailed.

4.2.4 It was not a mandatory requirement in 1992 for the Connétable to include details of previous convictions when informing the Attorney General of election results. It was left to the Connétable to decide whether a conviction should be referred to the Attorney General. In the evidence presented to this Committee, there was a clear disagreement between the then Town Greffier and the then Attorney General about the manner in which such information would be sent to the Attorney General. It may be that the Town Greffier and the Attorney General's Clerk had a private arrangement to exchange such information informally, about which the Attorney General was unaware. However, it is clear on this occasion that the Town Hall did not inform the Attorney General directly of Mr. Holland's conviction (because the then Town Greffier thought that it was unnecessary to do so). Consequently, we may be certain that the concerns expressed at the Honorary Police meeting were also not reported to the Attorney General.

4.2.5 It is likely that the file note dated 14th July 1992 of the telephone conversation between the Attorney General's Clerk and the Town Greffier following the anonymous letter records the sense of the conversation and not the detail. However, it contains no mention of the honorary police meeting, nor the Connétable's previous discouragement of Mr. Holland's earlier attempts to become involved in honorary parish activities. In addition, and perhaps more crucially, it also contains no mention of the fact that, at the time of Mr. Holland's arrest, he had admitted to another assault on a minor. We may safely assume, therefore, that they were not mentioned. This information would have been material to the Attorney General's inquiries, even if it might not have influenced his eventual decision. Furthermore, the then Parish Greffier was mistaken regarding the length of time by which the sentence was reduced, an error later repeated by others.

4.2.6 It is clear that, at some point in this process, the Connétable decided that he would no longer sustain his objections to Mr. Holland's attempts to join the St. Helier Honorary Police but this Committee has been unable to determine the reasons for the Connétable's change of mind. It could have been because of Mr. Holland's persistence, or a recognition of the authority of the electoral process, or simply the result of misunderstandings.

4.2.7 It is clear from the evidence that this Committee has received that, if an Attorney General were notified that a candidate for honorary police office had previous convictions, it would be his responsibility to decide whether details of the conviction should be brought to the attention of the Royal Court. Among the factors that he would take into account in making that decision are whether or not the existence of the conviction might affect adversely the reputation of the Honorary Police generally, or compromise the officer's ability to discharge his police duties.

## CHAPTER 5

### **How Mr. Roger Holland remained in office- 1992 to 1998**

#### 5.1 The events

5.1.1. On 31st July 1992 Mr. Robert L. Le Brocq was elected as Connétable of St. Helier.

5.1.2 Following Mr. Holland's election as a Constable's Officer and swearing-in on 10th July 1992 he proved himself to be a very hard-working and enthusiastic volunteer, dedicated to the Honorary Police Service. He carried out his duties efficiently and effectively. However, there were a number of incidents, some of which are detailed below, which raised some serious questions about his suitability as an Honorary Police Officer.

5.1.3 At a meeting on 15th March 1993 between the Chef de Police, Centenier Peter Davies, and a member of the public a complaint was made regarding the behaviour of Mr. Holland during the previous weekend. Mr. Holland had made inappropriate remarks to a St. Saviour resident. The Chef de Police sent a letter of apology to the complainant and Mr. Holland sent a separate letter of apology.

5.1.4 On 30th May 1993 Mr. Holland was reported to the Chef de Police by a Vingtenier for possibly having exceeded the speed limit in pursuit of an alleged traffic offender, contrary to the Chef de Police's recommendations on high speed driving. It was also possible that he had acted outside the limits of the Parish of St. Helier. The Chef de Police accepted Mr. Holland's explanation of events and concluded that he had been justified in his actions.

5.1.5 However, the then Chef de Police stated in oral evidence to this Committee that by then he had begun to be concerned about Mr. Holland's over zealous attitude.

5.1.6 On 11th September 1994 there was an incident outside the Pomme d'Or Hotel in St. Helier witnessed by the Centenier and by an ex-United Kingdom police officer during which Mr. Holland was alleged to have assaulted a visitor to the Island.

5.1.7 On 16th September 1994 the Town Greffier wrote a letter to the victim of the alleged assault to establish the facts of the incident. The Town Greffier also wrote to the United Kingdom resident who had witnessed the incident. At the time of the alleged assault, Mr. Holland was working as a taxi driver and was not on duty.

5.1.8 On 29th September 1994 Mr. Holland was caught turning right against a traffic light. He was later fined £20 for this offence.

5.1.9 On 17th October 1994, after the Town Greffier had received information from the victim of the alleged assault outside the Pomme d'Or Hotel and the witness, the Chef de Police wrote to Mr. Holland. He told him that he had been directed by the Connétable of St. Helier to inform him that a serious allegation had been lodged with the Connétable relative to Mr. Holland's conduct.

5.1.10 On 18th October 1994, Mr. Holland voluntarily surrendered his warrant card.

5.1.11 On 21st October 1994 the Chef de Police wrote to the Attorney General, Michael Birt, on behalf of the Connétable, to advise him of the alleged assault by Mr. Holland and requested that the Attorney General issue such directives as were appropriate.

5.1.12 The Attorney General, in a letter dated 26th October 1994 replying to the Chef de Police, pointed out that, in the reported case 'In re Pearce' (1987-88 JLR p.109), the Royal Court had emphasised the importance of keeping separate the investigation of the criminal and disciplinary aspects of a particular incident. In this instance the Attorney General decided not to request the States of Jersey Police to carry out a criminal investigation but decided that the facts should be investigated by the Connétable as a disciplinary matter. For that purpose, he recommended that the Connétable obtained the assistance of the States of Jersey Police.

5.1.13 Because the alleged victim and witness were resident in the United Kingdom, the States of Jersey Police requested assistance from the Wiltshire Constabulary to take statements. These were eventually undertaken in February 1995. Mr. Holland was interviewed on 10th March 1995.

5.1.14 A report was prepared by the Chef de Police and on 12th April 1995 submitted to the Connétable. At the end of the formal report an "Antecedents" report was included which detailed Mr. Holland's record as an officer and previous convictions. An early draft of the "Antecedents" report had stated: *Throughout his Honorary Police Service, Mr. Holland has gained a reputation for being a very keen officer who will tackle most incidents he is sent to, or happens across, whether officially 'on duty' or 'off duty'. This has on occasions been interpreted as over zealousness.* This paragraph was omitted from the report in its final form.

5.1.15 At the end of the final report there was a list of recommendations. The last paragraph stated: *...consideration is given as whether (sic) C.O. HOLLAND, by virtue of his actions outside the Pomme D'Or Hotel at 1700 hours, or thereabouts, on Sunday 11th September, 1994, showed himself to be unfit to carry out the duties of a Police Officer and should therefore be required to resign from the Honorary Police.*

5.1.16 In oral evidence to the Committee the then Chef de Police was questioned about this recommendation and was asked whether that last paragraph, although written diplomatically, was a strong recommendation that Mr. Holland should be dismissed. He confirmed that that was the case.

5.1.17 The then Connétable told this Committee that he did not read the report, although he did discuss it with the Chef de Police. He sent it to the Attorney General under cover of a letter dated 15th May 1995, asking for his comment on Mr. Holland's future as an Honorary Police Officer.

5.1.18 The Connétable had already spoken to Mr. Holland and in his covering letter told the Attorney General that he had warned him that his conduct was not what he expected of an Honorary Police Officer and that Mr. Holland had expressed deep regret. He also forwarded a copy of a letter from Mr. Holland in which he expressed regret and stated his desire to continue in the Honorary Police Service.



5.1.19 Under the Honorary Police (Jersey) Regulations 1977, the Attorney General had the power to suspend Mr. Holland from office or require him to resign. The then Attorney General stated in his written submission that he was undecided at the time whether to require Mr. Holland to resign or to *suspend him a period*. His file note of a meeting held on 4th August 1995 with the Connétable and the Town Greffier stated: *The Constable requested that I consider suspension. He said that C.O. Holland is a very enthusiastic member of the Force and has been already punished quite substantially by the long period of suspension. He believes that Holland has learnt his lesson and is much chastened by the whole experience.* The then Attorney General decided to suspend him for three months.

5.1.20 In passing, it should be noted that in taking this decision, which followed a disciplinary investigation, the then Attorney General was able to take into account only *things which C.O. Holland had done whilst an Honorary Police Officer* and not conduct prior to his election. In other words, the Attorney General could not at that time take Mr. Holland's 1986 conviction into account.

5.1.21 On 8th August 1995 the Attorney General wrote to Mr. Holland telling him that he was formally suspended from the Honorary Police for three months. In the letter the Attorney General stated that, after the suspension, Mr. Holland would be free to resume office and to stand for re-election to the Honorary Police. He told this Committee that he had inserted that sentence purely as a matter of fact.

5.1.22 It seems that nobody had informed the Attorney General that Mr. Holland's term of office had in fact expired on 10th July 1995, three years after his swearing-in, and therefore technically he could not suspend him.

5.1.23 While this matter was being investigated, the States in January 1995 appointed an independent Review Body, chaired by Sir Cecil Clothier K.C.B. Q.C., to carry out a "full and thorough" review of the policing system in the Island. Among those making written submissions to the Review Body was the Chief Officer of the States of Jersey Police. He gave a copy of his submission, in which he expressed concern about the election of Honorary Police Officers with criminal convictions, to the Attorney General.

5.1.24 As a result of reading this submission, the Attorney General wrote on 29th June 1995, to the Chairman, Comité des Connétables, giving new directions for reporting previous convictions and stated: *With immediate effect I require to see the criminal record (if any) of all new applicants. In order to avoid misunderstandings, he also required the Connétables to provide specific written confirmation if there were no criminal record.* The letter also set out a procedure for dealing with late nominations which might leave insufficient time for a record check to be completed. The Attorney General told this Committee that the reason this direction only applied to new applicants and not to re-elected officers was *because of the difficulties I envisaged in applying the new rule retrospectively to persons who joined the Honorary Police under the old system and who had perhaps served conscientiously and diligently for many years.*

5.1.25 On 4th August 1995, the Vingteniers' and Constable's Officers' Association wrote to the Attorney General with regard to the Association's submission to the independent Review Body on Police Services in Jersey. The Association had received from the States of Jersey Police a letter which included a list of Honorary Police Officers with criminal convictions. Included in this list were details of Mr. Holland's conviction, although he was not specifically identified.

5.1.26 In July 1996 the Review Body published its report entitled "Report of the Independent Review Body on Police Services in Jersey". The report contained various recommendations and also expressed serious concern about the election and re-election of officers with previous criminal convictions.

5.1.27 On 5th December 1995 Mr. Holland was re-elected as a Constable's Officer for the Canton de Bas de la Vingtaine de la Ville in St. Helier having been proposed by Vingtenier Haynes and seconded by Mr. K. MacCarthy, the caretaker at the Town Hall. In evidence to this Committee, Vingtenier Haynes stated that he had proposed Mr. Holland because he thought he had done a good job, even though he knew of Mr. Holland's previous conviction. He had also become aware of an allegation that Mr. Holland had committed a further indecent assault prior to joining the Honorary Police (other than the one that Mr. Holland had admitted to in 1986) but for which he had not been prosecuted. Mr. MacCarthy explained in a written submission that he is often one of the few people present at meetings of the Parish Assembly when nominations of candidates for the honorary police are being made and therefore is asked to second candidate's applications for office, which he does to assist the process.

5.1.28 Mr. Holland was sworn in on 8th December 1995. There was no requirement to inform the Attorney General of his previous conviction because he was not a new applicant. The Connétable's standard letter informing the Attorney General of Mr. Holland's election stated: *enquiries had been made with the States of Jersey Police and there are no police convictions recorded against [the other elected officers]; with regard to Roger Holland I would refer to your letter dated 9th August 1995 reference MCB/SB 145/5(7/94) ordering Mr. Holland's suspension for a period of three months and confirming that at the*

*end of the suspension Mr. Holland would be free to stand for re-election.*

5.1.29 During 1995, the then Chef de Police introduced a new system of working for Vingteniers and Constable's Officers. They were formed into four teams headed by a senior Vingtenier. Following his re-election as a Constable's Officer, Mr. Holland was assigned to Team B. The senior Vingtenier was Vingtenier Bougourd. The other members were Vingteniers Mahé and Rousseau, Constable's Officers Batho, Smith, Le Louarn and Rousseau.

5.1.30 On 9th April 1996 a letter was sent to the Connétable concerning Mr. Holland's treatment of a relative of the complainant. This Committee has been unable to determine the full facts of this incident, as the evidence presented has been contradictory. It is apparent that both the individuals who investigated the matter, and others who were aware of the incident, were uncomfortable at the manner in which Mr. Holland had conducted himself. However this Committee is satisfied that the incident had only a minor bearing on the issue of why Mr. Holland remained in the Honorary Police and therefore has not pursued the matter further.

5.1.31 On 2nd September 1997 Mr. Holland was proposed for election as a Vingtenier by Vingtenier Rousseau who had initially refused to propose him. However, he was asked repeatedly by Mr. Holland to do so and eventually agreed. He stated in evidence to this Committee that he considered him to be the perfect officer at times and considered that he would be a better Vingtenier than other officers who had expressed an interest in the rank. He also thought that the responsibilities of higher office might make Mr. Holland behave a little more rationally. At the time Vingtenier Rousseau probably did not know the details of the original conviction nor the alleged indecent assault of which Vingtenier Haynes had been made aware. Vingtenier Haynes seconded the nomination of Mr. Holland because, in spite of his knowledge of Mr. Holland's character defects, he thought he was good at his job.

5.1.32 Mr. Holland was sworn in on 5th September 1997 and the Attorney General was not informed of his previous convictions, there being no requirement to do so.

5.1.33 On 23rd September 1997 the Chief Officer of the States of Jersey Police wrote to the Attorney General to express concern over, *inter alia*, Mr. Holland's election to the post of Vingtenier. In his letter he stated: *I acknowledge that his conviction was 11 years ago and whilst the details of the incident are not at the serious end of a scale, the victim was a 14 year old girl who attended a school of Special Education as she had a mental age of 10 years. Furthermore, he admitted to another incident for which he was not charged and admitted to having a "problem for younger girls".* With his letter, the Chief Officer sent copies of the States of Jersey Police report, a related witness statement and Mr. Holland's statement after caution recorded by the Police. The then Attorney General told this Committee that this was the *first occasion upon which [he] had seen the papers setting out the evidence which underlay Holland's conviction in 1986.* Partly as a result of this, he changed the directive concerning the reporting of previous convictions of elected honorary police officers and wrote on 3rd November 1997 to all Connétables directing that all convictions of such officers should be reported to him whether they had been elected for the first time or re-elected. In that letter he stated *I appreciate that, in the case of an officer with previous convictions who has behaved impeccably as an Honorary Police officer for many years, my judgment may be exercised in a different manner to that which it would have been had the officer been elected for the first time. Nevertheless I think it is important in the public interest that, even in the case of re-elected officers, his previous record, if any, be known so that a decision can be made as to whether it precludes him from office.*

5.1.34 During 1998 relationships between Mr. Holland and his fellow officers became increasingly strained. Vingtenier Rousseau's hopes that the senior office might temper Mr. Holland's behaviour were found to be misplaced. In fact, according to Vingtenier Rousseau, he became *ten times worse*, and this Committee has been told many credible anecdotal incidences of his erratic behaviour. In turn, Mr. Holland complained that his fellow officers were lazy and inefficient.

5.1.35 The then Chef de Police, Centenier M. Patton, told this Committee that he was not aware of Mr. Holland's problems with his fellow officers, although he had discussed particular incidents with the Connétable from time to time. He generally thought that Mr. Holland was a good, hard-working officer.

5.1.36 On 15th September 1998 following a disturbance in St. Helier, Mr. Holland was in attendance in support of the States of Jersey Police. A formal complaint against Mr. Holland for unlawful arrest and using excessive force was subsequently made by one of the parties involved. This was referred to the Connétable for resolution. The States of Jersey Police investigated the matter and passed a file to the Attorney General. However, since the complainant failed to make a formal statement, the matter was dropped.

## 5.2 Comments on the events

5.2.1 Mr. Le Brocq became Connétable just under a month after Mr. Holland's swearing-in. There was no formal system in place in St. Helier for briefing an incoming Connétable on his responsibilities. No doubt on policing matters Mr. Le Brocq



was expected to know the ropes because he had a total of twelve years' service in the St. Helier Honorary Police. He also had a long discussion with the retiring Connétable, Mr. Le Brocq told this Committee that, in that conversation, Mr. Clarke said *Nobody can actually tell you what responsibility a Constable has, you actually have to sit in the chair to find out what it's about.* He also advised that, in policing matters, *if there should be any enquiries or any complaints reference the Honorary Police, you give it to the Chef to deal with.* In particular, this Committee was told by Mr. Le Brocq that no mention was made of Mr. Holland in the handover discussions.

5.2.2 During the period 1992 to 1998 Mr. Holland was involved in several incidents in which his conduct could be considered inappropriate for a serving officer. All but one of these incidents was resolved informally. That was the alleged assault outside the Pomme d'Or Hotel which the then Attorney General decided should be investigated as a disciplinary, and not a criminal, offence. After investigation Mr. Holland was suspended from office for three months. For the purposes of that investigation, Centenier Davies compiled an "Antecedents" report. It appears that, apart from that report, there was no comprehensively documented record of Mr. Holland's performance as an honorary police officer.

5.2.3 Very limited personnel files were kept on members of the Honorary Police in St. Helier, and those files were kept in the Town Greffier's office since they were regarded as Parish files rather than Honorary Police files. Anyone in authority in the Honorary Police who needed to see a file had to consult with the Town Greffier and this was rarely done. Consequently, no-one was able to build up a comprehensive picture of any officer's performance, except from memory.

5.2.4 On the face of it, the St. Helier Honorary Police appears to be a highly structured organisation with a clear reporting line from the Connétable through the Chef of Police to the various ranks of the police. In such circumstances one would expect information to flow not just downwards but also from the lower ranks upwards throughout the structure. In practice, this did not occur. From 1995, when the team structure was established, there were ten Centeniers and only four Teams. The Duty Centenier worked to a different rota therefore did not remain with any particular team. Furthermore, Centeniers were primarily involved in Parish Hall inquiries and preparing cases for presentation to the Police Court and were not in touch with the day-to-day workings of the force at the lower level. However, the team system meant that members of the team knew each other well and in a number of cases the teams had, in effect, selected themselves.

5.2.5 All the members of the St. Helier Honorary Police who gave oral evidence to this Committee stated that they were jointly responsible with their colleagues for maintaining high standards of conduct within the police, but in practice they did not discharge this responsibility.

5.2.6 Within this unstructured organisation there were no effective complaints procedures. Apart from a brief period when a Centenier was appointed as a Discipline Officer, no-one was formally responsible for assessing officers' performance and none of the Vingteniers or Centeniers who gave evidence to this Committee regarded it as part of their direct responsibility to be concerned with discipline. Connétable Le Brocq told this Committee that he had adopted an open-door policy so that any officer could approach him directly with any concern. The risk of such an approach was that he would either be bothered by trivial complaints or matters would only come to his attention when they had developed to a damaging level.

5.2.7 The powers of the Attorney General under the Honorary Police (Jersey) Regulations 1977, were essentially two-fold. He could require a member of the Honorary Police to resign his office if he were satisfied that the officer had "by some act or default rendered himself unfit to carry out his duties". To establish that level of default would require a formal hearing at which the accused officer could present his case. Alternatively, the Attorney General could suspend from office a member of the Honorary Police, if, after consulting with the Connétable of the Parish concerned, he was satisfied that the member's conduct "[fell] short of the highest standard required of the Honorary Police", a lower level of fault.

5.2.8 Under the same Regulations, a Connétable could also suspend from office a member of the Honorary Police in the parish, on the same grounds as the Attorney General and after consultation with him.

5.2.9 When the Attorney General wrote to Mr. Holland informing him that he was formally suspended from office for three months, Mr. Holland's term of office had already expired. Although it was the practice at the time for honorary police officers to remain in post until a replacement had been appointed, it seems strange that he would be suspended in those circumstances. Although the election of a Constable's Officer could have taken place at any time after 10th July 1995, in fact the election for Constable's Officer for the Canton de Bas de la Vingtaine de la Ville, was not called until 5th December 1995 by which time Mr. Holland had completed his period of suspension.

5.2.10 Some members of the St. Helier Honorary Police at various times and in various ways became aware of the fact of Mr. Holland's conviction, but generally it appears that they were unaware of the exact nature of the offence. If anyone queried it with a superior or colleague, they tended to describe it as "a youthful indiscretion". Members of the St. Helier Honorary Police probably did not need to be told the precise details. However, it would have caused much less trouble

subsequently if senior members of the force had been aware of the conviction. They would then not have been surprised had the matter been raised by a member of the public. They also needed to know (for reassurance) that any honorary police officer with a conviction, such as Mr. Holland, had been admitted to the police only after the proper processes had been observed. Not everyone might agree with the decision, but they should be able to accept that a proper judgement had been made under a process that was robust and trustworthy. Although in the case of Mr. Holland the vetting process was seriously impaired, the Attorney General had considered the matter and decided that Mr. Holland's swearing-in should stand.

5.2.11 The allegation made to Vingtenier Haynes that Mr. Holland had committed another indecent assault, was made during a telephone conversation. When Vingtenier Haynes confronted Mr. Holland he denied it. Furthermore, given that the party involved was not prepared to pursue the matter, this Committee is not surprised that, in the circumstances, Vingtenier Haynes took no further action.

5.2.12 The Attorney General responded to the letter of 23rd September 1997, from the Chief Officer, States of Jersey Police, by changing the procedures for advising him on convictions of officers to be re-elected. In his reply to the Chief Officer he stated: *In the light of the way in which this has arisen, I do not propose to take any action at this stage in relation to the Honorary Police Officers to whom you refer.* In his evidence to this Committee the then Attorney General stated that he could not at that stage take retrospective action in respect of those officers who had already been duly sworn in. This was effectively the same decision that his predecessor had taken in 1992 following his receipt of the anonymous letter. However, the Attorney General in 1997 did not make the connection that one of the officers referred to in the Chief Officer's letter was Mr. Holland whom he had suspended from office two years previously and therefore could not be described as having "behaved impeccably as an Honorary Police Officer for many years".

## CHAPTER 6

### How Mr. Roger Holland remained in office - 1999

#### 6.1 The events

6.1.1 By the beginning of 1999 the relationship in Team B, of which Mr. Holland was a member, had become extremely strained. Mr. Holland was regarded by his fellow officers as being overzealous and overbearing while Mr. Holland regarded his fellow officers as lazy and inefficient.

6.1.2 On 30th January 1999, there was an incident between Mr. Holland and Mr. Brian Duffy, who as a Detective Constable had been the investigating officer in 1986, and who was by then a civilian. Mr. Duffy said he was *astonished and disgusted* to find that Mr. Holland was in the Honorary Police. He challenged Mr. Holland about his past record when he came across him while Mr. Holland was on duty issuing parking tickets. Mr. Duffy believes that Mr. Holland panicked because he was one of the few people who knew the true position, and therefore arrested him for being drunk and disorderly.

6.1.3 On 24th February 1999 Mr. Duffy wrote to the Connétable detailing his version of events, and setting out some other concerns he had about the actions of Mr. Holland as a serving officer.

6.1.4 The Connétable was out of the Island at the time and the matter was handled by Centenier E. Galichan, the Chef de Police. There appears to have been no formal reply to Mr. Duffy's letter. Some time later, at a private meeting held immediately before Mr. Duffy was charged in the Police Court, the Chef de Police accused Mr. Duffy of trying to make trouble for a person he considered to be an excellent serving officer. Mr. Duffy wanted Mr. Holland's previous conviction to be brought out in open court, but the Chef de Police advised that this could not happen. There is conflicting evidence on the exact details of this discussion. The charge against Mr. Duffy was eventually dropped as no evidence was offered against him.

6.1.5 In late March or early April 1999, Vingtenier Rousseau and Constable's Officer Parry were on duty in a police car when they were approached by a minor. The conversation with her included an allegation that Mr. Holland had committed a sexual act with her in the back of a police van. They initially dismissed the matter as improbable.

6.1.6 Two or three weeks after the conversation with the minor, a meeting was held at Vingtenier Rousseau's house at which all the Team B members including Mr. Holland attended. During this meeting the Team confronted Mr. Holland with their concerns about his general behaviour and he replied forcefully. In addition, they confronted Mr. Holland with the allegation made by the minor. His reaction led them to believe that there was some truth in the matter.

6.1.7 The officers subsequently decided to gather as much information as possible to compile a thorough report on Mr. Holland. They discovered that the victim of the alleged indecent assault, about which Vingtenier Haynes was aware, was now prepared to make a formal complaint. They also discovered that there was another person who was prepared to make a

complaint about an alleged offence committed before Mr. Holland had joined the Honorary Police. For most of the officers this was the first time they had become aware of these matters and realised the seriousness of the position.

6.1.8 On 23rd April 1999, shortly after the meeting at Vingtenier Rousseau's house, Mr. Holland wrote a report to the Connétable complaining bitterly about his fellow officers. He ended up by suggesting that he should leave Team B and join Team D.

6.1.9 On 4th May 1999, at the monthly Honorary Police meeting, the Connétable told the meeting that he had received a letter of complaint about some officers from Mr. Holland.

6.1.10 On 7th May 1999, Vingteniers Rousseau and Mahé and Constable's Officer Roberts held a meeting with the Connétable to voice their concerns about Mr. Holland. The Connétable considered that a matter of this importance should have been submitted in writing and requested the officers to do so. The officers were disappointed with the Connétable's reaction.

6.1.11 That same evening Vingtenier Rousseau wrote a four-page letter to the Connétable detailing a range of complaints about Mr. Holland's behaviour. In particular, he reported an alleged assault on himself by Mr. Holland and various examples of over zealous and inappropriate behaviour. He told the Connétable: *As you are now aware Roger has for some years been* [redacted] *severe mood swings.* He also alleged that Mr. Holland had committed a sexual act in early 1999 in a police van with a minor. In addition, he reported that the victim of an alleged sexual assault by Mr. Holland was prepared to make a statement about the incident and gave contact details for the Connétable to follow up. Vingtenier Mahé also wrote a shorter letter to the Connétable echoing some of Vingtenier Rousseau's concerns but Constable's Officer Roberts did not. Constable's Officer Batho wrote a short letter to the Connétable expressing concern at Mr. Holland's manner of dealing with members of the public.

6.1.12 There is conflicting evidence on what action the Connétable took. Shortly after his meeting with the three officers, he discussed the matter informally with the Chef de Police, who was about to go on holiday and would effectively be unavailable to be consulted until the end of June. During the month of May the Connétable received the written statements that he had requested from the officers but, despite the seriousness of the allegations, he chose not to report the matter to the Attorney General until the Chef de Police had returned from holiday. (This decision was later criticised by the Royal Court. The Court found that the Connétable had acted in a manner that was inconsistent with his statutory duties but in doing so had not acted dishonestly or with any intention of obstructing the course of justice). On 30th June 1999, the Connétable had a meeting with the Chef de Police during which he requested him to carry out an enquiry into the allegations made against Mr. Holland and handed over the three letters and Mr. Holland's report to the Chef de Police to investigate. He also took the unusual step of instructing the Chef de Police to keep a log of all the action he took. He advised the Chef de Police that this was in order to comply with a decision of the Royal Court. Because the matter had not been reported to the Attorney General at this stage Mr. Holland could not be suspended by the Connétable.

6.1.13 Having read the papers, the Chef de Police formed the view that there might be sufficient evidence to bring the matter to the attention of the Attorney General. He decided to consult a colleague who, on 5th July 1999 agreed that the matter should be investigated and referred to the Attorney General. Three days later, after consulting another colleague, the Chef de Police started to prepare the report. Six days later the Chef de Police handed the report to the Attorney General, having had some difficulty getting it typed in a secure manner.

6.1.14 The covering letter to the report did not indicate that there were serious matters to be considered and therefore the Attorney General did not immediately read it. On 30th July 1999 at a meeting with the Connétable and the Chef de Police on another matter, the Chef de Police asked what action had been taken. The Attorney General apologised for the fact that he had not been able to turn to the matter.

6.1.15 Over the following weekend the Attorney General read the correspondence, and on 2nd August 1999 started an official investigation into the matter.

6.1.16 On 5th August 1999, just before going on a long leave the Attorney General wrote a note to the Solicitor General, handing the matter over to her in his absence. He noted that Mr. Holland had not yet been told about the investigation and that, if Mr. Holland were suspended, consideration would need to be given to the question of how Mr. Holland became member of the Honorary Police, particularly since the press were aware of the matter. He did not make the connection at that time that the complaint concerned the same person that he had suspended in 1995 but he was aware that this was the person who had been detailed as an officer with a criminal record in the letter of 23rd September 1997 to him from the Chief Officer of the States of Jersey Police.

6.1.17 On 11th August 1999, the Solicitor General suspended Mr. Holland from the Honorary Police, noting that he

intended to appeal against his suspension.

6.1.18 On 22nd June 1999, while the investigation into Mr. Holland was being considered by the Connétable, Mr. Holland was involved in an incident with Mr. A. Burnett during which there were allegations made against Mr. Burnett of an assault on Mr. Holland. This matter was investigated by Centenier Hilton but eventually the case was dropped.

6.1.19 Centenier Hilton, having discovered from her dealings with Mr. Burnett that Mr. Holland had a previous conviction, wrote to the Attorney General on 29th July 1999 expressing her concern that a person with such a conviction could be a member of the Honorary Police. This was after discussing the matter with the Chef de Police, who had decided that he could not disclose anything to her because of the investigation which was taking place at that time.

6.1.20 On 20th August 1999 the Solicitor General wrote to Connétable Mrs. I.M. Le Feuvre, in her capacity as Chairperson of the Comité des Connétables, asking her to nominate representatives to a committee of Connétables and Centeniers to be appointed by the Attorney General to investigate the allegations made against Mr. Holland. This was the standard form of investigation provided by the Honorary Police (Jersey) Regulations 1977.

6.1.21 On 17th November 1999 Mr. Holland resigned from the Honorary Police admitting to *conduct unbecoming of the office of Vingtenier* prior to his election in 1992.

## 6.2 Comments on the events

6.2.1 It is evident that at the beginning of 1999 there was much ill-will in certain parts of the Honorary Police in St. Helier, particularly in Team B. Allegations and counter-allegations, including some of an apparently petty nature, were exchanged. The Connétable and the Chef de Police originally took the allegations made at the 7th May 1999 meeting as examples of that kind of behaviour and believed they were in retaliation for Mr. Holland's complaints against his fellow officers of inefficiency and laziness. However, this Committee has formed the view that Mr. Holland's complaints about his fellow officers were probably a pre-emptive strike on his part, since he expected that his fellow officers would be making a formal complaint against him.

6.2.2 The incidents involving Mr. Duffy and Mr. Burnett illustrate a difficulty that this Committee has encountered in investigating this matter. The two incidents occurred at a time when Mr. Holland was an established member of the Honorary Police having been elected a Constable's Officer in 1992, re-elected in 1995 and elected a Vingtenier in 1997. On each occasion his previous conviction had to some extent been vetted. However, the only information that Mr. Duffy and Mr. Burnett possessed was that Mr. Holland was a person who had been convicted of a sexual offence and yet was serving as a police officer. This led them to believe that some form of cover-up had occurred. It was also around this time that Mr. Holland's background became a matter of public interest.

6.2.3 Members of the Honorary Police, particularly those involved in reporting Mr. Holland to the Connétable, had no information on the progress of the investigation between 7th May and 11th August 1999. When they questioned the Connétable they were given non-committal answers. This led them to believe that a cover-up might be in progress. This view was heightened by a report of Constable's Officer Parry to his fellow officers of a conversation which he claimed to have overheard between the Chef de Police and Mr. Holland. In his sworn evidence to this Committee, Constable's Officer Parry stated that the Chef de Police had said words to the effect: *Don't worry about this, this complaint will go no further*. The Chef de Police has denied in sworn evidence to this Committee that this conversation took place. In addition, Centenier Hilton discovered from Mr. Burnett the fact that Mr. Holland had a previous conviction. This was a complete surprise to her and a cause of alarm. She discussed this matter with her colleagues and this reinforced her sense that the conviction had been covered up.

6.2.4 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. As was mentioned in the previous chapter, it is regrettable, for operational reasons, that senior members of the St. Helier Honorary Police were not entrusted with the information about Mr. Holland's police record. In addition, 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 has 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.

6.2.5 During the course of this Inquiry, adverse comments have been made about the manner in which the subsequent

allegations of sexual misconduct against Mr. Holland came forward. It should be noted that the offences of which Mr. Holland was convicted are particularly sensitive ones. At the time the offences occurred, underage victims of sexual assaults were more reluctant to complain that assaults had taken place than perhaps they would be today. There were a variety of reasons for this reluctance. On occasions, when others became aware of the problem, they often genuinely believed that it was in the best interests of the victim not to pursue the allegations. Because such incidents usually occur without witnesses, the evidence is often one person's word against another, namely the victim (who is usually vulnerable) and the perpetrator (who usually has some form of influence or superiority over the victim). Consequently many indecent assaults against minors go unrecorded or unprosecuted.

## CHAPTER 7

### Findings

7.1 Mr. Holland joined the St. Helier Honorary Police because he was determined to do so and would not take "No" for an answer. He stood for election as Constable's Officer because there was no legal inhibition to his candidature and that remains the position today. It should be noted that Mr. Holland was not the only individual with a criminal record, albeit of a different kind, who was accepted into the St. Helier Honorary police at about that time.

7.2 He was accepted for office, despite his previous conviction, because, when he attended the Royal Court to take the oath of office, his suitability for honorary police service was not questioned. The then Attorney General would have been responsible for bringing Mr. Holland's previous conviction to the Court's attention. The then Attorney General did not do so, according to his sworn evidence, because he was unaware of it. This Committee received conflicting evidence about the information that would have been available in the Attorney General's office at the time. This conflict cannot now be resolved because of the office's policy of destroying police records once they had served their immediate purpose in order to comply with data protection requirements.

7.3 The opportunity arose immediately after Mr. Holland's swearing-in to review his suitability for office following the receipt by the then Attorney General of an anonymous letter. The evidence shows that, when consulted, Connétable Clarke no longer felt able to oppose Mr. Holland's wish to join the honorary police and the then Attorney General considered, in all the circumstances, that it would not be appropriate to refer the matter back to the Royal Court.

7.4 From that moment Mr. Holland's conviction ceased to be relevant in considering his suitability for honorary police service. Furthermore, during the period covered by this report, no complaints of sexual misconduct were made against Mr. Holland until Vingtenier Rousseau's letter on 7th May 1999.

7.5 In the seven years that Mr. Holland served in the honorary police his conduct was often questioned, and he was once suspended for improper behaviour. The Parish re-elected him as a Constable's Officer and later elected him as a Vingtenier. At every occasion, decisions were taken on his suitability for office and the responsible individual ruled that he should continue in office. However the responsible individual was usually not in possession of the full facts to make a proper decision.

7.6 These are the bare facts of the matter. However, there are other related facts which require attention.

7.7 A major weakness in the system was and remains the election process itself. Normally a person elected to any public office gains their authority from the fact that they have attained the office by the will of the people. However for Honorary Police officers in St. Helier, this was largely an illusion. None of the elections in which Mr. Holland stood was contested and the Parish Assembly meetings were poorly attended. The nomination process was also unsatisfactory.

7.8 This Committee understands that the defects apparent in Mr. Holland's elections are commonplace. In the case of Vingteniers and Constable's Officers, an individual wishing to be elected to either office has merely to attend a Parish Assembly where there is a vacancy being considered and obtain two supporters from the parish or vingtaine. The practice is that, if only one candidate stands for election, the individual is both nominated and elected the same night and warned to attend the Royal Court to be sworn in.

7.9 There is a formal procedure for the election of a Centenier set out in the part of the 'Loi (1897) sur les élections publiques' that remains in force. It is a full public election, ordered by the Royal Court with all the attendant formality. However, there is often only one candidate and very few electors attend the nomination meeting. If the election of a Centenier attracts little interest in the parish, it is not surprising that the process of electing officers of lesser rank is so weak.

7.10 Another weakness of the system during the period covered by this Committee's investigation was the exchange of information between the two Connétables of St. Helier and the two Attorney Generals. It is clear that the two sides had

different understandings of the reporting requirements in respect of candidates for honorary police office with criminal records. The Attorney General expected the Connétable to inform him of all matters affecting the suitability of a person to serve in the honorary police. Within the honorary police itself the understanding was to leave all difficulties for the Attorney General to resolve. Steps were taken during the period to clarify the matter and these are detailed in the next chapter. There was also misunderstanding on the part of Connétable Le Brocq of his statutory responsibility for reporting complaints against serving members of the Honorary Police to the Attorney General. This matter was examined carefully by the Royal Court in the case *In the matter of the Constable of St. Helier* (2001 JLR N13) and is not discussed in this report.

7.11 The Honorary Police system has an inbuilt fundamental dilemma. It is a voluntary organisation with considerable powers, including, in some cases, power to restrict the liberty of the individual. It is organised into ranks and thus, on the face of it has a formal command structure which all the officers interviewed by this Committee recognised. However, the volunteer nature of the organisation leads it to operate in an unstructured and informal manner. Undoubtedly the motivation of individual honorary police officers is genuine. However the evidence received by this Committee strongly indicates that in practice only lip-service is paid to some important elements of discipline. A critical element is management control. The evidence presented to this Committee showed that successive Chefs de Police tended to regard themselves as first among equals, commanding effectively by consent and somewhat removed from day-to-day policing. Neither Centeniers nor Vingteniers regarded themselves as having formal responsibility for the management of junior officers beyond settling the duty rosters. They enjoyed a working relationship with officers on duty weeks but apparently not further than that. As a consequence, if there was concern about the behaviour of an officer, generally speaking, there was no formal procedure for dealing with the situation.

7.12 Handover arrangements between successive Connétables and indeed, between serving and incoming Centeniers, were informal and inadequate. Newcomers were expected largely to learn from experience. In particular, it is unsatisfactory that incoming Centeniers were not informed of the background of officers with whom they would be working.

7.13 From the very beginning of his period as Connétable, Mr. Le Brocq, acting on the advice of his predecessor delegated most honorary police matters to the Chef de Police. He also had an open door policy, permitting any officer to approach him with any problem they might have. Since there was no formal procedure, other than that for reporting criminal offences or major disciplinary matters, that meant that he could either be inundated with trivial matters or never hear about developing problems until it was too late. In the case of Mr. Holland the latter appears to be the case. This practice also led to some confusion about the rôle of the Connétable and the Chef de Police and, to a degree, it undermined the authority of the Chef de Police.

7.14 From evidence given to this Committee, there was very poor information flow within the St. Helier Honorary Police. Apart from the mandatory monthly police meeting, which was not attended by all officers, there was very little formal information flow up and down the line. This problem was accentuated for much of the relevant period, by the organizational structure of the St. Helier force. Officers were organized into four Teams, with settled membership, headed by a senior Vingtenier. The Teams did a tour of duty of one week and thus reported to the Duty Centenier for that week. As there were ten Centeniers and only four Teams, Team members reported to a different Centenier on every duty. Thus, if problems were developing within a Team, these would not be noticed at senior level within the force. It also seems, from the evidence presented to this Committee, that Duty Centeniers in St. Helier spent most of their duty time conducting Parish Hall inquiries and preparing cases for Police Court hearings and were not involved in day-to-day policing or the management of the duty Team. Within Team B it seems also that gossip was rife and this inevitably caused misinformation and bad feeling leading to loss of morale.

7.15 Because of the lack of effective organisational structure there was no system to monitor regularly and review an officer's behaviour. Furthermore, there were only limited personnel files kept on honorary police officers in St. Helier, and this remains the case. There were no regular assessments of performance and no proper records kept of complaints made against an individual officer. Consequently it was very difficult for people in authority to gain a complete view of the performance of any one officer. In the case of Mr. Holland there were a number of pointers that could have warned the authorities that he might be unsuitable to be an honorary police officer. During his honorary police service Mr. Holland was involved in several incidents that should have raised questions regarding his suitability. None of them was sufficient on its own to make him unsuitable but together they showed a pattern of behaviour, which should have been observed by the Parish authorities. In addition, until recently, such files as were kept were regarded as belonging to the Parish administration rather than the Honorary Police. This meant that they were not easily accessible to senior officers in the force who might need to read them.

7.16 Mr. Holland had proved himself to be a very hard working and competent officer. He carried out many extra duties that other officers were not prepared to do and this resulted in him being greatly valued by some of the senior officers. The St. Helier Honorary Police were continually understaffed during the period covered by this report. In addition, they were



required to carry out extra duties on behalf of the wider Island community. Mr. Holland's enthusiasm to volunteer for extra duties gave him extra value. This resulted in some of the senior officers failing to look past his eagerness to see the deficiencies lurking beneath, and to regard complaints about him by fellow officers to be trivial and vexatious.

7.17 Throughout the inquiry this Committee has not encountered one officer in the St. Helier Honorary Police, with the possible exception of Vingtenier Haynes, who was prepared to accept any responsibility for the events under investigation. This again reinforces the point that there was no effective management structure in the force.

## CHAPTER 8

### Developments between 1992 and 2002

8.1 This Committee recognises that since 1992 many welcome changes have taken place with regard to matters considered in this report and acknowledges that others are under way. The changes have improved the process of entry into the honorary police service. In St. Helier, induction and training procedures have improved. The Home Affairs Committee has considered a number of other issues, which that Committee mentioned in its Report to the States "Committee of Inquiry: Procedures for Recruitment of Honorary Police Officers (P.67/2001) - Report" (P.67/2001 Rpt). Chief among these are the consideration of disqualification criteria for service in the Honorary Police or the States of Jersey Police and the process of election to the Honorary Police, for both of which a consultation group has been established. Further progress on these matters has been delayed until the completion of this report.

8.2 As has already been recorded in Chapter 5 of this report, in June 1995, the then Attorney General issued new directions to the Comité des Connétables to the effect that he must be informed of all previous convictions of new candidates for the Honorary Police before they were sworn in. That directive also required the Connétable to advise the Attorney General if there were no convictions recorded against a particular individual. In 1997 a further direction was issued to all Connétables, requiring the same information in respect of officers who were being re-elected. Had these procedures been in effect in 1992, it is quite possible that Mr. Holland would not have been sworn in as an officer.

8.3 In 2001, the States adopted a Law which has now been enacted as the Public Elections (Jersey) Law 2002. This Law includes a range of provisions regarding the conduct of elections, including specific provisions in Article 22 regarding the election of Centeniers (but not Vingteniers or Constable's Officers). These are directed primarily to ensure that, if a candidate for election as Centenier has been convicted of an offence of a kind listed in Regulations made by the States, that information will be reported to the nomination meeting. It will be the duty of the Connétable to seek out this information and see that it is reported to the nomination meeting, as well as to the Attorney General. In practice, he could have only two days to obtain that information. This part of the Law appears to this Committee to be impractical given the time required to obtain criminal records, particularly from other jurisdictions. Article 22 of the Law is not yet in force and consequently Regulations have not been made. It should be noted that offences of a kind not listed in the Regulations would not be reported to the nomination meeting.

8.4 Following the report of the Independent Review Body on Police Services in Jersey, published in July 1996, the States set up a Working Party to consider whether and to what extent the following issues raised in the report were appropriate to the Island. The Working Party presented its report to the States (R.C.41/97) on 9th December 1997 and on 19th May 1998, the States, adopting a proposition of the Defence Committee, as it then was, approved most of the recommendations in that report. The States approved the establishment by law of a Police Authority with responsibility for securing the maintenance of effective and efficient policing throughout the Island and setting local objectives and performance targets for the States of Jersey Police Force and the Honorary Police.

8.5 The States also agreed that -

- (a) the office of Chef de Police for each Parish be established by law to have charge of the Honorary Police within the Parish and perform such other duties as may be prescribed by law; and that the Connétables should cease to fulfil operational policing rôle but retain overall responsibility for the effective and efficient policing of their Parish;
- (b) that posts of Chairman and Deputy Chairman of the Honorary Police and the responsibilities of the respective posts be established by law;
- (c) that the Centeniers' Association and the Association of Vingteniers and Constable's Officers be recommended to merge into a single association.

To date, these changes have not been implemented. Apart from (a) above, the changes would not affect directly the issues

disclosed in this report but would change for the better the context in which these issues would be resolved.

8.6 The Police (Complaints and Discipline) (Jersey) Law 1999, (L.A/99) which came into force on 1st January 2001, established a Jersey Police Complaints Authority, and in Part III, made provision for the investigation of complaints against members of the Honorary Police. The Law requires a Connétable to maintain a complaints register and sets out in detail the procedure for investigating a complaint about a member of the Honorary Police, and the possible outcomes of that procedure. These changes make it less likely that conduct such as that exhibited by Mr. Holland and detailed in Chapter 5 would now go unremarked.

8.7 The States subsequently made the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 2000 (R&O - 110/2000) which also came into force on 1st January 2001. These Regulations repealed and replaced the provisions of the Honorary Police (Jersey) Regulations 1977, which have been mentioned in earlier Chapters of this report. Among other things, the new Regulations set out a Discipline Code which covers most of the behavioural problems which have been disclosed in this report. It includes an obligation on officers to support their colleagues in the execution of their lawful duties and oppose any improper behaviour, reporting it where appropriate. The Regulations also set out, more clearly than previously, the various stages in the informal and formal investigation of complaints against officers and the conduct of disciplinary hearings.

## CHAPTER 9

### Recommendations

9.1 This Committee considers that there is still a meaningful rôle for the Honorary Police in Jersey in the 21st Century. It is a distinctive and valued feature of the Island's traditions and present way of life, it is part of the fabric of the community, and has certain strengths. However, in order to maintain its position as a valuable and respected institution, it must continually review its practices and procedures and be responsive to changes within the community.

9.2 Most of the evidence received by this Committee concerned the Honorary Police in St. Helier. There are features common to policing in all the parishes. However, St. Helier, being primarily an urban parish with a large, transitory population, does have unique features. The St. Helier Honorary Police force is also by far the largest such force in the Island which presents special organisational problems.

9.3 Chapter 7 of the report describes the deficiencies of the electoral process for honorary police officers in the parish of St. Helier. Another such description is contained in the report of the Independent Review Body on Police Services in Jersey (paragraphs 2.2.7 and 2.2.9). One of the main virtues of the Honorary Police is that its members are elected by the community that they serve. However, if the electors are few in number, or there is only one candidate, the assumed strong link with that community has thereby atrophied. This Committee supports the suggestions in the report of the Review Body to provide a "proper electoral process" and urges those responsible for such matters to make the changes without delay. If such steps are not taken, or prove impractical, this Committee considers that ultimately only Centeniers should continue to be elected and a move to appointing other officers would become unavoidable. This Committee has not heard evidence on the advantages and disadvantages of changing to a system of appointing of honorary police officers. However, this Committee would assume that the appointment of officers would be made by a properly constituted appointments committee in the parish, the members of which should represent the community as well as the parish administration. Vacancies would be advertised publicly and candidates would be assessed. The appointments committee would have the right and duty to vet fully any candidate for office. If the move to appointing honorary police officers becomes unavoidable, this Committee recommends that a process is set in train whereby suitably qualified and experienced individuals implement a robust yet sensitive appointment process.

9.4 With regard to the reporting to the Attorney General of previous convictions, effective steps have already been taken by administrative means to ensure that a candidate's criminal record will be properly evaluated. This Committee considers that no further action needs to be taken with regard to reporting. However, in the event that a list of disqualifying offences is implemented, conforming changes would need to be made to the procedure.

9.5 Despite the improvements noted in the previous paragraph, this Committee considers that the best way forward would be to prescribe by law a list of offences that would disqualify an individual from serving in the Honorary Police. This Committee agrees with the suggestion in the Home Affairs Committee's Report (P.67/2001 Rpt.) that the principles adopted should apply equally to the Honorary Police and the States of Jersey Police. This Committee considers that such a list would help restore public confidence in the Honorary Police, which has been damaged by the circumstances which gave rise to this inquiry. This Committee also agrees with the suggestion in that report that some offences should constitute an absolute bar to service within the Honorary Police and that all other offences should have a discretionary element. This Committee accordingly recommends that the Home Affairs Committee completes its discussions with the Attorney General, with a view



to the introduction of a list of specific offences that would be enshrined in legislation.

9.6 There should be a standardised system of induction into the Honorary Police throughout Jersey. This system should include standardised application forms which among other things would require a search of criminal records before induction. This Committee understands that a practice has developed in some parishes whereby applicants to join the Honorary Police of those parishes complete an application form and are then interviewed by the Connétable. This Committee recommends that this procedure is adopted in all parishes, however if other recommendations in this report are accepted, the interview would be conducted by the Chef de Police. Where the election of Officers continues, a sufficient deadline for the making of nominations should be set by legislation on the lines proposed by the Independent Review Body on Police Services in Jersey (paragraph 2.2.9). This Committee is aware of work being undertaken by the Home Affairs Committee and the Connétables on these matters and recommends that the parties concerned bring these matters to a speedy conclusion.

9.7 This Committee recommends that each honorary police officer should undergo a probationary period of service after being sworn in and their performance should be formally reviewed by a properly constituted group before they are finally accepted into the Honorary Police. Given the size of the St. Helier Honorary Police, these arrangements would need to be formal but the less populous parishes could probably implement these measures informally.

9.8 This Committee recommends that the St. Helier Honorary Police, and probably other parishes, should implement an effective command structure and clearly define the responsibilities of each senior officer. This would begin with the implementation of the States decision that the office of Chef de Police for each parish should be established by law and the duties of the office defined. The Chef de Police would necessarily spend less duty time as a Centenier. There should also be a designated deputy who assumes the rôle when the Chef de Police is unavailable. Senior Vingteniers should also have management responsibilities in addition to their normal policing rôle. One or more officers of each rank of the Honorary Police should be given management responsibilities, especially performance and behaviour management, in addition to their normal policing rôle. These officers should be selected on the basis of their aptitude and not necessarily seniority.

9.9 This Committee recommends that training is given to officers to enable them to perform their management duties as recommended in the previous paragraph. In particular the Chefs de Police should be given specific training in their rôle.

9.10 This Committee recommends that comprehensive personnel files should be kept on each serving officer and that these should be readily accessible to the Chef de Police and regularly reviewed.

9.11 The complaints register that the Connétable of each Parish is now required to keep should also include internal disciplinary matters. This Committee recommends that, if any one officer has, for example, five or more entries in this register over a three-year period then a formal review of that officer should be automatically instigated.

9.12 Although this inquiry has been concerned with a relatively narrow range of problems within the St. Helier honorary police, the context in which these matters are dealt with would be improved if changes were made at a higher level within the honorary system. This Committee considers that the implementation of the States decisions regarding the establishment of a Police Authority, the appointment of a Chairman of the Honorary Police of Jersey and of a Chef de Police in every parish would enhance the development of command structures recommended in paragraph 9.8 of this Report. A structure of this kind would assist in removing the confusion inherent in the description of the Attorney General as the "titular head of the Honorary Police" and re-define his rôle both in relation to the efficient and effective policing of the Island and as legal adviser to both the Honorary Police and the States of Jersey Police.

9.13 This Committee recognises that some recommendations have a cost, and individual parishes should consider how this could be financed. It is noted that at present no charge is made by the St. Helier Honorary Police for the services it gives in relation to public events held in the parish by Island-wide organisations. Consideration could be given by the Parish Authorities to charging for these services and applying the proceeds to Honorary Police facilities.

APPENDIX A

Chronology of Parish Officials of St. Helier and H.M. Attorney Generals from 1985 to date

Year	Greffier	Chef de Police	Connétable	H.M. Attorney General
1985	P. Freoley (since 1984)	E. Buesnel	F. Clarke	
1986				P. Bailhache
1987				
1988				
1989				
1990				
1991		P. Davies (June 1991)		
1992			R.L. Le Brocq (31.07.92)	
1993				
1994				M. Birt
1995		P. Davies (retired 28.08.95) M. Patton		
1996	I. Philpott (May 1996)			
1997				
1998		M. Patton (retired 06.10.98) E. Gallichan		
1999				
2000				W. Bailhache (to date)
2001			A.S. Crowcroft (12.11.01)	
2002				

Witnesses attending upon the Committee of Inquiry into the Honorary Police Election Procedures

Crown Officers

Sir Philip Bailhache, Bailiff  
Michael Birt, Esq., Deputy Bailiff  
William Bailhache, Esq., Q.C., H.M. Attorney General

Serving and former Honorary Police of St. Helier (alphabetical)

Mr. M. Couriard  
Mr. P. Davies  
Mr. E. Galliehan  
Mr. P. Haynes  
Mrs. J. Hilton  
Mr. R.L. Le Brocq  
Mr. E. Mahé  
Mr. M. Patton (Maj. Rtd.)  
Mr. A. Parry  
Mr. W. Rousseau

Other (alphabetical)

Mr. A. Burnett  
Mr. B. Duffy  
Mr. P. Freetey

The Committee would like to thank the following for their written submissions -

Crown Officers

Sir Philip Bailhache, Bailiff  
Michael Birt, Esq., Deputy Bailiff  
William Bailhache, Esq., Q.C., H.M. Attorney General

Committees and Associations

Comité des Connétables  
Home Affairs Committee  
Vingteniers' and Constables Officers' Association

Public Officials

Chief Officer, States of Jersey Police  
Director, Home Affairs Department  
Magistrate's Court Greffier  
Town Greffier, Parish of St. Helier

Other (alphabetical)

Mr. Alexander Burnett  
Mr. M. Couriard, M.B.E.  
Mr. Geoffrey Cornwall  
Mr. Peter Davies, M.B.E.  
Mr. David Eves  
Mr. Patrick Freeley  
Centenier Edward Gallichan  
Mr. Christopher Gray  
Mr. Paul Haynes  
Mr. Jeremy Holmes  
Mr. Robert Le Brocq  
Mr. Kevin MacCarthy  
Mr. Eric Mahé  
Mr. Michael Patton (Maj. Rtd.)  
Mr. Wayne Rousseau  
Advocate Philip Sinel  
Mrs. Pamela Webb  
Mr. Martin Willing

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In re Pearce

In the matter of the Connétable of the Parish of St. Helier

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP2

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**STATES OF JERSEY**



**VOTE OF NO CONFIDENCE: THE BAILIFF OF  
JERSEY**

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Lodged au Greffe on 25th June 2008  
by Deputy S. Pitman of St. Helier

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**STATES GREFFE**

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

that they have no confidence in the Bailiff as President of the States, and to agree that Her Majesty be requested to dismiss him from office.

**DEPUTY S. PITMAN OF ST. HELIER**



## REPORT

### Preamble

It is surely the most important task of any individual elected to office to be prepared, no matter how difficult or controversial, to do what is in the best interests of the people. This then, I assure my fellow States Members, is why I now bring this proposition forward.

For far too long it has been portrayed by some that any challenge to the political status quo, whether that be within the anachronistic dual role(s) of the Bailiff or otherwise, is in some way a personal attack. Indeed, I feel it must be added that there have been some who have even warned me off about *any* challenge or criticism toward the Bailiff. To those I say without apology, there is not a single thing whether position, tradition, regulation or protocol that is sacrosanct if it may be proven to undermine the best interests of the people of Jersey. As the old saying goes, 'the people are all - those who would genuinely serve them are secondary and should rejoice in that'.

This proposition to call for a vote of no confidence in the Bailiff is grounded firmly in the incompatibility of recent actions and public statements set against the expected high standards of his role. Thus, for the specific reasons I outline below, I feel that such is the damage to public confidence in the Bailiff's judgement, that I feel his position is now untenable.

### Key background

In laying out for the Assembly my underlying concerns in bringing this proposition, I am mindful that of the 3 specific incidents to which I will refer, one, though only recently coming to full light, has its roots at a time when the present Bailiff previously held the position of Attorney General. It might be seen as unusual to ask for consideration of such a circumstance to be accepted against an individual's ability/ suitability to continue in a different office, I fully accept.

However, it is the gross error of judgement demonstrated here and the nature of the Bailiff's defence upon this incident coming to light within the climate of community-wide shock and abhorrence arising from the current child-abuse investigations, that I think makes it relevant.

### Bailiff's Statement to BBC on the Roger Holland affair (1992) – 17th April 2008 (APPENDIX 1)

I do not feel it is necessary to labour over repeating details now well-aided within the public arena, members of this Assembly will by now be painfully aware of them. Nevertheless, it is necessary to include basic details of this regrettable incident as this serves to put the first point underlying this 'no confidence' proposition into context.

The core fact marking this action on behalf of the man later to become our present Bailiff is essentially this: following on from what must be acknowledged to be a less than glowing example of the process ensuring only suitably safe and trustworthy individuals are accepted into the Honorary Police force – it came to the attention of the Bailiff (then Attorney General) in 1992 that Roger Holland, recently sworn in as a Constable's Officer, had a previous conviction for indecently assaulting a 14 year old girl (this child having the assessed mental age of just 10).

The Bailiff (as Attorney General) chose to do nothing about initiating the removal of this convicted paedophile from office. Shocking enough in itself, it is the Bailiff's subsequent justification, 16 years later, that I find as clear indication of his unsuitability to continue in the role of Bailiff. I quote from his statement –

*'The facts confronting me were a man who had expressed a wish to give voluntary service to his parish; had been honest about his convictions...'*

I put it to Members – this of a man who was a convicted paedophile...

And just as damning –

*'I quite understand the reactions of the victim's father as reported on the BBC... but in context, on facts known as known at the time – 1992, when not as much was known about the long-term paedophile tendencies of those abusing children, and before the rash of child abuse investigations which took place in the UK in the 1990's – I hope the decision seems more understandable'.*

The above judgements made by the Bailiff (in his then role as the Attorney General) clearly illustrate that by allowing Mr. Holland to become/continue as an honorary policeman, was a gross error of judgement and failure to the safety of the Jersey public, and in particular, young women and girls.

Since becoming Bailiff, in 1999 he published an article in the Jersey Law Review (**APPENDIX 2**) about his role as Bailiff –

*'... in a real sense (the Bailiff) is also accountable to the people of Jersey...'*

Furthermore, that the Bailiff should –

*'... uphold and maintain the laws and usages and the privileges and freedoms of this Island and that you (the Bailiff) will vigorously oppose whomsoever may seek to destroy them'.*

As can be seen, the (now) Bailiff did not adhere to his own principles of upholding the privileges and freedoms of the girl who was sexually assaulted by Mr. Holland, her family and the Jersey public. Further still, I am of the strong opinion that his decisions at the time have led to little public confidence in him as the President of the States of Jersey.

Whether this should be through simple insensitivity, incompetence or gross negligence I put it to the Assembly is, quite frankly, all but irrelevant. It is my contention that had revelation of the original gross error of judgement back in 1992 not damned him the Bailiff's truly unbelievable contention in April of this year that "not as much was known about the long-term paedophile tendencies of those abusing children" surely does so: I put it to the Assembly: this was 1992, not 1852, not even 1952 – just 16 years ago!

### **The Bailiff's Liberation Day Speech (APPENDIX 3)**

Few of us within this Assembly will quickly forget the events surrounding Senator Syvret's 2007 Christmas address as Father of the House. The content of the Senator's speech is of no relevance to the context of this proposition. However, having ended the Senator's speech and condemned him for making his points at an inappropriate time, within a matter of just a few months we then see the Bailiff doing the same – utilising another long-established tradition – in this case the Liberation Day address.

If Senator Syvret was misguided in his use of the Christmas address in the Bailiff's judgement, what utter hypocrisy was this, what double standards and ill-judged foolishness.

I ask this Assembly to consider: was Liberation Day, a date so emotionally locked within the hearts of so many Islanders, brave men and women who suffered then and in many cases are still suffering more than 6 decades later, an event where a Crown appointed official of the highest tier of rank would be expected to show such insensitivity and colossal lack of judgement? I quote –

*'All child abuse, wherever it happens, is scandalous, but it is the unjustified and remorseless denigration of Jersey and her people that is the real scandal'.*

The Bailiff further spoke of there being as yet –

*'No bodies, no evidence of any murder, and no evidence of cover-ups by government'.*

In the most basic sense this may yet be true. Yet with almost daily discoveries of clear evidence, both physical finds and heartbreaking testaments from an ever-growing number of former residents that all within the walls of

Haut de la Garenne was clearly not as it should have been, but was in fact a place of torment for some of those in society who were most vulnerable – were these the words and actions of a man fit to preside as head of both the Island’s judiciary and legislature?

Were these the words to inspire confidence in a public reeling from the shock of what has recently come to light? Perhaps even more tellingly, to inspire reassurance and confidence in those who have been abused and suffered that they will eventually receive justice?

Further, to act in a manner seemingly demonstrating a belief that he is above and removed from the same standards he would impose upon others can do nothing other than transmit to the ordinary working people of Jersey a message of arrogance and doubles standards. It is not acceptable!

**Bailiff’s disregard for the ‘apolitical’ mandate of his role: Keynote Address – Liechtenstein Dialogue (APPENDIX 4)**

In highlighting this further example I am aware that there may well be some who will argue that the issue at hand is a subjective one, even that this is not of any real importance. To argue so, however, I believe is to completely overlook the fundamental democratic point at hand; just as importantly set within the context of this proposition this would ignore yet further evidence of an individual lacking the judgement and political sensitivity that is demanded of his appointed role.

*“What is the Bailiff? He has **no political functions or authority.**”*

Words not written by a disgruntled politician or some independent review committee such as Clothier – but by the Bailiff himself within his keynote address at the Liechtenstein Dialogue on 6th October 2006. Yes... the Liechtenstein Dialogue... a high profile gathering focussed on the highly political issue of the future of international financial markets and taxation strategies.

The Bailiff’s role is an apolitical one and should at all times remain so. This was set out quite clearly when the role first came to be. As far as I am aware, and I make no claim to be a fully-fledged constitutional expert, nothing has come to pass over the following years that have seen this apolitical mandate be refined.

Yet here, once again, we see this Bailiff failing in his judgement, displaying disregard for protocols and constraints that he would, as President of the States Assembly, be quick to castigate were they made by others. International financial markets and the intricacies of taxation are beyond doubt ‘political’ – the mandate of the island’s Bailiff was clearly intended not.

If the Bailiff wishes to become a politician (once again) then let him put himself up for the democratic process of election and seek to become one. This apparent lack of judgement or disdain to adhere to the mandate of his appointed role can only further damage public confidence in the impartiality of his position.

**Conclusion**

I fully accept there will be some who will struggle to separate these criticisms between the actions they highlight and the individual himself. But separate them we must, for as I made quite clear within the preamble: this is not a personal attack.

This proposition is about the inappropriate statements, actions and behaviour of an individual, the Island’s serving Bailiff that have both brought his position into disrepute and significantly damaged the public’s confidence in its Government as a result. These are serious issues which I feel Members must take into consideration. To shy away from this would be to do the people of this Island a deep disservice.

I believe we have no choice but to pass a vote of no confidence in this Bailiff and petition Her Majesty the Queen to remove him from office.

**Financial and manpower statement**

There are no financial manpower implications other than that associated with the dismissal and then appointment of a new Bailiff.

## APPENDIX 1

### Statement from the Bailiff to BBC – 17th April 2008

This issue has of course been the subject of investigation by a Committee of Enquiry established by the States, and the 2002 Report of that Committee is in the public domain for all to see.

I am afraid that it is easy to be wise after the event. My decision in 1992 not to refer the election of Roger Holland as a Constable's Officer back to the Royal Court was made in good faith on the basis of the facts known to me at that time. With hindsight it is certainly possible to say that a different decision ought to have been made, particularly given the harm done to the victims of some of his assaults. We owe it to those victims to make sure that the Island is alert to the problems which arose, and to ensure that they do not arise again.

The facts have been in the public arena since 2002.

Holland, aged 21, indecently assaulted a young girl then aged 14 but with a mental age of 10, by trying to put his hand up her sweater in his car in 1986. He was put on Probation for 12 months and received psychiatric help. The Court lifted the Probation Order after eight months because Holland had responded well to it.

In 1991 Holland applied to join the Honorary Police of St. Helier and declared that conviction to the parochial authorities. That application was not immediately taken forward, but in March 1992, the then Connétable indicated to him that, as a result of the conviction, he would not be accepted as a probationary officer.

In June 1992 the matter was reconsidered at a St. Helier Honorary Police Meeting. None of the officers present opposed Holland's election and the view was reached that, if he was prepared to face possible rejection by the Court, he should be allowed to stand.

On 7th July, 1992, Holland was elected unopposed as a Constable's Officer. The following day, the Parish Authorities wrote to me as Attorney General to give notice, in accordance with standing practice, that Holland should be sworn-in before the Royal Court on 10th July. I was not advised of Holland's previous conviction and at that time I was completely unaware of it.

Accordingly the Royal Court was not told of the existence of the conviction when the Oath of Office was administered to Holland on 10th July, 1992.

I became aware of the conviction on my return from the Royal Court when an anonymous letter arrived in the Law Officers' Department. The Parish Authorities were asked for their views and responded that the Parish did not oppose Holland's wish to join the Honorary Service.

It is unclear what jurisdiction in law the Royal Court could have exercised had these facts been brought to its attention the following week.

Whatever the position in law, the facts confronting me were a man who had expressed a wish to give voluntary service to his parish; had been honest with the Parish Authorities about his conviction; had received psychiatric advice at the time of the offence and had been accepted by the Court as deserving of early release from a Probation Order on account of good progress made; had not apparently re-offended in similar fashion in the six years since; was standing for honorary office with the support of the Parish Authorities, and who had taken his Oath of Office before the Royal Court. I had to balance all those factors, when considering whether there should be a public reference to the Court.

I have said it is easy to be wise after the event. I quite understand the reactions of the victim's father as reported by the BBC. With hindsight, of course, I would rather a different decision had been taken at the time. But, in context, on the facts as known at the time – 1992, when not as much was known about the long term paedophile tendencies of those abusing children, and before the rash of child abuse investigations which took place in the UK in the 1990's – I hope the decision seems more understandable.

I have served the Jersey public for over 33 years. During that period, I am sure that I have made mistakes. But I have always sought to behave with integrity, which I believe to be the case in this matter. I have no intention of resigning over this issue.

## JERSEY LAW REVIEW – Volume 3 Issue 3 October 1999

**The Cry for Constitutional Reform- A Perspective from the Office of Bailiff  
Philip Bailhache (extract)****The Bailiff's functions today**

In a sense this close relationship between the Crown and the States is best exemplified by the office of Bailiff. The Bailiff is appointed by the Queen and holds office during Her Majesty's Pleasure. He is also the President of the States and the Island's chief citizen, and is paid out of the public purse. He is of course accountable to the Crown, but **in a real sense is also accountable to the people of Jersey and their elected representatives.** No Bailiff could long continue if he did not enjoy the confidence of the States. His office bridges the divide between Her Majesty's Government in Whitehall and the Insular Government. He is a Crown Officer but he is also the guardian of the islanders' privileges and freedoms under the constitution. The oath administered to the Bailiff provides **"that you will uphold and maintain the laws and usages and the privileges and freedoms of this island and that you will vigorously oppose whomsoever may seek to destroy them."** In earlier times, when the functions of the Bailiff were performed in the Island by a Lieutenant-Bailiff, the Bailiff himself would from time to time appear before the Privy Council to present the island's case. None of this is inconsistent with the Bailiff's status as a Crown Officer. The Bailiff's function in this context is to protect against attack the Islanders' privileges and freedoms conferred by kings and queens down the centuries. It matters not from where the attack comes, even if from Her Majesty's ministers in England. In that event the Bailiff leads the States in resisting that attack.

## BAILIFF'S SPEECH ON LIBERATION DAY 2008

I am sure that many of those who were here in May 1945 will remember the old saying that one of the first casualties of war is the truth. This year we have learnt that even in peacetime, once a media bandwagon starts rolling, it is difficult to distinguish what is true from what is fictitious. Liberation Day is as good a time as any to take stock and to shake ourselves free of the misinformation to which the child abuse inquiry has given rise. It is extraordinary how quickly it all happened. It all started with the discovery of a fragment of a child's skull and a sniffer dog who showed interest in six different sites. Within days newspapers and broadcasters had converted that information into stories of finding six or more bodies of children, and within two weeks those stories had crossed the world feeding a frenzy of righteous indignation and further wild speculation. A cover-up by government was suggested, and there was incredulity that local people had not noticed these sinister events. Unjustified smears about wholesale collaboration during the occupation led to suggestions that the Island was full of dark secrets and that ours was a community that cared nothing for vulnerable children.

Now we know that the fragment of skull is at least 60 years old and possibly very much older than that. There are as yet no bodies, no evidence of any murder, and no evidence of cover-ups by government. Hardly any of this has been beamed across the world. Yet many journalists continue to write about the Island's so called child abuse scandal. All child abuse, wherever it happens, is scandalous, but it is the unjustified and remorseless denigration of Jersey and her people that is the real scandal. The truth is that we do not yet know what happened at Haut de la Garenne or in other places. What we do know is that a rigorous investigation is taking place and, in due course, a balanced judgement will be possible. A brave writer in the Guardian earlier this week was the first journalist in a national newspaper, so far as I know, to confront this truth.

Confronting the past, which is one aspect of confronting the truth, is of course not always easy. After all, it took us some time to confront the uncomfortable truths about the occupation; to acknowledge publicly the elements of collaboration and profiteering that took place; and to remember the suffering of the slave workers and the hardships of the deportees. It also took time to acknowledge the heroism of those who rebelled against the occupiers in ways large and small, and the courage of those who sheltered escaped prisoners at great risk to themselves. It was easier to try to forget the painful memories of enemy occupation. But we have now confronted the gremlins, and this annual celebration of Liberation Day is a means of remembering the lessons of the past. Of course, it is also the opportunity for those who were in Jersey on 9th May 1945 to recall the jubilation and intoxicating excitement that people felt when the nightmare was over and freedom was restored. This celebration is also the chance for younger people to learn more about the occupation, and its significance in the story of our Island race, and to honour the perseverance and courage of their elders.

Confronting difficult situations is sometimes no easier than confronting the past. I was struck recently by a letter in the Jersey Evening Post from someone who was comparing her own experience in the Island with the appalling report of a man in the north of England who collapsed and was dying by the roadside, and who was ignored by numerous motorists including one who drove over the poor man's leg and broke it. Our letter writer had also come across an injured man sitting on the side of a country lane and had watched as a driver in front of her carefully negotiated his car around the man and drove off. She stopped and called an ambulance, but was lamenting that such callousness could happen in Jersey. Sadly, such stories are as old as the hills. If only one person drove around the injured man, we are in fact doing rather better than the men in the biblical story where both the priest and the Levite passed by the injured traveller on the other side of the road before the Good Samaritan came along. The letter writer set a fine example. Confronting the situation and showing personal responsibility for one's actions are qualities to which we can all aspire.

I do not believe that Jersey is an uncaring society. On the contrary, there is a strong political will to protect the poor and vulnerable in the community and to correct any mistakes of the past. Of course Jersey is not Utopia, and there are many problems to resolve. But equally we have much for which to be grateful.

Today our guest of honour is His Excellency Dr. Alberto Jardim, the President of Madeira and I extend a very warm welcome to him and to Mrs. Jardim. Our own Musical Original singers have just returned from Funchal where they were royally received. I am delighted to say that we have a group of young visiting musicians from



Madeira in Liberation Square today. I hope that the President's visit will lead to many more cultural exchanges of this kind between two Island communities which have more in common than one might think.

I also extend a warm welcome to Colonel Alexey Korkach, Air Attaché from the Russian embassy and to Señor Alveraz Gamido, First Secretary to the Spanish Embassy, who will both be at Westmount this afternoon but who are also in the Square for our celebration this morning. And finally may I thank all the senior citizens from the parishes who have made this annual pilgrimage to Liberation Square. Whether you were one of those in occupied Jersey or one of those evacuated to the UK, you collectively kept alive the flame of freedom and worked to create out of the ruins of 1945 the vibrant and successful community we now have. Thank you.

**KEYNOTE ADDRESS OF SIR PHILIP BAILHACHE, BAILIFF OF JERSEY, AT THE  
LIECHTENSTEIN DIALOGUE ON THE FUTURE OF FINANCIAL MARKETS**

**Vaduz, Friday 6th October 2006**

It is a great privilege to have been asked to address this Dialogue on the future of financial markets. I am not sure why this privilege has fallen upon me and perhaps when I have explained the functions of the Bailiff of Jersey you may share that uncertainty. But I shall do my best nonetheless to justify my presence here and the generous hospitality shown to my colleague and me by the Liechtenstein government.

I should like to say just a few introductory words about the constitutional position of Jersey in order to set in context my remarks about the present and the future. Jersey is in constitutional terms a Crown dependency; it is not a colony nor is it an overseas territory of the United Kingdom. The relationship is with the Sovereign and dates back to 1066 when William, Duke of Normandy, invaded England and seized the English Crown. Jersey was then part of Normandy and our loyalty to the Duke became loyalty to the King of England. The loyal toast in Jersey remains a toast to La Reine, notre Duc, the Queen, our Duke. In 1204 King John of England lost continental Normandy to the French King and, in order to retain the loyalty of the strategically situated Channel Islands, conferred a number of liberties and privileges, including the privilege of self-government. Jersey's domestic autonomy dates from 1204.

This is not an address however on the constitutional position of Jersey and I will say no more about it, but I wanted to underline the long-standing autonomy of the Bailiwick, which is one of the critical framework conditions underpinning its position as a financial centre. Jersey enjoys, as an ancient constitutional privilege, the right to govern its internal affairs, including its fiscal affairs, while the United Kingdom is responsible for defence and external relations. Experience in the last eight years or so has taught us that it is sometimes necessary to defend our own international interests, and that we cannot reasonably or fairly expect the UK government to protect them on every occasion. We do not yet have the sovereign status of Liechtenstein or Andorra, but we nevertheless seek a much greater responsibility for our external relations. But that too is another story.

And what is the Bailiff? Jersey is a Bailiwick, and the Bailiff is the civic head of the Island. He is not the Head of State, but he is appointed by and holds office under the Queen. The Bailiff is the president of the Royal Court and Court of Appeal (the Chief Justice), the president of the States Assembly (the national assembly), and the guardian of the constitutional privileges of the Bailiwick. He has no political functions or authority.

What then are the fundamental framework conditions to justify long-term confidence in Jersey as a financial centre, and what are the challenges for us? The constitutional position is not, I think, material. Whether Jersey remains a Crown Dependency or claims at some future date sovereign status is not a relevant consideration. Any transition to sovereignty would be consensual and orderly. I take it as axiomatic that the political stability enjoyed for a very long time will continue. Our political institutions are democratic and mature and have shown a capacity to change and develop in a measured way. I take it as axiomatic that the government of Jersey will continue to maintain a fiscal framework that is attractive to investors, as it has done for more than 40 years.

I also mention for completeness the judicial independence that has existed for a long time. While Jersey's political autonomy is qualified, its judicial independence is complete. We have our own laws and judicial and legal system. I am often told that investors look for a mature judicial system in which they can have confidence. I naturally exclude your present speaker but the Court of Appeal also includes a number of very distinguished judges from the British Isles, and appeal lies from there to the Privy Council. The courts develop the law, in particular in relation to the administration of trusts, clarify the duties of trustees, and contribute to the certainty of investors that any disputes in relation to the administration of their assets will be fairly and speedily resolved. There is a professional system of law reports and the only law review, so far as I know, to be published in a small financial centre. The government has invested substantially in an online legal information system so that we have a website containing all the laws and regulations going back to 1771, all the judgments of the courts and other legal materials. Unusually, the revised laws of Jersey, that is an up-to-date statement of all statutory law, are

available online free of charge to the public. Investors throughout the world, and their advisers, can therefore easily consult the website for information as to the current laws and regulatory framework. It seems to me that all these framework conditions for investor confidence, political, legal and judicial stability, are self evident and no more need be said.

I should mention the relationship of Jersey with Europe, although this cannot easily be disentangled from the constitutional relationship with the UK. The theory is simple. Jersey is not inside the European Union, and does not form part of the European Communities. The relationship is governed by a short and rather imprecise protocol, Protocol 3, to the 1972 Treaty of Accession of the UK to the European Communities. In broad terms the Bailiwick is outside the EC but inside for trade in goods and agricultural products, and forms part of the Customs Union. Of the four freedoms, only freedom of movement of goods applies to the Bailiwick. The protocol also contains a non-discrimination provision, which obliges us to apply the same treatment to all natural and legal persons of the Community. While the theory is simple, the reality may be a little more complicated, particularly since the Single European Act and, to an extent, the Maastricht Treaty. Directives sometimes have several treaty bases, which make it difficult to ascertain whether they relate to the freedom of movement of goods or not. But usually these problems of interpretation can be resolved. Jersey has no direct relationship with the European Commission, although our officials frequently have contact with different DGs. I believe that the Commission has a good understanding of the nature of the financial services industry in the Bailiwick and of the regulatory structure which is in place. For our part we try, through various sources, to keep up-to-date with changes in the making.

The legal relationship with Europe does not of course exclude the possibility, as we learned in 1998 or thereabouts, of being affected by political developments. The Tax on Savings Directive is the obvious example, but the Code of Conduct on Business Taxation was a more serious challenge. The process whereby member states were led to believe that the Crown Dependencies would adopt the Code left much to be desired. The underlying rationale was also of doubtful conformity with international law. The premise of member states is that, although taxation is a legitimate instrument of national economic policy in order to promote competitiveness, certain tax measures are inherently harmful and must be eliminated. It is true that other factors were in due course instrumental in persuading the government of Jersey to change the basis of its framework for the taxation of companies, but pressure from the EU and the UK was not insignificant. I want to return to this theme in due course.

Small states that do not observe international norms in terms of the regulation of economic activity and the suppression of drug trafficking, money laundering and other serious economic crime (including tax evasion) must of course expect an adverse reaction from the community of civilised nations. There must be effective regulation. Jersey is not of course in that position. The Bailiwick's compliance with international standards has been endorsed by the FATF and IMF. To the extent that this is possible, the regime in Jersey is based upon principle rather than the dogmatic application of inflexible rules. The object is to apply a common-sense approach to international standards. Standards are rigorously enforced, but they are proportionately and sensibly applied when it is clear that there is no risk of abuse, and that the standard needs to be tailored to the circumstances of Jersey. I give as an example the small and highly visible charities sector, where heavy-handed regulation would be disproportionate to the risk of money laundering posed by local charities and in some cases destroy the dedicated voluntary work of those engaged in numerous good causes.

I do not in any sense argue for a selective or cavalier approach to international standards. On the contrary I fully endorse their application in every small financial centre based upon a robust evaluation process such as the IMF evaluation process based upon the FATF 40 + 9 recommendations, the Basel, IOSCO and IAIS Core Principles and the FATF evaluation methodology. I do think however that the process should involve an assessment of risk in the jurisdiction in question, so as to reach a judgment that is sensible. The brain surgeon does not use knitting needles and standard kitchen knives he uses instruments that are precisely matched to the operation being performed. There is otherwise a risk of clumsy over-regulation and, for small states, a disproportionate allocation of resources to problems that do not really exist. There is a standard below which all financial centres should not fall, but one should never lose sight of the purpose and object to which the regulation is addressed. That is "effective" regulation.

I will give one example from the experience of Jersey and some other small states for which the administration of

trusts forms an important part of their financial services business. The assessment of risk led to an appreciation that some small businesses handling significant sums of money and complex investments might not meet the expectations of government in terms of, for example, the suppression of money laundering. Trust administrators and company service providers are accordingly regulated to standards set by the Offshore Group of Banking Supervisors. In Jersey a number of unsatisfactory operators have been weeded out. There is, however, no internationally prescribed standard. Large jurisdictions such as the US and the UK, which also have significant trust business, do not assess the risk in the same way, and have no such controls. This seems to me to be a good example of the ways in which small states can play an active part in the debate on appropriate international standards.

If regulation is not to be a heavy hand, which discourages initiative and stifles competition, there must be a relationship between the regulator and those who are regulated. The controls on trust administrators and company service providers, which I have just described, were introduced with the broad support of the industry. All responsible businesses recognise the need to protect investors, (sometimes even from themselves), and to play their part in terms of international cooperation. What Jersey tries to do is to create a partnership between the regulator and those subject to regulation. It involves an approach which identifies risks that are specific to the jurisdiction, while at the same time allowing as much freedom to those who are in business as is consistent with the avoidance of that risk. If the regulator and the representative of lawyers, accountants, bankers and others are in accord, there is a strong probability that the government will react favourably to any legislative changes which are necessary to create the commercial opportunities. And this must be in the interests of investors. Innovation and fresh thinking, together with all those comfortable stabilities which investors need, are the ideal combination.

What then is the major challenge for a jurisdiction such as Jersey in maintaining the confidence of investors? The major challenge, in my view, is to defuse the antagonism towards small financial centres brought about by globalisation. One can understand that it is difficult in a world of freely flowing capital for a large economy to protect jobs, and to meet pension, health and welfare obligations. It is all too tempting for the elephant to stamp in frustration on the smaller and more agile animals on the jungle floor. Lip service is paid to tax competition, but the instincts of larger countries too often rebel against it. It is easier for large countries to attack the offshore centres than to face up to difficult choices and to explain them to their own citizens. It is easier to attach pejorative labels (e.g. tax havens, black holes of money laundering), to exaggerate and to foster myths than it is to face the reality of competition. This is of course unfair, but life is often unfair.

What can we do about it? The view taken in Jersey is that greater efforts must be made to dispel the myths. In fact, the standard of regulation in Jersey, and I use the term regulation to mean the supervision of licensed financial services providers but also the suppression of money laundering, terrorist financing and financial crime, is high, and in some respects higher than in some large countries. Large countries sometimes apply convenient double standards. Small states are occasionally driven to super-equivalence in order to persuade their critics that they indeed conform to international standards. Jersey and other responsible small states are cooperative and do respond positively to requests for assistance from those investigating serious crime. These are the messages which need to be hammered through to international organisations like the OECD and the EU and to the foreign departments of some larger countries. If one plays by the rules of the game one is entitled to expect equal treatment on the field of play.

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

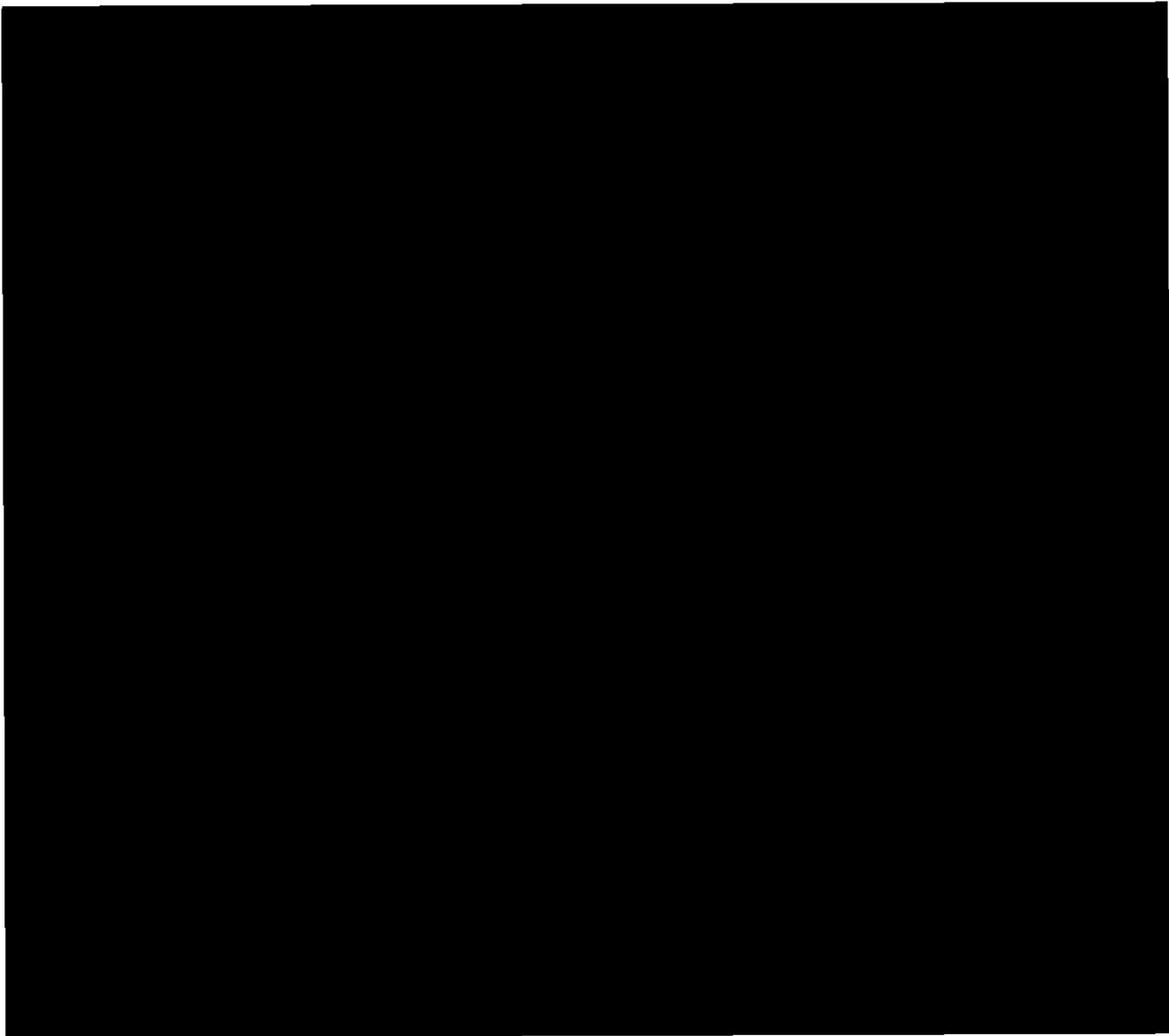
**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP3

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15/7/2008



**PUBLIC BUSINESS**

**6. Vote of No Confidence: the Bailiff of Jersey (P.107/2008)**

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

Very well, the first item of Public Business is the Vote of No confidence in the Bailiff of Jersey and I will ask the Deputy Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of the opinion that they have no confidence in the Bailiff as President of the States and to agree that Her Majesty be requested to dismiss him from office.

**6.1 Deputy S. Pitman of St. Helier:**

As I am sure fellow Members will be aware, speeches are my least favourite part of this job. Nor are they, I know full well, my forte. For me, expression within the written word comes far more easily. Indeed, I believe that I have set out the reasons underlying the decision to bring this motion of no confidence within the attached report already both fairly and matter-of-factly. As a consequence, I am sure Members will be very pleased to know that I do not intend to speak any longer than necessary but some things, it seems, must be made quite clear. As Members who come

to debate this proposition we will, I am sure, hear a variety of reasons put forward by those who will oppose it. All well and good. Their value will be for the House to judge but of far more importance, let us not forget, is the listening public to cast judgment upon for they, the electorate, are the true judges however cosseted some within the House might feel. But 2 reasons put forward as excuses not to support the no confidence vote will not stand up. Firstly, as I have gone to great lengths to outline within my report, this proposition is not a personal attack on the Bailiff, Sir Philip Bailhache. Far from it. It focuses on the Bailiff's actions and within a small community such as ours this, I can accept, can be a difficult thing to separate at first glance. But separate the actions from the man we must for it is the actions alone that I and so many others see as the reason for the Bailiff now continuing in his role being wholly untenable. It has amazed me these couple of weeks that a number of intelligent people do not - or possibly choose not to - understand the point at hand. Even the esteemed President of the Law Society, it would seem, in a recent letter to the *J.E.P.*, this motion does not attempt to deny or even criticise the achievements of the Bailiff throughout his long career. While others certainly may do so, I do not even question this although I would ask the question as to why the Law Society has nothing at all to say in the Bailiff's defence in this particular case. This motion is based solely upon crucial issues the Bailiff has got wrong, terribly wrong, and the fact that 16 years on he has not yet been held to account. Secondly, this proposition is also not opportunistic. To suggest that it is, as some may well attempt I have no doubt, is also to demonstrate the complete lack of analysis on the situation or equally, perhaps, to deliberately seek to muddy the waters in the hope of distracting from the core issues of justice and accountability that are at stake. After all, I ask the House to stop and reflect for a moment. Each and every one of us sitting in this Chamber today have and will again be approached by members of the electorate to take forward concerns of all manner of issues. In this case, I emphasise it again. Members of the public, ordinary men and women who evidently felt the same gut feelings of anger and unease that I felt as the revelations of April and May unfolded. These contacts - some from alleged victims of child abuse, some individuals simply deeply concerned by what they were hearing - these only confirmed to me that my own gut instincts were right. Would any one of us here, today, honestly just turn a deaf ear? What kind of politicians would that make us if we did? I put it to colleagues that any one of us who did so would have no place calling themselves a public servant and, quite honestly, no place at all within the House. I offer the House a quote: "It is every States Member's first duty to their electors to look and research and stand-up and fight for their political agendas. Every States Member has every right to strive to put right with tenacity and public support any part of the way we are governed and the way in which justice is administered." No, not my words. They are the wise words of the highly respected former Senator, John de Carteret, written in the *J.E.P.* in support of this proposition just a week ago: "Strive to put right with tenacity and public support any part of the way we are governed and the way in which justice is administered." This is exactly what I now seek to do by holding the Bailiff accountable, something of which Roger Holland's victims and their families were denied. Who do they have to turn to? I am turning to the States of Jersey and, in doing so, States Members to take that responsibility to deliver that justice, however belated. If we, the Government of this Island do not possess the will or courage to step beyond this place of deference to either the individual or institution, then the impact of democracy can only be highly damaging. We all make mistakes. This is a fact of life. I have made them. I will make more in the future, I am sure. Indeed, inviting all of those who wish to stamp their feet to now do so, some will have it that I am making a monumental mistake at this very moment. The point is that just as well all make mistakes in different ways; we all must be accountable for these. Do we, the Government, really expect the public who elected us to accept that the Bailiff should be any different? I offer Members a second quote for consideration: "When the public make a mistake they are held accountable. When the Crown Officers make a mistake, to whom are they accountable?" Once again, not my words but those of the respected former Constable of St. Helier, Bob Le Brocq. Further and fuller details relating to the deeply disturbing Roger Holland affair are both outlined within the proposition and elsewhere. I believe it suffices to state that the core fact marking this action on behalf of the Attorney General - the man later to become our present

Bailiff - is essentially this. Following on from what must be acknowledged to be a less than glowing example of the process ensuring only suitably safe and trustworthy individuals are accepted into the Honorary Police force, it came to the attention of the Bailiff, then Attorney General, in the summer of 1992, that Roger Holland, sworn in as a Constable's Officer, only hours before had a previous conviction for indecently assaulting a 14 year-old girl who had an assessed mental age of just 10. Incredibly, the Bailiff, as Attorney General, chose to do nothing about initiating the immediate removal of this convicted paedophile from office. Shocking enough in itself, it is the Bailiff's subsequent justification 16 years later that I and, indeed, so many of the member of the public who contacted me hearing the full details of this case for the very first time find a clear, irrefutable indication of his unsuitability to continue in the role. A Bailiff, lest we forget it, who is head of both Jersey's judiciary and legislature. I quote from the Bailiff's statement: "The facts confronting me were a man who had expressed a wish to give voluntary service to his Parish had been honest about his convictions." I put it to Members, this was said of a man who was a convicted paedophile, having abused a 14 year-old girl with a mental age of 10. Just as stunning, the Bailiff went on to say: "I quite understand the reactions of the victim's father as reported on BBC but in context of the facts as known at the time, 1992, when not as much was known about the long-term paedophile tendencies of those abusing children and before the rash of child abuse investigations which took place in the U.K. in the 1990s, I hope the decision seems more understandable." I am truly sorry, Sir, but no. To me, and to the members of the public who have contacted me, that decision is not understandable. Not understandable and not acceptable. It should not be acceptable to this Government. These judgments made by Sir Philip clearly illustrate that by allowing Mr. Holland to continue as an Honorary Policeman was a gross, indeed, a truly staggering error of both judgment and a failure to protect the safety of the Jersey public and, in particular, young women and girls. It is my contention that had the revelation of the original gross error of judgments back in 1992 not dammed him as it surely should, the Bailiff's truly unbelievable contention in April of this year that not as much was known about the long-term paedophile tendencies of those abusing children surely does so. I put it to the House once again, with the reminder that the public, who charge us with protecting their interests, with protecting their interests of their children, are listening. This was 1992. Not 1852. Not even 1952. Just 16 years ago. Does a single Member of this House believe for one minute that the majority of Jersey's public would accept deference to an individual or institution, however honourable or steeped in history, as being more important than protecting the interests of our children? I think not. For any Member to attempt to undermine the staggering seriousness of this issue by pointing to all the admiral qualities or achievements of the Bailiff is, at best, a distraction lacking in any substance. At worst, it is a highly dangerous breach of the public's trust. It has been put to me quite categorically by a number of those who have approached me that the Parish of St. Helier were far from happy at being landed with a time bomb waiting to explode that was Roger Holland. Perhaps that side of the affair has not been given the public airing that it should. Nevertheless, it throws into the spotlight how could the Bailiff, in his then role as Attorney General, possibly overlook the very clear and present dangers of allowing a convicted paedophile into assuming a position of authority where he would, obviously, have opportunities to exploit vulnerable children. I repeat the words of the former Constable of St. Helier, Bob Le Brocq: "When the public make a mistake, they are held accountable. When the Crown Officers make a mistake, to whom are they accountable?" I ask the question, why did the Bailiff not, at the very least, immediately rescind his decision whenever he became aware of Roger Holland's past? I come now to the Bailiff's Liberation Day speech. Few of us within the Assembly will not forget the events surrounding Senator Syvret's 2007 Christmas address as Father of the House. Although I fully accept some might differ in their views, to me the content of the Senator's speech is essentially of little relevance to the context of this proposition. However, having ended the Senator's speech and condemned him for making his point at an inappropriate time, within a matter of just a few short months we then see the Bailiff doing exactly the same, utilising another long-established tradition for his own political purposes, in this case the Liberation Day address, to make a highly political speech promoting his views on



the historic child abuse scandal. If Senator Syvret was misguided or wrong in his use of the Christmas address in the Bailiff's judgment - a view I largely share in several aspects - what utter hypocrisy was this? What double-standards and what ill-judged foolishness? I ask this Assembly to consider, was Liberation Day a date so emotionally locked within the hearts of so many Islanders, brave men and women who suffered then and, in many cases are still suffering more than 6 decades later, really an event where a Crown-appointed official of the highest rank would be expected to show such insensitivity and colossal lack of judgment. I quote for the House: "All child abuse, wherever it happened, is scandalous but it is the unjustified and remorseless denigration of Jersey and her people that is the real scandal." As has been pointed out by others, this clearly inferred that however appalling the sufferers of the victims of Haut de la Garenne, some undoubtedly sensationalised stories on occasions in the world's media was a whole lot worse. The Bailiff then further spoke of there being as yet no bodies, no evidence of murder, no evidence of cover-ups by Government. In the most basic sense, this may yet be true, yet for the almost daily discoveries of clear evidence, both physical finds and heart-breaking testaments from an ever growing number of former residents, that within the walls of Haut de la Garenne was clearly not as it should have been but was, in fact, a place of torment for some of those in society who were most vulnerable. Honourable man and distinguished Crown Officer or not, were these the words and actions of a man fit to continue as head of both the Island's judiciary and legislature? Were these the words to inspire confidence in a public reeling from the shock of what has recently come to light? Perhaps even more tellingly, to inspire reassurance and confidence in those who have been abused and suffered that they will, eventually, receive justice. Yet not so much as an apology has been forthcoming from the Bailiff. Why? I put to Members, here is a man who is the Island's chief judge, a man who has already been seen to be hugely negligent in allowing a paedophile to become a Law Officer where the individual, Roger Holland, went on to abuse further children. A man who will soon preside over the prosecution of further alleged paedophiles who abused vulnerable children from similar positions of trust. Further, and I fully expect it to be little more than a side show set against the seriousness of the issue of child abuse but to act in a manner seemingly demonstrating a belief that he is above and removed from the same standards he would impose upon politicians such as the Senator in his Christmas address can do nothing other than transmit to the ordinary working people of Jersey a message of arrogance and double-standards. I remind the House once again the public are listening. Where is the accountability here? The public are accountable. We as politicians should be accountable. Yet, once again, thus far, the Bailiff appears accountable to no-one. Can this House really be so untroubled by this fact? If so, I genuinely feel that from the evidence of my own experience, the Government are sadly, disastrously out of touch with the majority of public sentiment. So now I will go on to the Bailiff's disregard for a political mandate. Sir, for an unelected and uninvited, by the large majority of Jersey people, holder of the senior Crown appointment to again enter the political arena and call comments by States Members "ignorant and unwelcome" is to risk outside interference from Westminster into the Jersey way of life. It is not the Bailiff's personal fight. It is long overdue for our senior politicians to take aside our incumbent Bailiff and give him a date for retirement. His latest political outburst should be his last. Once again, wise words from the former Senator John de Carteret that also echo the feelings of many who have contacted me. I have never met the former Senator, Sir, but in reading his letter in the *J.E.P.* I could not help but think how valuable his obvious wisdom would be in the present House where for some strange reason it often appears almost taboo to point out that the mandate of the Bailiff is supposed to be a wholly non-political one. Let us consider the following: what is the Bailiff? He has no political functions or authority. These words, Sir, were not written by a disgruntled politician or some independent review committee such as Clothier but by the Bailiff himself within his keynote address at the Liechtenstein Dialogue on 6th October 2005. Yes, the Liechtenstein Dialogue, a high-profile gathering focused on the highly political issue of the future of international financial markets and taxation strategies. Sir, I am aware that this failing is not as serious as the others already highlighted yet here once again we see the Bailiff failing in his judgment, displaying disregard for protocols and constraints that he would, as President of the

States Assembly, be quick to castigate were they made by others. International financial markets and the intricacies of taxation are, beyond doubt, political. The mandate of the Island's Bailiff as is clearly demonstrable was intended not. Is highlighting this factor making a personal attack on the Bailiff? No, of course it is not. It is simply to highlight the present Bailiff's continued disregard for adhering to his designated mandate. As to why this should be, of course, Members will have a variety of opinions. Yet, Sir, this stepping into the political arena goes on and on. In only the past 2 or 3 weeks we have seen a number of further examples. The hijacking of the traditional Liberation Day address for the political means. Perhaps most alarming the truly personal attacks on any politician who dares to try and fulfil his or her mandate by highlighting aspects and practices that are beyond any doubt flawed within the Island's current judicial system such as one individual occupying a dual role as head of both judiciary and legislator. Indeed, the Island having allowed a situation to arise where the brother of the Island's Chief Judge is also the Attorney General. Sir, the Bailiff's role is an apolitical one and should at all times remain so. This was set out clearly when the role first came to be. As far as I am aware, and I make no claim to be a fully-fledged constitutional expert, nothing has come to pass over the following years that has seen this apolitical mandate be refined. If the Bailiff wishes to once again become a politician then let him put himself up for the democratic process of election and seek to become one. This apparent lack of judgment of disdain to adhere to the mandate of his appointed role can only further damage public confidence in the impartiality of his position. In closing, Sir, as I have been at great pains to make clear, I fully accept there will be some who will struggle to separate these criticisms between the actions they highlight and the individual himself. Some may even deliberately do so but separate them we must for as stressed within the preamble this is not a personal attack. The fact remains, however, that while none of us are infallible and we all make mistakes, we all must be accountable; even the Bailiff. In the interests of transparency, justice and public accountability we cannot afford a Bailiff occupying the role of Chief Judge when that judgment has been sufficiently flawed to allow a convicted paedophile to join a police force; nor one who attempts to justify this with such feeble excuses. We cannot afford a Bailiff soon to preside over what will likely be one of the biggest child abuse trials in British history who can make statements such as Sir Philip made on Liberation Day without even the good grace to apologise. We cannot afford a Bailiff who, for all his other attributes, appears to deliberately flout the boundaries set out in his non-political role. We cannot afford a Bailiff whose inappropriate statements, actions and behaviour have both brought his position into disrepute and significantly damaged the public's confidence in its government as a result. We cannot afford to have a Bailiff who appears to be held in such a misplaced deference by many within the Government presently that any questioning of his role or call for him to be held to account is painted as high treason. As such, Sir, I have to ask the House to focus on the facts; upon the actions rather than the man and demonstrate to the public that accountability really does apply for all supporting this vote of no confidence. I make the proposition, Sir.

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

Is the proposition seconded? [**Seconded**] Deputy Huet.

#### **6.1.1 Deputy J.J. Huet of St. Helier:**

I know myself that there are a great many facts which have not emerged which I personally believe would have put a completely and utterly different meaning on these matters. Therefore, I have no intention of supporting this projet and I would respectfully ask all similar-minded Members in this Assembly to keep their speeches to the same length of time as mine is and hopefully we can bin this Projet within an hour. Thank you, Sir. [**Approbation**]

#### **6.1.2 Senator F.H. Walker:**

I rise to speak with reluctance because, frankly, I do not believe this report and proposition is worthy of debate in the first place. [**Approbation**] However, it is necessary for me as Chief Minister to respond and I do so; I respond on behalf of every Minister, every member of the

Council of Ministers who will show their view, their very strong view of this proposition by not - unless the debate does indeed continue at length and raise other issues - speaking in it at all because they share my view that it is not worthy of debate in the first place. This is a hugely important issue and I am astonished at the relatively light-hearted and trivial way in which it has been brought forward. This is a hugely important issue not just for the Bailiff but for Jersey and we need to regard it as such. That is why the Council of Ministers have taken the, I think, unique step of writing to the Bailiff, a copy of which has been circulated to all Members. No individual, as our letter clearly says, is beyond accountability and indeed the Bailiff has acknowledged that the most serious basis for this deeply-flawed report and proposition was the Bailiff's decision on the Holland case which the Bailiff himself has acknowledged, with the benefit of hindsight, could have been done better. But that was in 1992 when he was Attorney General, long before he was appointed to the office of Bailiff. It is the unanimous view of Ministers that the Bailiff has undertaken his duties over an extended period with probity, integrity and impartiality. The proposer raises the question in relation to the Bailiff: "Honourable man or not?" Well, I have absolutely no doubt whatsoever in saying that the Bailiff of Jersey is a deeply honourable man and that question should not be asked. **[Approbation]** Sir, the report and proposition is based on the thinnest of grounds and there is nothing either in the report or the speech that we have just heard which justifies or comes anywhere near justifying, dismissing or asking the Queen to dismiss our Bailiff from his office. Really, I can only imagine the incredulity of her Majesty and her advisers if such a request was sent to her on the grounds laid out in this proposition. It would make Jersey look stupid - absolutely stupid. Sir, let us not be fooled by the proposer into believing that this proposition has the widespread support of the Jersey public. It may have the support of J.D.A. (Jersey Democratic Alliance) members; it may have the support of the Time4Change people. It most certainly does not have the widespread support of the public of Jersey generally.

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

May I remind those in the gallery that Standing Orders provide that they must not interfere with the proceedings.

**Senator F.H. Walker:**

Well, Sir, I wonder who that was and which society they belong to. Sir, this proposition, despite the denials of the proposer, is nothing other than political posturing and it takes no account of the distinguished record of the Bailiff in serving Jersey over a period now of 33 years. It takes no account of the effect on the position of Bailiff generally. It takes no account of the possible effect on Jersey's constitutional position and the things that we hold dear which make us different to the U.K. It is nothing other than a thinly-veiled political attack and despite her denials the proposer virtually confirmed that in her speech. Sir, I will support very much Deputy Huet's view. I hope Members will not dignify this proposition by turning this into a lengthy debate; I hope Members will not dignify it by speaking. I hope, therefore, we can dismiss this debate in the shortest possible time and Members will show their deep contempt for this proposition by not speaking and then by comprehensively voting it out. **[Approbation]**

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

Does any Member wish to speak? If not, I will call on Deputy Pitman to reply. Deputy Southern, just in time.

**6.1.3 Deputy G.P. Southern:**

I had hoped, against hope, that this would not descend into the usual political mud-slinging **[Laughter]** which so often comes from the far corner on my left, however, I was disappointed. Disappointed to read in a letter circulated - I do not know if it was last night or this morning - by the Council of Ministers and signed by the Chief Minister that such an opportunity could not be resisted even by those at the top of our Government. I have no objection to 6 of the 7 paragraphs

contained in that letter. It is absolutely appropriately supportive of the Bailiff if that is what the Council of Ministers wishes to express. However, it cannot resist falling into the trap of electioneering, of politicking and the penultimate paragraph says: "It is the Council's opinion that this proposition is without merit and should be seen for what it is: a tendentious and opportunistic abuse of the States Assembly in the pursuit of political gain before an election." Shame on you, Chief Minister; shame on you, Council of Ministers. That is completely unnecessary, over-the-top and just playing at politics: "The Council of Ministers believes the proposition to be a naked political ploy and will treat it with the disdain it deserves." So here we have today 2 requests for this House to stop doing what it does, which is to debate political principle and political ideas in the fullest possible way so that the people of this Island can be assured that principle and politics is being dealt with. Instead we are told that what we are to do is to have a conspiracy of silence that a proposition brought genuinely and from principle by one of our Members should be ignored and treated with contempt, for that is the word the Chief Minister used. Treat it with contempt. That is a frightening, frightening precedent to set up. It is the place of this House to debate the politics of this Island and as the proposer stated clearly, no one, no one in this Island, should be above this House. This House is the Government of this Island and holds all to be accountable without exception. No matter how long-serving, no matter how well-serving, that accountability is a fundamental, essential principle on which this House is based. Without it this House may as well dissolve itself because that is what we are about. So, let us consider that which has been brought forward. What we have is the decision of the Bailiff when he was Attorney General not to act in the case of the appointment of Roger Holland to be a Constable's Officer. It says in the statement by the Bailiff to the B.B.C: "I became aware of the conviction on my return from the Royal Court when an anonymous letter arrived at the Law Officers' Department. The Parish authorities were asked for their views and responded that the Parish did not oppose Holland's wish to join the Honorary Service." I am unsure at this stage that that is the case. I believe that the Parish authorities thought they were powerless to act and were reliant on the powers above them, i.e. Royal Court, the Attorney General, *et cetera*, to do something about it. They vehemently opposed the appointment of Roger Holland, or many did, but they felt powerless, it appeared, under the law to stop it. It then goes on: "It is unclear what jurisdiction in law the Royal Court could have exercised had these facts been brought to his attention the following week." It is unclear what jurisdiction the Royal Court could have. But the Royal Court surely is the body that accepts or rejects the candidacy of one person or another for a position of responsibility, a position of authority, a position indeed of power in the Island's Honorary Police. Surely that is the body through which that acceptance is either agreed or not. Yet we are told: "It is unclear what jurisdiction in law the Royal Court could have exercised ...". Surely the Royal Court had the power to say in the light of this person's conviction: "He is not a suitable person to take up the position of a Constable's Officer where he can instruct people what to do, accompany me, I wish to come into your house, obey my instructions, a position of tremendous power and authority." Surely it is the position of the Royal Court to sort that out. But anyway, in any case, as Attorney General at the time was it not the duty of the Attorney General to sort that out and establish what the powers were and to act upon them? It surely was. But that fundamental error, which I believe is a serious error, is certainly one that had it come to light at the time, had it come to light later, in most communities in the world would have resulted in the very swift exit of that post holder. He would have been asked to resign with such an error; a resignation would surely have followed. But here we are 16 years later in the midst of what is called a historic child abuse scandal and this material raises its head again, how does the Bailiff react? He says: "With hindsight, of course, I would rather a different decision had been taken at the time." Notice the passive nature of that sentence. Replace it with some personal responsibility: "I would rather a different decision had been taken at the time." How about: "I would rather that I had taken a different decision at the time." Any admission of error? Any admission of mistake? None whatsoever. Instead, the use of the passive voice: "A different decision might have been taken by me." But in context what is the context of a convicted paedophile? What context is that? "On the facts known at the time, 1992, when not as

much was known about the long-term paedophile tendencies of those abusing children, I hope the decision seems more understandable." I am sorry but certainly to me and to many who have read those words - and it is many - that decision does not seem more understandable. It seems like a rather poor excuse for a mistake made - a serious mistake made - that in normal circumstances, in different communities, I believe would have led to a resignation. I hope the decision seems more understandable. Clearly to many it does not seem more understandable. It is completely unfathomable. No hint there of an error made, genuine or otherwise, no hint there - and this perhaps is key that many people were looking for and may have sufficed - of an apology with or without hindsight. No apology: "I let a convicted paedophile into a position of authority in our police force" and there is still, 16 years later, no apology for that act. I believe that is a serious error of judgment on the part of the Bailiff and one which, although an extreme sanction, I believe deserves some sanction and some holding to accountability and this proposition does just that. Then to combine that with the Bailiff's speech on Liberation Day, again, shows a lack of sensitivity and a lack of judgment which is, while on a different level, equally extreme. I turn to the very words used and they were words used, let us remember, not off-the-cuff, not ad lib, a prepared speech, timed probably and deliberate, and I am sure that the Bailiff does this because I have seen his speeches and listened to many of them. He deliberately chooses each and every word and terms the phrases to say exactly what he intends. He has been in the job for 33 years; he does not do it lightly, so deliberate constructed speech where he says: "All child abuse wherever it happens is scandalous but it is the unjustified and remorseless denigration of Jersey and her people that is the real scandal." "All child abuse is scandalous but it is the unjustified and remorseless denigration of Jersey and her people that is the real scandal." That is a shameful statement. To compare a few days or a few weeks' headlines with the systematic abuse of children taking place over decades is, to use one of the favourite words of the Chief Minister, absolutely outrageous. It made many, many of our residents, whether victims of abuse or otherwise, cringe. It upset many. In the days following that speech many people came to me with a sense of complete and utter incredulity and said: "Did the Bailiff really say that? I thought I heard him say that what was important was the headlines. Surely not." I had to look it up because I did not hear the speech live, because I did not believe it either. No, but that is what the Bailiff did. Those are the 2 grounds on which many people in the Island have said: "Enough is enough." Can we have faith in this particular Bailiff? Where is any sense of remorse for 2, I believe, serious errors made, consciously made, but yet to be apologised for. It seems to me, as is often the case, that an apology in both of those cases, in either of those cases, would have done for many of those upset, moved by what has happened, may well have done the business and we could have perhaps laid it to rest but no, no sense of backing down, no sense of apology, no sense even of having made 2 serious errors of judgment. That is the reality. I am glad to be able to second this motion and I leave it to others to continue this debate which I believe is an important one to have and we certainly should not be sitting on our hands and condemning this proposition to a silent death.

#### **6.1.4 Senator S. Syvret:**

It is well documented that I have never really considered the post of Bailiff tenable as an institution. There does need to be a clear separation of powers, especially in the 21st century, and to have the Head Judge sit in this Chamber as Chair of this legislature is manifestly untenable. But it is not so much the post that we are concerned with today: it is the vote of no confidence against the current incumbent. It is also well documented and well known that I have had a range of disagreements with the present incumbent pretty much throughout my political career, all of the significant ones of which I would suggest go further to the points made by Deputy Pitman as to the essential inadequacy of this individual to deal with a lot of these issues. Before I go into those I really think it should be known that the Bailiff is not in the Chamber today on the Law Officers' Benches in order to defend himself, to answer his critics, to take part in the debate because he chose that it should be so. I would just like to read an e-mail I sent to him on the 9th: "Bailiff, I spoke briefly with the Greffier today in order to inquire as to which procedures will be used in respect of the vote



of no confidence against you which has been tabled by Deputy Pitman. Clearly, it would not be appropriate for you to chair the meeting; a similar observation has been made concerning the Deputy Bailiff. I was therefore happy to learn from the Greffier that he would be presiding. I also asked him whether you would be present in the Law Officers' Benches to defend yourself. I was somewhat surprised to learn that you probably would not be in the Chamber for the debate as apparently you do not wish to defend yourself. For my part, I believe that any Member of the Assembly who is subject to some form of critical debate must have the full opportunity to defend themselves. It seems to me that several problems arise in the event of you [this is the Bailiff] not attending. Firstly, it could appear as merely a stratagem to enable the establishment Members to assert that you were not able to defend yourself when in fact your non-attendance would have been entirely your own choice. Secondly, it could most certainly be seen as disrespectful to the Chamber to not attend in respect of a debate and vote which concerns yourself. Thirdly, you will no doubt recollect that following about 6 months' exclusion from the Assembly imposed on me I had a summons served on me at night at my home by which my attendance was going to be compelled to the Assembly. If such an approach was legitimate as far as I am concerned it must, by extension, be legitimate as far as you are concerned." I concluded by saying: "It seems to me that by far the most appropriate course of action would be for you to attend the debate." By not attending the Bailiff has exhibited disrespect for this Assembly, has attempted to undermine the credibility of the debate and has denied the listening public the opportunity to hear his side of events and to hear any explanation and I think his non-attendance here today, in fact, is a further serious black mark against him. It is also worth noting that should people consider my fairly frequent criticisms of the *Jersey Evening Post* too excessive that I did inform the *Jersey Evening Post* of the e-mail I just quoted and the issues of the Bailiff refusing to attend here today some days ago. They printed not one word about the issue, so again another stark example of the utter bias of the *Jersey Evening Post*. But let me turn through to some of the evidenced facts we have against the present incumbent, Sir Philip Bailhache. Firstly, we have the Holland affair. Now, it is claimed by him that a different decision may have been made. Well, that is a statement of fact. It was also asserted in his recent letter in response to the B.B.C. Radio 4 documentary that it perhaps was not known back in 1991, 1992 that paedophiles remained dangerous. That is simply incorrect. It was well documented then and has been for many decades. It is simply a statement of fact. But the remarkable thing about that episode is, again, as has been remarked by Deputy Southern, the complete and utter arrogance, refusal, total unwillingness to hold hands up and say: "I was culpable, I made a mistake, I am sorry." He also asserted at that episode that the courts probably would not have wanted jurisdiction for him to go back to them after Holland's swearing-in to have him removed from office. Well, what an absurd argument. Surely given that the Bailiff then, when he was Attorney General, had become aware that a convicted paedophile had been sworn in as an Honorary Officer, he should have at least attempted to get the court to strip Holland of office. He should have attempted to get the courts to accept jurisdiction and he should have attempted to get Holland stripped of office. Even if he had failed in both of those objectives it would have served the crucial purpose of alerting the public exactly to the issues concerning Holland. The fact that Philip Bailhache failed to do that I am afraid is simply catastrophic and, it has been remarked, would have led to the dismissal or the resignation of members in virtually any other modern, respectable jurisdiction. But then it is not only as though the Roger Holland affair was the only example of poor performance, poor judgment on the part of the Bailiff in respect of child protection issues. The Victoria College abuse scandal: the Bailiff was a member of the Board of Governors of that institution in the early 1990s at a time when child abuse was being routinely committed. Complaints of it were being received by the school authorities; the authorities chose to ignore those complaints; consequently the abuse then went on for a period of some more years until the abuser was finally arrested and prosecuted and convicted. Again, another stark example of the completely lackadaisical and non-serious application to matters of child protection. But there are other flaws. We get to the Limited Liability Partnership row. Let us remember that I ended up being excluded, quite improperly, because there was no provision in Standing Orders or the States of Jersey Law for

indefinite suspension, suspended from the Assembly for 6 months at the directive of the Bailiff merely for pointing out a conflict of interests on the part of another Member. It is quite interesting, I do not think I have discussed this publicly previously, but I was called to remain at a meeting with the Bailiff and the then Greffier, Geoffrey Coppock shortly before the summer recess where I was told by the Bailiff that I would have to withdraw everything I had said concerning the other Member and apologise for it. I said: "Well, why should I do that because everything I said is true and it is evidenced; here is the evidence." He said: "That does not matter, you will have to withdraw everything you said and apologise for it." To which I said: "Well, I am sorry but I am not going to do that because it is true." He said: "Look, you are going to have to withdraw everything you said and apologise for it or there will be very serious consequences for you." I asked him what those consequences might be. He ummed and ahed and said: "Well, never mind about that just take my word for it there will be very serious consequences for you and that would be such a pity as you have such a lot to offer as a politician." I did not really realise it at the time but with hindsight that was probably a criminal offence because even the States of Jersey Law at that time expressly contained a provision that forbade any kind of menace or compulsion to be placed upon any Member in respect of what they may say or do in this Assembly, but we all know how far that complaint to the Crown Officers would have gone in respect of that. The Bailiff then had me excluded via a proposition he put to the Assembly which he allowed nobody to speak in, did not allow me to defend myself, did not allow other Members who wanted to who were attempting to stand up and defend me, to speak on my behalf. I ended up being excluded for 6 months and then after that, as I have already remarked, I was summoned back to the Assembly as described. Then we move on to another example of the paucity of judgment. The just utter inadequacy of this particular Bailiff when it comes to child protection issues. I wrote to him a very angry e-mail, I think it was early last year, following the sentencing by him of a paedophile to 2 years' probation who had essentially been attempting to rape 3 teenage girls by grooming them, plying them with alcohol, money and cigarettes. Two years' probation for a would-be child rapist. You could not make it up. Then we get to his general political interferences and it is often asserted by him and his supporters that the Bailiff does not interfere politically. Well, yes he does. I could not recollect the number of times over the years I have brought propositions, amendments or questions to be dealt with in this Assembly and they have been interfered with, ruled out of order, stopped, sabotaged in some way by the Bailiff. I can give you 3 examples of that off the top of my head. Earlier this year - or it might have even been late last year; I forget the exact date - I submitted a question which was directed to the Chairman of the Comité des Connétables as is allowed and described in States of Jersey Law and Standing Orders and asked him to reveal to the Assembly if any of the Connétables received any additional personal money, pension, benefit, anything of that nature, any kind of further additional remuneration from Parish funds. He simply refused in the teeth of the law and the Standing Orders to permit the question - utterly bizarre. The 2 questions I have asked in the Assembly; firstly the one concerning the election periods for Constables, again, ravingly interfered with by the Bailiff and rendered meaningless and, likewise, the other questions for the Attorney General. So even this morning we have 2 examples of questions which have been interfered with. Then we get to him stopping the publication of my official comments during the dismissal debate. Cast your minds back to 11th September last year when I was facing dismissal as the Minister for Health and Social Services. A very substantial report containing a hotchpotch of distortions, omissions and, frankly, outright falsehoods had been tabled by the Council of Ministers against me. I prepared some formal comments as Ministers do in response to the propositions and the Bailiff, again, quite unprecedentedly and without any legitimate right, stopped them from being formally printed. It is obvious why he did so: he did it to stop the documentation gaining Parliamentary privilege and to stop it appearing on the States Greffe website because it is damaging to the establishment and indeed to him in some respects. Then we get to him stopping my Christmas speech. I think it is worth just reflecting upon that. We are a democratic Assembly and no Member of this Assembly has to agree with one single word of what I say then or at any other time. But the speech was in order, it broke no Standing Orders, it broke no Code of Conduct, it was

therefore a legitimate speech, in order, and no matter if the Bailiff and every single other Member of this Assembly hated and detested every word of it, I had a right to deliver it. His joining-in with the mob-rule and anarchy and switching my microphone off and stopping me delivering that speech is another example of just how profoundly inadequate this man is when it comes to exhibiting some kind of sensible, balanced judgment on issues. That evening after that incident, I was inundated with calls, e-mails of support from members of the public but more significantly I had quite a number of the victims, who I know and I have been trying to help, on the phone to me grieving and angry and in tears. In tears that they just could not believe - could not believe - that the States Assembly could behave in this way. Turning to some of the remarks made by Senator Walker. He described the proposition and the debate we are having on it as "light-hearted and trivial" and that it was instead a deeply serious matter. Well, I do not think there is anything light-hearted or trivial in the report and proposition, nor indeed in Deputy Pitman's speech. It seemed to me that they dealt with very important and significant issues, i.e. the failure to properly protect children from risk and jeopardy at the hands of paedophiles. Now, that might be light-hearted and trivial and not an important matter in the world of Senator Walker but I do not think he is in step with 99.9 per cent of the rest of the population. Then we get to the Bailiff's Liberation Day speech. Well, as has already been remarked, what gross hypocrisy. I am a politician, I have stood in this Assembly giving a political speech and I had my microphone cut and the debate adjourned by the Bailiff. The Bailiff, supposedly not a politician, although some of us would question that, certainly unelected, a public functionary, a member of the judiciary, the head of the judiciary, the judiciary which will be presiding, unless I can do anything about it, over the child abuse cases, making a public speech in which he essentially attacks and denigrates the abuse survivors, the media coverage and essentially those who are campaigning on their behalf. Again, you just could not make it up, it is that extraordinary. The hypocrisy of it was breathtaking. So annoyed was I at that because, again - again - I had to deal with probably about 15 very angry, tearful abuse survivors following that speech by the Bailiff. There was, of course, at the time of the B.B.C. Radio 4 documentary a little while ago his flat refusal to clearly apologise to the parent of a victim of Holland. So, following these I wrote an e-mail of resignation to the Bailiff from the Bailiff's Consultative Panel which I will quote: "I write to formally notify you of my resignation from the Bailiff's Consultative Panel. While I had little confidence in you as a person in any event, both your statement to the B.B.C. and the letter you have issued to States Members today are really the final straw. Quite what '33 years' of service' or 'acting in good faith' have to do with a matter of this gravity I am afraid eludes me completely. You may have been acting in good faith but that is hardly the issue. The fact is your decision to not refer Holland to the Royal Court was gross incompetence. Most of us are accountable for our mistakes. People lose their jobs over far less serious matters. The fact that you are intent on attempting to remain in post in this great peacetime moment of crisis for the Island, a crisis arising from an ingrained culture, a failure and contempt towards vulnerable children simply serves to further illustrate your compound inadequacies. If you possess the faintest understanding of child protection matters as a man in your position should, you would know contrary to the assertions in your letter ..." I will not quote it all but I have already spoken about the fact that paedophiles remain dangerous. I go on to say: "It is not as though this is the only gross child protection failure on your record; just from my memory 2 others occur." The Victoria College Board of Governors issue and the failure to issue a custodial sentence to the paedophile, again, as I have already spoken about. I go on to say: "Yet another example of your contemptible attitude towards child protection can be found in your decision to side with mob-rule by your oligarchy allies and stop my Christmas speech in which I was attempting to express some recognition and empathy towards child abuse victims. The first time ever a States Member had stood and spoken in acknowledgment of what had happened and you stopped it even though every single sentence of my speech was compliant with Standing Orders and the Members Code of Conduct. The barracking of me by establishment politicians was simply an assault upon democracy, free speech and the rule of law; something you were content to embrace even though your actions had no basis in any recognised democratic procedure. The Speaker of any respectable legislature would have



told those Members who were interrupting to sit down and shut up. Any decent Speaker would have told them no matter if every other Member of the Assembly hates and disagrees with the Senator's every word he will have his say. But you instead, as recently as December 2007, preferred to silence an expression of empathy for abuse survivors and again to fail the vulnerable. Even if your claim of ignorance in 1992 could be taken seriously, even if it did not exhibit gross incompetence of the most dangerous type, your recent actions show, I am afraid, that you remain utterly incompetent in matters of child protection. Let me give you some advice: your position is hopeless. Not even the infamous friends at court in Whitehall are going to be able to save you and your colleagues this time. It really would be better for this community and, frankly, better for you if you just went and went now and took your colleagues with you." To conclude I want to return to the speech that the Bailiff gave on Liberation Day. Now, I helped to establish a Jersey Care Leavers' Association. I am not a member of it; I only rarely attend their meetings when I am invited to. It is run by them, for them and overseen and guided by people with similar experiences from the United Kingdom Care Leavers' Association. They had a meeting at a point following the Bailiff's speech and they issued a press statement. I was not present at this meeting, I had nothing to do with this, but I think to finish, it is worth reading out just what the Jersey Care Leavers' Association thought of this matter. It is headed: "Jersey Care Leavers' Association calls on Bailiff to retract claim that media coverage is the 'real scandal'. The Bailiff of Jersey used his speech on Liberation Day to attack the press for their reporting of the child abuse investigation in Jersey. The Bailiff said that 'denigration of Jersey and her people is the real scandal.' The Jersey C.L.A. (Care Leaders' Association) discussed the comments made by the Bailiff at its meeting on Wednesday, 28th May 2008 and decided to release the following statement: 'Whatever the merits of the very different media coverage of the child abuse scandal in Jersey, the Jersey C.L.A. was shocked to hear the Bailiff say that the denigration of Jersey and her people is the real scandal. The Jersey C.L.A. knows that the overwhelming majority of Jersey residents know the difference in seriousness between continuous, contentious press reports that often get facts wrong such as was carried by the *Daily Mail* recently and the fact that to date over 160 adults have come forward to say they suffered abuse while in the care of the States of Jersey over a number of decades. We, the victims of this scandal, are disgusted with the Bailiff's speech. He had weeks to make the statement about the historic abuse case yet chose Liberation Day to try and misinform the people of Jersey. The Jersey C.L.A. also believe that while the police are still to complete their investigation it is becoming clear that abuse did take place in the Jersey childcare system on a huge scale. The Bailiff should retract his statement and acknowledge that the most important scandal is that the abuse took place and remained unchallenged for years. The Bailiff should apologise to the victims of child abuse in Jersey for claiming that the real scandal is media coverage. The Bailiff's comments portray the Jersey establishment as uncaring towards its people and it is this attitude that presents Jersey and its people in a terrible light to the international community who are following the story. The Jersey C.L.A. also believes that an admission of wrongdoing by those involved must be the first step to help those abused accept and deal with their nightmares. We have many friends who have suffered untimely deaths through addiction and suicide. We are fighting for justice for them too in their memory and we will fight for justice for all care leavers who were victimised in the hope that such justice will help them to finally make sense of their lives.'" The statement concludes at that point. Those are the views of survivors; people who have already been abused by the authorities in Jersey, often catastrophically. The Bailiff's speech was effectively just another load of abuse on top of that which they have already suffered. The care leavers also wrote directly to the Bailiff asking for an apology for the remarks he made in his speech. He has not issued nor given any indication that he is prepared to issue any such apology. Again, I find myself dealing with distressed, wrecked, messed-up victims who just seemingly continue to get trampled into the ground by the system here in Jersey. The Bailiff is manifestly unfit to occupy this particular post on a variety of grounds for a variety of ways. I do not think a more inadequate individual in public administration I have ever met. I will most certainly be supporting the proposition and it is my

earnest hope that at least Members will do the public the favour of debating these matters. I move the adjournment, Sir.

### **LUNCHEON ADJOURNMENT PROPOSED**

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

The Assembly stands adjourned until 2.15 p.m.

### **LUNCHEON ADJOURNMENT**

#### **PUBLIC BUSINESS (continued)**

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

Does any other Member wish to speak? I call upon Deputy Pitman to reply.

#### **6.1.5 Deputy S. Pitman:**

It would be an insult to the men and women of Jersey who have suffered physical and sexual abuse at the hands of Roger Holland, and so-called previous carers at Haut de la Garenne and other children's homes, if I had brought this proposition for political gain and electioneering for the JDA (Jersey Democratic Alliance). To use the serious misfortune of others for political gain is something I find abhorrent in politicians who do so and so, Sir, I find it disgusting that the Chief Minister and his Council have accused me of this. Come the election it will be some of his Ministers who will have to use the Communications Unit to promote themselves. Not I, who does actually listen and work - as far as my abilities allow - for the people who approach me, many of whom have either been victims of child abuse, relations of victims, or who have been at the receiving end of a bad decision made by the Bailiff, this Chief Judge. Furthermore, Sir, I do not believe that Senator Walker believes that I am abusing my position for political gain. He is a man, with others, protecting a friend and using my name to do so. Further, Sir, this cunning tactic allows for the Chief Minister and his Ministers to avoid the major issues of justice and accountability - a frequent occurrence of the Council - that these victims of child abuse and their families say rightly are due from this Government. I also believe, Sir, that there are too many Members in this House who stay clear of the taboo that is questioning the Bailiff. Sir, if it can be said that the abusers have to be accountable for the terrible abuse that they have caused 16 years ago, so should the Bailiff. When I ask: "Is the Bailiff going to be held accountable for a decision which led to a man to continue to abuse children within a position of trust - not by this Government, Sir - where do the victims of Roger Holland go to get this justice? Where does this leave other victims who were brought up in these children's homes? Where does this leave the Jersey public in their confidence in this Government?" Once again, I believe significantly damaged and only demonstrates that many Members of this Government are significantly out of touch with the people of Jersey. I maintain the proposition and call for the appel.

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

The appel is called for. I ask Members to return to their designated seats. The Greffier will open the voting for or against the proposition of Deputy ...

**Senator M.E. Vibert:**

I notice Senator Perchard has returned after being delayed and I wonder if the défaut could be lifted on him, please?

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

The Senator is marked as excused. We have noted he is present and he is able to participate in the vote, thank you. The voting is open for or against the proposition.

<b>POUR: 3</b>	<b>CONTRE: 47</b>	<b>ABSTAIN: 0</b>
Senator S. Syvret	Senator L. Norman	
Deputy G.P. Southern (H)	Senator F.H. Walker	
Deputy S. Pitman (H)	Senator W. Kinnard	
	Senator T.A. Le Sueur	
	Senator P.F. Routier	
	Senator M.E. Vibert	
	Senator P.F.C. Ozouf	
	Senator T.J. Le Main	
	Senator B.E. Shenton	
	Senator F.E. Cohen	
	Senator J.L. Perchard	
	Connétable of St. Ouen	
	Connétable of St. Mary	
	Connétable of St. Clement	
	Connétable of St. Helier	
	Connétable of Trinity	
	Connétable of Grouville	
	Connétable of St. Brelade	
	Connétable of St. Martin	
	Connétable of St. John	
	Connétable of St. Saviour	
	Deputy R.C. Duhamel (S)	
	Deputy A. Breckon (S)	
	Deputy J.J. Huet (H)	
	Deputy of St. Martin	
	Deputy G.C.L. Baudains (C)	
	Deputy P.N. Troy (B)	
	Deputy C.J. Scott Warren (S)	
	Deputy R.G. Le Hérisssier (S)	
	Deputy J.B. Fox (H)	
	Deputy J.A. Martin (H)	
	Deputy S.C. Ferguson (B)	
	Deputy of St. Ouen	
	Deputy P.J.D. Ryan (H)	
	Deputy of Grouville	
	Deputy J.A. Hilton (H)	
	Deputy G.W.J. de Faye (H)	
	Deputy P.V.F. Le Claire (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy D.W. Mezbourian (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy A.J.D. Maclean (H)	
	Deputy K.C. Lewis (S)	
	Deputy of St. John	
	Deputy I.J. Gorst (C)	
	Deputy of St. Mary	

**7. Social Security Tribunal: appointment of members (P.108/2008)**

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

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP4

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**STRICTLY CONFIDENTIAL**

**REPORT TO THE GOVERNING BODY AND EDUCATION COMMITTEE  
JUNE 1999**

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**REPORT TO THE GOVERNING BODY AND EDUCATION COMMITTEE**

*Independent Inquiry, on behalf of the Governing Body of Victoria College and the Education Committee of the States of Jersey, by Stephen Sharp, former Chief Education Officer of Buckinghamshire*

## EXECUTIVE SUMMARY AND PRINCIPAL RECOMMENDATIONS

- 1 The terms of reference were to investigate and report upon
  - Issues relating to the management of off-Island school visits
  - The appropriateness of the policy, advice and procedures provided by the Education Department in respect of Child Protection issues and the management of off-Island visits
  - The manner in which such policy, advice and procedures were followed by the College authorities
  - The manner in which the issues raised by the police investigation were dealt with by the College authorities
- 2 Extensive enquiries, involving interviews with some 65 people and the study of many documents, have been carried out. I have received the full co-operation of the Headmaster, the Director of Education, the Chief Police Officer and their staff.
- 3 There are many valuable and well-managed off-Island visits organised at the College by dedicated teachers.
- 4 Sailing trips organised by Mr Jervis-Dykes through the College Combined Cadet Force were not satisfactorily supervised. Before 1994, none of them were authorised by the Education Department
- 5 The policy, advice and procedures provided by the Education Department in respect of off-Island visits are generally appropriate at present. I recommend, however, that there should be a review of the policy on alcohol and an improvement of certain aspects of the system for approving trips.
- 6 The policy, advice and procedures provided by the Education Department in respect of Child Protection are appropriate. There is, however, a need for more training of staff to turn policy into practice. I make recommendations about this.
- 7 There were serious deficiencies in the way the College authorities followed such policies, advice and procedures. I make recommendations to the Governing Body on this.
- 8 The Police investigation raised issues about the supervision of trips and the reaction of the College authorities to previous complaints against Mr Jervis-Dykes. It also questioned the attitude of certain staff during the course of the investigation.
- 9 The handling of two complaints, in 1992 and 1994, by the Headmaster was not appropriate. The 1992 incident should have led, at the very least, to Mr Jervis-Dykes

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taking no further trips. The Child Protection procedure was not followed. I make a recommendation on the handling of complaints.

- 10 The attitudes of the Headmaster, one of the Vice Principals and the Head of Sixth Form during the police investigation were in some respects inappropriate.
- 11 I invite the Governing Body to consider what action to take in the light of my report.

#### 12 Recommendations

- The Director of Education should review the procedures and form for approval of off-Island trips with a view to ensuring that in future no trip can take place which is not adequately staffed by staff with appropriate and sufficient qualifications
- The Education Committee, in consultation with Governing Bodies, teachers' associations and parents, should undertake a review of the current policy on alcohol
- The Director of Education and the Headmaster should prepare a report to the Governing Body, for adoption and circulation to staff, making it absolutely clear that all College off-Island trips must be approved by the Education Department
- The Governing Body should instruct the Headmaster to arrange training for all College staff on Child Protection and the Governors should be invited to attend
- The Education Committee should give strong and urgent support to the resourcing of effective child protection training, in conjunction with other Committees, their Directors and Chief Officers
- The Governing Body should oversee the development of a complaints procedure which can be known by staff and parents
- The Governing Body should consider what action to take on my findings in respect of the Headmaster, the Vice Principal and the Head of Sixth Form

**Part A**

**INTRODUCTION**

- A1** On 26 April 1999, Andrew Jervis-Dykes was sentenced to four years imprisonment, having pleaded guilty to charges of indecent assault involving pupils at Victoria College, Jersey where he was a teacher from 1979. Following a complaint to the police by a member of the public in May 1996, he had been arrested on 5 June 1996, was promptly suspended by the Headmaster and resigned in August.
- A2** In a letter of 26 April 1999 to the Chairman of Governors at the College, the Attorney General drew attention to comments in a separate Police Report, dated 3 February 1999, which gave rise to concern about
- The supervision of trips and the reaction of the College authorities to previous complaints about Jervis-Dykes.
  - The attitude of certain staff during the police investigation
- A3** The Attorney General listed several matters and eleven questions (which I have numbered below for ease of reference) arising from the police report and, "on the assumption that the assertions made in the Report are accurate", referred them to the Governing Body to consider. Attached to the Report were 3 letters, six statements by victims of Mr Jervis-Dykes and one by the Headmaster.
- A4** On 1 May, the Director of Education invited me to undertake an independent inquiry on behalf of the Governing Body and Education Committee. I came to Jersey on 4 May and began preliminary familiarisation with the College and the case. On 5 May a Press Conference was held to announce my appointment and a public invitation for anyone to contact me, if they wished to meet me on a strictly confidential and anonymous basis.
- A5** During the weeks beginning 3, 10, and 31 May, and 7 June, I held a series of interviews and discussions with over 65 persons, some at my invitation, some at their request in response to the announcement of the Inquiry. I saw some people more than once. Some were accompanied by a friend or representative of a professional association. They comprised
- Past and present pupils of the College, including victims of Mr Jervis-Dykes
  - Parents of past and present pupils, including parents of victims
  - Twenty three past or present teaching staff of the College, including all senior staff and three former Vice-Principals of the College
  - The Bailiff and Deputy Bailiff, both former governors of the school



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- Several past and present members of the Governing Body and the Education Committee, including Chairmen and Presidents
- Past and present Directors of Education, Assistant Directors and other staff
- Law Officers, including the Attorney General
- Officers of the States of Jersey Police, including the Chief Officer
- The Head of the Children's and Adult Social Services
- The Headmaster's wife
- Mr Jervis-Dykes

(Many people, of course, belong to more than one of these categories, for example teacher, parent and former pupil; governor and former pupil)

- A6 The explicit basis of these interviews was one of confidentiality and anonymity, except where the person was named in the Police Report. In some cases I gave a written guarantee of anonymity. I also undertook that if I needed to attribute statements I would use the person's own written statements to me or would ask them to confirm the accuracy of my notes of our conversation. This approach, which I discussed with Law Officers before beginning my inquiry, has some drawbacks in terms of evidential strength, but overall I believe it enabled me to receive information which would not otherwise have been forthcoming.
- A7 Many documents were made available to me, particularly by the Headmaster of Victoria College and the Director of Education, both of whom gave me the fullest co-operation. These included the Staff Handbook and summary of the Validated School Self-Evaluation (VSSE) report on the College in 1998. I also spoke and corresponded with the Children's Service, the Headquarters of the Combined Cadet Force at HM Naval Base, Portsmouth and RAF Cranwell and the Director of Education in Lincolnshire.

**MATTERS RAISED BY THE ATTORNEY GENERAL**

- A8 By reference to numbered paragraphs in the Police Report, and "on the assumption that the assertions in the report are accurate", the Attorney General raised the following eleven questions:-

(Police Report paras 4,6,7)

1. Was the action taken by Mr Hydes in response to the [parental] complaint sufficient; in particular was it appropriate for him to consider the complaint without the assistance of any outside agency?
2. Was it appropriate for Mr Hydes to allow Jervis-Dykes to take pupils away on trips, in loco parentis, following that complaint?

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(Police Report paras 9 and 10)

3. Was the action taken by Mr Hydes in response to the victim 5 complaint sufficient; in particular was it appropriate for him to consider the complaint without the assistance of any outside agency?
4. Was it appropriate for Mr Hydes to allow Jervis-Dykes to take pupils away on trips, in loco parentis, following that complaint?

(Police Report paras 21-22)

5. The excessive consumption of alcohol is mentioned in these paragraphs and accords with the facts reported at the time of sentencing. It is clear that the excessive consumption of alcohol by pupils featured repeatedly on these school trips. Is the level of supervision by masters present on these trips to be considered as adequate?

(Police Report paras 16-20)

6. Supposing the words attributed to Mr Baker at paragraph 18 were in fact spoken by him, is there any circumstance in which they could be considered appropriate?
7. Is there any circumstance in which Mr Baker's reluctance to assist with the identification of victim 9 could be considered appropriate?

(Police Report paras 23-33)

8. Was it appropriate for Mr Baker to decline to assist the police investigation by refusing to make a statement as requested?

(Police Report paras 31 and 33)

9. Was it appropriate for Mr Hydes to advise Mr Baker not to assist the police officers investigating offences of serious sexual impropriety against pupils by making a statement?

(Police Report paras 34 and 35)

10. Was it appropriate for Mr Hydes to regard the request made by D.I. Faudemer to Mr Rotherham for information as "harassment"?

(Police Report paras 34,35 and 38)

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11. Was it appropriate for Mr Rotherham to withhold highly material information from an investigating police officer by falsely stating that he had not received any disclosures concerning the conduct of Jervis-Dykes?

These eleven questions are dealt with in detail in Part B of this report by reference to the numbers just set out. The rest of Part A deals with the supervision of trips and Child Protection procedures.

## **SUPERVISION OF TRIPS AND CHILD PROTECTION**

- A9 Educational Visits and Journeys ("school trips" for short), properly planned and managed, are a valuable and important part of a young person's education. They are encouraged by the Education Committee (for example through the policy document on Outdoor Education and support for Activity Weeks) and are a particularly strong feature of the life of Victoria College. At the College, they are principally

- sporting and outdoor education activities, including teams competing against similar schools in the UK and more widely
- departmental, subject-based and cultural visits and field study courses
- activities organised by the College's Combined Cadet Force (CCF)

Many trips, in all three categories, comply with all appropriate guidelines, are thoroughly planned and managed and have over the years contributed greatly to the education of pupils. Many staff devote additional time on a voluntary basis to make them successful.

### **Education Committee Procedures and Guidelines**

- A10 For many years, the Education Committee has produced a Handbook, which is updated from time to time, giving schools maintained by the States rules and guidance on a wide range of subjects including educational visits and journeys. The following is an extract from the April 1986 edition, chosen to indicate the general approach which has been in force for over a decade.  
*Regulations and Guidelines for Educational Visits*

#### *1. Definition of Educational Visits*

*Educational Visits include any occasion on which an organised party is taken outside the school premises, whether in term time or the holidays so long as the school is seen as the body which is responsible for and organises the visit. Any other body responsible for organising visits for which children are given leave of absence during school term will be expected to follow these regulations and guidelines. In the Island this will include day visits to places of educational, cultural and vocational interest, visits to other schools and to playing fields for*

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*inter-school matches. Residential visits will include both camping and use of hotel / hostel accommodation, and can take place both within and outside the Island. Any visit which includes activities of a hazardous nature, such as camping, climbing, canoeing, sailing or skiing must be discussed, and the detailed arrangements agreed well beforehand, with the Outdoor Education Adviser [later the Youth Officer].*

## *2. Supervision*

*For residential visits or visits out of the Island supervision should be in the ratio of one adult to fifteen pupils, at least two suitably experienced qualified teachers should accompany any party. Where the party is a mixed one there should be at least one adult of each sex. A small party of senior pupils of one sex may be permitted to be accompanied by one teacher of the same sex.*

*Hazardous activities will require a higher proportion of adults which will be determined by the Outdoor Education Adviser.*

*It is important that every accompanying adult appreciates the responsibility of "duty of care", which operates for so long as the visit continues and in the case of residential visits throughout the 24 hours. The safety and welfare of the children taking part in the visit must be paramount at all times.*

*In this context a teacher is a qualified teacher on the staff of the school organising the visit. Where pupils of more than one school are involved a member of staff of each school should normally be included. The leader of the party should always be a teacher as defined.*

*If the leader has not been to the places to be visited before, he or she should undertake a preliminary visit. Such visits need to be approved in advance.*

## *3. Procedure*

*Permission for any visit out of the Island must be obtained from the Director of Education using the form provided (Appendix 1).*

- All The form (Appendix 1) requires, inter alia, details of the size and composition of the party, including names and qualifications of teachers and other accompanying adults. For hazardous activities, further information on instructor qualifications and relevant experience of teachers and staff is required. The Headteacher signs the form and submits it to the Director of Education who, if all guidelines are met, is authorised to approve the visit on behalf of the Education Committee.

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- A12 The current procedure is that the Assistant Director (Community Services) checks the details and signs satisfactory forms. At the time when Mr Jervis-Dykes was at the College, the forms were signed by the Assistant Director (now the Director).
- A13 For offshore yacht cruising trips to meet RYA standards and Education Committee Guidelines, the normal requirement would be, in terms of staff levels and qualifications for a yacht with a registered capacity of seven or eight,
- a teacher with Yachtmaster qualification;
  - another adult with at least "competent crew" qualification.
- A14 If the trip involved one yacht, the second adult would need to be a teacher. If it involved two yachts, the above arrangements would need to be replicated, except that only two of the four adults with sailing qualifications would need to be teachers.
- A15 In particular cases, for example if the trip was to take place wholly or partly in waters well away from local support systems, the Assistant Director would arrange a discussion with the leader about the detailed arrangements. A case in point is the trip to Greece led by Mr Jervis-Dykes (8-22 July 1995). The application, signed by the Headmaster, was submitted to the Education Department on 21 December 1994. It attached information to parents about the trip, dated 4 November 1994, which included
- I am the expedition organiser, and I am currently qualified at RYA Yachtmaster level. Another qualified adult will be assisting on board, and any other yachts that we charter will be similarly staffed.*
- Careful research with responses from a number of charter agencies leads us to go for two 38' Jeanneau Sunshines. Each yacht has accommodation for a crew of eight*
- A16 The application said that there would be ten Y10 pupils, led by Mr Jervis-Dykes and Mr Piers Baker. On this basis, the form was approved and signed by the Assistant Director.
- A17 Subsequently, the Youth Officer and the Outdoor Education Co-ordinator met Mr Jervis-Dykes to follow through the details and the staffing arrangements. Mr Baker was not qualified to skipper a second yacht. The Youth Officer offered, if necessary, to release a qualified member of staff to skipper the yacht. Mr Jervis-Dykes said he would find a second qualified person to join him. Nothing further was heard on the question of staffing, although the file shows a fax from Mr Jervis-Dykes on 7 July 1995, the eve of departure, giving the names of the party.

A18 In this case, it can be seen that the staffing of the trip did not conform to the Guidelines and the system did not pick this up. It would appear that Mr Jervis-Dykes was able to deceive the Education Department. The procedure has now been improved by giving the task of checking and signing forms to a single person with knowledge of outdoor education in general and sailing in particular. However, systems should not rely on particular individuals. Recently, the Education Department has started to develop a database of the qualifications, relevant to outdoor education, held by teachers in Jersey schools. It relies on voluntary returns from teachers' schools and is at present incomplete. It should be developed further and can be a useful tool for reminding people when their qualifications need to be renewed. I have brought these matters to the attention of the Director and I recommend that the Director of Education reviews the procedures and form for approval of off Island trips with a view to ensuring that in future no trip can take place which is not adequately staffed by staff with appropriate and sufficient qualifications.

#### **Dinghy sailing**

A19 Dinghy sailing is carried out at the College, generally and in the CCF, to high standards, led by very skilled and experienced teachers and instructors and in close collaboration with outdoor education staff of the Education Department. No concerns about dinghy sailing have been brought to my attention.

#### **CCF Regulations**

A20 Detailed Regulations exist for all activities carried out under the auspices of Combined Cadet Forces. These include "Training Afloat - Regulations and Safety 1995 (Offshore)", which apply to all afloat offshore activities using sail or powered boats conducted by RN Sections of the Combined Cadet Corps. They include the statement that wherever these rules are in excess of the legal requirement they are nevertheless the minimum acceptable.

A21 Paragraph 0610 requires two appropriately qualified adults on any private vessel used for training. RYA qualifications or equivalent are detailed in Annexes to the Regulations. Different levels of qualification are specified for various categories of journey, depending on the distance from a safe haven and whether night sailing is involved.

#### **Trips organised by Mr Jervis-Dykes or in which he took part**

A22 Mr Jervis-Dykes joined the College in 1979 to teach Mathematics as a newly qualified young teacher. He became involved in the CCF, especially the Naval Section, of which he was leader from 1980 to 1993. Up to his arrest and suspension in June 1996, he organised or took part in a large number of trips under the auspices of the CCF. Those involving overnight stays out of the Island included weekends



and longer trips in the UK, across the Channel, in the South of France and sailing off the Greek coast. Many of the sailing trips were in yachts chartered in Jersey, France and Greece. For several years in the 1980s, he owned a part share in a yacht which was used by pupils in the South of France on at least one occasion.

- A23 It is not possible to establish a complete list of trips organised by Mr Jervis-Dykes, partly because some were viewed by him as "private" activities outside the purview of the College and CCF, but mainly because approvals by the Education Department were only sought from 1994, after the Department had raised with the Headmaster the requirement for approvals. The College's CCF records are mainly in the form of accounts of moneys paid in rather than a full record of all trips.
- A24 He also took part in several land-based activities within the CCF, including adventure training, parachuting and rock-climbing in the UK.
- A25 The Education Department records from 1994 show the following trips being approved in which Mr Jervis-Dykes took part or was the leader. (Some information about the yachts, number and year group of pupils and accompanying teachers is included. I have omitted the names of some other adults)
- 1 March 1994 - one week's CCF training in Devon, party led by Mr Stockton
  - 2 March 1994 - weekend sailing to St Malo, 7 boys, AJ-D and one other adult; yacht "Orpheus"
  - 3 March 1994 - sailing to Granville; 7 boys, yacht Orpheus; AJ-D and one adult
  - 4 June 1994 - weekend sailing to Granville and St Malo, 7 boys (mainly Y9), AJ-D and Mr Baker; yacht Ruse
  - 5 June 1994 - weekend sailing to Granville and St Malo, 7 Lower Sixth Army cadets, AJ-D and one adult
  - 6 July 1994 - weekend sailing to Dahouet; yacht Ruse, 7 L6 pupils; AJ-D and one adult
  - 7 July 1994 - parachuting in Wiltshire; 2 L6 boys; AJ-D and CCF staff
  - 8 July 1994 - sailing to Granville, yacht Ariadne, 4 x Y9, 1 x L6; AJ-D, two adults
  - 9 July 1994 - sailing to Granville, yacht Ariadne; 5 x Y10; AJ-D and A Gilson
  - 10 July 1994 - sailing in the Solent, yacht Ariadne; AJ-D and Mr Baker (yacht staying in UK, return by air)
  - 11 October 1994 - sailing to Lymington; 6 x Y12; AJ-D and one adult
  - 12 July 1995 - 2 weeks sailing in Greece; 10 Y10 boys; AJ-D and Mr Baker. Two yachts chartered in Greece
  - 13 March 1996 - one week's CCF training in Devon, party led by Mr Stockton

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- 14 March 1996 - University of Southampton. Maths conference; 10 x Y12, 1 Y13 (female), travel by minibus; AJ-D
- 15 May 1996 - sailing to Granville and St Malo, yacht Ruse; 5 x Y11, 1 x Y12; AJ-D, Mr Gilson and one adult

A26 The regular pattern of CCF activity began on Friday afternoons when, after Parade, Mr Jervis-Dykes would lead Naval Section activities. These activities would often run on into the evening and sometimes he would drink with pupils at the Old Court House pub.

A27 Sometimes he invited pupils to his home. On some of these occasions forthcoming trips were discussed. Sometimes before a weekend trip, boys would join the boats in St Helier late on Friday evening for an early Saturday start. (More specific references are set out in some of the police statements of victims).

#### Alcohol

A28 The Education Service Handbook Guidelines do not permit the use of alcohol by pupils on school trips. Additionally, the following guidance on the use of alcohol by staff was circulated in the 1980s

*"Whenever teachers are "on duty" and in charge of children they are not to drink alcohol. In this respect there is no difference between the teacher on a boat, or an educational visit, on a camp site or at an hotel, in or out of the Island and the teacher in the classroom.*

*The abuse of alcohol is a growing problem in Jersey and especially among young people. It is very important that members of the teaching profession should not be seen to be setting young people the wrong example.*

*It is the duty of Headteachers to make the professional obligation which must be accepted known and understood by their staff."*

A29 In 1994, the statement was revised to say

*It is a requirement that members of staff should not consume alcohol whilst they are directly responsible for the supervision of children.*

A30 During several interviews with Victoria College staff, I showed them the first statement and asked them whether they agreed with it and whether they had seen it before. It was clearly familiar to some, but not all. I was told of a meeting in the 1980s with the Director of Education, instigated at least in part by Victoria College staff, to clarify what a reasonable parent might allow. On the question of agreeing with the statement, there was more than one opinion. Some, with experience of running successful trips with no complaints, take the view that it is acceptable.



when in countries where it is not against the law for young people to have a drink with a meal, for a school party to do this, including the adults in the party. Others stick to a complete ban on alcohol on the trip, but may not be in the presence of the whole group the whole time. Others acknowledge and allow a more liberal approach to drinking by staff and pupils, especially sixth formers. It is sometimes said that pupils would be discouraged from joining trips if there was no alcohol allowed. Others cite no problem in attracting trip members, even with a total ban. The safety of pupils, with staff who are *in loco parentis*, on trips where there could be an accident or emergency at any time of the day or night, is of course the paramount consideration in this matter.

**I recommend that the Education Committee, in consultation with Governing Bodies, teachers' associations and parents, undertake a review of the current policy. This would not necessarily be with a view to changing it, but in order to debate the issues and build ownership for any eventual redefinition of policy in the context of reasonable parental behaviour and Jersey society.**

A31 More specific comments on alcohol on trips involving Mr Jervis-Dykes are made later in this report.

#### **The relationship between Victoria College and the Education Department**

A32 This is something which must be taken into account at two levels, structural and individual. I have read and heard at first hand about the structural issues surrounding the 1994 amendment to the Loi sur le College Victoria and the associated Memorandum of Agreement between the Governing Body and the Education Committee: the move of the Jersey College for Girls to a new site; fee-paying at some schools and not at others; the organisation of secondary education in the Island; the appointment of teachers; dealings with the Headmasters' Conference (HMC). I have tried not to let these issues influence the conclusions I have reached. There are sincerely held and different points of view on many aspects of such issues. The important point for this Inquiry is that the College, holding a high profile position in the eyes of parents and the wider community, and maintained substantially with public funds, should apply the same safety procedures and guidelines as other schools. These include the procedure for the approval of trips, which exist as much for the protection of staff as of pupils and their families.

A33 No approvals for CCF trips in any Section were sought prior to 1994.

A34 In respect of alcohol, Upper Sixth geography field study trips and some CCF trips did not comply with the Guidelines. Some CCF Naval Section activities did not comply and that matter was raised with the Headmaster by the Assistant Director and Youth Officer in November 1993. The Youth Officer had received an eye-witness account of cases of beer being taken on board a yacht in the marina in St Helier, just prior to a trip led by Mr Jervis-Dykes departing for Guernsey. A young

member of staff, an experienced sailor, remembers that incident. He also recalls, on his first sailing trip with Mr Jervis-Dykes in the autumn of 1990, being disturbed by the culture of drinking on the trip and telling fellow sailors in the Common Room. The third member of staff on that trip was Mr Baker. After the incident with beer being taken on board, the young member of staff determined not to sail with CCF trips again. There had also been a report of drunken and rowdy behaviour, including throwing fireworks into boats, by boys in Mr Jervis-Dykes' care, outside the Yacht Club in Granville while Mr Jervis-Dykes drank at the bar and took no action. The Headmaster, although in one statement he says no-one raised with him the question of alcohol on trips, remembers a reference to rowdy behaviour in Granville. No action was taken.

- A35 Mr Jervis-Dykes himself, in a statement to the Headmaster dated 22 November 1992, incidentally admitted excessive drinking on his trips but the Headmaster did not notice this at the time. More details of this statement are referred to in Part B of this report.
- A36 On the wider question of safety, on 26 October 1992 the Youth Officer, who had taken over responsibility for outdoor education that year, wrote to the Headmaster expressing concern about unsatisfactory practice in respect of safety and staffing on a Friday two weeks earlier in cruising yachts chartered by the CCF for a visit to Granville. The matters referred to were the correct use of buoyancy aids, the use of College rescue boats by pupils, qualifications of staff on cruising yachts and the need for a female member of staff in mixed parties. This led to a meeting between the Youth Officer and the Headmaster on 17 November at which the Headmaster agreed to show the letter of 26 October to the members of staff involved and chair a meeting with them. In a letter of 12 February 1993, the Headmaster informed the Youth Officer that he had "spoken to the Royal Navy Section at school who assure me that all the issues you raise were in fact being adequately covered".
- A37 Subsequently a meeting was held on 26 March 1993 between the Youth Officer, the Headmaster and Mr Jervis-Dykes with a view to ensuring that pupils always wore life jackets when on the water and that teachers were in positions where they could effectively control water-based activities.
- A38 In July 1993 there was a serious accident to a pupil on a yacht three miles southeast of the Demie De Pas in adverse weather conditions. Originally, Mr Jervis-Dykes had planned a trip to Greece with two yachts skippered by him and a relatively young and inexperienced teacher at the College. Numbers were apparently insufficient and Mr Jervis-Dykes used one yacht only, arranging another Activity Week project for a yacht chartered from Jersey Yacht Charters and skippered by a paid local qualified skipper, accompanied by the young teacher, to sail to Granville. The skipper's decision to proceed in difficult weather might not have been supported by a teacher with more sailing experience. The Education Committee's Guidelines require the leader to be a teacher.

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A39 The Education Department had no notification of either Mr Jervis-Dykes' trip or the one on which the accident occurred. As the Youth Officer's report at the time stated, the activities "were clearly regarded as CCF activities which is why we have not been consulted at any stage... not all the pupils involved... are in the CCF and [the young teacher] is not a CCF officer". Neither yacht was appropriately staffed in the terms of the Education Committee's guidelines.

(I understand that the accident led to legal proceedings, but I have not seen any paperwork relating to that).

A40 The failure to have sought approval for a trip which had such serious repercussions played a part in a clearer understanding being reached between the College and the Education Department. In November 1993, the Assistant Director and the Youth Officer met the Headmaster to discuss safety and the Guidelines and the need for approvals for CCF trips. The SSI (School Staff Instructor) at the time confirms a change in 1994 from a view that CCF activities were governed by the MOD to coming into line with the Education Department approval procedures and guidelines. (This begs the question of whether the CCF Regulations referred to above were any less rigorous or whether the MOD and CCF had been used to some extent as a means of rejecting the Education Department's legitimate concern for the same high standards of safety in all Jersey schools).

A41 Nevertheless, during 1994, the then Assistant Director of Education (now the Director) had occasion to write to the Headmaster on 15 February and 24 March about proposed trips submitted for approval. In one case a qualified approval was given, subject to the submission of further information. In the other, the proposal was rejected on the grounds of inappropriate staffing, since in the event of Mr Jervis-Dykes becoming incapacitated there would not be appropriately qualified back-up.

A42 The Youth Officer also raised with the Headmaster why Mr Jervis-Dykes worked so often alone on trips, usually taking an ex-pupil as a second adult, not a teacher as required by the guidelines. The answer was shortage of staff and that such a good teacher as Mr Jervis-Dykes did not need back-up.

A43 On at least two occasions, the different points of view of CCF Naval staff and the Education Department led to angry exchanges, one of them in front of pupils when Mr Baker became angry with the Outdoor Education Co-ordinator. The SSI had raised similar concerns to those expressed by the Education Department staff, but felt his views were ignored by senior CCF officers because he was not a teacher.

A44 The question of approval for CCF sailing trips led by Mr Jervis-Dykes was to some extent resolved and good paperwork showing thorough planning began to be submitted.

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- A45 However, on some occasions it appears that Mr Jervis-Dykes, when challenged about the details of trips and approval for them, claimed that a particular trip was neither a school nor CCF matter. The extract from the 1986 Guidelines makes it clear that if current pupils are involved and the school is seen as the organiser, in term time or in the holidays, the trip is within the scope of the Guidelines.

In order to establish an absolutely clear baseline for the future, .

**I recommend that the Director of Education and the Headmaster (or a designated senior member of staff) prepare without delay a joint report to the Governing Body, for formal adoption, setting out the inter-related guidelines and regulations of the Education Committee and the CCF on outdoor education and training, which can then be issued to every member of staff at the College and given to new staff on arrival. This will make it absolutely clear that all off Island trips must be approved by the Education Department.**

#### **Child Protection Guidelines**

- A46 Public awareness of the physical and sexual abuse of children and young people was heightened by a number of tragedies and scandals in the UK during the 1980s and the subsequent inquiries and reports. These led to the Children Act 1989 and the publication in 1991 of an important and influential report "Working Together under the Children Act 1989". This set out the role of Area Child Protection Committees and multi-agency teams. It also set out (pages 21-22) the role to be played by the Education Service in Child Protection.
- A47 In Jersey, a Child Protection Team was established in 1989 and received considerable publicity. For example, a major conference was held in March 1991 which was given detailed coverage in the Jersey Evening Post.
- A48 In August 1991 the booklet "Child Protection Guidelines: Working Together, inter-agency Procedures for the Protection of Children in Jersey" was sent to all schools. Page seven states that suspected or actual physical or sexual abuse should immediately be notified to the Child Protection Co-ordinator at the Children's Service.
- A49 At about that time, guidance was put into the Schools Handbook. Here are extracts from it.

*In the investigation of and response to all referrals of suspected child abuse the best interests of the child will be paramount.*

*In the case of sexual abuse, concern may arise as a result of disclosure of abuse by a child... In this case immediate referral should be made to the Child Protection Co-ordinator, so that an assessment of risk can be undertaken by the Child*

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*Protection Team and investigation and protection procedures put into action as appropriate.*

- A50 In 1997 the Jersey Child Protection Committee was formed, under the chairmanship of Jurat Mazel Le Ruez, to ensure a skilled, co-ordinated response to child abuse across all States and voluntary agencies. The Director of Education is represented by the Principal Educational Psychologist and the Assistant Director (Community Services). There are representatives of primary and secondary headteachers. At the officer level, there are close working relationships between the Education Department and child protection experts in the Police and Children's Services.
- A51 Work has been undertaken, with the Headteacher of Le Rocquier School, Mr Stephen Wilkinson, playing a leading role, to provide detailed guidance for Headteachers on how to manage suspected child abuse. The Guidance was based on models used in the United Kingdom by local education authorities. A leaflet summarising the child protection guidelines was produced and sent to all schools. The Youth Service has also developed excellent advice to staff on how to deal with suspected abuse, including detailed advice on what to do when alleged abuse is disclosed.
- A52 In general terms the existing guidelines and procedures are adequate, provided they are known and understood.
- A53 A survey of all schools was undertaken in 1998 to establish a list of "named persons" and the need for inservice training. In 1998 the named person for Victoria College was the Headmaster. In the 1999 update of the survey, it is now the Head of RE and Personal and Social Education (PSE). In 1998, the College was one of a small minority of schools which indicated no need for inservice training on child protection matters. However, from my discussions there is in fact a substantial need for training of all the staff, and particularly of staff with pastoral responsibilities.
- I recommend that the Governors instruct the Headmaster to arrange training on child protection, in consultation with the Director of Education and Child Protection Team, for all College staff as an early priority and that Members of the Governing Body be invited to attend.**
- A54 The surveys have identified a great need across the Island for training which will help schools and other establishments working with young people to turn policy into practice with confidence.
- A55 Officers responsible to the Defence, Health and Social Services and Education Committees have drawn up proposals for programmes of training and the staffing requirements to carry these out effectively. As yet, the necessary finance has not been approved.



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**I recommend to the Education Committee that strong and urgent support is given to the resourcing of effective child protection training, in conjunction with other Committees and their Directors and Chief Officers.**

## **PART B**

- B1 Based on the evidence provided to the Chairman of Governors by the police and my interviews, I have reconstructed the train of events in the Police Report, as far as possible in chronological order. I have also been authorised to see edited papers relating to a separate criminal case in 1992. I would not expect anyone else, prior to reading my account, to be aware of all the details in it or to see the whole picture. However, the content of my reconstruction is not, to my knowledge, challenged by anyone.
- B2 After that reconstruction, I go on to interpret events and draw conclusions. This is much more contentious.

### **RECONSTRUCTION AND SEQUENCE OF EVENTS**

#### **Relevant events up to November 1992**

- B3 In 1984, Mr Jervis-Dykes asked a maths teacher, experienced in organising an annual week's sailing trip, if on a forthcoming trip they could sail "in company" since it was Mr Jervis-Dykes first trip of that kind. On the second day, they reached Paimpol in Brittany. During the evening the teacher became so uneasy about the atmosphere on Mr Jervis-Dykes' boat that he sailed out of Paimpol during the night and refused to sail with Mr Jervis-Dykes again. He has described Mr Jervis-Dykes' behaviour as over-relaxed and unprofessional. On returning to the College, the maths teacher told his Head of Department and the then Headmaster of the incident.
- B4 In 1990-2, another member of staff was so disturbed by the culture of drinking on CCF sailing trips, including one to Binic and one to Guernsey, that he resolved not to go again. He told a number of colleagues about this.
- B5 In 1991, as shown by a statement to the police which I have been authorised to see, concern was expressed by a member of staff to the Vice Principal (Mr. Le Breton) about the behaviour of a cleaner with a boy in one of the school toilet blocks.
- B6 In January or February 1992, as shown by a statement to the police by a second member of staff, similar concern about the cleaner's behaviour was expressed to Mr. Le Breton, who reported it to the Headmaster (by then Mr. J. Hydes).

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- B7 In June, the cleaner was arrested and in October was sentenced to 15 months imprisonment.
- B8 In October the Youth Officer wrote to the Headmaster with concerns about the running of the Naval Section activities in respect of staffing and safety procedures.
- B9 During the weekend of 7-9 November 1992, during a CCF/RAF gliding weekend at West Mauling in Kent, a pupil disclosed to Mr David Rotherham, Head of the RAF Section, an incident with Mr Jervis-Dykes which had occurred in July 1992. Mr Rotherham reported this to the Headmaster without delay on return to the College on Monday 9 November.
- B10 (On 17 November, the Youth Officer met the Headmaster to discuss the matters of safety raised in his October letter.)
- B11 On Friday 20 November, the Headmaster summoned Mr Jervis-Dykes and put the boy's allegation to him. Mr Jervis-Dykes denied it.
- B12 On Sunday 22 November, Mr Jervis-Dykes wrote an account of the alleged incident and a covering letter to the Headmaster in which he said he had been intending for some time to resign at the end of that term.
- B13 On Monday 23 November, Mr Jervis-Dykes gave these documents to the Headmaster. (The Headmaster, as shown by a statement later to the police, does not clearly remember the covering letter). Later in the day the Headmaster, in two separate meetings, interviewed two pupils in the presence of their parent(s).

Events during 1993

- B14 In February the Youth Officer wrote to the Headmaster following up the points raised at the meeting on 17 November 1992.
- B15 On 19 July a serious accident happened to a pupil on a yacht voyage which did not have Education Department approval.
- B16 In November, the Assistant Director and Youth Officer met the Headmaster to discuss matters of procedure and safety and drinking on sailing trips.

Events during 1994

- B17 On Tuesday 11 January the Headmaster wrote an aide-memoire for the file, countersigned by Mr. Le Breton, recording the outcome of his interview of Mr Jervis-Dykes in connection with a complaint from a parent that his son and other pupils had been shown soft pornography on television at the home of Mr Jervis-Dykes on the previous Friday evening.

B18 17 January - The Headmaster's appointment diary records a meeting arranged with the boy's father for 3.30 pm.

#### **Events During 1995**

B19 From 8 to 22 July a sailing trip took place around the Greek coast (having flown to Athens) led by Mr Jervis-Dykes. The second yacht was skippered by Mr [Piers] Baker.

#### **Events During May 1996**

B20 In May information reached the police which led to enquiries beginning into the behaviour of Mr Jervis-Dykes.

B21 During the week of 20-24 May, at a States Personnel middle management course at L'Horizon Hotel, DS Faudemer approached Mr Rotherham, the Head of the Sixth form, (who was a fellow member of the course) for information about Mr Jervis-Dykes. Mr Rotherham gave no information but reported the conversations to the Headmaster who contacted the police to protest at "harassment" of Mr Rotherham.

#### **Events in June and July 1996**

B22 Mr Jervis-Dykes was arrested at 7.38 am on Wednesday, 5<sup>th</sup> June 1996 at his home in Mont Millais Court. A substantial quantity of video and other photographic evidence was seized, including video equipment and a Sky TV Adult Channel subscription card.

B23 Later that day, following discussion with the Director of Education (Mr. Grady), the Headmaster suspended Mr Jervis-Dykes.

B24 The Police received statements on 8 June and 12 June from three former students, detailing incidents in 1992, 1984 and 1985/6 respectively.

B25 On Monday 10 June, D Sgt Faudemer and D Sgt Pryke went to Victoria College, met the Headmaster and were shown the aide-memoire of the reprimand to Mr Jervis-Dykes dated 11 January 1994.

B26 On Thursday 13 June, a meeting of the Executive Committee of the Victoria College Parent Teacher Association was held. Among those present were the Headmaster and Mr Piers Baker, then Head of the Junior School. The Minutes of the meeting include the following:

**"In respect of the allegations revealed in the Jersey Evening Post concerning a College Teacher, the Headmaster reported that he could give no more information than was stated in the Press. The Press are keen to put a slant on the situation. Three parents of the Committee were confident in respect of this person and were**



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*shocked by the news. The Headmaster stated that the teacher remains suspended and this was a decision of the Chairman of Governors and the Director of Education in line with normal policy. The Committee were hopeful for a low profile approach.*

B27 That evening Mr Baker wrote a letter (which is included in the folder accompanying the Police Report) from his home address to D Sgt-Faudemer. In it, Mr Baker said

*You may recall that we met very briefly at Victoria College on Monday. I am the Head of the Junior School at the College. I am a Maths teacher and as a Naval Reservist I have been closely involved in the activities of the CCF over the years. In both these roles I have worked closely with Mr Jervis-Dykes.*

*I write because I fear that we might be heading for a gross miscarriage of justice. Whilst I am not privy (nor would it be proper for me to be so) to the details of your investigation, I do have specific knowledge and experience of Mr Jervis-Dykes' activities over a number of years. I have been with him as accompanying officer on a number of sailing expeditions and he has assisted me in the College's local dinghy sailing programme. We have both been involved in the on-shore and out of the Island training of numerous cadets.*

*I have often shared accommodation in yachts with him and I have never seen or been made aware of any inappropriate behaviour on his part. My own son has been in the cadet force for three years and I would have been horrified had I had any suspicion of misconduct by any officer. I would not have allowed such a situation to continue and I would have raised the matter with the Headmaster and yourselves without hesitation.*

*I hope, as you continue your investigations, that you will wish to take evidence as much from those who can verify his good character as from those who may have other agendas. Many parents and students can vouch for the upright open and dedicated way in which he has always carried out his duties.*

*There have been times when Mr Dykes's dynamic approach to leadership training has been the cause of envy from others. Likewise, his obvious care for and involvement with the welfare of students has stood out as superior to what most of us manage to achieve.*

*Perhaps these things have led to false allegations being made. I certainly recall occasions of deliberate and insubtle attempts by some local individuals to pull the College training down. That, sadly, is the small-minded nature of certain elements in our society today. I am sure your own duties bring you into contact with this often enough!*

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*I hope this letter will further your investigations and ensure that we do not continue to damage a man's career for longer than is justified.*

- B28 Shortly after receiving this letter D Sgt Faudemer arranged for Mr Baker to be invited to Police Headquarters at Rouge Bouillon on 19 June, when he met PC Cornelisson and D Sgt Pryke. They showed him photographs and clips from two videos (one 8mm, one VHS) seized on 5 June. Mr Baker was asked if he could identify a boy in the videos. Mr Baker said he could not with certainty identify the boy. On his return to the College, Mr Baker told the Headmaster of the meeting at Rouge Bouillon and told him whom the police thought the boy in the video might be. The Headmaster subsequently viewed the video clips at Rouge Bouillon and did not feel able to identify the boy with certainty.
- B29 During the rest of June and July, further disclosing statements were made to the police by six former pupils and two current pupils, relating to incidents between 1986 and 1995.
- B30 On 2 July Mr Rotherham reported to police the disclosure to him by a pupil in November 1992.
- B31 On Monday 15 July, at a meeting of the Governing Body chaired by Sir Philip Bailhache, the Headmaster reported that Mr Jervis-Dykes had been suspended on full pay because of allegations which were being handled by the police. It was agreed that Sir Michael Alcock, Senator Jeune and Mr McKeon (present as Assistant Director) would convene a Disciplinary Sub Committee meeting. Advocate Falle was present as an observer and took over soon after as Chairman of Governors. Next day, because of travel and other complications, Mr Falle replaced Sir Michael as proposed chairman of the Sub Committee meeting. (It was noted at the time that Mr Dykes was out of the Island.) The Headmaster had taken advice from his professional association. He wrote that "The Governors need only show improper behaviour and depending on the gravity have the power to invite a resignation or dismiss summarily. Any action must of course follow a proper hearing."
- B32 On 22 July, the Headmaster wrote to Advocate Falle, confirming a disciplinary meeting to be held on 14 August, before Advocate Falle, Mr Richard Robins, the Director of Education (Mr Grady) and the Headmaster. Mr Jervis-Dykes had been sent a copy of the complaints against him and had been advised that he may wish to be accompanied by a professional friend.
- B33 On 25 July, Mr Jervis-Dykes wrote to the Chairman of Governors giving "the required one term's notice of my resignation from the post of Head of the Department of Mathematics".

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- B34 On 2 August, Advocate Falle replied, saying that he was willing to accept the resignation with immediate effect on the basis that salary would be paid to the end of September.
- B35 On 5 August, Mr. Le Breton wrote to Advocate Falle. He said that the police did not as yet seem inclined to press charges and that there may indeed be no case to answer. He went on to say that Mr Jervis-Dykes had served the College in an outstandingly competent and conscientious way. He accepted that there was now evidence of misconduct on off Island trips and that in his view this was now a resignation matter. He asked that Mr Jervis-Dykes be allowed to leave with some dignity and suggested that the Governors consider a resignation from Christmas or Easter. He did not believe that his continued presence teaching Maths and as Head of Maths would place anyone at risk. *"In the absence of a police case, the resignation would be seen as an inevitable consequence of an intolerable situation caused by an unsubstantiated allegation."* (Mr. Le Breton had not taken up the Headmaster's suggestion in June that he might view the videos and he was not aware that Mr Baker had seen them)
- B36 On 11 August Mr Jervis-Dykes wrote to Advocate Falle, accepting the conditions of the letter of 2 August, saying that it was without prejudice and did not in any form constitute any admission of guilt to any allegations levelled against him at any time.

#### Events during 1998

- B37 On 17 June a former pupil made a disclosure and identified himself as the boy in the video taken in July 1995. Three days later another former pupil disclosed an incident in 1991.
- B38 On 26 June, Mr Jervis-Dykes was arrested at his mother's home in Southampton and brought to Jersey.
- B39 On 5 August a former pupil disclosed an incident in 1981.
- B40 In September PC Cornelisson interviewed Mr Rotherham at the College. Among other things, Mr Rotherham confirmed that after the disclosure in November 1992 the Headmaster had instructed him to say nothing. Mr Rotherham subsequently (in September 1998) took union advice which was to be honest and make a statement if asked. Mr Rotherham also took advice from his cousin, PC Stephen Rotherham.
- B41 On 15 December, PC Cornelisson telephoned Mr Baker with the intention of taking a statement of the dates of trips abroad, the letter of 13 June 1996 and the viewing of the video. Mr Baker repeated that he had been unable to identify the boy. (This sequence of events is set out from the police point of view in Paragraphs 26 of the Police Report)

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- B42 On 16 December Mr Jervis-Dykes' defence advocate telephoned PC Cornelisson in connection with discussion there had been with Mr Baker as to whether making a statement would damage Mr Jervis-Dykes' defence. Subsequently Mr Baker declined to make a statement.
- B43 At the end of December 1998, Mr Jervis-Dykes changed his plea from not guilty to guilty.
- B44 During the period of his imprisonment Mr Jervis-Dykes was visited by several teachers from Victoria College from time to time.

Events during 1999

- B45 On 26 February 1999, DI Faudemer and PC Cornelisson visited the Headmaster at the College to clarify the date of the warning to Mr Jervis-Dykes about the TV programme. The Headmaster then asked whether he had, in DI Faudemer's opinion, acted correctly in November 1992. DI Faudemer informed the Headmaster that a police report of concerns about the College's handling of the Jervis-Dykes affair had been prepared and submitted by the Chief Officer to the Attorney-General. (The Report is dated 3 February 1999).
- B46 On 3 March, the Headmaster telephoned DI Faudemer to say that he remembered that he had taken informal advice in November 1992 from a Governor of the College, Mr. Francis Hamon a Commissioner of the Royal Court at the time and now Deputy Bailiff.
- B47 On 4 March the Headmaster wrote to the Attorney General to give the information about his conversation with the Deputy Bailiff.
- B48 On 5 March the Headmaster told the Deputy Bailiff of his letter of 4 March.
- B49 On 10 March the Headmaster wrote to the Attorney General asking to see the police report immediately.
- B50 On 15 March the Attorney General replied to both letters saying that the report could not be released before the end of the criminal proceedings and agreeing to pass the Headmaster's letter of 4 March to the Chairman of Governors with the Report in due course.
- B51 On 26 April, the Crown Advocate delivered in public in the Superior Number of the Royal Court his address on the sentencing occasion of the Jervis-Dykes case. The address contained the statement that *"the Crown hesitates to speak of the school as a victim of the breach of trust without some reservation. The reservation is this. It is known that on two occasions, each unrelated to the other, the school was told that all was not as it should be in the accused's conduct towards pupils in his charge. It*

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*is not yet clear that the school did anything on either occasion which was sufficient properly to investigate what it had been told."*

- B52 Mr Jervis-Dykes was sentenced to four years imprisonment (the amalgamation of several sentences to run concurrently or consecutively).
- B53 Throughout the week beginning 26 April the Jersey Evening Post published a series of detailed and well informed articles about the case.

#### INTERPRETATION AND FURTHER DETAILS OF EVENTS

B54 The key phases, as far as the Report of the Attorney General is concerned, are

- November 1992
- January 1994
- May-July 1996
- September-December 1998

B55 It is vital to this Inquiry to form the clearest possible picture of what transpired in these phases and to weigh conflicting accounts, while taking account of possible lapses of memory about matters which may not have registered as of equal moment to all concerned at the time.

#### November 1992

- B56 There is no dispute that the disclosure by Victim 5 to Mr Rotherham occurred during a gliding weekend in Kent. Mr Rotherham has stated that the weekend contained a Bonfire Party on the Saturday evening for the participants and others. November the Fifth was a Wednesday that year. This places the disclosure almost certainly as no later than Sunday 9 November. The CCF ledgers at the College do not include any reference to this weekend, perhaps because the RAF sent a Jetstream aircraft to collect the participants and so no income needed to be recorded.
- B57 Mr Rotherham's first written statement to me, discussed in the presence of Mr Stockton, confirmed that on return to the College on the Monday morning, straight after consulting Mr Stockton as Commanding Officer of the CCF and Mr. Le Breton, he recounted the disclosure to the Headmaster in the Headmaster's study in the presence of Mr. Le Breton. The Headmaster, according to Mr Rotherham, thanked him and asked him to leave, telling him to speak to no one about the matter. Some time later, Mr Rotherham gleaned from Mr. Le Breton that the matter had been dealt with.
- B58 Mr Rotherham also stated that he was quite clear that the boy wanted the disclosure to be reported on return to the College.

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I accept this account.

- B59 At my second meeting with Mr Rotherham, when he was accompanied by Mrs Rotherham, he remembered, when prompted, that another member of staff had been on the gliding weekend and that he had told her about the boy's disclosure. He also recalled being met at the College on return by the previous Head of the RAF Section, and telling him about the disclosure. I believe that he also sought advice from his union representative.
- B60 The next well-dated development is that the Headmaster interviewed the discloser with one or both parents in the presence of Mr. Le Breton on 23 November at 11.55 (as recorded in the Headmaster's diary). The discloser's account of the incident with Mr Jervis-Dykes in the South of France is set out in the statement of Victim 5 in the folders attached to the Police report. The Headmaster's account, set out in writing to me, is that he asked the boy, in the presence of a parent, to recount the incident and that he referred to Mr Jervis-Dykes' hand on the drawstring of his shorts. The Headmaster asked the boy more than once "Did he touch you?", meaning did he touch the boy's genitals. The boy, according to the Headmaster, said no. Mr. Le Breton confirms this account of the interview. The boy suggested that another boy would support his account, (meaning that the other boy had also, on another occasion, been assaulted by Mr Jervis-Dykes.) The Headmaster interviewed the other boy later on 23 November, with one or both parents and asked him if he had seen the incident with Victim 5. The other boy said he had not. Mr. Le Breton was present at this interview too.
- B61 Prior to these two interviews, the Headmaster had asked Mr Jervis-Dykes about the allegation, presumably on the basis of Mr Rotherham's account of the disclosure. Mr Jervis-Dykes recalls being summoned to the Headmaster's office on a Friday afternoon. If this took place on 20 November it would be consistent with the recorded appointments in the Headmaster's diary for 23 November. It would also be consistent with the two documents written by Mr Jervis-Dykes (in the folders attached to the Police Report) dated 22 November. These were an account of the alleged incident in the South of France and a covering letter indicating that Mr Jervis-Dykes had been intending to resign at the end of the autumn term (exhibit ARW/02, folders 2 and 3, attached to the Police Report).
- B62 On the basis of his interviews with Mr Jervis-Dykes, Victim 5 and the other pupil named by Victim 5, the Headmaster concluded that he had an allegation and a denial and that it was one person's word against another's. He also decided that Victim 5's account did not constitute an indecent assault.
- B63 The Headmaster has stated that he also consulted his wife (the Headteacher of another Jersey secondary school) and Mr Francis Hamon, now Deputy Bailiff and a Governor of the College in 1992. Mrs Hydes has confirmed this to me in writing and orally. Mr. Hamon has no direct recollection of being consulted but does not



dispute that this happened. The Headmaster states that this took place informally when he played squash with Mr. Hamon at the time, without naming either teacher or pupil. Mrs Hydes has also stated that it was her idea to consult Mr. Hamon.

- B64 As will be seen later, it was in 1999 that the Headmaster remembered that he had consulted Mr. Hamon, after a meeting with DI Faudemer in which DI Faudemer had informed him that a police report critical of the College had been written and would be submitted to the Attorney General after the case.
- B65 Meanwhile, it is uncertain what information was conveyed to whom in November 1992, after the Headmaster had concluded that no further action was appropriate. Mr Rotherham recalls asking Mr. Le Breton a day or two later about the matter and being told that no action would be taken and the matter was closed. He recalls no direct communication from the Headmaster. The Headmaster cannot remember passing on his decision and assumes that Mr. Le Breton would have done anything necessary. Victim 5 is quite clear of two things – first that he did not consider his complaint to have been withdrawn, and second that Mr. Le Breton told him that Mr Jervis-Dykes would be phased out of the CCF and might be leaving the College. Mr Jervis-Dykes thinks that he was told "a day or two after the weekend" that no action would be taken, and that he had been very stupid and should be careful in future. Mr. Le Breton denies Victim 5's statement about Mr Jervis-Dykes being phased out of the CCF. He has no recollection, however, of what if anything was communicated to whom. Another member of staff recalls Mr Rotherham telling him that in the Headmaster's opinion Mr Jervis-Dykes was too valuable a member of staff to lose.
- B66 (Mr Jervis-Dykes had become Head of the Maths Department in September 1990. He gave up the role of Housemaster of Dunlop House in June 1993 and took a less prominent role in the CCF from June 1993.)
- B67 The Headmaster's appointment diary records a game of squash with Mr. Hamon on Friday 27 November at 4.45 pm. The Headmaster thinks that this would be the occasion when he sought informal advice.
- B68 On the basis of these various statements and recollections, the most feasible reconstruction of the main points is as follows -
- 8/9 November: Victim 5 discloses to Mr Rotherham in Kent
  - 10 November: Mr Rotherham informs the Headmaster
  - 20 November: the Headmaster interviews Mr Jervis-Dykes
  - 22 November: Mr Jervis-Dykes writes his account of the incident and his letter mentioning resignation
  - 23 November: the Headmaster interviews Victim 5 and, separately, another boy

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- 27 November: the Headmaster speaks informally with Mr. Hamon over squash
- sometime during that week: the decision to take no action filters out to Mr Jervis-Dykes and Victim 5

- B69 In this sequence of events there is a gap between 10 November and 20-23 November and there is the possibility that the Headmaster only consulted Mr. Hamon after his decision to take no action was known to others at the College.
- B70 However, no mention has yet been made of how the matter should have been handled in accordance with good practice in Child Protection.
- B71 When a young person makes a disclosure alleging sexual abuse, the paramount and urgent priority is the welfare of the young person. Child Protection procedures require immediate referral to the Police or the Children's Service perhaps, in the case of an Education establishment, after consulting the Director of Education or his representative. The young person should be in a situation where he or she can describe the experience and be offered support. No direct questions should be put to the young person. Arrangements for further discussion should reflect the wishes of the young person. The only proper function of contact by the school is the school's continuing responsibility to protect and promote the young person's welfare. There should not be any attempt to delve further into the allegations.
- B72 On this occasion, the meeting arranged by the Headmaster two weeks after the disclosure amounted to a sort of investigation in itself. It was not the school's responsibility to do this and the method chosen was highly unlikely to obtain a true account of what happened, because it failed to recognise the need for sensitivity and support. The presence of others would be likely to have a dual effect, not only making the difficult task of discussing an intensely sensitive issue doubly so, but also running the risk of destroying information of potential evidential value.
- B73 It would appear that no member of staff took any action at all in support of the discloser.
- B74 It was not for the Headmaster to investigate and reach conclusions and so it is irrelevant whether the disclosure amounted to an allegation of indecent assault (although it clearly did).
- B75 One consequence of this was that no further disclosure of the incident took place until June 1996.
- B76 The other side of the November 1992 coin is the way Mr Jervis-Dykes was dealt with. A serious allegation against him appears not to have been put to him until the afternoon of the tenth working day after it was brought to the attention of the Headmaster. He does not appear to have been invited to be accompanied by a



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professional friend when interviewed. He recalls being admonished in some way and told to be careful in future. No written record was made of any part of this serious chain of events and nothing was communicated in writing to Victim 5, his parents or Mr Jervis-Dykes. No contact at all was made with the Child Protection Team or the Director of Education. The boy and his parents did not withdraw their complaint and do not think it was satisfactorily handled.

B77 The Headmaster remains adamant that his action in 1992 was correct.

B78 It is important to consider whether, in 1992, the Headmaster could have been expected to be aware of the correct course of action.

B79 As stated in Part A of this report, public awareness of child protection issues had been raised during the 1980s by a number of tragedies and scandals in the UK and the subsequent Inquiries, Reports and recommendations to the various agencies, including schools. The Report "Working Together under the Children Act 1989" was published in 1991. The Headmaster came at the beginning of 1992 from being Deputy Head of a comprehensive school in Humberside. In Jersey, the Child Protection Team had been formed in 1989, had attracted wide publicity and had circulated advice to establishments.

B80 The Headmaster's wife, Mrs Hydes, wrote last month to the Chairman of the College Governors and gave me a copy of her letter. In it she said

*When I was a Deputy Head in Lincolnshire, I was the school's "named person" in matters of child abuse and knew that tact was needed over such matters. Lincolnshire had issued specific advice to schools concerning child abuse. Such advice was not in place in Jersey at this time.*

*... As the boy had not approached a teacher with a complaint, as he denied he had been assaulted in the presence of his parents, I did not feel any disclosure had been made.... That assessment [by Mr. Le Breton] was that Mr Jervis-Dykes had not behaved improperly.*

B81 This is a disturbing letter in several respects. I have obtained a copy of the advice in existence in Lincolnshire schools in 1992. In addition to a handbook of child protection procedures, a guide for named persons was sent to headteachers and named persons on 16 March 1992. Mrs Hydes left Lincolnshire in the summer of 1992.

B82 The Handbook (Section D, page 1) states

*Action to be taken by any member of staff from all agencies who may become aware of any form of suspected or actual child abuse including all allegations*

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*1.1.1 Suspicions or allegations of child abuse made to you and including those by close relatives, friends or neighbours, by children or parents, or anonymously should be regarded as serious and must be brought by you immediately to the attention of either the Social Services or the Police for investigation. The protection of the child must in all cases override requests from third parties for information to be kept confidential*

B83 The Guide for Named Persons says

*Any allegation of abuse, of whatever nature, involving a member of staff must be reported to the Head immediately. The child protection procedure states quite clearly that such allegations be investigated in the same way as any other suspicions or allegations of abuse. This has been emphasised by the Children Act 1989. However, once a head becomes aware of an allegation against a member of staff he or she should immediately inform [name] at County Offices. After careful consideration of the information received the Head would then be advised regarding suspension of the staff member.*

B84 I have quoted the Lincolnshire advice because Mrs Hydes introduced it to support her view, both in 1992 and now, that the Headmaster acted correctly. It clearly does not support that view; rather, it contradicts it.

B85 The Headmaster should have referred the allegation to the Children's Service. He should not have carried out his own investigation. He should have acted immediately, not ten days later. The investigation was entirely inappropriate.

The answer to Question 3 in the Attorney General's letter is that the action taken by Mr Hydes in response to the Victim 5 complaint was not sufficient and it was not appropriate for him to consider the complaint without the help of any outside agency.

B86 This is the most important conclusion of my Inquiry. The best interests and wishes of the abused young person were not given paramount consideration.

B87 The Attorney General's Question 4 asks whether it was "appropriate for Mr Hydes to allow Jervis-Dykes to take pupils away on trips, *in loco parentis*, following that complaint". Again, the answer is that it was not appropriate.

B88 If the complaint had been correctly referred to the child protection team, it is most likely that Mr Jervis-Dykes would have been suspended and perhaps arrested in 1992. Notwithstanding the view taken by the Headmaster, there were other grounds for restricting Mr Jervis-Dykes' activities. The previous month, a cleaner at the College had been imprisoned for indecent assault. This might have made some people regard any subsequent allegation about anyone extremely seriously. Only in the previous week, and after the disclosure, the Youth Officer had raised questions

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about safety. More importantly, in the account given in writing to the Headmaster by Mr Jervis-Dykes of the incident with Victim 5, he wrote

*We had sailed the yacht down from St Raphael earlier that day and had all gone ashore for a few drinks and a meal. The details of the specific evening's events are difficult to recall but I think we all ended back on board quite late, all well-fed and watered, as this was the last night of the expedition. Perhaps some of us had a little too much wine, or perhaps a beer or a cider or two too many.....*

*... I am always perhaps over-concerned when the lads may have had a little too much to drink, that no-one is going to vomit in their sleep and choke or that those sleeping on deck, in particular, are warm.....*

- B89 The boys were mainly in Year 11. One had his sixteenth birthday during the trip. Here in November 1992 was a clear admission of overseeing inappropriate behaviour. The Headmaster did not pick it up. In fact, it was only when I pointed it out him last month that he noticed it and realised its significance.
- B90 The Attorney General's fifth question relates to the excessive consumption of alcohol on these school trips. I take this to mean the trips organised by Mr Jervis-Dykes, although I have commented in Part 1 more generally on the question of alcohol on trips. Excessive use of alcohol also features in accounts of the July 1995 trip and I will comment on that trip in more detail later in this report. Question 5 asks whether the level of supervision by masters present on these trips is to be considered as adequate. I will answer that question further on.

#### January 1994

- B91 The reprimand to Mr Jervis-Dykes for allowing pupils to watch an erotic programme on television at his home is dated 11 January 1994. It is signed by the Headmaster and Mr. Le Breton. The date is discussed in the Police Report, because two boys present stated that the incident had been much earlier, perhaps in 1991 or 1992. My enquiries, including asking the Headmaster for his appointment diary, have satisfied me that the incident occurred in January 1994.
- B92 The parent who complained states that he wrote a strongly-worded letter to the Headmaster complaining not only about the TV programme but also about the fact that Mr Jervis-Dykes had earlier that evening spent over £100 buying the boys food and drink. His letter threatened to take up the matter with Mr. Grady if the College did not deal with it satisfactorily. When he got no reply, he went to see the Headmaster. The Headmaster states that he received no letter.
- B93 The reprimand states

*"Following a complaint yesterday evening from Mr [            ], I spoke to Mr Jervis-Dykes today in the presence of the Vice Principal. I told Mr Jervis-Dykes that it had*

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*been reported to me that he had entertained some sixth form boys at his residence last Friday night, and shown an erotic channel TV programme. I told Mr Jervis-Dykes that if on any occasion he has boys at his home he must not produce any erotic material (films, books, etc). Otherwise he would have to be asked to resign.*

*"Mr Jervis-Dykes accepted that he had shown the Adult Channel programme on Miss Wet T-Shirt competition, and accepted that this was "soft porn" and that parents would take offence at this.*

*"He apologised and assured me that there would be no such recurrence."*

- B94 The Attorney General's first two questions (The order of his questions follows the Police Report's preferred chronology) are whether the action taken by the Headmaster was sufficient and in particular was it appropriate for him to consider the complaint without the assistance of any outside agency; and, whether it was appropriate for the Headmaster to allow Mr Jervis-Dykes to take pupils away on trips, *In loco parentis*, following that complaint.
- B95 Assuming that the date is accurate, the reprimand refers to a complaint on a Monday evening (perhaps at the Monday evening "clinic" which the Headmaster used to hold for parents to raise matters of concern) about an event the previous Friday being dealt with on the Tuesday. The Headmaster's diary contains an appointment with the parent two days later on the Thursday. This might have been to inform the parent of his action. On this interpretation of the sequence of events, the complaint was dealt with without delay. However, the parent does not think the complaint was satisfactorily handled.
- B96 In addition to the details of the actual complaint, there are several things the Headmaster should have borne in mind in deciding how to deal with the complaint. The most important is the allegation which was brought to the Headmaster's attention in November 1992 and which I have analysed above. Other factors which could be considered relevant are the concerns raised by the Assistant Director and Youth Officer in November 1993, especially the reference to drinking, and the accident on a yacht trip in July 1993 which had been arranged by Mr Jervis-Dykes and was not authorised.
- B97 In view of what had had happened in November 1992 alone, the Headmaster should have contacted an outside agency. He should have regarded the TV incident not just as something which would offend parents but as potentially related to the abuse of young people, having heard what Victim 5 had said in 1992. He obviously regarded it as serious enough to give an oral warning, record it and keep it for over two years.
- B98 The action taken by the Headmaster was not only in my view insufficient, it was also deficient in itself. The Headmaster regards the reprimand as constituting a first

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and final warning in a disciplinary sense. However, no investigation was carried out, for example by interviewing the pupils, no opportunity seems to have been given to Mr Jervis-Dykes to prepare for the meeting or be accompanied by a professional friend, and no record of the reprimand was given to Mr Jervis-Dykes. He only found out that a record of the reprimand had been made some four years later from a social worker.

B99 It does not appear that any action was taken after January 1994 to restrict or monitor Mr Jervis-Dykes' activities. From February 1994, when the College started submitting proposals for CCF sailing trips to the Education Department for approval, some thirteen trips led by Mr Jervis-Dykes were put forward, including some where no other teacher was included. In the light of the July/November 1992 events and the January 1994 warning, it would have been appropriate to prevent or at least restrict and monitor trips led by Mr Jervis-Dykes.

**The answer to the Attorney General's first two questions is therefore "No" in both cases.**

B100 November 1992 and January 1994 are two examples of handling complaints from pupils or parents. During my investigation a number of parents have told me of being dissatisfied with the College's handling of complaints.

B101 When the Validated Self Evaluation Evaluation (VSSE) of the College was undertaken in 1998, the parental questionnaire revealed a comparatively high level of dissatisfaction with the way complaints are handled. A system has been set up since by which the secretaries log complaints by letter or telephone. This falls short of a thorough, well promulgated complaints procedure which can be known to staff and parents. Accordingly

**I recommend that the Governing Body oversees the development of a complaints procedure, consulting the Director of Education as appropriate.**

**May - July 1996 and September-December 1998**

B102 The Police Report contains many references to this period which included the attempt by D Sgt Faudemer to get information from Mr Rotherham, the arrest and suspension of Mr Jervis-Dykes, the recording of statements from several victims and the viewing of video and other photographic material by the Headmaster and Mr Baker. The period in 1998 includes the police requests to Mr Rotherham and Mr Baker for statements.

B103 I have set out above my reconstruction of the sequence of events. The aim of this part of the report is to answer questions 5-11 in the letter of the Attorney General to the Chairman of Governors. Of these seven questions, one relates to overall



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supervision of trips, three to Mr Baker, two to the Headmaster and one to Mr Rotherham.

B104 Mr Baker is an Old Victorian, a parent of a former pupil at the College and has taught at the College since 1981. He has held posts of Head of Computing, Head of Junior School and, since 1997, Vice Principal. In 1993/4, he was seconded to work as a project officer in the Education Department. One of his tasks there was to revise the Schools Memoranda handbook. He has been an officer in the CCF since 1986, specialising in dinghy sailing, but occasionally joining yacht sailing trips with Mr Jervis-Dykes (five trips over nine years).

B105 In July 1995, Mr Baker skippered the second yacht in Greece on a trip led by Mr Jervis-Dykes. His son also took part in that trip as a member of the crew on the boat skippered by Mr Jervis-Dykes.

B106 On 13 June 1996, Mr Baker wrote the letter to the police which I have quoted in full earlier. As a result, he was invited to Police HQ to see if he could help the police enquiries. This took place on 19 June. On 5 June the seizure of photographs and videos included some which were obviously of the July 1995 trip and included shots of Mr Baker on board the yacht which he skippered.

B107 It is clear from the content and tone of Mr Baker's letter of 13 June that he believed Mr Dykes to be innocent and any allegations to be malicious rumour. He has told me whom he had in mind when he wrote it. In a statement to me he wrote

*My reference to College training being pulled down by others is because there were a number of occasions when Mr Dykes met with criticism over minor details of seamanship. Mr Dykes felt that there was a sense that others might watch us within the educational establishment in an over-zealous way.*

B108 It is of course a large step in the imagination from criticism of safety afloat to making a malicious report to the Police.

B109 At Rouge Bouillon, Mr Baker was shown excerpts from two videos, one 8mm and one VHS, and several albums of photographs. Present were PC Anton Cornelisson, who wrote the later Police Report, and D Sgt Pryke. I am afraid that in order to understand the disagreement between Mr Baker and the police it is necessary to give some details, some of which are unpleasant.

B110 I have seen the same video excerpts and an album of photographs labelled "Greece 1995", with captions written by Mr Jervis-Dykes under each photograph. The 8mm film is clearly of the Greek trip and has many shots which are also in the album. Mr Baker discussed it with PC Cornelisson who stopped it from time to time and with Mr Baker's help identified some of the boys in it. (It also includes shots of some dangerous skylarking with boys swinging on ropes from one side of the boat to the

*Independent Inquiry, on behalf of the Governing Body of Victoria College and the Education Committee of the States of Jersey, by Stephen Sharp, former Chief Education Officer of Buckinghamshire* other round the prow past the anchor.) It includes shots of a boy in white shorts listening to music on a Walkman and dancing while at the wheel and other shots of the boy lying down on deck. These shots zoom in and linger on the boy's groin. Anyone who knew him would have no difficulty at all in confirming his identity. There was also a shot of a blond boy with a crewcut asleep on a bunk in a cabin. The film then goes dark.

B111 The VHS video is not so obviously of the Greek trip. It begins with homosexual footage copied from a TV channel and then has edited into it a sequence on a boat with a boy asleep in a cabin. The feet and front of the legs of the cameraman are briefly visible. The boy appears to me to be the same boy as on the other video where he was wearing white shorts and, later asleep in a bunk. On this film he is wearing dark coloured boxer shorts for sleeping. The video then goes very dark. When viewing the film in a room with any light it is almost impossible to see anything on this sequence. The sound of people asleep and of water lapping is audible. There is then a sequence, lit by the camera's spotlight and not dark, of a hand masturbating a boy. The perpetrator seems to be the cameraman. At one point his arm and hand appear, with a gold signet ring visible. There are shots of the boy's abdomen and head, not perfectly visible as at one point the boy's hand is covering part of his face. His blond crewcut haircut is visible. There is then another dark sequence and eventually the film returns to the homosexual TV programme. (The dark passages were professionally enhanced for the police later in 1996 and show a number of boys sleeping.)

B112 The Police Report says that Mr Baker declined to identify the boy in the film. It does not say which film is being referred to here. In fact the Report refers to obscene films (plural) whereas Mr Baker saw only one obscene film. Mr Baker's statements to me are consistent with him having no difficulty identifying the boy in the first part of the 8mm film but not being sure that the boy at the end of that and in the VHS video was the same boy and therefore declining to identify him. He was also not willing or able to confirm that the footage on the VHS video was of the Greek trip 1995. The police were no doubt frustrated by this. A positive identification at that point might have enabled charges to be pressed sooner than they were.

B113 On his return to the College, Mr Baker reported the interview at Rouge Bouillon, and the police view of who the boy in the VHS film was, to the Headmaster who telephoned the police to arrange to see the films. The Headmaster was shown exactly what Mr Baker had seen and was also not certain of the identity of the boy in question.

B114 Mr Baker has told me that his experience of handling pastoral and disciplinary matters involving pupils has taught him to be cautious in identifying boys involved in incidents. The context of the interview was obviously one in which the police suspected that the perpetrator was Mr Jervis-Dykes. We have seen from his letter of 13 June that Mr Baker believed that Mr Jervis-Dykes was innocent when he wrote

it. Indeed, as we will see later, Mr Baker continued to believe Mr Jervis-Dykes innocent until he changed his plea to guilty in December 1998. The question is whether the only reason he did not identify the boy was the degree of uncertainty he felt and whether that degree was at all affected by a combination of shock at seeing the VHS film and his strong feeling at the time that Mr Jervis-Dykes was being unfairly accused. Mr Baker also knew that his son had been a member of the crew of Mr Jervis-Dykes' boat on the Greek trip. He did not at that time know what Victims 9 and 6 were to state about their experiences and the level of drinking on the trip.

If the only reason for not identifying the boy in the VHS video was the degree of uncertainty, then it could have been appropriate not to identify the boy. The Attorney General's seventh question refers to a reluctance to assist with the identification. Mr Baker would say that he was willing to assist but could not be sure.

B115 The visit to Rouge Bouillon on 19 June is also the occasion on which Mr Baker is alleged to have made the remark set out in paragraph 18 of the Police Report and which is the subject of the Attorney General's sixth question. The short answer to the Attorney General's sixth question is that there are no circumstances in which these words could be considered appropriate. Mr Baker agrees. He is, however, adamant that he did not say them.

B116 No written record of the alleged comment was made at the time. This is understandable since Mr Baker was present as a potential witness, not as a suspect. The police were focussing on the search for information about Mr Jervis-Dykes. They knew enough to be sure that Mr Baker could be very helpful to their enquiries.

B117 DI Faudemer recalls vividly that PC Cornelisson came out of the room to where DI Faudemer was working in the next office and said "You'll never believe what he's just said". He also says that the alleged comment was the subject of discussion among other members of the police child protection team.

B118 D Sgt Pryke was the third person in the room. He has not been contacted in recent months by the police for his account of the interview because he is seriously ill after surgery and chemotherapy to treat a brain tumour. Mr Baker had not contacted him until 8 June 1999 because as a friend and neighbour he was aware of his condition and in any case did not wish to involve him. However, on 8 June, after speaking to his professional association, Mr Baker spoke to D Sgt Pryke, with his wife's agreement. Mr. Baker has told me that D Sgt Pryke agrees with his version of events.

B119 The Attorney General's eighth question is about Mr Baker's decision not to make a statement when asked to in December 1998. Mr Jervis-Dykes had now been accused on a dozen counts.



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B120 During his imprisonment from June 1998, a number of Mr Jervis-Dykes' colleagues at the College visited him. These included Mr Baker. Throughout this period, up to December 1998, Mr Jervis-Dykes was denying all the charges. As the case moved towards court proceedings, the police decided to take a statement from Mr Baker. The purpose of this, as set out in paragraphs 23 and 24 of the Police Report, was

*...to record a statement confirming the dates abroad, and to document a letter which Mr Baker authored and sent to Detective Sergeant Barrie Faudemer in the summer of 1996, following Jervis-Dykes' arrest. This had been identified as information which should accompany the prosecution file in the event that the case was remanded for trial before the Royal Court. The letter was in defence of Jervis-Dykes and to all intents and purposes warned the Police of carrying out a miscarriage of justice. I also intended to include in the statement Mr Baker's attendance at Rouge Bouillon Police Station in 1996 when he viewed a video of a boy being abused, now identified as Victim 9.*

In other words the statement was to confirm what had been said and written in June 1996.

B121 Since the interview on 19 June 1996, Mr Baker had not met the investigating officers. Paragraphs 23-33 of the Police Report refer to telephone conversations on 15 and 16 December, not meetings.

B122 Paragraph 26 states that Mr Baker expressed scepticism about the authenticity of the videos. Mr Baker does not deny this.

B123 The outcome of the conversations was that Mr Baker did not make a statement to the police. Mr Baker has stated to me, in a letter dated 4 June,

*I did not decline to assist. At all times I have been keen to help where I had the knowledge to do so. I was advised by advocates that making a statement or otherwise was entirely up to me and not an issue to be criticised. Because of my lack of knowledge of events I had nothing to add. If I had been interviewed by the Police I would have felt content to record that interview by means of a statement. No such request for an interview occurred. I was advised by my Headmaster not to make a statement for the time being. This does not constitute a refusal.*

B124 Mr Baker has also told me that the police intentions and the scope of the proposed statement were not made clear to him.

B125 I find it hard to believe this, or why Mr Baker would not comply with the police request, notwithstanding the fact that he was a friend of the accused. I understand from Mr Baker that he had written a statement, in the form of a character reference, for the defence lawyers. This need not have precluded him from making a statement of the kind the police sought.

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**The answer to the Attorney General's eighth question is that Mr. Baker did refuse to make a statement and that this refusal was not appropriate.**

B126 Equally, the statement that declining to make a statement for the time being does not constitute a refusal seems sophistry.

B127 Before leaving the questions referring directly to Mr Baker, I now return to the fifth question about drinking and levels of supervision. As mentioned earlier, there is evidence of drinking, especially on CCF trips, and of this being raised with the Headmaster. Mr Baker accompanied Mr Jervis-Dykes on five trips over nine years. These included three in the list of those known to the Education Department (June 1994, July 1994 and July 1995) and one in 1992 to Guernsey when beer was taken on board one of the three yachts. Mr Baker has given me statements of his firm stance about drinking on trips by boys and staff and how he spelt out the rules before and during trips. In respect of the trip to Greece in 1995, he asserts that there was only one incident of excessive drinking, when he reprimanded a boy and took him back to the boat. He denies excessive drinking by himself and Mr Jervis-Dykes and says they followed a practice of one "duty officer" taking responsibility in the evenings. He says he was not aware of the incident when Victim 6 was tied to the guardrail when drunk and left there overnight. The two yachts were normally moored alongside each other. It is very unlikely therefore that Mr Baker would not be aware, at least next morning, when the boys would have discussed the incident. The evidence from boys on the trip is clear that excessive drinking by boys and staff took place. All this casts doubt on the completeness and candour of Mr Baker's statements to me.

**In summary, on Question 5, where "these trips" is a reference to the trips involving Mr Jervis-Dykes, there is clear evidence that the supervision by masters on trips was not adequate.**

B128 Mr Rotherham has taught at Victoria College since 1985. He has held posts of Head of Religious Education, Head of Geography and, since September 1995, Head of the Sixth Form. In this capacity he is, with the two Vice Principals, one of the group of four most senior staff at the College. He is an officer in the RAF Section of the College CCF, and has been in charge of that Section for several years.

B129 Mr Rotherham's involvement in the Jervis-Dykes investigation is set out in paragraphs 34-43 of the Police Report. He received the disclosure from Victim 8 in November 1992, the circumstances of which I have already described.

B130 In May 1996, Mr Rotherham attended a Middle Management course organised by the States Personnel department at L'Horizon Hotel. It lasted from Monday to Friday, 20-24 May. Another Head of Department from the College also attended, as did Detective Sergeant Faudemer. At the time, the police had just begun investigating the behaviour of Mr Jervis-Dykes, acting on information received. He

was not arrested until 5 June. DS Faudemer decided to approach Mr Rotherham for any information he might have about Mr Jervis-Dykes.

B131 There are different recollections of when the approach was made. The Headmaster says that by the second day Mr Rotherham expressed such strong feelings of harassment that he felt he could not continue with the course. DS Faudemer recalls not approaching Mr Rotherham at all on the first day, but approaching him at coffee breaks thereafter. Mr Rotherham thinks that he mentioned the approaches to the Headmaster on the Thursday when he and his colleague returned to the College after the course for a staff meeting. Mr Rotherham also states that he found the course useful and never had any thought of withdrawing from it, not least because he wanted the certificate of attendance at the end.

B132 Mr Rotherham did not give DS Faudemer any information - in fact, he withheld the information he had. He states that he mentioned the matter to the Headmaster in terms to indicate that the policeman wanted to know about [Victim 5] and that he requested the Headmaster to telephone him to give the information and at the same time "get him off my back". Mr Rotherham says that even if he used the word "harassment" he does not regard his experience as harassment. He did however feel still under the instruction from 1992 not to mention the 1992 incident.

B133 It would have been preferable for DS Faudemer to arrange to follow up his enquiries by making an appointment with Mr Rotherham outside the course. Also, the Headmaster should have told DS Faudemer about the 1992 incident.

B134 Subsequently, on 2 July 1996, Mr Rotherham went to Rouge Bouillon and informed PC Cornelisson of the 1992 disclosure. According to the Police Report, he said he had no other information about other pupils. Paragraphs 40-43 set out the police record of the ensuing discussion of whether one or more other boys had disclosed to Mr Rotherham, including Victim 8, and the lack of progress made in pursuing this line of enquiry. (The Police Report seems to conflate information from the interview on 2 July 1996 with aspects of the occasion when Mr Rotherham was asked to make a statement in September 1998.) The police account portrays Mr Rotherham's memory as at least somewhat shaky. In my meetings with him there have been several occasions when he only remembered things when prompted. At other moments, when presented with information I have received from others, he had no recollection but was willing to accept that their accounts were truthful. This is the case with information from both colleagues and former pupils. The nub of paragraphs 40-43 is that the police had reason to believe that at some stage, perhaps as early as 1991, Mr Rotherham had information about other incidents with Mr Jervis-Dykes and was perhaps thinking of taking action to bring it to the attention of the Headmaster or the authorities. This would have reflected great credit on him. However, Mr Rotherham is adamant that this is not the case.

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B135 In September 1998, Mr Rotherham was asked to make a statement about the events of 1992 and 1996. He was uneasy about this, perhaps because it might bring him into conflict with the Headmaster's view of what had happened, and took advice. He states that he contacted his Union (NAS/UWT) at PC Cornelisson's suggestion. He also consulted his cousin PC Stephen Rotherham. The union representative in the College recalls referring Mr Rotherham to a teacher at another school, more senior in the union. He also recalls being asked for advice by Mr Rotherham in 1992 and 1996, but Mr Rotherham does not recall these conversations. The union advice in 1998 was to tell the truth and make a statement if requested. Mr Rotherham believes he received a message via his cousin that there was no need for a statement. This seems both inaccurate and irregular. PC Cornelisson was left with the clear impression that Mr Rotherham was not prepared to make a statement.

**The answer to the Attorney General's eleventh question is that it was not appropriate for Mr Rotherham to withhold highly material information from an investigating police officer by falsely stating that he had not received any disclosure concerning the conduct of Mr Jervis-Dykes.**

Based on the account I have set out of the events surrounding the Personnel course in May 1995, the answer to the Attorney General's tenth question is that it was not appropriate for Mr Hydes to regard the request made by DI Faudemer to Mr Rotherham for information as "harassment".

B136 The Attorney General's ninth question is about the Headmaster's advice to Mr Baker about making a statement. I have mentioned above the way in which Mr Baker reached his decision not to make a statement.

B137 The Headmaster has told me that he could not see why Mr Baker should object. He told Mr Baker that he must do what he thought was right. Mr Baker insisted that he had the right to make no formal statement. In fact, says the Headmaster, "I was not advising him one way or the other; he was advising me of his rights. At the time I could only feel baffled that he should be telling me this when it was a matter between him and the police. Having subsequently seen the allegations against him in this report, it would seem that his declining to make a formal statement could well have been based on his perception that he could be incriminating himself."

B138 Given the terms in which Mr Baker has described his decision not to make a statement at that time, the dominant contribution seems to have come from his contact with Mr Jervis-Dykes' defence advocates, with less contribution from his discussions with the Headmaster, who in any case did not give him firm advice.

**The answer to the Attorney General's ninth question is that the Headmaster did not give clear advice on the matter.**

## **PRINCIPAL CONCLUSIONS**

- 1 The most serious mistake made by the College was the handling of the 1992 disclosure by a pupil of abuse by Mr Jervis-Dykes. The principal responsibility for this lies with the Headmaster, but he was not the only member of staff involved. He took advice from Mr. Le Breton, Mrs. Hydes and, somewhat casually, from Mr. Hamon. This would not have occurred if he had followed the correct procedure of automatic and immediate referral of the allegation. There was sufficient information available at the time about procedures in Jersey and the UK for this to be expected of him. The handling of the complaint was more consistent with protecting a member of staff and the College's reputation in the short term than safeguarding the best interests of the pupil. To some extent, the quality of Mr. Jervis-Dykes' teaching and his general contribution to College life was a factor in the failure to act effectively to stop his abuse of pupils. There had, however, been enough warning signs from 1984 onwards for the Headmaster and Mr. Le Breton to be jointly more vigilant and suspicious.
- 2 The handling of the parental complaint in January 1994 was also flawed. In the light of the earlier incidents, it should have been referred. The attempt at disciplining Mr Jervis-Dykes was incompetent.
- 3 In neither of these cases was advice sought from the Director of Education.
- 4 During the police investigation, although a great deal of assistance was given by the College, in important ways this did not result in full co-operation of the kind the police wanted, partly because of the belief in some quarters that Mr Jervis-Dykes was innocent.
- 5 The Governing Body has responsibility for the management and administration of the College. Governors will wish to consider my report in the light of their own knowledge and experience.

**I recommend that the Governing Body considers my report and decides what action to take.**

Stephen Sharp  
Haddenham  
Buckinghamshire  
June 17 1999

**APPENDIX**

**IMPORTANT NOTICE**

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Director of Education or Mr. R. Pirouet, Chairman of the Board of Governors Victoria College

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP5

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THE BAILIFF OF JERSEY  
SIR MICHAEL BIRT



THE BAILIFF'S CHAMBERS  
ROYAL COURT HOUSE  
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CHANNEL ISLANDS  
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24th August 2012

Deputies T & S Pitman  
Siboney  
Les Nouvelles Charrières  
St John  
JE3 4DJ

Dear Deputies Pitman

I refer to your e-mail of 27th July in response to my letter of 25th July. In your letter you ask for an expression of opinion on a number of matters and you say that this is very urgent. As I explained in my previous letter, your remedy, if you feel that you have a complaint of apparent or perceived bias in respect of Jurat Le Breton, is to appeal. Any views I may have on the various points which you raise are completely irrelevant to such an appeal and I do not therefore understand the urgency which you describe. I hope you will understand therefore that, in the circumstances, I have given priority to matters such as the criminal trial over which I have just been presiding.

Nevertheless, I am now in a position to respond and I will take each of your questions in turn.

1. You ask why it is inappropriate for me or Commissioner Grey to comment on your original letter when the Deputy Bailiff felt able to comment. I have re-read the correspondence with the Deputy Bailiff and I must confess that I am unable to identify the comment to which you refer. In his letter of 13th June he described the various provisions of the Code of Conduct and then sought detailed information as to the nature of the complaint. In his letter of 3rd July, he informed Advocate Hall of the Jurats' response to the queries and reported that the Jurats did not consider that there were any grounds which would lead them to feel they could be conflicted. As I say, I am unable to identify any comment or opinion which he has expressed on whether there is such a conflict.
2. Secondly, you ask how you may appeal if you do not have the money to fund an appeal. Naturally I cannot comment on your financial position but it is certainly true that, just as in the United Kingdom and other countries, there is an issue about how to ensure access to justice for all. We have a legal-aid system in Jersey and if one is eligible for legal aid, that is available. I do not know whether you fall within that category but possibly, given that you are both salaried States Members, you may not. Should your appeal be



successful, you would be able to apply for an order for costs against the other side and, if your case is as strong as you appear to believe, that may be of assistance.

3. You ask next whether it is appropriate for a person such as Jurat Le Breton to be a Jurat. That was a matter entirely for the Electoral College, which appointed him. I can only comment on his performance since he has been appointed as a Jurat. As I said when he retired at the beginning of this month, having reached the statutory retiring age of 72, all those who have sat with him, whether professional judges or fellow Jurats, would be unanimous in regarding him as a scrupulously fair and careful Jurat who has given a lengthy period of service to the Royal Court and has performed his duties as a Jurat extremely conscientiously.
  
4. Finally you ask who is responsible for monitoring the actions of Jurats who fail to recuse themselves when obvious conflicts exist? As I indicated in my previous correspondence, if you feel that there was a conflict of interest in this case, you should appeal to the Court of Appeal. However, speaking more generally, whether any disciplinary measures would be required following a failure to recuse would depend upon the circumstances. But in most cases of perceived or apparent bias, there is simply a difference of opinion as to whether there was a perceived conflict and questions of discipline do not arise. For example, Lord Hoffman continued to serve as a Judge of the House of Lords, the highest court in the land, notwithstanding his failure to disclose the conflict of interest in the Pinochet litigation.

I trust this is of assistance.

Yours sincerely

A large black rectangular redaction box covering the signature of the sender.

**Bailiff**

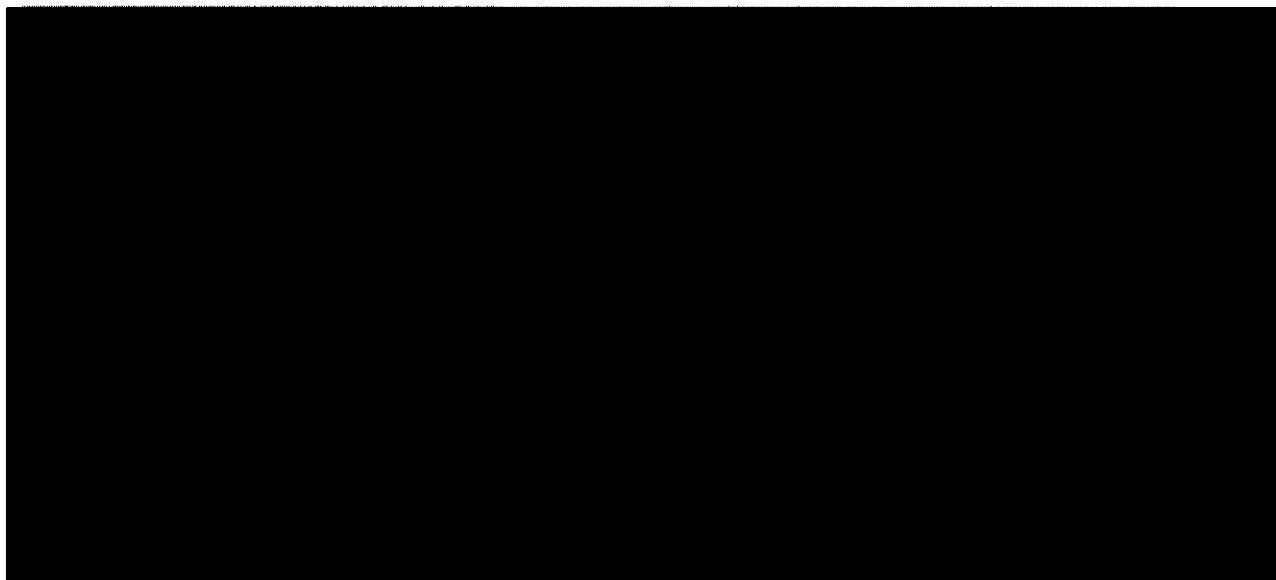
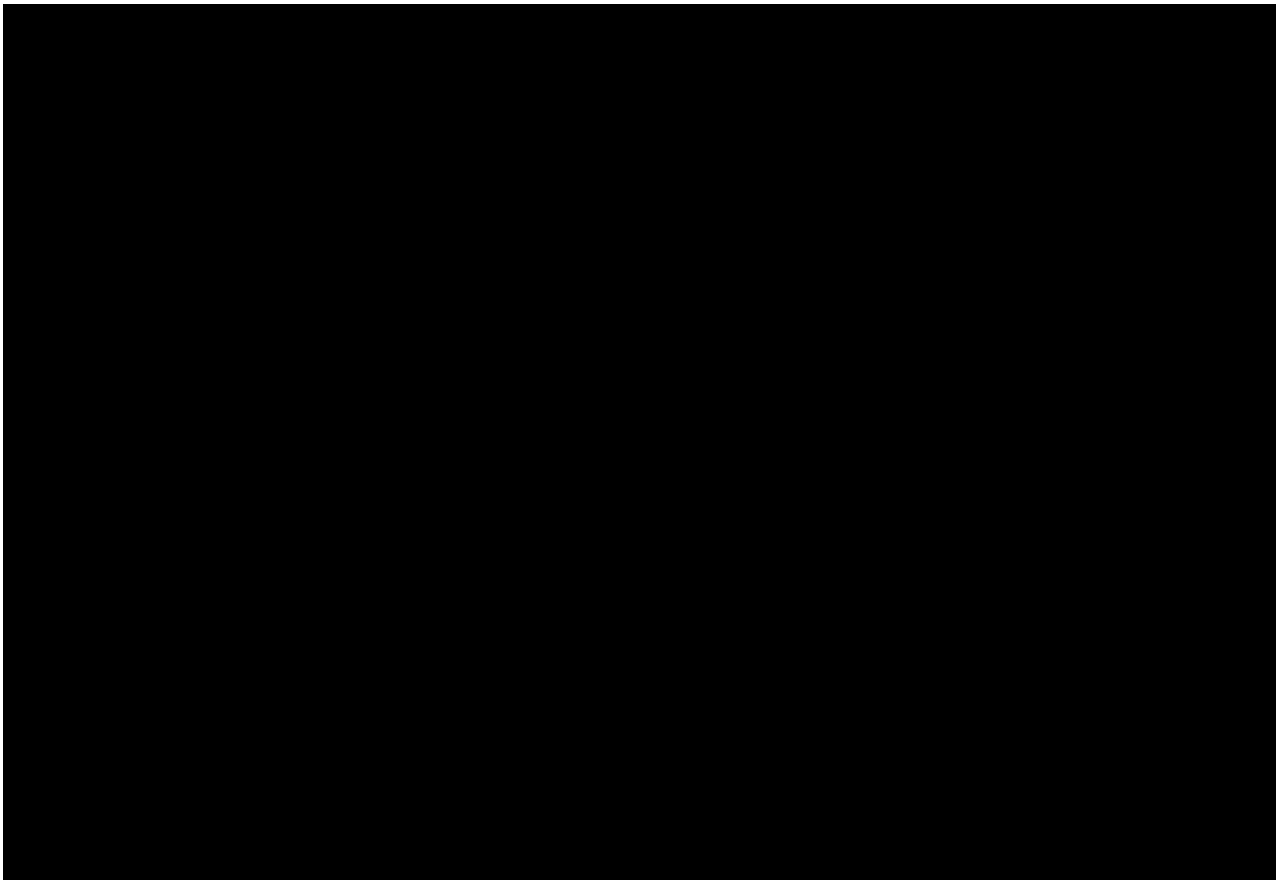
Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP6

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-----Original Message-----

**From:** Stuart Syvret [REDACTED]

**Sent:** 15 November 2007 20:23

**To:** Power, Graham; William Bailhache; Bailiff of Jersey; Michael Birt; Ian Le Marquand; Ian Christmas

**Cc:** andrew.brown [REDACTED] Andrew Williamson; [REDACTED]

**Subject:** The Rule of Law & Child Protection in Jersey[Scanned]

Gentlemen

I write concerning the present examinations of the standards and performance of Jersey's child welfare and protection apparatus. I am including the Lieutenant Governor as a recipient to this e-mail, given the UK government's ultimate responsibility for the rule of law, the administration of justice and of good government in Jersey.

Although this e-mail is, of necessity, long, all I require from each addressee is a simple yes or no answer to the questions I ask at the end of this text.

Earlier this year, I began to become more and more dissatisfied with the performance of child welfare and protection services. I first made these concerns public in an oral answer in the assembly to a question from Deputy Judy Martin. Following this, and various concerns I was raising within the department, various civil servants, who understood perfectly well their inadequacy, set about engineering my removal from office.

However, since early summer up to the present, I have been researching the various issues in great depth. This has included speaking to very substantial numbers of people, including teenagers, young adults, parents, older people and front-line staff. This work is continuing - and looks as though it will continue for some time, such is the nature of the material.

This brings me to my point in writing to you.

I have no doubt whatsoever - and this is a view shared by experts from the UK who are advising me - that a variety of criminal offences against children have been committed, over a sustained period of time, by the States of Jersey through its various departments, and the Crown, through the Courts. Moreover, I am increasingly of the view that not only are we considering a variety of unlawful practices, conduct and policies of the state, but also prima facie criminal offences committed by individuals employed by the States.

The scope and scale of the offences clearly involves every arm of the state; the executive, the legislature and the judiciary. I will explain why this is obviously so in more detail below. But in essence, the situation is this: all three arms of the state are deeply and inescapably conflicted in these matters. This would not be the case in a large nation-state, but in a very small self-governing jurisdiction such as Jersey, the conflicts of interest are boundless, obvious and inescapable.

Personally, I find it very difficult to imagine how some criminal investigations and prosecutions could not now take place. And in the interests of possible victims, in the interest of the good administration of justice, and in the interests of Jersey's reputation - any arising criminal investigations, prosecutions and trials cannot now be carried out by the relevant local agencies.

The Police Force is conflicted, what passes for a prosecutory service in Jersey is conflicted, and the judiciary are conflicted. These conflicts exist for both specific reasons, and also for certain general principles.

I do not believe the island has any choice other than to commission a specialist team of police officers from an unconnected force in the UK to investigate any and all complaints; no choice other than to invite the Department for Constitutional Affairs to assign a suitably qualified person to act as Crown Prosecution Agent; and no choice other than to invite the DCA to assign a Judge or Judges to hear any trial.

### ***1: The Conflictedness of the Police.***

During interviews with teenagers, young adults and their parents, it is alleged that various assaults, unlawful conduct and abuses of children under both the Children (Jersey) Law 1969 and the Children (Jersey) Law 2002 have been committed by the police on various occasions.

The police force appears to have not comprehended the fact that the legal requirements to protect, and safeguard the welfare of, children does not cease to exist merely because the child in question has committed an offence. This, it would appear, has led to the fairly regular use of excessive force against unruly, drunken or abusive children. I have had reports of worse; of incidents which appear to be little more than violent assaults. To refer to just one victim as an example: arresting a drunken and abusive girl in the police station foyer by the method of dragging her across the floor by her hair. The same child on another occasion was arrested for drunkenness and was actually lifted off the floor by a male officer by the handcuffs around her wrists. The same girl was also re-arrested when due for release from Greenfields after 2 weeks on remand - and held for another 4 weeks in an attempt by officers to make her confess to a breaking and entering offence they needed to clear up. Whilst in the custody of the police, the police have "parental responsibility", as defined by law, for any child so held. I have had several accounts of this legal obligation not being met. To take just the female referred to above, on

one occasion she was held in a police cell overnight, locked in despite her heavy state of intoxication, the cell call-buzzer was switched off, she was unable to call for water, her mother was not permitted to see her when she came to the station, no female officer dealt with her, her period began in the night and she had no sanitary product available to her. When she was eventually released to her mother in the morning, she was severely dehydrated, ill, exhausted and covered in blood from her period. It should also be pointed out that people in a heavily intoxicated state can die if left unattended, usually through such mechanism as choking on vomit. That this didn't occur in this case is more down to luck than judgement.

This is but one example. There appears to be a cultural view that the unlawful maltreatment of children somehow becomes acceptable if they have committed an offence. So widespread and so persistent does this culture appear to be, that it is, frankly, impossible to imagine the States of Jersey Police Force carrying out an acceptably objective wide-ranging enquiry into its own long-term conduct.

## ***2: The Conflictedness of the Prosecutory Service.***

In Jersey, decisions whether to prosecute are ultimately made under the authority of either the Attorney General or the Solicitor General. As has already been accepted by her and the Attorney General, the Solicitor General is conflicted as she has also been the legal adviser to the Children's Service for many years.

As far as the Attorney General is concerned, some time ago when I was Minister for Health & Social Services I sought from him (I still have the correspondence) the full police report and its six appendices into the abuse scandal at Victoria College. My reason for needing this information was that I was examining what went wrong in that case, whether the then current law was defective, how it compared to our present Children Law – and whether what we were doing today – in the light of the Richard Report – was adequate. It proved immensely difficult for me to obtain anything from the Attorney General. After much persuasion he eventually sent me a version of the police report – with no appendices – but the version was so redacted as to be utterly useless. Indeed, it contained far less information than that contained in the Sharp report – which he knew I possessed already. I was not, therefore, properly able to consider this key material with a view to ascertaining what went wrong and why only one prosecution was mounted. The Attorney General's actions in behaving in this way actively obstructed me in my lawful work under the Children (Jersey) Law 2002 in that I was not able to carry forward my investigation into improvements in child protection, and the relevant legislation. This obstruction of the lawful duties of the Minister for Health & Social Services, as defined in the Children (Jersey) Law 2002, may well have been unlawful.

In any event, it certainly matches a pattern of "political" decisions made by both the present Attorney General and his predecessor. The present Attorney General is noted for his "political" interventions. For example, his recent political interference with the work of a Scrutiny Panel in respect of the lawfulness - or otherwise - of the present prosecution and trial procedures engaged in by the honorary police and the Magistrates Court. It appears likely that the present procedures are not human rights compliant - or rather were not human rights compliant, given the Attorney General's very recent instruction to change procedures. Were it to be found that the procedures were not human rights compliant, the implications for the reputation of Jersey and of its ability to properly pursue the rule of law would be severe indeed. It could, for example, lead to many people - perhaps hundreds from over the decades - seeking to have their conviction at the Magistrates Court overturned on the grounds that their right to a fair hearing was compromised. The Attorney General has even been publicly quoted as saying that the disclosure of the Cooper opinion "would not be in the public interest" - a political comment if ever there was one.

It is also the case that, having repeatedly exhibited such concerns for the public image of the States of Jersey, the Attorney General could hardly be relied upon to set aside such political considerations and instead view his prosecutory duties entirely impartially in the present controversy. Quite obviously, the reputational fall-out for the island's oligarchy from any widespread prosecution of States departments and of individuals employed by the States would be very considerable and very serious.

It is entirely feasible that many of those children, many of whom are now young adults, who have been convicted of offences will now seek to have their convictions considered unsafe given the human rights issues arising out of the somewhat bizarre prosecution arrangements, and for other reasons too.

The Law Officers in general are also conflicted for this reason. As well as providing a prosecutory service, they also routinely act as legal advisers to both the islands' parliament and the various

executive departments. Whilst this of itself is clearly unsustainable, what is the proverbial 'man on the Clapham omnibus' supposed to make of the likelihood of these senior establishment figures - actually prosecuting the very departments and executive they routinely give legal advice to? No reasonable person could see them as meeting a reasonable test of objectivity.

A further - and in some ways even more insurmountable conflict - is this. It is plain that many States departments have - for very many years - been breaking various laws in respect of the care, protection and welfare of children. Obviously and inescapably so. Therefore one of the most pressing and obvious questions is this: why has neither the Attorney General or the Solicitor General ever correctly advised the relevant departments that their practices were unlawful? Why have no departments been prosecuted? It is plain that much - perhaps even a great deal of - the culpability for the States of Jersey engaging for decades in policies which were unlawful lays with the Attorney General and the Solicitor General.

Therefore, for the Attorney General and the Solicitor General to undertake any widespread prosecution of States departments would be to effectively put themselves on trial as well. Possibly as defendants; certainly reputationally. Not a sustainable or credible situation.

We also have to consider the long-term record of the office. The previous Attorney General - now Deputy Bailiff, Michael Birt - in fact exhibited all of the politicised and conflicted behaviour I describe above. As is plain from the now widely distributed Sharp report, the now Jurat Le Breton, who, at the time was Vice Principle, should have been prosecuted at the time of the child abuse scandal at Victoria College. Just as should the Principle. Just as should Francis Hammon, a Governor of the school at the time and a person who went on to become Deputy Bailiff. Just as, of course, should Piers Baker, the man who thinks paedophile is "teachers perks". Whilst a strong case could be made for the prosecution of Le Breton, Hammon, Hydes and Baker for attempting to obstruct the course of Justice, the relevant Law, prima facie breached, was the then current Children (Jersey) Law 1969.

I quote Article 9 here:

## **9 Cruelty to children under 16**

**(1) If any person who has attained the age of 16 years and has the custody, charge or care of any child under that age wilfully assaults, ill-treats, neglects, abandons or exposes him or her, or causes or procures or permits him or her to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause him or her unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, limb, or organ of the body, and mental derangement), he or she shall be liable to a fine or to imprisonment for a term not exceeding 10 years, or to both such fine and such imprisonment.**

Le Breton, Hammon, Hydes and Baker should have been prosecuted for breaking this part of the Law. Unambiguously so. At best, all four of these creatures 'caused' or 'permitted' the children to be 'assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause him or her unnecessary suffering or injury to health'.

No such prosecutions took place. It is plain that Michael Birt placed the "reputational" considerations of the Jersey Establishment above the proper protection of children - and above the rule of law.

But this was not the only example of political considerations overriding the rule of law. When Attorney General, Michael Birt also abandoned a prosecution for very serious offences.

The case I refer to was the prosecution of Mrs Jane Marie Maguire and Mr Alan William Maguire. The Act of Court records that the prosecution was abandoned on the 20<sup>th</sup> November 1998.

"Her Majesty's Attorney General declared that he abandoned the prosecution against Alan William Maguire and Jane Marie Maguire on the ground that there was insufficient evidence to support it.

The Court therefore discharged the said Alan William Maguire and Jane Marie Maguire from the prosecution and, by virtue of Article 2(1)(c) of the Costs in

Criminal Cases (Jersey) Law, 1961, ordered the payment out of public funds of the costs of the defence".

The Maguires were routinely beating, abusing through grotesque punishments, neglecting and treating with great cruelty many of the children that passed through the "group home" they ran at the time for the Education Committee, which body had responsibility for child "protection" at the relevant time (1980s to mid-1990s).

When I was Minister for H & SS, just one of the many issues I had recently had drawn to my attention by whistle blowers was the case of the Maguires. I requested access to the relevant files. I read the two very substantial lever arch files and one smaller ring-binder file. The evidence contained in these files seemed absolutely compelling. Many witness statements, affidavits of victims, statements from other members of staff, an "Internal" report from 1990 by Social Services, which concluded that the actions complained of were happening (though the "performance" of Social Services in this matter is another question entirely) and, essentially a catalogue of utter savagery against the children.

Yet Michael Birt concluded that there was "insufficient evidence" to continue the prosecution. The evidence described many children being routinely – over a period of years – beaten with fists, implements and other items which were used as weapons against them. They were frequently made to eat soap. They were made to drink Dettol. One child had his head smashed violently against a bunk bed frame. One of the part-time support staff witnessed Mr Maguire throw a child a distance of about 7 feet across a room to impact against the wall because the child was not tidying up to Maguire's satisfaction. Psychological and emotional cruelty and abuse were routine. A female child resident was sexually abused by Mr Maguire.

Most of these offences were evidenced, and witnessed by former victims and junior staff members – and yet the then Attorney General claims to have had "insufficient evidence" to mount a prosecution?

It just won't wash, I'm afraid.

Clearly - to have prosecuted the Maguires would have been to expose to outrage and contempt a States of Jersey department for permitting the abuse to continue for a decade, and to have acted unlawfully in not informing the police the instant the abuse came to the department's attention. Further, the department would have been viewed with even greater contempt and disgust by the public when it became known that Mrs Maguire was kept in employment by the department for some years afterwards - working in the Child Development Centre! It would, of course, also have meant exposing to contempt and disgrace that Establishment icon, Iris Le Feuvre, then President of the relevant Committee who happily went along with all this in 1990 and, moreover, wrote a quite sickening letter of "thanks" to the Maguires.

It is plain that the failure to see through the prosecution in this case represents a complete breakdown in the rule of law. An abandonment of justice in order to protect the "reputation" - such as it is - of the Jersey Establishment. The victims of the Maguires were denied justice.

In case you do not remember the relevant documents, I attach to this e-mail copies of the Sharp Report into the Victoria College abuse scandal, the 1999 H & SS report into the Maguire case, and the associated letter from Iris Le Feuvre.

I'm afraid the facts make it plain that the people of this island of Jersey cannot rely upon this prosecutory service delivering the expected protections normally afforded by the rule of law. At least not when the reputation of the Jersey Establishment is at risk.

There can be no possibility of the necessary test of the *appearance* of objectivity being met by the Jersey prosecutory service in respect of any possible prosecutions arising out of these grotesque failures by the States in child welfare and protection cases. We must invite the DCA to appoint a special prosecutor who has no association with the Island.

### **3: The Conflictedness of the Judiciary.**

It is not even remotely possible to conclude that the Jersey judiciary could realistically be involved in hearing, and adjudicating upon, any case arising out of these child welfare and protection issues.

It is, for example, plain that the Jersey Magistrates Court has been acting unlawfully for many many years in its approach to imprisoning children; using remand, as a de facto sentencing device, failing to deliver the requisite 'fair hearing' as required by the ECHR - and, perhaps most seriously, actually assigning and prescribing the type of accommodation which remanded or sentenced children would be held in. For example, specifying they be held in a cell at Les Chenes or Greenfields, as opposed to a bedroom. This was through the device of designating the child as a "Status 1" or a "Status 2" prisoner. Status 2, being those who were allowed to mingle with other child inmates - and Status 1 being the isolation regime, which included very substantial amounts of punitive and coercive solitary confinement. Solitary confinement when used in this way is classified as torture by international convention, it is deeply harmful and damaging to children, it is unlawful. To treat children in this way has been for the Courts and the States of Jersey to be committing straightforward criminal offences against children. This is institutionalised abuse.

The Status 1 cells - quite contrary to the impression the Minister for Education sought to portray - until recent times had unpainted cement walls with no furnishings. The bedding consisted of a school gymnasium-type crash-mat on the floor. Even this would be removed during the daytime. One of the cells, cell 4, did not even have an eye-level window, but merely a high, inaccessible skylight.

As explained above in the context of the prosecutory conflicts, the facts show that the Deputy Bailiff, when Attorney General, has - on more than one occasion - demonstrated himself to attach far greater importance to protecting the image of the island's oligarchy, over and above the rule of law and the protection of children. Indeed, it is entirely feasible that his very position should be brought into question following the full public exposure of these issues.

The Bailiff too, cannot be seen to be objective. He too is conflicted. The reasons for this are several. He is one of the individuals who needs to face questions over his past failure to protect children from paedophiles. For example, when he was Attorney General, he failed to take the appropriate action to prevent the paedophile Roger Holland from joining the St. Helier honorary police. Holland went on to abuse children whilst a parish police officer.

The Bailiff was also the Chairman of the Board of Governors of Victoria College during the early phases of the child abuse which eventually led to the conviction of Jervis-Dykes. The paedophilic activities of this man were brought to the attention of the School leadership again and again, yet he was allowed to remain in post and committing abuse for years before - eventually - being arrested and charged. Again, this is a matter that should be investigated, and upon which the Bailiff should be required to answer some serious questions.

As already pointed out above, it is plain from the now widely distributed Sharp report, that the now Jurat Le Breton, who, at the time was Vice Principle, should have been prosecuted at the time of the child abuse scandal at Victoria College. His actions, along with the Principle, were disgraceful - scarcely believable. He and the Principle - instead of contacting the police at the very first hint of abuse, instead made a clear attempt to humiliate and intimidate some of the victims into withdrawing their complaints by disbelieving them, questioning them in a school office environment - and doing this in front of other people! These actions were a prima facie breach of Article 9 of the Children (Jersey) Law 1969, as quoted above.

Were all this not bad enough, we must recollect that Le Breton deemed himself a fit person to sit in Judgement on the then St. Helier Constable Bob Le Brocq who had had the misfortune to have the paedophile Holland as a member of his St. Helier honorary police force. The Superior Number of the Jersey Royal Court on this occasion being led by the Bailiff, who pronounced the judgment. It, apparently, not occurring to him that Victoria College had tolerated paedophiles amongst its staff when he was Chairman of the Board of Governors. In addition to the Court records, the events of the Le Brocq trial are explained in the front-page lead news story of the Jersey Evening Post, dated 27<sup>th</sup> February 2001. That Le Breton had the sheer gall to be in Court for this occasion beggars belief.

Perhaps the fact that Le Breton was a Governor of Les Chenes goes some way to explaining the unlawful and abusive regime which existed there.

The position of Le Breton is completely untenable.

It would also take a deeply fanciful construct to maintain that any of the Jurats could be considered sufficiently remote and impartial in these matters. All are friends and colleagues of the Bailiff and Deputy Bailiff; friends and colleagues of the Attorney General and Solicitor General. But in particular,



all are friends and colleagues of Jurat Le Breton. It is well established in respectable jurisprudence that people cannot be a part of a jury if they personally know any of the key actors in a case.

All of the Jurats fail this test.

Moreover, each and everyone of the Jurats is drawn from the traditional ranks of the island's Establishment. As detailed above - an Establishment that puts its own interests - the protection of its image, and of its power - over and above the pure consideration of the rule of law, should the oligarchy be threatened in any way.

Given the above facts, it is plain that we are dealing with the customary failing of public administration in Jersey. This being the habit of tolerating incompetence, derelictions of duty, institutional inadequacy and disgraceful mal-conduct - so when things begin to get exposed - every relevant person and agency shares the same collective interest in the cover-up and in the oppression of dissent.

Politicians, the police force, the Attorney General, the Solicitor General, the Bailiff, the Deputy Bailiff, the Jurats, the Magistrates - essentially the entire panoply of agencies have a shared, substantial and very very serious collective interest in burying all of the above-described past issues - and certainly all of the forthcoming issues - which are going to be exposed - whether Mr Williamson wants to do it or not.

In the case of this long-term, sustained cultural failure to properly protect and defend children, the entire edifice of public authority in Jersey is on trial. It, therefore, has an inescapable self-interest in again sabotaging the rule of law and engineering another cover-up.

It is a fact well established by centuries of respectable jurisprudence that not only must the administration of justice be impartial - it must also be seen to be impartial. No aspect of the current policing, prosecutory or judicial apparatus in Jersey could remotely hope to meet this test in respect of the child protection issues arising out of the present episode.

Although the Jersey Establishment is heavily characterised by its overweening arrogance, megalomania and invulnerability, sooner or later, even it will have to face facts. The year is 2007 - not 1897.

My question to each of you is simple:

***1: Would each one of you please confirm to me that you recognise the hopeless level of conflictedness of each of your services, and that you agree to invite the Department for Constitutional Affairs to independently appoint the necessary and relevant agencies from the UK to undertake any necessary police investigations, prosecution, and to hear any relevant trial?***

Thank you for your assistance.

Senator Stuart Syvret  
States of Jersey

<<Sharp Report re Child Abuse at Victoria College.pdf>> <<Report into Abuse by Jersey H & SS Employees.pdf>> <<Appendix 6.doc>>

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP7

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been prevented from doing so by the police who are merely upholding the law. Does the Minister think that in this respect the law relating to children in Jersey needs to be completely redrawn?

**Senator B.I. Le Marquand:**

There are problems. It is very well known that I have highlighted problems for a very long time. The problems relate partly to the fact that we have no secure Children's Homes and therefore that Greenfields has to seek to fulfil a number of different functions. There are difficulties; there is a particularly difficult issue as to whether the courts should have powers to sentence youngsters aged under 15 to some sort of order by virtue of a criminal conviction. I personally favour that and while that lacuna by which we continue to have no effective enforceable sentencing powers for those under 15, while that continues, we will continue to have the existing situation in which we have youngsters who are untouchable and know themselves to be untouchable. My concern, like the Deputy's, is for the welfare of the children as well as for public safety.

**2.16 Deputy T.M. Pitman of the Attorney General regarding alleged breaches of the Public Elections (Jersey) Law 2002:**

In the light of the Attorney General's recent confirmation that he has chosen to prosecute only certain alleged breaches of the Public Elections (Jersey) Law 2002 and not all, does the Attorney General now intend to tender his resignation? Particularly as this breaks entirely the ethics of the code of his own website?

**Mr. W.J. Bailhache Q.C., H.M. Attorney General:**

I did not hear the last bit, so could the questioner repeat that?

**Deputy T.M. Pitman:**

I said, particularly as it appears to break the very code on your own website.

**The Attorney General:**

I do not recall giving any such confirmation as is contained in the question, but in any event, the answer is no.

**2.16.1 Deputy T.M. Pitman:**

We have in our evidence from the Attorney General that he does confirm such a thing so I think he is misleading the House, which I think is quite shocking.

**The Deputy Bailiff:**

What is your question? What is your question, Deputy?

**Deputy T.M. Pitman:**

My question is is the Attorney General misleading the House?

**The Attorney General:**

Certainly not because I have said I do not recall giving any such confirmation, that remains true. If the position is that the Deputy is referring to the written answer which I gave last week, I expressly said that I was not commenting on the facts underlying the 2 current prosecutions which are pending. I gave the answer then as a matter of general principle, as I say, expressly not commenting on those facts.

**Deputy T.M. Pitman:**

But this really is not good enough. Email evidence - an email sent to Deputy Shona Pitman - this is quite disgraceful. Proof. I can fax it if Sir would really like me to.

**The Attorney General:**

I am grateful to the Deputy, if I may, because I do now recall the email in question and in the circumstances that that has been made public by the Deputy, it was a communication between me and a person who is accused and unrepresented. But, in the light of that, I do confirm that I did decide not to take forward a police investigation in relation to one other incident. Details of that will, no doubt, be available to the court at the time the matter comes to trial. For all the reasons I have given previously, it is simply not appropriate that there should be discussion about these matters in this Assembly when a trial is pending.

**2.17 Deputy A.T. Dupré of St. Clement of the Minister for Health and Social Services regarding the impact of his recent comments on those with suicidal tendencies or coming to terms with bereavements:**

Notwithstanding his apology to the Assembly, does the Minister appreciate the hurt that his comments have caused to those people who have suicidal tendencies or who are trying to come to terms with bereavement from suicide?

**Senator J.L. Perchard (The Minister for Health and Social Services):**

I thank the Deputy for this question and an opportunity to reaffirm my position. Last year during a private conversation outside this Chamber, I directed an improper comment suggesting self-harm to another States Member. I snapped and I reacted improperly at the Member after being repeatedly provoked and provoked and provoked. I am very sorry I said what I did and I repeat my unreserved apology to States Members and to the people of Jersey. This apology of course extends to anyone with mental health or emotional difficulties and those who may have thoughts of self-harm or suicide. I recognise as well as my apology, that it should be extended to families and the loved ones of those with mental health problems and those that have committed suicide. My commitment to supporting those who provide high quality, evidence-based mental health psychological services is a priority. I assure Members that my unfortunate comment made last year has re-intensified my desire to demonstrate this commitment.

**2.17.1 Deputy A.T. Dupré:**

Does the Minister realise how many people on this Island are now asking for your resignation?

**Senator J.L. Perchard:**

No, I do not realise how many people on this Island are asking for my resignation, nor does the questioner.

**2.17.2 Deputy M. Tadier:**

I do regret the tone of that last answer but first of all let me just say that I think the whole of the House welcomes the apology that was given last night in public. That notwithstanding, does the Minister acknowledge that any words will remain simply words and any apology will remain hollow, certainly as perceived by the public, so long as the Minister doggedly refuses to tender his resignation?

**Senator J.L. Perchard:**

I do not accept that at all. That is a position taken by some, including the Deputy I assume, and I do not accept that. I have made a mistake. I said something last year in a private conversation that has been used widely now and quoted widely. I regret it immensely. I apologise; I intend to move on and learn from that and ensure that the lesson is put to the benefit of the mental health services and I am committed to ensuring our mental health services are properly resourced and it is a priority for me. I have learned a lesson.

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP8

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**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 2nd JULY 2013**

**Question**

Given that the court transcripts of a 2009 case, which resulted in James Donnelly being sentenced to 15 years in prison, revealed that a number of other individuals were also identified as abusers by both the individual eventually convicted and the victim, why was no prosecution pursued in this case?

**Answer**

Decisions whether to prosecute an individual are made in accordance with the Attorney General's Guidelines. The test which the Attorney General applies involves first an evidentiary test and if, and only if, a case passes the evidentiary test, a public interest test.

As the question indicates, the proceedings to which the Deputy refers took place in 2009. The matters to which he refers were identified at the time and given due consideration. It was decided that there was insufficient evidence to bring charges against any of the individuals who were named during the course of the proceedings against Mr Donnelly.

**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 18th JUNE 2013**

**Question**

Since police investigations began in 2007 in relation to historic abuse can the Minister advise if there have been any cases investigated by the States of Jersey Police where abuse was alleged by both another perpetrator of abuse and corroborated by a victim yet no prosecution was then brought and, if so, what was the reason for this?

**Answer**

The investigations which began in 2007 in relation to historical abuse are both voluminous and complex. Deputy Trevor Pitman, on the afternoon of 13th June 2013, in response to a request from the Minister, gave the name of the relevant accused person. However, despite this, it has not been possible to produce an answer by noon on Monday 17th June 2013.

The Minister will provide an answer as soon as possible but that answer will anonymise the details.

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP9

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# STATES OF JERSEY

## OFFICIAL REPORT

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[9:37]

**The Roll was called and the Dean led the Assembly in Prayer.**

**PUBLIC BUSINESS – resumption**

- 1. Sunstone Holdings Ltd, and De Lec Ltd. – *ex gratia* payments to investors (P.90/2013) - resumption**

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

Debate resumes on the proposition of Senator Breckon concerning Sunstone Holdings Limited and De Lec Limited *ex gratia* payments, and Deputy Trevor Pitman is next to speak.

**1.1 Deputy T.M. Pitman of St. Helier:**

Senator Farnham has done himself out of a little snooze. He should have thought before he spoke.

**Senator L.J. Farnham:**

I came this morning very well-rested.

**Deputy T.M. Pitman:**

Where to start today? Senator Breckon did a very long speech, but he gave us an awful lot of information, which I think is useful because I have to say, I was quite appalled by the speech that followed from our Chief Minister. I thought it was an embarrassed speech, and as well it might be because I think what the Chief Minister had to say, whether he felt compelled to say it or that is his own views, I think those views were embarrassing. They were embarrassing because once again they show what Jersey really cares about, or a lot of people in Jersey, which is image, and it must not be questioned or challenged. But listening to some of the words that Senator Breckon told us about “recklessly misled.” He pointed out that concerns have existed about this for years and effectively, the reality is, nothing adequate was done. Is that the type of image Jersey wants to be associated with? I would say most definitely not. It is my belief that the strength of an institution, whether that is the Jersey Financial Services Commission or, I suggest, a Government, is only increased when those institutions, or those who control them, are big enough to stand up, put up their hands and say: “We are sorry. We played a part in getting this wrong.” Because the Jersey Financial Services Commission, whichever way you slice it, they have contributed to this. They have played a part in getting this wrong. They are not responsible for the dishonesty of individuals; callous, dishonest individuals. But they have a responsibility, nevertheless. I say that it is time that the Jersey Financial Services Commission put their hands up and set things right and improve their stature and their image in the eyes of people. But we know they are not, and I guess that brings us to why we are here today with Senator Breckon having to bring this proposition. We know the J.F.S.C. (Jersey Financial Services Commission) will not put their hands up and this is why it comes down to us to effectively make them put their hands up. We hear these, what I call “handwringing” speeches so often, it has to be said, from a certain side of the Assembly: “We would like to help but we really cannot and it is not the thing to do.” I do not think that is good enough. If I am here at the next election - and I have grave doubts I will be, but I will not go into that now - this is one of those propositions that I would want to be able to stand on people’s doorsteps, look them in the eye and say I supported. Because without trying to teach Members to suck eggs, the reality of this is it is not just about statistics, figures, and money. It is about people, the real people, and we probably all saw a few of the individuals outside yesterday when we came in. People who, through no fault of their own, apart from perhaps being naïve enough to be trusting and be swayed by some big names, pillars of society, perhaps linked to such deals, they trusted. What have they got as a result? People have been betrayed, they have seen family homes of perhaps 4 decades gone, just like that; they have seen relationships crushed. It is only when I spoke

to one gentleman yesterday - and I know he will not mind me mentioning this, because I asked him if I could - how does it feel, through no fault of your own to then find out you are going to be credit-blacklisted, and the actions of others are going to ruin your life for years ahead? Yet we hear the Chief Minister speaking against this proposition. How would I feel about it? I tell you, I would be furious, I would be angry, I would feel betrayed. [Interruption] I say the right thing to do is to support Senator Breckon, because at the end of the day, surely a Government has a duty of care to its people; surely a Government has the duty to do not just the right thing but the good thing. Once again, it has been rolled out, precedents set and all the rest of it, but I have to say, I believe it comes down to some in Jersey and in Government not being able to put their hands up and say when they are wrong. The Jersey Financial Services Commission have got more than £7 million there and I can remember bringing a proposition 2 or 3 years ago to try and save a comparatively few thousand pounds of funding to allow primary school children to have learning visits continue to Durrell Wildlife Park and the majority of Members did not support me and we lost that. Yet, in the same session, we had absolute horror when I suggested that we really should not be giving the Jersey Financial Services Commission, I think it was £440,000, to open an office in some part of the Middle East. There was horror on faces, and it really struck me that day how we get the world upside-down. People are what are important, and without the ordinary people of Jersey, people like this that have been betrayed, Jersey is nothing. People come before power; it is not the other way. I think we all realise that, or I hope we do. Now, by supporting all parts of Senator Breckon's proposition, which I certainly am going to do, we will be making an initial outlay from the States but then we will be claiming it back. I think that is entirely correct. It is what we should be doing. Senator Breckon's proposition cannot rectify the whole situation. Indeed, I think as he would probably admit himself, it is entirely inadequate in many ways. But he is, for these ordinary people who have been betrayed, the proprietor of the Last Chance Saloon.

[9:45]

If we do not support him, and through him those people and their chances of salvaging something have gone. Family homes already gone, relationships, trust, people credit-blacklisted; is that not exactly the sort of thing that Jersey, our Government, we ourselves, want to support correcting? I say it is. We can argue about the niceties and the minutiae and perhaps what Chief Minister Gorst says is correct in some ways, but it is not morally correct. A government without morals, in my view, is not a government at all. All I would say to Members, Senator Breckon, as I say, made a very long speech, a very detailed speech. I would ask people just to focus on what he said and the betrayal that was in there; a catalogue of, I would say, neglect. Not by these people but by people who should have known better, who should have acted on laws that have been in place since 1998. Let us all just put ourselves in the position of those people: homes gone, relationships split up, facing credit-blacklisting and not being able to rebuild your life for years. People have read letters from these people; let us put ourselves in that position and I think, I hope, that most Members would agree that when we put ourselves in the shoes of those ordinary people, we would say that if we were in those shoes, we would want our Government to support this proposition. I applaud Senator Breckon for once again bringing something which is about ordinary people and is about doing the right thing and taking the long-term picture and doing good things for Jersey's image rather than battenning down the hatches as we see so often, and never admitting we are wrong. I would implore Members, please do support Senator Breckon and support each and every one of those clauses within it.

#### **1.1.1 Deputy R.G. Bryans of St. Helier:**

I do not think there is any Member of this House that does not feel sympathy, empathise with the victims of what were criminal acts and the loss of such vast amounts of money. My focus has been hinted at by both Senator Breckon and Deputy Pitman. My concern lies with the J.F.S.C. and I

would say this because I am previously an I.F.A. (Independent Financial Adviser), previously a director of an insurance brokerage, and also previously a chairman of a personal finance society over here. So I have intimate knowledge of how the J.F.S.C. operates and what they do when they have their compliance visits, and we had a briefing the other day which amplified the way in which they had gone about their business. Rather than it mollifying my situation, I thought it gave me greater cause for concern. I will say a couple of things that I think are important first of all. I think it is right that the regulator does not regulate property holding companies and therefore has no recompense or no ability to look at or through Sunstone Holdings Limited. Equally, something I heard at the thing - and I could be wrong but I think it was the impression I gained - in relation to the Alternate funding, the payment that was made to them, the regulator said the reason for that payment being made was because of a "nexus," to use his word, which I took to be a connection, and the connection meant, in my head, was that they felt some responsibility that they had not perhaps done the job they were supposed to have done, and therefore there was a reason for that payment to be made. Putting those 2 things aside, what I want to do is just put in Members' minds the way in which the regulator operates and then draw your own conclusions. If you are subject to a compliance visit, which Goldridge Stone was, several times, and in fact there was a reference to them being an enhanced visit, which meant there was more forensic detail being considered on the initial early visits, it comprises of this; the regulator will say to you: "We are coming along to see you. It is in very short notice. We would like to lock-off your offices for about 3 days. We would like to open all of your files and examine all of your records in detail." I think they do a fantastic job doing this, do not get me wrong, and we need a regulator to do the very thing that they did, which is to find these guys. When they do that, when they take a file out, what they are looking for is, first of all, they will have a list of all the business that you have done since the last visit, or at least within the last year, so they have got something to focus on. Then they will come in and they will take out, at random, anywhere between 5 to 10 files related to particular individuals. So, in the case of Goldridge Stone, we had 3 individuals and 3 filing cabinets, or at least filing cabinets associated with the particular client. They would take out, at random, files. They would go into those files and they would look for evidence of what has happened to those clients during that period of time. So that means they are looking for what has happened, what advice has been given, notes on conversations, why one policy has been taken out as regard to another, why selection has been made, evidence of, in particular - and this is the important bit, to me - why a policy would be cancelled and where those monies went to. What the regulator said the other day was that they had no reason to suspect Sunstone Holdings Limited. I find that really hard to understand because it seems to me that, at any point in time, let us say that you were not that lucky to hit that many clients that have been subjected to what we now know was a criminal act. You would have at least understood that somewhere along the line these guys were closing down policies that had not reached their fruition and then subsequently were moving elsewhere. The question begs to be asked: "Where were they moving to?" What the regulator said was that he had boxed-off the notion of Goldridge Stone and Sunstone Holdings Limited being 2 completely separate companies and because Goldridge Stone was being regulated and Sunstone Holdings Limited was not, they could not make that quantum leap between them. What the regulator was suggesting was that they were reactive in that situation. Subsequently he went on to say that when they employed [*Name omitted from the transcript in accordance with Standing Order 109(7)*] to come in, to look forensically for information regarding Sunstone Holdings, they took a proactive stance. So, we have got reactive and proactive. What I find is also equally difficult, Jersey is a very small place, and where Goldridge Stone existed previously was in Britannia Place, and subsequently, in my mind, in my recollection, I could be wrong, they moved to New Street. What was suggested at the briefing was that Goldridge Stone stayed at Britannia Place and a new environment was created for Sunstone Holdings Limited at New Street and that they were 2 separate entities. Again, taking the circumstances that we have here in Jersey, if you have been looking at these 3 individuals in detail

and you know of them and you are suspicious of them, as they were, then for them to move and do what they did, you would be equally suspicious again. If you had taken a proactive stance at that point, you would have seen the evidence that they were looking for and subsequently found. So I have grave concerns that the regulator had that nexus and so what I am asking for at this point at time - because I cannot support this proposition in the way it is set up - but I do think there is a connection, I do think that the J.F.S.C. is at fault and I think what I would look for is an investigation of the investigators' investigation. I say that in the same way that the Chief Minister said it: it is uncomfortable to ask for this sort of thing because I think the regulator has done a fantastic job in bringing Jersey to where it is, globally and locally. But in this particular case, I think it is important that we see that this job is done, because if there is a connection found, then these people have laid claim, in the same way the Alternate situation was paid money and recompense could be made. So, I will not support this proposition, but I do think we need to look more closely at the regulator. Thank you.

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

During your speech, Deputy, you inadvertently referred by name to one of the investigating officers and I will direct that that name be removed from the Hansard record. Constable of St. John?

#### **1.1.2 Connétable P.J. Rondel of St. John:**

Having listened to Senator Breckon and Senator Gorst, I must say that it was like listening to a courtroom drama on television. The difference is, this is real-life pain for all those people caught up in this fraud, people like you and me, and those poor people up in the gallery today. What concerns me is, way back in 2007 and beyond, the scheming that was going on. I am sure others are involved, possibly former employees. I was given a name yesterday of one of those former employees who was not charged along with these fraudsters that have been named over the last couple of days, but he is now in prison for carrying out this type of crime. I have to ask, could he have been, when he left that particular firm of Goldridge Stone, part-and-parcel of this group of people who taught him how to go and get money and, whatever the phrase is that Senator Breckon used where they move one policy around and sell it on or move it into some other: churning. I believe that at this time, we, the States Members, do not have the know-how of how to put a rescue-package together for this group of people. I do not believe that any of us here can go forward with a debate like this with the small amount of evidence that we have, given the amount of the mountains of evidence in, I think it was an 18-day trial. An 8-week trial, so there are mountains of evidence. This needs to be reviewed and a report brought back so that we can understand it in a lot more detail. I had thought of the review being conducted by the Scrutiny Panel on a desk-top, but possibly it might need a committee set up specifically from within this Chamber and bringing an independent person in to investigate the J.F.S.C. and the whole package and give us some information so that we can absorb and make a decision. There are things that I need to know. I need to know, for instance, if the fraudsters have been declared bankrupt. If not, a claim can be made against these people when they come out of prison, because if somebody owes you money, you can go after them for up to 10 years, and I am sure the Attorney General can correct me if I am wrong. Therefore, if they have not been made bankrupt on these specific items ... but if they have been, then the people up in the balcony and the other people, if they have not put a claim in against them, they can still go to these people for the debt when they come out of prison. I would also like to know whether or not some of these people have been reimbursed in full, or otherwise, and I would also like to know whether the partners or spouses are living in luxury homes - I am talking about the criminals - and who was paying the mortgage up until they were arrested? Was that money coming out of the husbands' income or the partners' income to pay the mortgage on their homes? There are a lot of questions that need to be answered which we do not have the information to. Therefore, I think we have to go much further and have an inquiry before we can

really debate this properly, to give the justice that people require and put building-blocks in place so this type of thing cannot happen again. I am sure there will be ramifications of certain actions taken by this Assembly if we make rash decisions now. What happens here today may put in place... we might say: "Yes, we will pay these people in the gallery the figure that has been asked for, or a figure." That becomes set in stone and becomes the norm for other fraudsters in the future when claims come in, and I think we need to not make decisions on the hoof; we need to look at the big picture and have a report that we all have confidence in. At the moment, as much as I want to help the people who have been defrauded, this Chamber should not be doing this until we have all the evidence, and the only way we can have it is through an inquiry. Thank you.

### **1.1.3 Deputy R.G. Le Hérissier of St. Saviour:**

The speaker was looking at the Attorney General for much of that speech and I thought he was going to end it by saying: "I wonder if the Attorney General could elaborate upon the various schemes of compensation that were available, and why it appears they have not worked?" I wonder if this might be the point at which we get some background, if he is agreeable.

### **The Connétable of St. John:**

I am very agreeable to that.

[10:00]

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

Are you able to help at this stage, Mr. Attorney?

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

I will try and help at this stage, Sir, and if Members need further information, then I will try and provide it a little bit later. In the context of the criminal proceedings against the 4 individuals who were subject to those criminal proceedings, at the end of those proceedings when they were convicted the Crown, as it always does in these kind of circumstances, considers both the issue of confiscation of assets and compensation of the individuals defrauded. Given that there were real people who had lost money as a result of this, the Crown's first interest was to move for a compensation order, and in that context considered in detail, on the back of a forensic report, the financial position of the convicted persons. It is fair to say that the Crown's information was to the effect that 2 of those were, in effect, men of straw. The facts make it clear that the assets that they had acquired during the course of the conduct that they engaged in were now in a position of negative-equity and there really was nothing to get back from them. There had been foreclosures in the United States and 2 of those individuals were, as I say, men of straw. Of the other 2, an application was made for compensation, and in respect of one of them the sum of £25,000 was raised under a compensation scheme and that was divided on a pro-rata basis between the individuals who had lost money as a result of the offences for which that person was convicted. In some cases, people got as little as £900; in others, it was a few thousand, but it certainly was not a substantial sum. As to the fourth, that is a matter still before the Court of Appeal, and I am not in a position to give any further information about that to the Assembly at the present time. In the context of the criminal proceedings, it is perhaps important for the Assembly to understand that the Crown can only deal with compensation insofar as it relates to the offences for which the individuals were charged, and of course there were a number of people who lost significant amounts of money during the course of those activities where those losses did not result in a criminal prosecution or a criminal conviction. So, in a sense, there is a limited span to what the Crown can do. So much the context of the criminal proceedings: it is true that there is nothing in principle to stop individuals making a claim before the civil courts to seek, if they have a liquidated claim, a declaration of bankruptcy, or to make a civil claim for the losses arising. That is



potentially, of course, a significant process and it is not possible for me to give any indication as to how likely that is of success, but it is perhaps a truism that you only get from somebody if they have got money to pay it, and if - as my understanding is the case - they are men of straw, it is very difficult to see how claims might be vindicated through the process of a civil claim. I am not sure I can assist the Assembly further at this point.

**The Connétable of St. John:**

On the civil side, Attorney General, the fraudsters have been given 4 years in prison. When they come out there are still 6 years to run; they have responsibility up to 10 years if a bill is submitted to try and reclaim the money. Some of those people may have an inheritance that comes along, and therefore a claim can be put in up to the 10 years, am I correct?

**The Attorney General:**

I am afraid I have not analysed the nature of the claims that might be made, and therefore cannot advise definitively on the proscription or limitation period that would apply to such a claim. In some cases, a limitation period for a tortious claim is 3 years, in some cases it is 10 years, and, generally speaking, fraud is imprescriptible, but I would not wish to give the Assembly definitive advice as to the abilities under the civil law for any individual claimants in this case.

**The Connétable of St. John:**

Inheritance; would the victims be able to have a claim against them if they personally inherited?

**The Attorney General:**

If there was a claim against an individual and that claim was vindicated before the courts, then that individual's assets are available, whatever those assets may be, to meet that claim. So, I see no difficulty, if a claim can be made - and I use the word "if" advisedly - and there are subsequently acquired assets, those assets might not be available.

**Deputy J.H. Young of St. Brelade:**

I wonder, given the fact that one of the persons convicted was in fact a public employee, other public employee pension funds provide for pension rights to be seized. Could the Attorney General advise us whether that matter is being examined?

**The Attorney General:**

I am afraid I do not know the answer. It is not being examined from the Crown's perspective; that would not be a task that the Crown would be expected to do in the context of its criminal proceedings. I do not know what else has been looked at, I am afraid.

**Deputy J.A.N. Le Fondré of St. Lawrence:**

Thank you - for Deputy Young - that was one of the questions I was going to ask. The second question is, in circumstances such as these, if one cannot go into the specifics, what recourse is there to examine the assets held by immediate family?

**The Attorney General:**

When the court makes compensation claims in the context of criminal proceedings, it does not generally look outside of the assets. It does not treat family assets as available to address the wrongdoings of an individual; there is no assumption that if a husband is a fraudster that the wife is also a fraudster and must pay. That is not the assumption at all and it would not be right for it to be so. It would only be if it were capable of being established that in some way assets had been fraudulently transferred in order to avoid debt, that there might be some opening for making a

claim. But these are complicated areas of law and I would not advise the Assembly to proceed on any assumption, because each one has to be considered very much on its individual merits.

**Deputy M. Tadier of St. Brelade:**

My question relates to, really, part (b) of this proposition, and were the proposition to be adopted as it currently is worded, is there any power for the Minister for Treasury and Resources to compel Jersey Financial Services Commission to make this one-off payment, legally? Are they obliged to make that or could they simply turn around and say: "We do not feel that we need to make this payment; we are not responsible", *et cetera*?

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

Without answering on behalf of the Attorney General, who will give his answer, I would state that the proposition itself makes it clear, Deputy, that legislation would be required, primary legislation of this Assembly. I do not know if the Attorney wishes to add anything?

**The Attorney General:**

No, I do not really need to add to that, Sir. That was the point that I was going to make. It would, in my view, require an amendment to primary legislation, to make this proposition ...

**Deputy M. Tadier:**

If I could just follow that up? It has been mooted by Deputy Bryans that the Alternative position would be, following an investigation, if the J.F.S.C. were to be found lacking in their practice could they, under that circumstance, be compelled to make a payment on that basis?

**The Attorney General:**

I would be stretching here, I think, to offer any useful guidance to the Assembly. I suppose if it is the case that there has been an egregious failure, and I do not talk about the J.F.S.C. here in particular, in some kind of public functioning which gives rise to a claim in damages, then, in theory, that public body has a responsibility to meet that payment in damages. But I think that is simply a theoretical statement of the law than the reality of these circumstances. I cannot see circumstances in which an inquiry would give right to an automatic obligation on the part of the Jersey Financial Services Commission to make any payment.

**Connétable M.P.S. Le Troquer of St. Martin:**

You mentioned it a short time ago, that it seems there is a second pitfall for the victims because certain cases were not brought forward. So if there are no prosecutions, and there were only certain cases presented to the court, how do they claim, or are they facing a second challenge?

**The Attorney General:**

This is all very hypothetical because so much depends upon the availability of assets to make any claim worthwhile. But it is the case that if an individual is convicted of a criminal offence, then it is clearly much easier to establish a liability in a civil case. If various claimants have not had their matters already looked at by the criminal court, then in theory they would need to start afresh and make a fresh claim and establish liability against one or more of the individual defendants. It would be to that extent, as we stand here now, no different from any other form of civil litigation.

**Deputy J.H. Young:**

In the event of those who experienced loss bringing civil proceedings, is there any way in which those can be protected against costs being awarded against them or assisted in their costs, particularly in view that the Attorney General has said that the Crown are not yet currently pursuing

the question of recovery of pension funds. Is there any way that those who have experienced loss can be assisted to bring civil action, without risks?

**The Attorney General:**

The short position is that in my view, no. There are theoretical extreme examples where the courts will make pre-emptive costs orders, but these are not in circumstances such as these. These are civil claims, or would be civil claims, and civil claims would normally be subject to the ordinary costs regime, namely that the payment of costs is in the ultimate discretion of the court, at the end of the hearing, and, generally speaking, if one wins, one gets one's costs on a certain basis and if one loses, one either has to pay the other side's costs or certainly does not recover any of any of the costs of the unsuccessful party. So I think the answer to that is in my opinion that is highly unlikely.

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

Well, we must move on with the debate, but one last question from Deputy Le Hérisssier. We can always come back to the Attorney General if further legal matters arise later.

**Deputy R.G. Le Hérisssier:**

Yes, thank you, this has been most useful. I wonder if I could press the Attorney General on the point he made. As I understood it, the law as currently framed does not make the Jersey Financial Services Commission responsible in terms of paying damages. Am I correct in interpreting what he said in that way?

**The Attorney General:**

The law certainly does not make the Jersey Financial Services Commission responsible for the payment of damages in a case such as this. As I think has been explained in the various documentation, this was not a regulated activity and, even if it was, there is a world of difference between saying that there had been a failure in regulated activity and necessarily visiting that failure upon the Jersey Financial Services Commission. There are a lot of steps to think about in all that. I think that is a fair summary of the overall advice that I have given.

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

Well, I will now call Senator Ferguson to speak.

**1.1.4 Senator S.C. Ferguson:**

This is a very difficult subject because as a legislature we have a responsibility to everyone, those who pay us their taxes as well as the people on whose behalf Senator Breckon is appealing. We all have a great deal of sympathy, but we must think of both sides of the case. I am not sure whether in a case like this the old principle of *caveat emptor* would apply. Buying property in a foreign country is a very high-risk investment. You have foreign exchange movements. If it is too good to be true, it is. But on the other hand, we have, as Deputy Bryans said, questions for the Jersey Financial Services Commission. One must question. Personal investment is a very high-risk area. Have sufficient resources been put into it in order for them to supervise it, to regulate it? I was not able to get to the meeting or the briefing, but I am told that the professional indemnity insurance was only paid for one year. Well, that is a very simple thing to be checked. Has nobody checked it? The auditors could have checked it off when they do their audit. Again, as Deputy Bryans has been saying, there are these questions which still linger over this. It seems to me this is a classic sort of Ponzi scheme, like Madoff. This is something where I have spoken to the Attorney General about it and asked him for his thoughts. Have we pursued the funds from everybody involved with the same tenacity that the Madoff liquidators did?

[10:15]

I have seen no evidence that we have done that. There was £16 million in mortgages talked of. Were these sold? What has happened to everything? Did any of the investors who were lured into the scheme receive any income from the properties? Obviously, if the J.F.S.C. has failed in its duty, can you say that they are partially liable on this? As I say, this is a very difficult case. We have responsibilities to both sides and I will wait to hear from the rest of the debate.

#### **1.1.5 Senator F. du H. Le Gresley:**

I rise with some trepidation because what I am about to say is not going to be comfortable. I will put my marker down. I am a Member who has brought a compensation proposition to this Assembly - not this current Assembly but the previous one - for the owners of Reg's Skips to receive extra compensation over and above what the Council of Ministers at the time had proposed. I was successful in that proposition, so my track-record, I would suggest to Members, is one where I would be supportive of compensating people where they have been the victims of a significant failure by Government. That is my track record and what I am about to say will disappoint some people in the Assembly and in the gallery, but I do feel these things need to be said and we need to look at the other side of this argument. I am sure that, like many Members, we are not comfortable with this debate today. Having listened carefully to Senator Breckon's speech yesterday, there is absolutely no doubt that he sincerely believes that the investors in Sunstone Holdings Limited and De Lec Limited were, to use his words, ordinary people who were in some cases swindled out of their life-savings and are deserving of compensation and, again to use his words, something must be done. However, what the Senator is asking Members to do with this proposition is to act, as the Constable of St. John indicated, as a quasi-compensation board, for which I respectfully suggest the majority of us are not qualified. Certainly, I personally feel inadequately informed based on the paperwork provided to do. Let me be clear. There is no doubt that the 46 investors for whom the Senator seeks compensation totalling nearly £1.9 million deserve our sympathy, particularly those who invested during 2007 when it is clear from the sentencing by the Royal Court that they had been lied to by the principals of Sunstone Holdings Limited and De Lec Limited. However, if we accept what the Chief Minister said yesterday, and of course we have heard from Deputy Bryans and I absolutely respect what he has said about a possible independent investigation of the actions of the Jersey Financial Services Commission, but if we accept what the Chief Minister said yesterday - that the source of funding for the proposed compensation scheme cannot come from the reserves of the Jersey Financial Services Commission - then if we were to approve part (a) of the proposition the money would come from central reserves; in other words, from the taxpayers of Jersey. Senator Breckon told us yesterday that the 19 investors involved in the court case against the directors of Sunstone Holdings Limited and De Lec Limited provided personal impact statements, but these are not available to Members today. Nor do we have any information about the financial position of the other 27 investors for whom the Senator seeks compensation. It is a fact that we know very little about the current or historical financial-status of the investors apart from those who have emailed us directly. However, we do know that from the information supplied by the Financial Crimes Unit of the States of Jersey Police, which was circulated by Senator Breckon, of the 57 investors, 11 have been repaid and 8 have lost less than £48,000. Closer examination of these figures reveals that 15 invested less than £50,000; 13 more than £100,000; and one person more than £500,000. I would respectfully suggest that the latter investor certainly could not be considered the 'ordinary man and woman in the street' or immature investor as suggested by Senator Breckon in his report accompanying the proposition. Furthermore, just because somebody invested less than £50,000, this does not necessarily mean that the individual is an immature investor as this highly speculative investment may simply have been part of a portfolio of investments. In order to even contemplate compensation, we would need to know the degree of hardship incurred per investor, as happened with the investors in the Alternate Insurance Services

case. The Chief Minister has stated that investment in real estate abroad would not be covered by the U.K. (United Kingdom) Financial Services Compensation Scheme. This fact is worth repeating. If Members were to visit the website of the Financial Services Compensation Scheme, they will find the following definition of "investment": "A financial product in which money can be invested to earn interest or profit, although the value of investments can go down as well as up." Those are not my words but the words on the website. It also explains that the investments covered by the scheme include stocks and shares, unit trusts, futures and options, pension plans, and long-term investments such as mortgage endowments. Significantly, there is no mention of investment in real estate. A more detailed description of eligible investments can be found in Part 3, Articles 73 to 89 of the Financial Services and Markets Act of 2000 (Regulated Activities) Order 2001. Having checked the wording of these Articles, I can find no indication that a joint-venture agreement or loan agreement to acquire property in Florida or Colorado would be considered as an eligible investment under the Financial Services Compensation Scheme. The second fact worth repeating from the Chief Minister's speech is that the Chief Executive of the Jersey Financial Services Commission has advised that the principals of Goldridge Stone acted independently and held the records of Sunstone Holdings Limited and De Lec Limited in separate offices. The sales of the U.S. (United States) properties were not done under the contractual terms of Goldridge Stone or documented under its terms of business. The first test for a valid claim to the U.K. Financial Services Compensation Scheme is that the investment must have been sold by an authorised firm. In this case, Goldridge Stone was the authorised firm but it was not present in the contractual relationship with the 57 investors; hence eligibility under the scheme would be destined to fail. It seems clear to me that if we had set up an investor compensation scheme following the Alternate Insurance case, we would most likely have modelled the scheme on the U.K. Financial Services Compensation Scheme and, therefore, the investors in Sunstone Holdings Limited and De Lec Limited would not, sadly, be eligible for compensation. On the basis of Article 27 of the Financial Services (Jersey) Law 1998, Senator Breckon is proposing that the Minister for Treasury and Resources makes *ex gratia* payments to the investors from central reserves limited to a maximum of £48,000 per investor, but any decision on whether the taxpayer should compensate the investors should depend on whether the circumstances of the case can be seen as sufficiently exceptional in terms of the hardship suffered to gain widespread public support for any such action. I am unfortunately not aware of widespread support from the public for this proposition. The only lobbying I have received is from some of the investors in Sunstone Holdings Limited. As the Chief Minister said yesterday, those who enter into a risky investment should not be insured by the taxpayer. We have been elected to be guardians of the public purse and as much as we may have great sympathy for the financial losses incurred by this group of investors, I believe we cannot create a precedent by paying them compensation for their failed investments. I therefore cannot vote for parts (a) and (b) of this proposition but consider part (c) is worthy of further support.

#### **1.1.6 Senator L.J. Farnham:**

Given the comments made by Senator Le Gresley and Deputy Bryans, which have raised a number of new issues making it highly unlikely for the States to be able to consider this properly, issues that Senator Breckon has not covered, I am minded to propose a reference back because it is clear that if we are to give this the correct consideration then Members are going to require more information and have further questions. I came minded to support this, but I could not given the new points raised.

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

I think the difficulty you face, Senator, is that the Standing Order would require the proposition to be referred not to, for example, a Minister for a report or to the Jersey Financial Services Commission but simply referred back to the proposer, who is Senator Breckon, who may or may

not be in a position to provide the Assembly with more information. In the past it has not been traditionally accepted that references back on private Members' propositions are ...

**Senator L.J. Farnham:**

I understand that but this is an exceptional circumstance, I believe.

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

There may be other procedural devices you may wish to consider if you wish to bring the debate to an end and require further information, but I do not think we could allow a reference back because I do not think it would be feasible in these circumstances. [Approbation]

**Deputy J.A.N. Le Fondré:**

Sir, can I just seek a slight clarification from yourself? I know in the past that the procedural device of moving on to the next item has been used for circumstances such as this. In other words, the Assembly do not vote on it. Now, if that were to happen, does that preclude the proposition coming back within 2 weeks or 4 weeks or whatever it is, and is it something that would give the Council of Ministers time to work out what their position is going to be?

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

Certainly, if the Assembly moves to the next item the proposition technically remains listed and could be redebated at a later date. It does not in itself require anybody such as the Council of Ministers to do anything, but I am sure Ministers and others would hear a message from the Assembly if they felt that was the wish of Members.

**Deputy M. Tadier:**

May I ask clarification of Senator Farnham?

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

Yes.

**Deputy M. Tadier:**

Senator Farnham will also be aware that the Chief Minister has just come back into the Assembly. Would he be minded, if the Chief Minister were to indicate he was willing to instigate an investigation as outlined by Deputy Bryans, then there would be no need for the continuation of this debate at present? May that be the information that he would be looking for from the Chief Minister?

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

Are you able to assist the Assembly, Chief Minister?

**Senator I.J. Gorst:**

I have to say at this moment in time it is difficult for me to commit definitely to such a review, but I am consulting with interested parties and I would certainly do so with Senator Breckon. If Members were to make that proposition to move to the next item, I am sure that Senator Breckon and myself could sit down and find that way forward, although perhaps in the course of the next half an hour or so I might be able to give a more definitive comment. Of course, Members will be aware of the comments that I made in my speech with regard to the Jersey Financial Services Commission.

[10:30]

I have no doubt but to stand by those comments, but I also hear that a number of Members have concerns with regard to their role, which I personally think are unfounded but it might be that if an independent were to look at it Members might be more satisfied. But I am not quite in a position to be able to commit fully to that.

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

Do you wish to make any proposition, Senator Farnham?

**Senator L.J. Farnham:**

Well, I know the Chief Minister is trying to be helpful but I think it really needs more than half an hour. I think some serious conversations need to take place between Senator Breckon and the Chief Minister, so I am going to propose we move on to the next item.

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

Well, traditionally the proposition is allowed if a certain number of Members have spoken. We have not had a large number of Members but I do sense a mood that Members may wish to at least address this issue, so I am going to allow the proposition to be put because, as ever, it is a matter for Members to vote and not for the Chair to decide how the States of Jersey decides to proceed. So we will allow the vote on the proposition of Senator Farnham that the Assembly now moves to the next item, which is a matter that must be put without debate. Therefore, I assume you wish the appel, Senator Farnham?

**Senator L.J. Farnham:**

Appel, please.

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

If Members are in their designated seats, I will ask the Greffier to open the voting.

<b>POUR: 19</b>	<b>CONTRE: 24</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier	Senator A. Breckon	
Senator S.C. Ferguson	Connétable of St. Clement	
Senator A.J.H. Maclean	Connétable of St. Peter	
Senator B.I. Le Marquand	Connétable of St. Mary	
Senator F.du H. Le Gresley	Connétable of St. Martin	
Senator I.J. Gorst	Deputy R.C. Duhamel (S)	
Senator L.J. Farnham	Deputy R.G. Le Hérisssier (S)	
Senator P.M. Bailhache	Deputy J.A. Martin (H)	
Connétable of St. Helier	Deputy G.P. Southern (H)	
Connétable of St. Lawrence	Deputy of Grouville	
Connétable of St. John	Deputy J.A. Hilton (H)	
Connétable of St. Brelade	Deputy S.S.P.A. Power (B)	
Deputy J.A.N. Le Fondré (L)	Deputy S. Pitman (H)	
Deputy of Trinity	Deputy K.C. Lewis (S)	
Deputy A.K.F. Green (H)	Deputy M. Tadier (B)	
Deputy J.M. Maçon (S)	Deputy T.M. Pitman (H)	
Deputy G.C.L. Baudains (C)	Deputy E.J. Noel (L)	
Deputy S.J. Pinel (C)	Deputy T.A. Vallois (S)	
Deputy R.G. Bryans (H)	Deputy of St. John	
	Deputy J.H. Young (B)	
	Deputy of St. Mary	
	Deputy of St. Martin	
	Deputy of St. Peter	

**Senator I.J. Gorst:**

I appreciate that it looks extremely strange because Members have just decided not to move to the next item, but I am now in a position to [Laughter] say that if the Assembly ...

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

Well, I think the decision has been taken, Chief Minister. We must carry on with the debate. Deputy Le Fondré.

**The Connétable of St. John:**

Could we not hear what the Chief Minister had to say because it sounded quite important?

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

I could grant the Chief Minister leave, but he has already spoken and the Assembly has just decided to carry on with the debate but I will, in the interests of good order, briefly allow you, Chief Minister, just to say what you wish to say. I am not sure it is really going to help at all.

**Senator I.J. Gorst:**

I am quite happy not to speak if Members do not wish me to speak. I have spoken a lot, but what I wanted to say was that I would be content to go away and do such a review as Members have indicated. As I indicated, I believe that such a review [Approbation] will vindicate the position which I outlined yesterday and it would give Members confidence that an independent was able to do so.

**1.1.7 Deputy J.A.N. Le Fondré:**

We are not exactly covering ourselves in glory at the moment. We knew it was going to be a difficult debate today and I think the comments from Senator Le Gresley have been interesting. I shall pick up on a couple of those almost straight away. Comment 1. This proposition was lodged on 26th July. We are now at the end of September, and so for a member of the Council of Ministers to turn round and say various bits about information or perhaps we should have done a review or whatever - I cannot remember the exact expression - to me surely it should have been a debate held by the Council of Ministers some time ago after the sentencing came through to show leadership. Because the point here is that if at the end of the day we just reject this proposition on the basis of that we need more information and there is no mechanism to go away and seek that further information, we have completely failed. We are also getting down to the point where we are making a legalistic decision versus a political decision. I will come to that a bit later on and I am afraid it is a slightly longer speech than I was hoping because of where we have got to today. To start on the actual parts of the proposition, I am making an assumption that we are able to vote on the 3 separate sections, that it is a separate vote for (a), a separate vote for (b) and a separate vote for (c).

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

Well, I do not think you should make that assumption. It is a matter for the Senator. I understand he has not yet made that decision.

**Deputy J.A.N. Le Fondré:**

Thank you. I will lay my position on an assumption of that approach. If members of the public listening have not appreciated this, States Members were given the opportunity for a briefing from members of the J.F.S.C. (Jersey Financial Services Commission) and from the Chief Minister on



Monday. I have to say I obviously have the highest regard for the individuals that gave us that briefing, no question about it. To analyse the 3 parts of the proposition backwards, I am going to accept the advice about the investment compensation scheme or the potential one and the fact it would potentially at this stage put us in a competitive disadvantage to have it if other jurisdictions do not have it. If I am given the opportunity I would not vote for part (c). There is a *caveat* to that, as ever. In relation to part (b), in terms of taking the money from the J.F.S.C., I would support the J.F.S.C. on the principles of it if it would damage the independence of the J.F.S.C. then I accept that argument. Then that means I am going to focus on part (a) and in this aspect, at this point I am fully in support of Senator Breckon. Now, the decision I would have to make if it is an all vote, in other words (a), (b) and (c), is whether my support for part (a) outweighs my lack of support for (b) and (c). I think probably yes, but I have yet to make that decision. I was working on the assumption of 3 separate votes. In terms of precedent, the doors for compensation as a principle were opened by the Minister for Economic Development in 2009, I would argue, because up to that point that was when compensation first came in with the Alternate scheme. It may not have opened the door very much but it did open the door. To remind Members, the Minister stated it was always intended to deal with exceptional cases as and when they arose on a case-by-case basis. To me, this is definitely an exceptional case. Now, there will always be a risk of setting a precedent, but again there are extraordinary circumstances that attach to this matter, not least of which is the involvement of a judge in perpetrating a fraud. If the Council of Ministers is worried about the larger case at some point in the future, that will surely be dealt with on the circumstances of that case at that time. If that entity - the hypothetical one that might cause problems in the future which we talked about on Monday - were regulated, for example, then potentially with the basis of Alternate already in the background we already have a problem. I would really hope we will never see - let us call it - another one of our own involved in fraudulently promoting an investment scheme. We certainly heard that Sunstone Holdings Limited was not regulated, but Goldridge Stone was. I assume on that basis that what I will refer to as the principals, of Goldridge Stone were also regulated. To quote again the Minister for Economic Development, who is quoting the court about Alternate: "This recommendation is made because it is not acceptable that unsophisticated small investors in Jersey can be so badly advised. The advice given was dishonest." You might say in the context of today it was almost fraudulent: "It was misleading." While I could accept that the vehicle being used, Sunstone Holdings Limited, was not a regulated entity, it is clear that the principal persons of that vehicle were regulated under the auspices of Goldridge Stone and indeed, as we have heard, were under enhanced supervision when this all took place. I have no issues with regard to the regulator, but it is on the grounds I have just mentioned that, in my view, we start moving into a political decision rather than a strict legalistic decision. One last quote for Members to consider, again from the court, is in the reports. On page 13 of the proposition that we are debating: "One of the reasons these offences are so serious is because it is vital that those who invest with professionals [and this is the crucial bit] whether they are regulated or unregulated in their business must have confidence that they are being given accurate and honest advice." I repeat: "Whether regulated or unregulated." To me there, and that is speaking as a layman, the court is breaking down the very fine distinction between the regulated and unregulated entities here. Just to pick up on the words of Senator Le Gresley, if Members turn over the page on that quote, from the bottom of page 13 and going over to page 14: "These victims, these investors who lost their money, were ordinary people whose lives have been altered for the worst. These were not people who could afford to lose the money that they lost." One of the problems we do have in debates is that sometimes we pick on the extremes, the person investing half a million, to justify the totality of the argument. We are talking an extreme example there. Those words I have just quoted are from the court. One of my perceptions is that investors will have been persuaded by previously good experiences with Goldridge Stone. It seems very likely, from what we have heard, that the principal persons of Goldridge Stone were using their positions and their knowledge

obtained at that entity to influence investors to invest in the scheme. Goldridge Stone were, as I understand it, independent financial advisers. So I think the investors would probably be justified to say: "Well, we did take independent advice" because that was the role of Goldridge Stone if they were acting properly. The problem is it was not Goldridge Stone they were dealing with and at what point were they aware of that? I have covered, therefore, the point that we should not be assisting someone who recklessly invested £500,000. I think in a scheme without the proper advice that is an extreme argument and I think I have quoted the court sufficiently on that. But also if you stand back, since when is justice ... it is interesting, it was a lawyer who put this argument to me relatively recently. When is justice determined upon the wealth or lack of wealth of an individual? They either deserve justice or they do not. Certainly, Senator Breckon is not seeking compensation of £500,000 for that individual. He is seeking approximately £48,000 for that individual, so that individual has still lost a considerable amount of money. Let us go back to the remark made by the Chief Minister yesterday. Taxpayers should not be used to provide what he inferred - and I think we have repeated it today - was effectively an insurance policy that would lead investors to be less careful in the investment advice they sought. Now, I am sure that that person who apparently lost £500,000 will be so overwhelmed by getting less than 10 per cent of their money back from a fraudulent scheme that by having lost over 90 per cent of their funds they will be rushing out to find a risky scheme to invest in and to go through the whole tortuous process again. I somehow do not think so. People do not willingly throw their money away. To be clear, if this was just a risky investment that had gone down the tubes due to changes in the market, I would have no problem in rejecting the whole proposition. But to me there are at least 2 factors here. It was fraud and it was fraud perpetuated by individuals who in a different guise were regulated. They had been labelled as being fit and proper people and there was also the involvement ... and I have to say Mr. Christmas. I do not know if I can use that term, but it is in the public domain.

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

Former magistrate I think you are referring to.

**Senator B.I. Le Marquand:**

Could I point out he was never "the magistrate" and the term "the former magistrate" ... [Laughter] He was the former assistant magistrate.

**Deputy J.A.N. Le Fondré:**

A former assistant magistrate then. Thank you for the clarification from a former magistrate. We laugh, but it is a pretty serious comment. That gentleman, for want of a better expression, was an agent of the state in a wide sense. He was meant to be a person of the highest standing and he abused that position. We heard on Monday, because I asked the question, that he prodigiously broke the judicial code. His position, and I will use the word, as a judge - I am sure Senator Le Marquand will correct me but as a layman he is a form of a judge - was used to promote a fraud. Such was the setting of that person's moral compass that it has been reported he continued to claim his judge's salary certainly from the date of arrest, possibly even to the first few days of when he was in prison. According to the BBC website when I Googled it to refresh my memory, this was to the tune of £500,000 over 4 years after he was arrested. There is a message in there which is not very palatable, I have to say. There is the issue about innocent until proven guilty, but there is another message in there you can apply. I am certainly curious as to the potential rumour - I do not know if it is fact - that that individual will still be entitled to claim his pension and whether or not it can be seized.

[10:45]

The issue therefore is, if the first point is true, the second point should definitely be true, but who does the seizure? I would think that a number of the investors would be very leery about taking any

private action to the courts again principally because of a report in the media of an individual I understand to be a lady, who brought a civil action against Mr. Christmas. I believe it was after he had been found guilty. She withdrew the civil process and I believe was sued by Mr. Christmas for his legal costs. For the purposes of this debate, it does not really matter if my last couple of comments are 100 per cent accurate. If they are, to me it just moves that behaviour beyond absolute abhorrence. In other words, the message will be it is okay to defraud people, including the terminally ill. You will go to jail for a period of time. You can continue to claim your salary. You can potentially have your pension when you come out and ultimately, if that is the case, that pension will have been paid by the taxpayer, i.e. you could argue that the taxpayer will be compensating the fraudster. If that is the case, i.e. that the taxpayer is happy to pay the fraudster but not to compensate his victims, then surely that cannot stack-up. We have asked the issue of whether they form part of the assets. It depends. Let us get back to the thrust of that point. This was a judge involved in conning local people and that is what to me makes this case most unusual and is why that tips me into the point of supporting part (a) of the proposition. I will declare, and when I say I declare an interest, I declare an experience. I had occasion to interview one of the fraudsters in a completely different capacity and when I look back at my notes, because it was in 2004, I could have had him as a tenant. In that capacity of a conversation, the conversation went along the lines at the end: "We are doing very interesting things in America with property and it is looking very good." Now, the point was I had had successful dealings with Goldridge Stone previously, so even though I would certainly never have had the cash that it would appear was required, my experience at that point was I had a good experience of Goldridge Stone. I did not remember the gentleman concerned and there was a little hook in the conversation at the end. We have heard conversations about how the fraudsters had got hold of their victims ultimately and I think that might have been a classic example. There is the issue there and that is why I say we have a legalistic position of Sunstone Holdings Limited not being regulated to what is a political decision which takes in a variety of factors. As to where the money should come from, is that not where our contingencies kick in? A couple of weeks ago we were given a brief rundown of how some of those monies have been spent. It ranged from £20,000 for uniforms for the Band of the Island of Jersey. We spent something like £30,000 in giving funds to the Iron Duke. I know we have been told that one department at some point has spent £50,000 or £60,000 on an additional P.R. (public relations) adviser - I do not know if that was out of contingency - over and above the advice they received from the Communications Department. So we spend money in all sorts of ways and I am pretty sure that the investors who were conned and defrauded would argue that their cause is somewhat more deserving than the need for extra spin-masters. I do not like that language but that is the way some people will look at it. I was reminded of a quote and we have included it in the Machinery of Government Report. It is about ethics and it comes from the Institute of Chartered Accountants for England and Wales. What it says is: "Ethics is about principles, values and beliefs [you can look it up on their website if you wish] which influence judgment and behaviour. It goes beyond obeying laws, rules and regulations. It is about doing the right thing in the circumstances." This is a continuation of the quote: "Sometimes it is easy to assume that compliance with legislation, regulations and policies and procedures equates to doing the right thing, but unfortunately that would not always be the case. By its nature, a compliance approach to decision-making cannot cover all types of situations and eventualities. Even when a specific circumstance is addressed by a rule, compliance is often with the letter of the rule, not its spirit." That comes back to the point about legalistic decision versus a political decision. It comes back to the point that Sunstone Holdings Limited was not regulated and, therefore, in the view of the Council of Ministers, there should not be compensation, yet the principal persons of Sunstone Holdings Limited were approved persons in a different guise. So legally they were not regulated; that is the letter of the rule. I am afraid I am looking at the spirit. If we are meant to be here to directly help people, is this not firmly an example of when we should be helping people? People

who are likely to have paid their taxes, not demanded anything from the States of Jersey probably, who will probably have contributed in all sorts of ways to this Island community. Are they not as equally deserving of our support, not just the mouthed words or the expressed words of sympathy, but our tangible support at the end of what would be an extremely damaging and stressful part of their lives. The point is what happens if this proposition is rejected? Do they just walk away in disgust where there is no other port of call? That is a political decision, not a legalistic decision. Approximately 3 years ago I voted against the increase of G.S.T. (Goods and Services Tax) from 3 per cent to 5 per cent. My rationale at the time was: How could I justify to my electorate, to the taxpayer, about taking more money from them when the promised savings were not, in my view, being delivered? In other words, we are not operating as efficiently as we should have been in terms of administration of services and all that stuff. I look at this today and say: How can I look at the people who have been defrauded as a result of this and look them in the eye and say: "I cannot help you today. Yes, you have nowhere else to go. Yes, you were influenced by persons who in another guise were regulated and who were regulated independent financial advisers [as I understand it; I might be wrong there] and/or you were influenced by the good name of a judge, a person who was held in the highest regard in this Island, who is employed in the broadest sense by the state, and yet I cannot help you."? I am afraid on that basis I cannot do that, so I will be supporting part (a) of the proposition. I would prefer not to support (b) and (c) and I would ask if Senator Breckon would consider taking it in 3 parts. If not, I may well end up supporting the whole proposition.

**The Connétable of St. John:**

Given the Chief Minister's comments a few moments ago, can I propose that we move on to the next item?

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

There is nothing that prevents anyone other than the proposer moving again the same proposition. I think circumstances may have changed to allow the proposition to be put in the sense the Chief Minister has spoken, so I will allow the proposition to be put.

**Senator L.J. Farnham:**

If the proposer could briefly say something it might be helpful.

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

No, no debate is allowed on this proposition under Standing Orders, so I will invite Members who may be in the ante-rooms not expecting the move to the next item to return to the Chamber. The vote is whether or not to move to the next item of business. I assume you wish for the appel, Constable?

**The Connétable of St. John:**

Yes.

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

If Members are in their seats, I will ask the Greffier to open the voting.

<b>POUR: 30</b>	<b>CONTRE: 11</b>	<b>ABSTAIN: 1</b>
Senator P.F. Routier	Deputy R.C. Duhamel (S)	Senator A. Breckon
Senator S.C. Ferguson	Deputy R.G. Le Hérissier (S)	
Senator A.J.H. Maclean	Deputy J.A. Martin (H)	
Senator B.I. Le Marquand	Deputy G.P. Southern (H)	
Senator F.du H. Le Gresley	Deputy S. Pitman (H)	
Senator I.J. Gorst	Deputy T.M. Pitman (H)	

Senator L.J. Farnham		Deputy E.J. Noel (L)		
Senator P.M. Bailhache		Deputy of St. John		
Connétable of St. Helier		Deputy J.H. Young (B)		
Connétable of St. Clement		Deputy of St. Mary		
Connétable of St. Peter		Deputy of St. Martin		
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Breilade				
Connétable of St. Martin				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy S.J. Pinel (C)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

**Connétable D.W. Mezbourian of St. Lawrence:**

Before we move on, I believe that Deputy Le Fondré may have inadvertently misled the House when he spoke because I believe I heard him say that the former assistant magistrate was employed by the States of Jersey. I believe that is incorrect.

**Deputy J.A.N. Le Fondré:**

Sorry, I had said in the widest sense of the state.

**The Connétable of St. Lawrence:**

That is not what I heard, but he was not employed by the States of Jersey.

**Senator B.I. Le Marquand:**

May I clarify that because I held ...

**Deputy T.M. Pitman:**

He is still a crook.

**Senator B.I. Le Marquand:**

... a similar office. He is a public office-holder.

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

Public office-holder, very well.

**Senator B.I. Le Marquand:**

Public office holder is the correct term.

## **2. Justice Policy and Resources: Responsibility (P.92/2013)**

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

The Assembly having agreed to move to the next item, we come, therefore, to that item, which is Justice Policy and Resources: Responsibility, and I ask the Greffier to read the proposition.

### **The Assistant Greffier of the States:**

The States are asked to decide whether they are of opinion that, within the Executive branch of Government, the Chief Minister is responsible for justice policy and resources, as clarified in the accompanying report.

#### **2.1 Senator I.J. Gorst (The Chief Minister):**

Senator Farnham lodged a proposition last November which asked Members to decide whether they wished me to investigate the possibility of establishing appropriate Ministerial oversight of the justice system. That proposal was considered in February and Members decided unanimously in favour, asking that I report to the Assembly with a recommendation by the end of July. The proposition in front of Members today recommends that within the Executive branch of Government the office of Chief Minister should be confirmed as being responsible for justice policy and resources. I would remind Members that it is not me as an individual but it is the office. Looking back to 2005, it seems that during the discussions which preceded the change to Ministerial government there was an assumption that the Chief Minister would act as a link between Executive Government and the legal services departments. However, this was not fully implemented and these responsibilities were, therefore, absent from the first report to the Assembly regarding Ministerial responsibilities as presented in March 2006. Today, therefore, presents a new opportunity to ensure that these responsibilities are clarified. The Council of Ministers considered this matter, as I said, in early July and decided that it should be proposed that the Chief Minister be responsible for justice policy and resources as detailed in the report accompanying the proposition. It was felt that this proposal would have the advantage of placing justice policy at the heart of government while also delivering the most economical solution. It was also felt that it was desirable at present to propose an appropriate separation between the enforcement responsibilities of the Home Affairs Department and the wider oversight of the justice portfolio. Therefore, this proposal does not change the responsibility of the Minister for Home Affairs or his department. This proposal is also not intended to affect the existing framework within which relevant officers and arm's-length bodies perform their statutory functions. In addition, the proposal recognises the importance of upholding and defending the continued independence of the Judiciary, prosecutors and data protection authority. I hope that Members will decide in favour of this proposition and, if they do, there will need to be provided sufficient support to the Chief Minister and Council of Ministers to ensure that the public interest in the advancement of justice is not compromised. However, given the relatively modest level of resources required and the need to operate within the limits set within the Medium-Term Financial Plan, the Chief Minister's Department will seek to put in place the required resources from within existing limits. Therefore, I hope that Members will support this simple economic but important proposal as an appropriate means of clarifying Ministerial responsibility for justice matters.

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

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition?  
Deputy Young.

##### **2.1.1 Deputy J.H. Young:**

I would like to raise one matter in respect of this proposition. That is paragraph 3(vi) of the report, which talks about the positions of accounting officers in the various legal departments. I have

raised this before. The various legal functions in this Island cost around £30 million a year. At the moment, accountability for these matters, they are treated as a non-Ministerial department, which I think in all practice means that it is difficult to get clear answers on the use of those funds. I think £30 million is a substantial amount and I would be much more comfortable if the Chief Minister's proposition was saying, while he is going to have accounting officers as officers, there is going to be this clear link to ensure that the resources our legal functions use - which is, after all, the way in which the Chief Minister is going to discharge this function - will be, managed and accountable through his department. I think the report on page 3 suggests to me that it will not, although there is a certain ambiguity about it, but I would like the Chief Minister to clear that up that he will be taking responsibility for those resources.

[11:00]

### **2.1.2 Deputy S. Pitman of St. Helier:**

I strongly believe that the Machinery of Government Review with proposals to seize the dual role of the Bailiff should have been agreed upon before this proposal was brought to the Assembly for one reason alone. There is, unfortunately, much deference among politicians to those who hold the office of the Bailiff and the Deputy Bailiff within this Chamber. It is frighteningly so, with the consequence of the Judiciary not being held to account to any effect. This makes the Judiciary untouchable and very powerful. That deference is very evident in the Chief Minister, in my view. As I recall a few months ago, having met with him and his Assistant Minister regarding some failings with the Judiciary and the legal system, 3 weeks later I asked him for a written response as he had promised. His reply was that he could not go against the word of the Bailiff. I cannot see this deference being free from consecutive Chief Ministers and Assemblies because of States Members' traditional perception of how we should respect the Bailiff. I now have some questions for the Chief Minister. In his report he quotes: "The Council of Ministers considered this matter and decided that a clarification should be proposed to the States Assembly that within the Executive branch of government the Chief Minister is responsible for justice policy and resources." Firstly, I would like to know what expert advice was given to the Council of Ministers for them to reach this decision. The second question is, and I quote from the report again: "In the current fiscal and economic cycle, it was not felt to be an appropriate time to consider establishing a new department with the consequent resource implications." Given the seriousness of the issue of the delivery of justice and the public perception of it, and that an effective and fair Judiciary should go hand-in-hand with a healthy democracy, there is absolutely no justification for that reason, for financial reasons that a government department should not be created for this post. If this is not possible, there is no way again that this proposition should have been brought to this Assembly. It really does not demonstrate that the creation of this post has been given deep consideration of its implications. I would, therefore, like to know what expert advice was given to the Council of Ministers for them to reach this decision. The last question I have is: Once the Minister for Justice post is in place we will inevitably see questions and propositions put to the Minister for Justice and the Assembly. I would like to know how it will be human rights-compliant that the chief judge will be deciding on their validity.

### **2.1.3 Deputy J.M. Maçon of St. Saviour:**

A question from me. I am generally supportive, but what I would like to ask the Chief Minister is, in assuming this role I think there needs to be a change in that there needs to be better clarity or dissemination of information when judgments are given within the Island and various statements are made. For example, in our previous debate we were talking about a judgment that recommended a compensation scheme being set up in Jersey. When those types of judgments are made, I think when this is passed over to the Chief Minister can he explain whether he would be in agreement that there needs to be a better way of informing States Members about these judgments?

You can turn around and say: "Well, States Members should just sit down and read them" but we know we all have a lot of other pressures and a lot of other reading that we have to do. Is there not a way in that we could have a better mechanism when these judgments come forward, when the practitioners - which are the judges - come up with problems within the law, where they clash? We often hear that they tend to go into a vacuum when they are not dealt with. Ideally, yes, this is what this new role should be dealing with, but again how can that mechanism perhaps be brought into other States Members so that we do not have this type of vacuum when these judgments are made? I think there does need to be a better relationship between what happens at the end of a court judgment and how this Assembly reacts to that. I would just be interested to know whether the Chief Minister supports that and would be looking to facilitate something like that.

#### **2.1.4 Deputy R.G. Le Hérissier:**

I suspect this has not arisen because of talk of fine principles about the administration of justice but because the Chief Minister, faced with the Troy Rule, faced with the establishment - which we saw the culmination of yesterday - of a Minister for External Relations, has been faced with juggling positions within a very limited number of positions. Therefore, he has had to engage in an odd situation where he has had to continue to concentrate power within his office. We saw this happen recently when he took over responsibility for financial industry matters. Showing the remarkable superman that he is, by a sheer little motion he is now seeking to add justice policy. He is travelling the world, although he may minimise that now given he has a Minister for External Relations. He is travelling the world on our behalf, opening all sorts of shows and thinking big thoughts. I think all this is done in a way for the wrong reason in that it has had to be done, as I said, to deal with the Troy Rule and the fact that he may get a backlash there. What it does is not only concentrates power and gives him a remarkably broad portfolio, but it also concentrates power in the justice policy side because it could be argued that it is important that there be a Minister for Home Affairs. Although he has been labelled here as the implementation Minister, it could be argued he should serve as the foil in some respects. He may not serve as the foil, but he should. I know Senator Le Marquand has taken a deep interest in justice and criminal justice matters, for example. I just think it is wrong. I think we need people who can provide checks and balances within the Council of Ministers, who can lead the discussion, because as Deputy S. Pitman has mentioned, there is incomplete work. There is no doubt that the work started by the Royal Commissions on aspects of Jersey law in the 19th century, that work ... and I was listening with interest to the Falkland Islands speaker on Radio Jersey this morning talking about his possible dual role in a legislature of fewer people than ours. That work has yet to be completed and it is the work of separating the powers, as Deputy S. Pitman mentioned. I am afraid, much as we have a great love of the Bailiff and the way he performs his role, it has to be completed. It is the elephant in the room as far as I am concerned of this proposal that we will not face up to that and we will not bring it to completion. I am afraid this is, in my view, a proposition that has arisen from the most practical of reasons but one which has enormous implications that have not been worked out within the proposition. For that reason, I do not think, as it stands, it should go forward.

#### **2.1.5 Deputy M. Tadier:**

I think Deputy Le Hérissier has hit part of the nail on the head. Looking back on what we agreed with Senator Farnham's proposition that was lodged at the end of last year, Senator Farnham asked for essentially the establishment of a new Ministerial office, the Minister for Justice in Jersey. He did not ask for the Chief Minister to take on extra powers to administer justice in Jersey, which presumably in some unspoken way he already does. This seems to be a formalising of that power, consolidating of the powers. I am just not sure if it is what was originally envisaged by the Senator who lodged the proposition, albeit that he did ask for the Chief Minister to investigate the possibility, but that is what one has to do as a Back-Bencher. You can never ask for something to



be established, otherwise it will not be won necessarily. I am just questioning. This is not what was asked for. We want a Minister for Justice specifically with a specific remit which would come out from the other competing pressures that the Chief Minister's Department has to deal with. Of course, this is going to mean extra resources for the Chief Minister's Department, an ever-growing area which is already a significant department. That is my first concern. The other reason for this is clearly, like myself, the Chief Minister wants to and has given a pledge to address the difficulties that ordinary people in Jersey have in facing access to justice at an affordable price, whether that be on legal aid, which we know is not necessarily affordable anyway because legal aid is not normally free it is contributory, and even if one is paying a quarter of the fees, that can still be exorbitant for the ordinary person. If the Chief Minister wants to tackle this, clearly, he needs to have a mandate to do that and so I suspect that is part of the other reason that the Chief Minister wants to be given the nod from the Assembly to say: "This is your area, you can now go off" because he is going to be dealing with significantly entrenched positions when it comes to taking on the legal community; very complex issues that he is going to have to deal with. On that, this is slightly off on a tangent, but I would like the Chief Minister to give a commitment that whatever we decide here today, if he is seriously setting up a Jersey Access to Justice group, as I believe he is, he needs to be bringing this back to the Assembly, because we cannot simply have him setting terms of reference, setting the membership of this group that is going to look at affordable access and other issues relating to legal access, without bringing it back to the Assembly. It cannot be a closed-shop - as I have in front of me - of simply the Chief Minister, the Law Officers, the Judicial Greffe, the Law Society, the Bâtonnier, with the addition of a Citizens Advice Bureau. We need at the very first instance to make sure that when addressing the very urgent issues of access to justice that we have stakeholders, interest groups and not simply a closed-shop who will be coming at it from a certain vested interest. So I will ask the Chief Minister, he must bring this back to the Assembly and, if not, I will ask that he does that in the form of a proposition. Deputy Pitman, as uncomfortable as her words may be for some of us - and I raised this the last time in Senator Farnham's speech - there clearly is an issue here with the dual role of the Bailiff. Now, I do not get too hung up on this, I think the writing is on the wall, I think that those in the Chief Minister's Department know in their heart of hearts, within the next 5 years something has to give. It is simply not sustainable when one is trying to present oneself as a modern jurisdiction trying to do business with the international community, that you have this very archaic, and at the very least bizarre, role especially when you are bringing justice more into political control or, rather, giving it official Ministerial control. But that does make me question whether that is the reason why we are not setting up a full office for the Ministry for Justice. Is that because it would create an obvious tension there? How can you have a Minister for Justice standing up being presided over by a judge and the judge is telling the Minister for Justice when he can and cannot speak, which propositions the Minister for Justice may bring that relate to justice administration in the Island? It could possibly work. It makes it very uncomfortable, and perhaps this is why we are easing this in with the Chief Minister's responsibility, just to set the principle that the Chief Minister's Department is the one that should have responsibility and, at some future date, will be creating a separate role for the Minister for Justice. It seems that is what we should be doing. If we are going to do it at all, why do we not just go straight to the position of creating a Minister for Justice? If the Troy Rule is the issue, as Deputy Le Hérissier here has suggested, why was there no consultation with the Chief Minister on the specifics when the Machinery of Government review was going on?

[11:15]

We were aware that the limitations of the Troy Rule would have an impact on the Council of Ministers numbers, we know that if you reduce down to 42 or 44, the limitation - especially if you are keeping Assistant Ministers in their current format - puts pressure on, especially when we have already decided to have a Minister for External Relations in its own right. I notice that was updated

very quickly on the website yesterday. I could not find the vote quite so quickly, but I certainly found the updated position, which is a credit to our Greffier staff.

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

It is there now, Deputy.

**Deputy M. Tadier:**

Thank you, Sir. I have got to find that one individual who was not there to vote for me, Sir, and give them some stick; it would have made all the difference. So the question that I think then has to be asked: what is the logic behind this? Are we wanting a full Minister for Justice? On the Machinery of Government review side of it, why were there no steps? Why were we not told: "This is the plan, we want a Ministry for Justice, we want to create a Ministry for External Relations, we want this ...". We could have sat round the table and said: "What you need to do ... how many Ministers do you need? Tell us what you need. Do you need your Minister for Children? Do you need your Minister for Disability? Do you need your Minister for Discrimination?" After that, let us decide how many posts we need. You may need to get rid of some of your Assistant Ministers, elect all of these posts directly and then you can have as many Ministers within the Troy Rule as we want. The trouble is we do not know where we are going with this. It means that if we are shoe-horning new Ministerial positions in and putting them in the Chief Minister's Department when they should be in a completely different department, it does not sound like we are doing it quite the right way. It sounds like a fudge to me. I have concerns, but I do not have concerns with the principle of it. We need to bring the justice remit, where it is quite relevant, into the political field and therefore I will certainly give support to the principle of that. I am just concerned that this proposition is not the right way to do it.

**2.1.6 Deputy G.P. Southern:**

I am incredibly relaxed about this actual measure because in my time in the States of Jersey I was, for my sins, on the Home Affairs Committee as it was, and the uncertainty and the absence of clear responsibility and communication lines was obvious in that particular Committee from day one. A move to clarify that situation and have responsibility clearly identified and routes for communication clearly identified in one particular place must surely be an improvement. I briefly join in with the comments of others that we should at the same time be examining the dual role of the Bailiff as a matter of some urgency. The previous speaker said within 5 years; I think it could be done and should be done more quickly than that.

**2.1.7 Deputy G.C.L. Baudains of St. Clement:**

I have not made up my mind about this one at the moment. I thought the Assembly's wish was that we would have a dedicated Minister to do this job but, on the other hand, it would have been more efficient to go along the lines of this proposition. I am not sure. One question I have for the Chief Minister is: "Now that he has elevated one of his Assistant Ministers, will he be appointing another one perhaps with responsibility for this area? Following on from the comments made by Deputy Le Hérissier, will the course of action proposed here require enlargement of the Chief Minister's Department because, if it does, then it is another example of moving work from politicians to civil servants and that is a consequence of moving away from the committee-form of government.

**2.1.8 Senator L.J. Farnham:**

I follow on from Deputy Tadier. My original proposition was suggesting the establishment of a Minister for Justice and an appropriate department, but it was amended to include the words: "A means of appropriate Ministerial oversight" and that is because I think the Chief Minister and his department were in a bit of a "damned if you do, damned if you don't" situation. I certainly spoke to a number of Members and there was clearly no appetite for taking on another Ministerial role

while we are in the middle of the reform process, although I am slightly disappointed that the Chief Minister is not proposing we find a Ministerial role for this position because I think it warrants one. It is indeed a very good start. We have to introduce some political accountability for the justice system but I would say - and I would ask the Chief Minister to give some words of support to this if he can exercise some foresight - that the position does need to evolve. A number of Members have alluded to the fact that this important area of policy requires Ministerial oversight and I would very much hope that, in the fullness of time, it will indeed turn to that. I would like to thank the Chief Minister and his department for the enormous amount of help they gave me when I was putting the proposition together, and I would urge Members to support this very important proposition to introduce at last some political accountability for justice.

#### **2.1.9 Deputy C.F. Labey of Grouville:**

Unlike other speakers, I have never understood the problem with the Bailiff's dual role, other than it has been repeated like a mantra that it is wrong and not like elsewhere so therefore we have to change. Going back to this proposition, I am intrigued with the reference to: "Within the Executive branch of Government." I would like a clear explanation of what or who this body is. If it is the Council of Ministers, then why does it not say so and if, however, it is made up of other Members, then who are this group, how are they chosen and how are they elected?

#### **2.1.10 Deputy T.A. Vallois of St. Saviour:**

I am supporting this proposition, and that is purely because finally we will have political accountability in the States of Jersey in the form of a responsible Minister for Justice, Policy and Resources, but I would challenge the Chief Minister and ask for a list of what that justice policy and resources are. During my 5 years of Scrutiny and P.A.C. (Public Accounts Committee) I have come across many times the difficulties of identifying the exact policy, the exact legislation in which a department has to fulfil their public service required by this Assembly, and I would like to have it absolutely clear from the Chief Minister what his responsibilities for justice policy and resources are so that in order to hold him to account they are identifiable. My only concern with regards to this is under the financial and manpower implications on page 5. I would also challenge the Chief Minister as to whether he is being realistic to seek to put in place the required resources from within the existing limits and explain exactly how those resources are going to be applied, because too many times I have seen this explanation given under financial and manpower implications and you find a few years down the line that there was never really any capacity in that department to fulfil the obligations which we were placing upon them. Therefore, what we were expecting to happen never was fulfilled and we end up in a bit of a dilemma. So I just want some reassurance from the Chief Minister or some explanation as to how that is going to happen and what it is that he expects those people to do.

#### **2.1.11 Deputy T.M. Pitman:**

It is ironic, after allowing a lot of people to be betrayed yet again, as we did earlier, here we are talking about justice and yet it is all going to be done and dusted in about 10 minutes. The fact is, in my opinion and in a growing number of the victims of the Jersey justice system, there is zero accountability to those at the top of the justice system in Jersey. It is a very scary, frightening fact. I do not know if the Chief Minister kids himself, but he is not in control here. The political power in this Island lies with the law office; it is an absolute fact, certainly as far as enforcement of its will. As has been said, and I never used to believe this, but it is all too often a tool of oppression. It is a great example here today of how we could be saving money and how we do not need the Bailiff; the Greffier and his Assistant are proving that admirably. We do not need any individual in a red cloak. I will be quite honest, the reason I did not come to the special sitting last week, I find it highly offensive to see a judge, any judge - and this is not a personal thing - as our first citizen in

the 21st century. It is absolutely ludicrous. I supported Senator Farnham's idea for a Minister for Justice, but this is one of those watered-down fudges, and I think he is putting a brave face on and trying to be nice about perhaps convincing himself, wishing to convince himself that this is all going to move in a positive direction. I think he is mistaken in that. Senator Gorst, well, I told him yesterday I was not going to support this because I voted for him, as he knows, and I have been appalled that I did vote for him. He is, in my view - I have to say that or I will get into trouble - utterly too weak to ensure justice in this Island. If Members ask themselves when do you hear the Chief Minister talk about justice, speak out about it and upholding it? Practically never. You cannot go against the rule of the Bailiff. It is one of the most striking things when you come into this Assembly: the ridiculous and quite offensive deference that is given to someone just because he is a judge. Let us put it quite clearly: the Bailiff deserves no such deference, any Bailiff. He is just a judge, and yet he can interfere, he can block what elected representatives to this Assembly say and ask. As we saw yesterday in a quite embarrassing display, the justice system in this Island is so appalling that when the Bailiff fails appallingly, you can only go and take those failings to the Bailiff. It is a bit like *déjà vu* when I remember back years ago when Senator Syvret was forced out of the States for 6 months, in 1996 I think it was. Who could he ultimately appeal to about that? Probably the same man who many would say was instrumental in him being removed from that Assembly. This cannot be trusted to the Chief Minister's Department because the Chief Minister just does not appear to have the will, the determination and the courage to do the job. He is too weak. That might upset some people, but I have to speak the truth, that is what we are meant to do here, are we not? Where is the judicial accountability now? There is none whatsoever. We have a U.K. Minister for Justice who is meant to intervene when he should but he does nothing, and you cannot go through an appeal system. We heard a really brilliant example of how the Jersey justice system is dysfunctional when we had to hear the desperation ... if you do not get what you think you should have, you can go to the Privy Council or then to Strasbourg, like those poor victims up there today. It is a bit late by then because you cannot challenge failings properly. People have had their lives ruined by then. Is the Chief Minister going to put that right? No, because he is one of those who I believe strongly is absolutely frightened to death of the aura of the Bailiff and all that it suggests. The Bailiff has only got that deference from people because of the dual role. We talk about in this report from the Chief Minister that you have got to have that independence between Judiciary and politics.

[11:30]

Does he not ever look at the individual and what that represents sitting in that chair every session, the hypocrisy and absolute comical farce of what he is saying? I cannot remember who said it, it might have been Deputy Tadier, it might have been Deputy S. Pitman, but you would have a Minister still being controlled on issues of justice by an unelected judge. There is no place for this in the 21st century. I am sorry the Deputy of Grouville cannot see the problem with it; just about any other right-thinking person can see the problem with it: it is a person wearing 2 hats at one time, it is an unelected judge being involved where he has absolutely no right. It might have been okay in the 17th century when we were all meant to tug our forelock to our betters, but it is not okay now. Well, I could not tug my forelock, but there we go; I may doff my cap. I cannot afford a cap, but there we go. It makes me so frustrated to say we will happily sit here and discuss ourselves for weeks on end, we will discuss dog mess for hours or days, and justice ... hardly anyone speaks. Let us spell out the facts again: there are only about 5 of us in here who ever stand up for justice, and we are made out to be some kind of radicals, we are out to destroy known civilisation. No, for those of us who talk about justice, it is because we care about our Island. The rest, and I am sorry, that is 95 per cent of the States Assembly, fall into 2 categories: people who just keep their head down, they are too scared; to protect the *status quo* they will say nothing. Or, it has to be said, people who perhaps do not care about justice at all, which is even worse. Some of

those people who we were debating earlier said to me yesterday: "For too many people, it is only when an injustice happens to them that they realise what is going on in this Island." That is because in the mainstream media they do not report on the true facts. Again, they have got a huge responsibility, they have more power than we have but they do not talk about the real issues: "Let us just keep attacking the 4 or 5 loony lefties who keep going on about child abuse and the dual role." If I am to support this, Chief Minister, what are you going to do about all that? What are you going to do about all these issues? As we heard, the Chief Minister cannot go against the word of the Bailiff, so how is this being under his sway, how is his control going to differ? I was at that meeting the Deputy referred to; he acknowledged there were huge areas that needed to be changed, but would he do them? We have Jurats elected by lawyers; that is crazy, it does not even happen in Guernsey, and some people are always mocking Guernsey for what they do. How can you have lawyers choosing people they are then going to be pitching to win their case to later? It is absolutely bonkers. The Jurat Law; what stops you being a Jurat? If you have received assistance from the 1948 Poor Law, it does not matter if you are Jimmy Savile, you are in, you are a pillar of society. That is what it comes down to, in essence: no convictions against Mr. Savile so he probably would have been welcomed as a pillar of the community. Sorry if some of this is uncomfortable, but it is true. I have got so many cases now on justice, I admit - and I will use this to apologise to some people I have not even been able to get back to, because I am being overwhelmed and I know Deputy Higgins has got a huge number - they are diverse and they are shocking. What is being done about it? What have successive Chief Ministers done about the injustice in this Island? Nothing, absolutely nothing. Justice in Jersey is made up as we go ... a phenomenon which some people may not be aware of: judge-made law. It is a great example of what happens in Jersey: rulings, decisions given by judges that have absolutely no visible link to the laws that were passed by Assemblies such as ours. Who challenges it? Is the Chief Minister going to challenge it? No, because he is not strong enough, and I put my trust in him, and this is not a personal thing either. I put my trust in him when he was making his pitch to be Chief Minister and on the key issues, justice, like for the abuse victims, he has really done nothing. He expressed his satisfaction, his contentment with the case against former Senator Syvret. I do not agree with a lot of what Mr. Syvret has done, but I will stand with him on justice issues. Regularly, there is a gentleman who sits up there who can show you his many consistent statements made to the police about, as a child, being pinned down and having blood trickling down his legs after he had been abused. The person who he alleges, and more than a dozen others allege is an abuser, is still employed by the States of Jersey, has still got access to children. How is the Chief Minister and his legal team, who are meant to be doing redress, treating that man? Well, he is accused of never being at Haut de la Garenne. It is only other people who were at Haut de la Garenne who would remember him there. Has he had sympathy? Has he had compassion? No. I will tell you what has happened to him: he has been threatened by the legal team that if he did not drop his allegations, he would be prosecuted and could end up in prison. Justice in Jersey? Utter farce. Yet we are satisfied for the secret court case against Mr. Syvret. Of course, one of those people given such huge financial assistance is the very man that so many people have accused. That same case - if we are talking justice, Chief Minister - why is it that there is a letter in existence pitching for individuals to come in and put the case together and decide how they would get Mr. Syvret? Five people invited; one of them refused. Proxies; are those what they were? I happened to believe that some of them, certainly a couple, have got cases for what has been done to them. They may have cases to answer on the accusations against them. The best way to have done that would be before a court. As I have said before, then Mr. Syvret could have been taken to account if what he said was completely wrong and those people could have earned justice. But no, what do we do? Justice in Jersey, Chief Minister, we have secret court cases. I do hope he is going to do the decent thing and resign when we get the true figures about how much this has all cost, because the question is already in for next session. He wants to control justice. Why is it that data protection; and this

access ... and it is all very well for him to chuckle over there, perhaps it is how he usually takes justice. Why is it that data protection ... this assistance is not available to all? One of the individuals who was given money - Members might not know - is the scourge of innocent people in this Island. He has been intercepted by the police threatening ex-partners; does not get charged. He sends out posters to decent, ordinary people about threats to women; does not get charged. He puts hate sites up on the internet which emails stolen from one of our own Members end up on. Does not get charged. When I went and made a complaint about him, the senior police officer went and looked and he was shocked at the amount of complaints against this individual, so he could see it was just not me. Put the case to the Attorney General's office; no case to answer. Perhaps that explains, for all his faults, why Mr. Syvret went down the route he did, because it all comes back down to this image, hardly anyone wants to risk challenging Jersey's fluffy image as a shining beacon of democracy, as I think former Senator Perchard said. The way you improve your image is by confronting the things that are wrong, and that is what me, and those few other Members who stand up and talk about justice, do. Of course, we get pilloried by the *Jersey Evening Post*, pilloried by other Members, former judges. There is a wonderful little clip if Members get bored: go and look at YouTube and they will see a wonderful little clip of a former chief judge in Jersey and he is giving a talk to, I assume, the Law Society or a collection of lawyers, and he laughs and he gets a huge, great ripple of applause: "When I was a judge and the law was silent, I did what everyone did, I made it up because that is what everyone else did"; is that justice? People laugh. A chief judge, or a former chief judge ... I must not get into trouble, I must go down the magistrate route of today, confusing individuals. It is funny, just on the news today the former assistant magistrate is out of prison already, laughing all the way to the bank, while those people we have sent away with their tails between their legs are going home. One of them is on to income support as a result, she was telling me. This makes me furious, these tick-box propositions that come back pretending to do something when the proof of the pudding is that this Chief Minister never stands up for justice ever, even when it is wrong. He is controlled by the law office, in my view. He does not have the courage to challenge things that are wrong. Why am I not going to support this? It is not because I do not support Senator Farnham's original idea, I do, though I ask the question, how many in this Assembly could do that job, 4 or 5, because most - and I mean that as no offence to any particular Member - have not got the courage and the conviction to stand up, as I do, so often. But this is just a fob, it is a fudge. It is another one of the Chief Minister's cop-outs. Why did we have a Minister for External Relations when we have not even got a Minister for Children? Far more important. Why have we not got a Minister for Justice? Far more important than giving someone a title to do a job that, let us be honest, Senator Ozouf has been doing a pretty good job before we even had this Assistant External Affairs Minister. I say to Members, do not support this, force the Chief Minister to come back with something that is fit for the 21st century. Make him come back with something which will provide justice for all. I think it was Deputy Le Fondré who today said when would justice purely relate to how much money people have got? Well, that happens all the time in Jersey. Many of us in St. Helier see constituents. If they cannot afford to pay for lawyers and they get legal aid, they really may as well give up, because you will get a lawyer who is generally completely not interested or they are so young and inexperienced, it will probably do more harm to your case. If you are in the middle, you are even worse. Some people would say the Jersey system is bent. I do not say it is bent, because if you imply that, then you think it could be put back into shape. The Jersey justice system needs a full Turks and Caicos style intervention by the U.K. We need the U.K. Minister for Justice to fulfil his mandate. We need the Lieutenant Governor to fulfil the powers that he has got - and I like this Lieutenant Governor, I have had some lengthy conversations with him - but if he does not step in when he should, then what are we paying a great deal of money for? We need a Minister for Justice, but I think it should be appointed from the U.K. because it is entrenched here, it is so entwined, political power with

judicial power, that it cannot be done safely otherwise. Now I think I will sit down and let our former Chief Judge attack me, as he does so often.

**Deputy R.G. Le Hérisier:**

I wonder if I can raise a point. Maybe it does not fit in with the broad sweep of the Deputy's comments, but I thought he implied earlier, Sir ...

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

What are you raising, Deputy? Do you want clarification?

**Deputy R.G. Le Hérisier:**

Could he clarify, is he suggesting that the Chief Minister should intervene in individual court cases? I thought I picked that up in an early point of his speech.

**Deputy T.M. Pitman:**

Not at all. I am happy to answer Deputy Le Hérisier, but what you expect someone of who is meant to be the leader of this Government is to have the courage, the conviction and the ability to stand up and say when something is wrong, but that is severely lacking in this Chief Minister. I am not suggesting for a minute that he should be playing judge, but when there are clearly things wrong in this Island and with the amount of cases I have got, it is a growing number of people ...

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

I think you have answered.

**Deputy T.M. Pitman:**

... there should be somewhere to go and there is not.

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

You have answered the point, Deputy. Does any Member wish to speak on the proposition? If not, I will call on the Chief Minister to reply.

**2.1.12 Senator I.J. Gorst:**

I would like to thank everyone who has spoken this morning on what I think is an important proposition.

[11:45]

If I pick up first on Senator Farnham, I think he is possibly right. I think over time this role may evolve. I think I have said what I wanted to say about the main proposition and therefore I will pick up on a few points that Members have made. Deputy Young started by asking whether the accounting officers within the particular non-Ministerial departments would remain in place and yes, they will, because that is absolutely right. Someone should be held accountable for the spend within this departments, but now there will of course be a link to the Chief Minister's Department and Members will be able to question the Chief Minister in that regard, so hopefully that will give clarity to this Assembly. A number of Members spoke about the dual role of the Bailiff and felt that that should be addressed by this proposition. That was not what was asked of the Chief Minister in doing his review in regard to this proposition. Interestingly, Members were not perfectly in agreement with regard to the dual role of the Bailiff, and as I understand it, that is something which is being considered by the P.P.C. (Privileges and Procedures Committee). I note the last Chairman set up a Sub-Committee to consider that issue, but it is an issue which has been considered in the past, most recently by Carswell, and of course with the advent of time, it is

appropriate that we do consider those types of issues from time to time. We should not simply change because others change, but equally we should make sure that our structures ...

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

I think Members are struggling to hear you. I do not know if you could speak up a bit, Chief Minister. You need to raise your voice slightly, Chief Minister.

**Senator I.J. Gorst:**

Perhaps the volume could be turned up, Sir. [Laughter]

**Senator L.J. Farnham:**

Can I just ask that the Deputy listens for once, Sir? That was aimed at the Deputy, not my good friend, the Deputy of Grouville, who is very attentive.

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

Let us try to hear the Chief Minister.

**Senator I.J. Gorst:**

Perhaps the Deputy would like to come and read my notes that I have been making, and then I am sure everyone will be able to hear. [Laughter] Where was I? Yes, the dual role of the Bailiff. We should not simply change because others change, nor should we simply say that because we have done it for hundreds of years we should carry on doing it. It is appropriate from time to time to review these issues to make sure they remain fit for purpose and we have a model that we can be satisfied with. Therefore I do not think it is connected with this proposition. A number of Members have suggested that politicians, Chief Ministers, Presidents of Policy and Resources Committees are too deferential to Bailiffs. Perhaps I should say of course we are respectful in public, but I am not sure that if the current Bailiff and previous Bailiffs were here in the Assembly, they would automatically agree with that assumption, because robust conversations take place around where responsibilities rightly lie and that is something which I think is appropriate. Therefore, while in public it is right that Members of this Assembly are respectful for the civic head of our community, in private, issues should be discussed in a robust manner, and I think that the previous Bailiff would agree that that is the way that other Chief Ministers have acted with regard to conversations with himself as well. Other Members have asked what expert advice did the Council of Ministers receive in coming to the conclusions that we have. We are fortunate - or I am fortunate - in my department to have extremely competent staff who are able to provide what I consider very useful and important advice and they consulted other jurisdictions, they looked at processes and structures that were in place in other parts of the world, and it was agreed that what is before us today is the most appropriate at this point in time for Jersey. I have no hesitation in recommending this change. Someone else ...

**Deputy S. Pitman:**

A point of clarification, sorry.

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

Is the Chief Minister giving way?

**Deputy S. Pitman:**

Could the Chief Minister just clarify if that expert advice came from people who have experience in the justice system, or was that merely officers doing a bit of research?

**Senator I.J. Gorst:**



Those officers obviously spoke to people in justice departments elsewhere. Another Member mentioned whether our process was human rights-compliant, that the Chief Minister could be responsible in the Executive for justice policy and budget and the Bailiff could then sit as President of this Assembly. That really ties in the dual role of the Bailiff, and eminent judges, more eminent than myself, have said that there is no issue with regard to human rights compliance in that regard. Deputy Maçon I think got to the heart of one of the issues which has concerned me for a while and that is, while legislators should remain completely separate from the Judiciary, I think over the last number of years, perhaps with a lack of lawyers being elected to this Assembly, there has been perhaps not the knowledge of the processes of the Judiciary, of judgments in our court system by this Assembly. I think that that has led to some of the confusions and frustrations that a number of speakers have spoken of this morning, and therefore I think that Deputy Maçon's proposal around briefing sessions, around understanding how J.L.I.B. (Jersey Legal Information Board) works and access to that, around what action is taken when judgments are made and perhaps the suggestion there is a need for clarification in legislation, then I think that is a very important piece of work which will be undertaken. Other Members quite clearly do not think that this role should sit with the Chief Minister, but there should be a separate Minister. That is not what I am proposing and I expect those Members will vote against this proposition. Perhaps if I could then speak to Deputy Tadier's comments. He spoke what will in actual fact, if Members accept this proposition today, be the first piece of work that my department will undertake, and it is more or less formed in its structure now, and that is an access to justice review. I know he has asked to meet with me about the terms of reference and the individuals on such a review. But there are other interested parties which I intend to invite to be on that review. He also asked me to consider whether I will bring it to this Assembly for approval. That is not, as he knows, my intention at this moment in time, but I will consider what he has said this morning and when we meet again in due course. I am going back to the dual role of the Bailiff because some have tried to indicate that they felt that the Chair interfered with the democratic processes of this Assembly. I do not feel that that is the case. The running of this Assembly is governed by Standing Orders and Members of this Assembly can come forward with amendments to Standing Orders. Yourself, Sir, in the role of the Greffe, and ultimately the President or Deputy President of the Assembly approve questions, approve propositions and they are approved when they are in line with Standing Orders and disallowed when they are not. If Members are dissatisfied with what they receive in that regard, then it is up to them to speak to P.P.C. and ask for amendments to Standing Orders to be brought forward. Deputy Vallois asked for a list of responsibilities and policies and I concur with her that that would be a very useful piece of work to do at the start of this process so that Members can be clear. However, as I have already said, my first piece of work will be setting up the access to justice review and everything it will entail, and that will indeed be a very important, if somewhat lengthy, piece of work. Perhaps I should respond, although it is quite difficult to respond, to Deputy Pitman's concerns. I think Deputy Le Hérisier was right to ask him to clarify whether he was expecting ... although he obviously did not feel, as I took it, perhaps I was reading between the lines, that I was quite the right person to do the job, but he did seem to me to be saying that whoever took this job on - and therefore he did not think I was suitable for it - should be involving themselves in individual decisions of the court. That is absolutely what should not take place. This proposition today should clarify the role of the legislators and the role of the Judiciary and there must be appropriate independence. Ministers should not be, in this Assembly, being asked questions about individual cases that are coming and are in consideration of the courts. That is absolutely wrong and if we were to be doing so, then we could rightly be accused of political interference, and that is wrong. It cannot be, it should not be and I will defend that separation and I will do so whether Members accept this proposition today or not. However, I do think, as I said earlier, that some of the frustrations that Members have aired this morning is around understanding what our role as legislators is and what it can be when perhaps we are dissatisfied with what is happening in another

place, and therefore I think there is a need for an education programme for Members to help to understand where our appropriate involvement is and where it most firmly and definitely should not be. Having said all that, I hope that Members do support this proposition. It is an important move, it is important that there is Executive oversight with regard to justice policy and budget and this proposition will do just that, but be in no doubt there is work to do along the lines that I have outlined, and as I have said in my opening remarks, that can be met from within existing budgets because we are within the envelope of the M.T.F.P. (Medium-Term Financial Plan). I maintain the proposition.

**Deputy S. Pitman:**

The Chief Minister has not answered a couple of my questions and I just want to clarify, the meeting that myself and Deputy Pitman had with the Chief Minister, yes, we talked about our case, but we asked him to get a review on the Judiciary and also the legal system and their costs. So there is no way that Deputy Pitman was asking for the Chief Minister to intervene in our case and I believe that that is what was implied and it has misled the House.

[12:00]

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

You said you had some questions that had not been answered.

**Deputy S. Pitman:**

I do, Sir. I asked the Chief Minister what expert advice was given to the Council of Ministers for them to reach the decision that the ... sorry, it was with regard to there was a comment made on resources, fiscal, in the report. It says: "In the current fiscal cycle, it was not felt to be an appropriate time to consider establishing a new department with the consequent resource implications." I did ask what expert advice was given to the Council of Ministers for them to reach that decision, and by expert, I mean again somebody with a judicial background. Also, he has not explained to us, he has given us no evidence as to the question that I asked, and that was once the Minister for Justice post is in place, we will be inevitably asking questions and presenting propositions ...

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

I do not think there will be a Minister for Justice, Deputy. That is the whole point, I think.

**Deputy S. Pitman:**

Sorry, I mean the position within the department, and once questions and propositions will be coming to that and being asked of that person, the Bailiff will have to approve them. Now, I would like some evidence as to why that is human rights-compliant.

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

Are you able to answer those 2 points raised by the Deputy in her speech? Are you able to add anything further, Chief Minister?

**Senator I.J. Gorst:**

Sorry, I thought I had answered them. With regard to the more detailed human rights issue, I will defer to the learned Attorney General, if he wishes to comment, but I think I have answered it previously anyway.

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

The expert advice on the fiscal and economic ...

**Senator I.J. Gorst:**

I quite clearly said that was advice which had come from officers and ultimately it is a political decision whether this Assembly wishes to spend more money on the creation of a department and a Minister or go with what is being proposed.

**Deputy G.C.L. Baudains:**

I did ask the Chief Minister and I did pose a couple of questions which he has not answered, but I notice he was multitasking during the debate, so perhaps he missed what I said. I did ask if he was going to appoint a new Assistant Minister, possibly with responsibility for this area, and I asked whether he intended expanding his department to accommodate this proposition.

**Senator I.J. Gorst:**

Yes, thank you. With regard to the Assistant Minister, I will have to consider what happens. Under the States of Jersey law, I think as we sit here, until I make the changes, Senator Bailhache would remain as Assistant Minister, but I need to give some thought to that, and it is very likely that I will be proposing changes over the coming weeks with regard to that. Of course Members will be aware that I am also now responsible for financial services, so I would need to consider how I deal with that particular issue as well. Could the Deputy just remind of the second?

**Deputy G.C.L. Baudains:**

Whether there would be any expansion of his department as a consequence of this proposition.

**Senator I.J. Gorst:**

I thought I had answered that when I answered Deputy Vallois' question with regard to the current M.T.F.P. and fitting within those resources. There may be a need to enhance those in due course, but if that were the case, it would be a bid would be made in the normal way with the next M.T.F.P.

**Deputy S. Pitman:**

Sorry, Sir, but I did not get the opportunity to ask the Attorney General on the human rights issue.

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

Are you able to add anything, Attorney General?

**The Attorney General:**

As I understand it, the question is: Are there any human rights issues attendant upon the fact that any proposition must be approved by the Bailiff when propositions are brought in connection with the justice portfolio. Am I right in thinking that is the question that is being asked?

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

Requesting a proposition.

**The Attorney General:**

The human rights issues that arise in any circumstances could only be those under Article 6, which is relating to the determination of civil rights by an independent tribunal. It seems to me that this is a parliamentary Assembly functioning within its Standing Orders. The Bailiff makes a decision in accordance with Standing Orders as to whether it is within or without. There is no individual civil right, the determination of it involved. It is a matter to be resolved entirely politically and human rights have no bearing on the matter at all.

**Deputy S. Pitman:**

Sorry, but it is absolutely ludicrous, this. We ...

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

You cannot make a speech, Deputy. Do you have a question for the Attorney or not?

**Deputy M. Tadier:**

I have a question relating to the answer.

**Deputy S. Pitman:**

We have a Bailiff who recuses himself from justice issues when we are debating them, but then he is going to be allowed to decide on propositions and questions. It really is a ludicrous position.

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

As the Chief Minister has said, Deputy, the Bailiff sits in the Assembly not by right, as referred to by Deputy Trevor Pitman, but by leave of Members, who are free to change the law, change the rules, change Standing Orders and he is obliged to comply with it. Deputy Tadier, do you have a question?

**Deputy M. Tadier:**

Yes, it just follows on from Deputy Pitman's question. It is clear that it would not come under the remit of a States Member asking the question or lodging a proposition, but from the perspective of a member of the public, if you were specifically asking a question on behalf of a member of the public or taking up a case and then it turned out that that question or proposition was ruled out of order by the Bailiff, then of course the appeal mechanism would also be to the Bailiff to get recourse. It would be the individual member of the public who would be feeling aggrieved rather than the States Member necessarily, and could that member of the public then ...

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

No member of the public can ask questions in the Assembly, Deputy. I do not quite understand your question.

**Deputy M. Tadier:**

No, clearly, but a member of the public could bring a case on human rights grounds that their recourse to their parliamentarian was not being met on that basis.

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

Is there anything you wish to add?

**The Attorney General:**

The only thing I would wish to add is that I do not understand that States Members ask questions on behalf of members of the public. They ask questions that they need the answers to within the course of the discharge of their political duties and in no other circumstances. It seems to me that that is entirely a matter for the parliamentary Assembly, and as I have said, human rights do not arise.

**Deputy M. Tadier:**

But clearly in the case where Senator Breckon very clearly brought a proposition directly on behalf of those members of the public who were affected, so there must be, to all intents and purposes, situations whereby ...

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

I think the Attorney has answered the question, Deputy. Do you wish the appel, Chief Minister? The appel is called for on the proposition of the Chief Minister. Members are in their designated seats? I will ask the Greffier to open the voting.

<b>POUR: 39</b>	<b>CONTRE: 4</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier	Deputy R.G. Le Hérissier (S)	
Senator A. Breckon	Deputy J.A. Martin (H)	
Senator S.C. Ferguson	Deputy S. Pitman (H)	
Senator A.J.H. Maclean	Deputy T.M. Pitman (H)	
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. John		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Deputy R.C. Duhamel (S)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		

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

I am able to announce to Members that the Privileges and Procedures Committee has this morning lodged a proposition, Composition of the States Assembly Interim Reform for 2014 and Referendum on Further Reform, P.116, which I understand is in Members' pigeon holes.  
**[Approbation]**

### **3. Draft Motor Vehicle Registration (Amendment No. 4) (Jersey) Law 201- (P.95/2013)**

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

We come to the Motor Vehicle Registration (Amendment No. 4) (Jersey) Law and I will ask the Greffier to read the citation.

#### **The Assistant Greffier of the States:**

Draft Motor Vehicle Registration (Amendment No. 4) (Jersey) Law 201-. A Law to amend further the Motor Vehicle Registration (Jersey) Law 1993. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

#### **3.1 Deputy K.C. Lewis of Saviour (The Minister for Transport and Technical Services):**

The Motor Vehicle Registration (Jersey) Law 1993 requires motor vehicles used or kept on any public road in Jersey to be registered, the owner providing details of the vehicle and the owner's name and address, confirmation that the vehicle has been manufactured to required standards and the vehicle is insured for at least third-party risks. When first registered, each vehicle is assigned a unique registration mark, by which the vehicle can be readily identified by enforcement authorities in Jersey and abroad. Nowadays the register is a computerised system that holds details of each vehicle, its registered owner and the history of any change of owner, modifications to the vehicle or if the vehicle has been scrapped or exported, assuming of course owners have complied with the law and advised Driver and Vehicle Standards accordingly. It would seem that being able to display certain registration marks on their vehicles is something valued by a number of people. A registration mark is assigned to a vehicle in accordance with the law and supporting order. While any registered vehicle can be transferred between persons, under the law, registration marks remain the property of the State and can only be assigned or reassigned by the Inspector of Motor Traffic. Reassigning registration marks has provided a valuable income to the States of Jersey over the years. Between 1998 and 2005, the Home Affairs Committee held auctions of special registration marks, selling the right to display specially introduced JSY registration marks and other interesting marks that currently have not been assigned. These auctions raised around £600,000, which was held in a Community Safety Fund to be distributed to deserving cases that would improve community safety. In its review of public expenditure in 2010, the Comprehensive Spending Review identified the services which were essential or highly desirable, efficiencies in delivering these services and also services where user-pays principles could be applied. While user-pays principles already apply to matters surrounding vehicle registration, it was agreed to extend the principle and provide a means whereby those who are prepared to pay a sum for the right to display certain registration marks can do so. This proposed amendment to the Motor Vehicle Registration (Jersey) Law 1993, subject to States and Privy Council approval, will permit Transport and Technical Services, through Driver and Vehicle Standards, to sell to the motoring public by auction, tender or fixed sum, determined by the Minister for Transport and Technical Services, the right to have assigned to their vehicles certain cherished registration marks, as they are referred to. These registration marks are currently held unassigned in the vehicle registration system. This amendment will allow me, as Minister, to make provision by order to establish schemes for granting mark rights to those happy to pay to have a cherished registration mark assigned to their vehicle. I have provided Members with a preliminary draft of an order amendment that would put these measures into effect. It is expected that the sales generated will amount to around £100,000 per year, which will fill a similar gap in the Transport and Technical Services Department's annual revenue cash limits that have already been set for this year onwards as an ongoing Comprehensive Spending Review saving. The amendment to the law will also regularise a couple of matters that have been outstanding for some time, namely requiring registered owners to notify D.V.S. (Driver

and Vehicle Standards) of any change in the owner's name. Most people and companies already do this, but some do not, and removing reference to issuing trade-plates, as such trade-plates are not or ever have been issued by the department. As I have already mentioned, but it is worth repeating, implementing the C.S.R. (Comprehensive Spending Review) proposals has charged my department with finding an additional £100,000 of income. This is to be done by selling to willing members of the public the right to display certain unassigned registration marks. To allow these measures to go ahead, the Motor Vehicle Registration (Jersey) Law 1993 has to be amended in accordance with the proposition before you today. I make the proposition and ask Members to support the amendment.

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

Are these principles seconded? [**Seconded**] Deputy of St. Martin.

**3.1.1 Deputy S.G. Luce of St. Martin:**

I would just like the Minister to clarify for me, if he could, the exact differences between as it stands at the moment and the amendments that are being proposed, because I am struggling to understand what or how the situation will be different in the future as to the situation that we have currently.

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

It is not question time. Senator Ferguson.

**3.1.2 Senator S.C. Ferguson:**

I thought I was going to be cut off at the knees like the Connétable of St. John. Why should the State own my registration mark? I wonder if the Attorney General could confirm that this has always been the case.

**The Attorney General:**

Yes, the ability of the State is to issue and allocate a registration mark and in certain circumstances to recall a registration mark. I do not believe it is owned at this point in law by anyone other than the State.

[12:15]

**Senator S.C. Ferguson:**

I am sorry, if I could just follow up. So that means that the State could take away my registration if it felt like it?

**The Attorney General:**

It is not entirely clear as to whether or not the use of a registration mark can be regarded as a possession within the terms of the human rights law and therefore subject to protocol of Article 1, and the State in any event would have to do what it did in a reasonable and proportionate manner. It could not be any arbitrary exercise and it would need to be governed by proper legal authority in order to do so. My understanding of the legislation under consideration at the moment is that it is nothing other than an enabling legislation to provide for the opportunity to bring subordinate legislation in the form of an order made by the Minister, which would have to provide for a properly human rights compliant environment.

**Senator S.C. Ferguson:**

But if it is not owned by the person who has the registration mark, then does that not cast doubt on the ability to sell the right to a registration mark if it can be taken away at the will of the State?

**The Attorney General:**

I think that my understanding of what is proposed in this legislation is the creation of a regime where rights would clearly pass from the State to the individual concerned. When the individual has acquired those rights, it seems to me that there are then legal remedies in force for the arbitrary removal of those rights. But all of this falls, to my mind, to be identified in the subordinate legislation as opposed to the general enabling provisions, which I understand this legislative change to be encompassing.

**Senator S.C. Ferguson:**

So it is like buying a lease rather than a buying a piece of property. The auction of number-plates that were mentioned by the Minister for Transport and Technical Services in the past has provided funds for road safety and similar purposes, but this amendment appears to allow T.T.S. (Transport and Technical Services) to keep the funds from selling the right to have a particular registration mark. It is just a means of not quite a stealth tax, but it is getting on for it, and this still raises the point that I suppose I am talking about my own particular case, but if you have a particular registration mark and you want to transfer it to a new car, what is the position then? Perhaps the Minister for Transport and Technical Services would like to elucidate.

**3.1.3 Deputy G.C.L. Baudains:**

I thought Senator Ferguson's questions have brought a whole new meaning to the term flying-freehold, but there you are. I have never been able to understand why people want specific numbers and are prepared to pay tens or even hundreds of thousands of pounds for them. I know when I was a young lad I always preferred registration numbers which were quite hard to remember. [Laughter] But at the present time, as a person with an interest in classic vehicles, should I want to register a new acquisition, obviously an old vehicle coming to Jersey for the first time, what I am looking for is not a specific number, but an appropriate number in an appropriate range. In other words, if you have got a 1949 vehicle and a registration number in the 100,000 or so does not look appropriate. So could I ask the Minister whether the situation has now changed, because previously if you went to the D.V.S. and said: "I am sorry, 99,000 is a bit high for this old vehicle. Could I have a lower one?" the answer was: "I am sorry, you have got to accept whatever number the computer comes up with." Has that now changed so that you could say: "I would like something below 50,000"? Not a specific number, but in an appropriate area. Can that now be done?

**3.1.4 Senator A. Breckon:**

I am a little bit concerned that T.T.S. intend keeping this money, and the reason I say that is many years ago I brought a proposition to this House that we fund smoke-detectors for senior citizens and at the time Members said: "Well, it is a good idea, but where do we get the money from?" and it came from the sale of Js then and we have now got JSY or JY or something, but it came from that fund. There might be a need, and the Minister having £600,000 in that fund - I do not know if it still there - but there may be a need to maybe revisit and look who has got smoke-detectors and maybe extend that scheme. So the fact that they are using it for their own revenue is of concern to me when there are perhaps matters in the community through the Parishes, through schemes and things like that where money, not great deals of it, could be required for that. For me, this would be one of those cases where it is a windfall where people are daft enough to pay money for a low J number. Of course their car will not go any faster or slower; I am not sure who it impresses - maybe themselves, but I am not sure who else - then maybe we should still be using it for the Community Safety Fund, because there are other areas through the Parishes where money could be given, for example, services for elderly through the community, through the Parishes where this money would go a long way, but perhaps with T.T.S. they might get 40 yards of tarmac out of it or something like that on St. John's main road for the Constable to drive over where the potholes are.



He might think that is a good use, but I would like some assurance from the Minister for Transport and Technical Services that the Community Safety Fund will not be extinguished because this source of funding has been taken away.

### 3.1.5 Deputy M. Tadier:

There are several points I am slightly unclear about. The first one is that we have been told this has already been done. We remember there were 500 JSY number-plates that got sold off for a certain amount of money because they were deemed to be prestigious and some people decided that they would look good on their Jeeps when they were driving back up the pavement to St. Mary or St. John and getting their doors scratched because the branchage had not been done, but at least the number-plate looked good. This has already been done, so why are we amending the law today in order to do something that has already been done in the past, and if that was different, how is it different, and if it was not different, how did we do it then? Was it illegal? That is the first set of questions to ask. What are the cherished number-plates? We have not been told here. Are they still going to be J-numbers? Are they going to be J001 or are they just going to be a complete departure from J-numbers, such as letters which you see elsewhere, because it seems to me if you are saying that there is going to be a certain amount of income generated, but it is generated via an auction, then how can you produce an accurate estimate, because an auction is completely different to fixed-price selling. You know that if you have got a J1, that is probably going to fetch a certain amount of revenue, because we know from the open market that trading already happens privately. If you created a completely different number plate, say KING and made that as a number plate, it is quite likely that would be a lot more prestigious, especially if you were the only one in the Island to have that registration mark. So there are a lot of questions that still need to be answered. If we are completely departing from J-reg system, how will we know that numbers are registered in Jersey? Presumably that is not the way forward. Why not though? I mean, if the Minister for Transport and Technical Services wants to make some bucks, just change the system completely and issue words. We are told about the financial implications, that we can expect £100,000 a year after the auctioneer's fee. How is T.T.S. running this scheme? We are told that Government are not very good at doing private enterprise. Are these going to be auctioned off at Glencoe? Is that seriously what we are saying: "There are a bunch of numbers for you. This week you have got J555. 666 will be auctioned to someone at Devil's Hole. Who wants to buy that?" and Mr. Drieu - we are not meant to mention names, but he is part of the Jersey folklore - but the auctioneer at Glencoe is going to say: "I will not do it", but there is a famous song, is there not, called 'The Auctioneer'. Is that seriously how T.T.S. is going to do it, there is going to be an auctioneer's fee? Is there going to be a buyer's fee, a seller's fee? Presumably you would expect it to be done via a website so there are not any administration fees at all, you just have people bidding in a month and then the highest person does it, there is no administration cost. This really does beggar belief, but the more serious point is why are we relying on this kind of income? It is a relatively small-fry. It could be a nice thing to do, but we live in a jurisdiction where we have got millions coming in every day, we know we have got a low-cost, low-spend economy. Is that the way we are having to raise money in our community to fund things? Is T.T.S. so strapped for cash that it cannot go to the Minister for Treasury and Resources, who controls the purse-strings, and say: "We need other more sensible mechanisms by which to raise money"? Are we going to ringfence this money for victims of R.T.A.s (road traffic accidents) who have only been hit by people with low number-plates? That would seem a completely sensible thing to do. There just seems to be some very strange questions, not to mention Senator Ferguson's quite right question about ownership. If on the one hand we are saying that: "Well, currently we know that these number-plates do get traded and sold" therefore the question of whether the State owns them is questionable already. But once we have sold these number-plates to people, you cannot have the Transport and Technical Services Department saying: "We need to reclaim that number plate" because it has already been sold. There seem to be far too

many questions here that remain unanswered. I wish the Minister for Transport and Technical Services luck in answering all of them to our satisfaction, but it just seems that, if anything, this is certainly something which would need to be called in for Scrutiny, but would Scrutiny really want to look at this? I think they have got much better things to do with their time. I am certainly not going to be volunteering to look at this.

### **3.1.6 Deputy S. Power of St. Brelade:**

Some of my queries have already been asked, particularly by the Deputy of St. Martin and Deputy Tadier and Senator Ferguson. My question really is related to the amount that is being raised on this, which is supposedly a net income of £100,000 from the sale of these rights to display. Given that we have already done one auction between 1998 and 2005, JSY1 to JSY999, I think it was, not 500. I am not quite sure; perhaps the Minister could confirm that. Is it not possible - could I ask the Minister for Transport and Technical Services to confirm this and whether he has discussed it with his department - whether the Transport and Technical Services Department can in actual fact raise more money by auctioning 1JSY to 999JSY or valued figures, identification plates or marks to that extent, as to whether he has considered doing that?

### **3.1.7 The Connétable of St. John:**

A new charge, yet another one. I have to ask, have our Law Drafting Officers got nothing better to do than take instructions from the Council of Ministers on this type of proposition, and all the work that is involved in pulling this lot together, with all the laws that we need updating, *et cetera*, this one should have been at the very bottom of the pile and stayed there. How much has this cost to produce, Minister? I hope you will be able to tell us when you sum up. What I need to know, is this going to be retrospective on all those number-plates which are already out that have not been sold - by your department of course, that is - and if so, how are you going to call those in or when will you call those in?

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

Through the Chair, please, Constable. You have been here a long time.

### **The Connétable of St. John:**

Yes, too long today, Sir, too long today. I am minded to ask that we do not debate this any further and move on to the next item.

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

I am not prepared to allow that at this stage, Constable. Not many people have spoken and I think there were very particular circumstances in the last debate, so I am not prepared to allow it at this stage in the debate. Deputy Young.

### **3.1.8 Deputy J.H. Young:**

I was going to speak, but of course both Members, other Members of the Environmental Scrutiny Panel have spoken, and Deputy Tadier has said he thinks that this thing is so problematic that Scrutiny should look at it, so I share the reservations of my colleagues on the Scrutiny Panel and those other Members who have spoken so far. When this came forward, I was really puzzled as to why we needed this. I could not see any clear reason why, if we have done this before, there was no problems, why do we need to do it now? The only point that I can see is previously it was done for a very worthwhile purpose, to raise money for charitable causes, and whatever they are, community safety or what, but that seems to be quite a good thing, it was well received by the community and there were no problems with it.

[12:30]

But now we in the region of scraping the barrel with money savings, and here we have got a saving, so we are told, of £100,000 a year on a very large budget of T.T.S., which I think is probably on a revenue budget around £26 million, £27 million or something. Are we really being told this is crucial to running our services? I am not sure. I share the concerns of the Constable of St. John about priorities, because we know on the Scrutiny Panel, because we have raised many times the desperate need to get resources to review the road traffic law and motor vehicle legislation generally. It is well overdue and well out of date and there are many things, tractors and drivers, questions of the penalty regimes for traffic offences. There is a huge amount of work there where we are told that the Transport and Technical Services Department has got resource problems. It is not clear here. We are being told this is £100,000 to sell something which people need to have as a statutory right and I wonder where this ends. Do you end up with having auctions of other types of licences that people have to get? I have got those reservations. I hope Members will not send this task of trying to make sense of the detail of this legislation to the Scrutiny Panel. The Minister for Transport and Technical Services kindly sent us a draft order to have a look at. I am afraid that I am none the wiser having looked through that draft order. It is almost as impenetrable as this law. I think spending time checking the fine detail of it is not the way to do it. I think Members should make their minds up on the principle of this; is this a good principle or is it not? Personally I have got major reservations about it and I shall, therefore, probably go with those Members that are not supporting this particular proposition.

### **3.1.9 The Connétable of St. Peter:**

As many Members will know I was a past president of the Jersey Old Motor Club, a club with a lot of cars with a lot of cherished number-plates. It certainly raised some concern in my mind reading the report and also the notes that came out with it. Notes that were so confusing that I sent it on to some other learned members of the club including a couple of lawyers, one who said he thought he understood it and the other one said: "To me it is pure gobbledeygook. I really cannot tell what the objective is." The thing that concerned me with this - just moving away from what we call the mark rights, which is a J-plate - is that the term 'mark rights' and 'mark right-holders' not 'owners', to a certain extent is the terminology used. The first part that I have a concern with is the very first paragraph. It is about the Comprehensive Spending Review, but that is what we should be doing. That is what the Transport and Technical Services Department should be doing. What they are not doing is identifying savings; they are identifying a cost income to compensate for savings they are not making. On that one part alone straightaway I have a reservation about this proposition that it is not meeting the objective of the Comprehensive Spending Review. When we come down to the mark rights themselves there is a lack of clarity that whether the Minister ... and I believe the Minister has the right now to withdraw a mark right from a current holder, that is a J plate from a current holder, and there is nothing in this legislation that prevents him from doing that in the future. At the moment we are talking about cherished number-plates, but any number from one to 100,000 could be cherished in somebody's mind. So he could withdraw any number-plate at any one time. One could say quite clearly: "He will undermine the market-place because somebody is going to lose their cherished number-plate. They are not going to pay anything for it in the first place." So at the end of the day it will produce no benefit at all to the Transport and Technical Services Department. Sitting within this proposition there are 2 very important parts which I do fully support and the part about the registered owners of vehicles must notify a change of name and place of residence. That is a very important part and that one part gives me a problem because I do not want to support the proposition but I do support that as very important in my role as Connétable that we need that information for road-safety purposes and also the issue of tidying up trade-plates. That is another one that needs to be done as well. So I am in a conflict for myself and I would really like to be saying to the Minister ... I would really like him to consider withdrawing this for the moment and clarifying it and coming back perhaps with a presentation statement so we

understand what he is really trying to achieve so we can come back and say: "Yes, we are all for that." I want to support him. I do not like being negative but at the moment I am really in the devil and the deep blue, I want to support him but I feel constrained.

**3.1.10 Senator L.J. Farnham:**

That was quick. I have to declare an interest. I have a cherished plate. It is 5 numbers long and I have had it very many years and I rather like it. It is not for sale and I hope it will not be but I agreed a lot with previous speakers. I think when you are having these auctions and raising money for road-safety or other good causes, fine, with numbers that have been neglected and clearly have a value but there are other ways to make money. For example, I have been in contact with the Minister's Department about this, for example, a shared registration scheme. There are many collectors of motor cars who have collections of cars worth tens of millions of pounds but they cannot drive them on Jersey roads because of the cherished plates of these cars which make up a big part of the value, and I am talking about cars from all over the world because they would have to come and put a J-plate on this very valuable motor car. So if the Minister for Transport and Technical Services wants to make some real money, look at a way to have a joint registration scheme and do something like that but I cannot support this.

**3.1.11 Deputy J.A.N. Le Fondré:**

I think we are slightly making mountains out of mole hills. I think point 1, dealing with my good friend Senator Farnham's comments just now. We live in Jersey. That is a different jurisdiction to the rest of the world, funnily enough. It is a different jurisdiction to the U.K. It is a different jurisdiction to France and ...

**Senator L.J. Farnham:**

Can I thank the Deputy for pointing this out?

**Deputy J.A.N. Le Fondré:**

So if somebody - just in case he had not spotted that - brings a number-plate and I can recall years ago my parents bought a vehicle which had 911T as the registration and we could not keep it funnily enough. So how on earth do you go into all the legislative issues of ... somebody sees a car zipping past with a cherished number-plate from the U.S. on it and making sure it is in the ... and the police can track down who the owner is easily. Where is it going to be registered? Sorry today I am not going to give way. So I think we need to just focus on ... let us stick with J-plates for the moment. There is no intention to start introducing King as a registration-plate or anything along those lines. What we are trying to do ... and 2 things, firstly this was in the M.T.F.P. at some point or other as one of their savings. I take the point about savings versus revenue, absolutely, but surely we should also be looking to tap into resources from time to time. This is a resource which we can exploit and this is not a new charge, it is a voluntary set up. There is a pool of number-plates, there is something around 1,600 cherished registration marks, which is a terrible expression to use, it is quite long, that are not assigned. They are mainly JSY and 4 digits. In essence it is a resource that one can tap into. I think as a clarification in terms of the present law and where we are going, and I just want to read from a note that was sent to a previous Member, or a present Member: "The present law did not provide for reserving or retaining a registration-mark if a vehicle was sold but wanted to retain that registration-mark for the future [there is a time limit on it] and the proposed law amendment and subsequent order amendment will rectify the matters by covering the gap in the law." Sorry, I skipped. When things were done previously at the auction in theory it then fell down, I believe, to the inspector to transfer the plate. It was still in the inspector's power almost. Although it was done, the inspector, in theory, could have turned around and said: "Well, you bought the right, I am just going to assign it to someone else", is my understanding because it was in the power of the inspector. The inspector may, if the inspector sees fit, assign or cause to be

assigned the registration-mark. What we are trying to do is cover a gap and a grey area in the law which means that essentially it is imposing a duty on the inspector to assign a registration-mark where a mark right has been granted. So there is a subtlety and so it is enabling, from that point of view, to give certainty in the auction process. I think it is one of those areas when we are going through legislation looking at the precise meaning of things that that issue came to light. The principle of the revenue has been agreed by this Assembly previously and was in the M.T.F.P and so the question there is, do people want to tap into a resource, yes, it is not big bucks in the overall scheme of States revenues, but it is a resource and is it one that we want to exploit. I fully take the point, and I am sure the Minister will address that, on the past uses of the fund and how that may or may not be looked at in the future. I shall stop there. I think we are making mountains out of mole hills on a relatively simple matter.

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

Does any other Member wish to speak? I call on the Minister to reply. You can reply briefly, Minister. Do you wish to adjourn?

**3.1.12 Deputy K.C. Lewis:**

Yes, I will be brief but as my Assistant Minister has just stated, this is making a mountain out of a mole hill. No one is going to have their registration revoked or taken away. It is a matter of clarification because originally D.V.S. was with Home Affairs. It has subsequently passed to T.T.S. This is just formalising regulations, one of which was that the change of names, people did not notify before, sometimes people changed their names through marriage or through deed poll; they are now obliged to notify D.V.S of that. I believe Deputy Baudains mentioned classic vehicles before. I believe, is it 1976, you could have the old-fashioned plates, black with white letters; that still applies. You can ask for any number you wish. Basically the registration marks will belong to the State but the right to display that mark will belong to the individual who purchased it. It does not apply to any existing assigned registrations that are already out there. Regarding the Community Safety Fund; that passed to T.T.S. from Home Affairs with the D.V.S. When I was Assistant Minister I was in charge of the Community Safety Fund and there was not an awful lot left. That has now expired. In fact I purchased many of the smiling S.I.D.s (Speed Indication Display) around the Island, a few Community Safety Projects, closed-circuit TV in certain areas and many Parishes have supplemented those smiling S.I.D.s with their own, so that was an excellent cause. This has been agreed by the States of Jersey some time ago so we should raise more money and it is user pays. Anything else? No. The Constable of St. Peter, no. I will just clarify that. No numbers will be withdrawn whatsoever. I am just trying to think, anything I have missed. The smoke-detectors were paid for by the Community Safety Fund. No, this is just cherished numbers. If anybody wishes to register their car in a normal way it will be just the normal registration fee but if people want a cherished number then of course there may be an additional fee. The system has yet to be determined whether it will be auction or if it is a particular mark it could be by sealed tender. That is yet to be determined. I make the proposition.

**The Connétable of St. John:**

The Minister has not answered one of my questions. Apart from the whole proposition being woolly, I asked what the course was in law-drafting time of this particular...

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

I am not sure the Minister is likely to be able to answer to that question.

**Deputy K.C. Lewis:**

I would not have a clue regarding the law-drafting time.

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

Any other question that was not answered?

**Deputy M. Tadier:**

Yes. I asked him what happened previously when numbers were sold. Was there a separate piece of legislation that was passed or was that just done ad hoc?

**Deputy K.C. Lewis:**

That was with the Home Affairs at the time so this is just formalisation.

**Deputy M. Tadier:**

Can I ask, the Minister for Transport and Technical Services said that while the ownership would remain with the States of Jersey the individual has the right to display but surely it is not a right to display, any person with a number-plate has to have the number-plate displayed. In fact if they were not displaying the number-plate, which was in their ownership, they would be committing a criminal offence. So can the...

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

It sounds like a second speech, Deputy. I think it is fairly obvious it is a right to display the number you buy.

[12:45]

**Deputy K.C. Lewis:**

Yes. Once the number is assigned the individual would have the right to display that number. They also have the right to assign that to another vehicle. It is done this particular way so should somebody leave the Island for whatever reason, move to another country with that registration-mark, that mark can then be withdrawn by D.V.S. and reassigned to another vehicle on Island.

**Senator L.J. Farnham:**

Could I just ask the Minister...

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

Is it a question you asked that was not answered?

**Senator L.J. Farnham:**

Yes. It is a point of clarification because he has not been clear. Can a member of the public sell their number to somebody else if they have a low-digit cherished number?

**Deputy K.C. Lewis:**

Yes, I have already said that can be assigned to another person, yes.

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

Do you wish the appel on this?

**Deputy K.C. Lewis:**

Please, Sir.

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

The appel is called for on the principles to the draft law. Members are in their designated seats. The Greffier will open the voting.

<b>POUR: 26</b>	<b>CONTRE: 11</b>	<b>ABSTAIN: 1</b>
Senator P.F. Routier	Senator A. Breckon	Connétable of St. Peter
Senator S.C. Ferguson	Connétable of St. Helier	
Senator A.J.H. Maclean	Connétable of St. John	
Senator B.I. Le Marquand	Connétable of St. Martin	
Senator F. du H. Le Gresley	Deputy R.C. Duhamel (S)	
Senator I.J. Gorst	Deputy G.P. Southern (H)	
Senator L.J. Farnham	Deputy M. Tadier (B)	
Connétable of St. Clement	Deputy G.C.L. Baudains (C)	
Connétable of St. Mary	Deputy J.H. Young (B)	
Connétable of St. Ouen	Deputy of St. Martin	
Connétable of St. Brelade	Deputy R.G. Bryans (H)	
Deputy R.G. Le Hérisssier (S)		
Deputy J.A. Martin (H)		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy T.A. Vallois (S)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy of St. John		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		

### **LUNCHEON ADJOURNMENT PROPOSED**

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

Yes, the adjournment is proposed.

**Deputy G.P. Southern:**

May I suggest that possibly there is not that much left and none of it is controversial ...

**Deputy J.A.N. Le Fondré:**

Can we at least finish this session?

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

The adjournment is proposed. Those in favour of adjourning kindly show.

**The Connétable of St. John:**

Members are aware there are 2 meetings at lunchtime.

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

Yes. Those who wish to continue kindly show. The Assembly will adjourn until 2.15 p.m.

[12:47]

### **LUNCHEON ADJOURNMENT**

[14:16]

**The Connétable of St. John:**

Can I have the appel please?

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

The Assembly appeared to be inquorate. I ask that Members be summoned. Very well, the Assembly appears to be inquorate. I will ask the Greffier to call the roll which is now done by using the electronic system and therefore Members may push any button to show their presence and the Greffier will open the roll call. There are 25 Members present. Accordingly I have no option other than to adjourn the Assembly. I will adjourn the Assembly until 2.25 p.m. If the Assembly is not then quorate I will close the meeting.

**ADJOURNMENT**

[14:23]

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

The Assembly appears to be quorate. Perhaps I could thank those Members who were correctly here on time for the start of the Assembly and remind those Members who were not that there was disruption to the Assembly's business and that Members are convened for 2.15 p.m.

**Deputy M. Tadier:**

Could I ask for the call to be read out please?

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

Yes, you can, Deputy, if you wish.

**The Assistant Greffier of the States:**

Those who were present in the Chamber: Senator Breckon, Le Gresley and Gorst; the Constable of St. Clement and St. Peter, St. Mary, St. John, St. Ouen and St. Martin; Deputies Le Hérissier, Southern, Hilton, Le Fondré, Lewis, Tadier, Noel, Vallois, Green, Maçon, Baudains, Young, Pinel; the Deputy of St. Mary, the Deputy of St. Martin and the Deputy of St. Peter.

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

Minister, do you wish to propose the Articles of the law *en bloc* or how do you wish to proceed?

**Deputy K.C. Lewis:**

Yes, indeed.

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

Did you wish to make any remarks or simply propose them?

**3.2 Deputy K.C. Lewis:**

I think we will just propose.

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

Are the Articles 1 to 12 seconded? [**Seconded**] Does any Member wish to speak on any of the Articles?

**3.2.1 Senator B.I. Le Marquand:**

I want to make a small point in relation to practice within the department relating to the issue of names. It may be this problem has now been solved but certainly in the period when I was magistrate it caused significant difficulty that the department was registering vehicles under



business names. This, in my view, is clearly wrong in law. That was my view when I was a magistrate and indeed incorrect under the law. It caused awful problems because the whole system of parking vehicle charges presupposes that you can identify who is the person who probably illegally parked or committed some other offence by virtue of the registered owner. If instead of a named person you have a business name this causes problems and it was quite a common feature in my time as magistrate that people were being summoned to the court under the business name and I would have to throw these charges out because the business name was not a legal person. If someone had presented I got them to say who they were and we then amended the charges. So I do, please, on behalf of the criminal justice system, beg the Minister for Transport and Technical Services to ensure that this practice has ceased. I did take it up with the department a year or so ago but I am not sure what the result of that was.

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

I do apologise, I forgot to turn to the Chairman of the Scrutiny Panel but I think I know from his speech this morning what the answer would have been if I had asked if he wished to scrutinise it.

**Deputy J.H. Young (Chairman, Environment Scrutiny Panel):**

Thank you. If we may be excused from that.

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

Thank you. Does any Member wish to speak on the Articles? If not I will call on the Minister to reply.

**3.2.2 Deputy K.C. Lewis:**

In answer to Senator Le Marquand, Senator Le Marquand has confirmed in the past that a corporation has to be incorporated, i.e. registered as a limited liability company. This will mean there is a chairman, chief executive, that can be summonsed should a company vehicle be involved in any breach of legislation. However, a number of companies are not incorporated and it will then be difficult to track down a person responsible for a vehicle registered to that company in any court case. There is no amendment to the legislation. However, it is now the practice at D.V.S. to check the J.F.S.C. website and if a company is not incorporated anyone registering or transferring a vehicle to that company is required to state the name of the responsible person on the registration document.

**Senator B.I. Le Marquand:**

At the risk of making a second speech, this is not to do with companies; this has got to do with business names, which is a different point to that of corporate bodies. I accept that corporate bodies can quite properly be registered under the law but not a business name as such. That was my point.

**Deputy K.C. Lewis:**

It is a trading entity.

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

Very well, the Articles are proposed. All Members in favour of adopting the Articles kindly show, and against. They are adopted. Do you propose these Articles in Third Reading, Minister?

**3.3 Deputy K.C. Lewis:**

Please.

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

Is that seconded? [**Seconded**] Does any Member wish to speak in Third Reading? All those in favour of...

### **3.3.1 The Connétable of St. John:**

I was too late to speak after what I heard the Minister say about incorporated companies and businesses but surely it is not beyond the wit of man that when you register a business somebody has to register the business name and that person should be responsible on any form that is applying for a register and therefore I would have thought it was quite easy for his department to get that name off the register of businesses. Further than that that is all I have to say.

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

Does any Member wish to speak?

#### **Deputy K.C. Lewis:**

Yes, as stated, it would be chairman or chief executive.\

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

I need to call Deputy Young first, Minister.

### **3.3.2 Deputy J.H. Young:**

Just to say on there we are ... hopefully you are on the Third Reading. As Chairman of the Scrutiny Panel, I and other Members of the panel have great concerns over this not really on the legality because frankly it is so obtuse that it is difficult to get one's head around it. It is the point of principle whether we need to do this at all because we have done it before and the fact that we are losing the benefits of being able to put money into charity for saving what is a relatively small sum of money and Members have raised issues that are not really clear, so on that I feel I am going to continue to cast my vote against this on the Third Reading.

### **3.3.3 Deputy M. Tadier:**

In a similar vein, even though this has not been called in for scrutiny, perhaps for obvious reasons, because the Scrutiny Panel have better things to do with their time and where do you start with a proposition like this. Clearly it does not have the support of the relevant Scrutiny Panel. That is something we should all be very concerned about in the Assembly when the whole of the panel express various and not unserious reservations. I think the other point to make, which was alluded to perhaps, is that this ... I have already said that this is a dog's-dinner and it is one of the most bizarre projects that I have seen come to the Assembly.

[14:30]

It is a direct consequence of the fact that the Minister for Transport and Technical Services has been put in a very awkward position because all these Ministers have signed up *en bloc* to C.S.R. cuts across the board which are unilateral whether they can make them or not. I accept there has been some additional funding for the Health and Social Services Department and other projects which are deemed to be urgent. When you cannot find the C.S.R. cuts because your department is working very efficiently all ready, quite possibly, and could possibly do with more money, the Minister is put in a position where he has to contrive new stealth-taxes, user-pays taxes, which could be the thin edge of the wedge of course. We are charging at the moment for cherished number-plates, who is to define what they are, auctioning them off, bizarre state of play for Government to be doing that. How long before, potentially, we end up charging everybody an additional amount for any kind of number-plate. These are the concerns that I have but the Minister has signed up to those C.S.R.s and we do need Ministers, potentially, to be able to fight in their corner and say: "No, I cannot find the C.S.R. cuts. I am not going to make them and I am not going to introduce these

ridiculous stealth-taxes.” These are part of the contradictions of what has been signed up to so I cannot support this proposition. I would urge Members in the third reading to reconsider whether or not they can support that.

### **3.3.4 The Deputy of St. Martin:**

I would just like to support the Chairman of the Environment Scrutiny Panel. We were concerned about this when it first came to us some months ago and we did point out to the Minister our concerns. It is quite obvious that the Transport and Technical Services Department are looking to increase their charges and the amount of money they take in. I would just say to the Minister again, it has already been suggested this morning that his department looks at dual registration. I not sure that when he addressed it, when he summed up, whether he understood exactly what dual registration means but a certain number of Jersey residents have paid a lot of money in the past for very old vehicles which are registered in the United Kingdom, which are on their original registration-plates and those cars may have had those plates on them for 70 or 80 years and they bring them to Jersey and they are obliged to put them on to Jersey registration-plates and a dual registration is one that allows the vehicle to hold 2 registrations. I am sure the owners of those vehicles would be only too pleased to contribute to the T.T.S. coffers for that so I would just ask the Minister to relook at that issue.

### **3.3.5 Deputy J.A.N. Le Fondré:**

Just briefly. I think just to shed some light on this or reiterate a point I was trying to make earlier. What one is trying to do under this legislation is to dot some I's and cross some T's. In essence, in the past, although licence-plates and registration-plates were put up for auction there were some grey areas involved. To read from an email I received earlier today: “While auctions taking place in the past and the A.G. (Attorney General) of the time accepted it, the advice that was given was that it was better to cover it in legislation.” So I think it was a case that relevant parts of that legislation were silent and also within what is being done here part of that was to clarify that position to give it a sound basis going forward. So it is clarifying a grey area.

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

I call on the Minister to reply.

### **3.3.6 Deputy K.C. Lewis:**

With regard to dual plates, as long as you have a Jersey registration on your car and it is registered with the D.V.S. that is what is required. Whether you hold on to or retain, for argument's sake, a U.K. registration I think that would be more a matter for the U.K. authorities not for us.

#### **Deputy G.C.L. Baudains:**

May I seek clarification from the Minister on that last comment?

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

Deputy, you cannot because you did not speak in the Third Reading. We cannot have new Members jumping up at this stage I am afraid.

#### **Deputy G.C.L. Baudains:**

I wanted clarification from what the Minister has just said.

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

Well, the ruling of the Bailiff always applies; you can only seek clarification if you have spoken during the debate. The Bill is proposed in Third Reading.

#### **Deputy R.C. Duhamel of St. Saviour:**

Can we have the appel please?

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

The appel is called for. Members are in their seats. I will ask the Greffier to open the voting.

<b>POUR: 29</b>	<b>CONTRE: 8</b>	<b>ABSTAIN: 1</b>
Senator S.C. Ferguson	Senator A. Breckon	Connétable of St. Peter
Senator A.J.H. Maclean	Connétable of St. John	
Senator B.I. Le Marquand	Deputy S. Pitman (H)	
Senator F.du H. Le Gresley	Deputy M. Tadier (B)	
Senator I.J. Gorst	Deputy G.C.L. Baudains (C)	
Senator L.J. Farnham	Deputy J.H. Young (B)	
Senator P.M. Bailhache	Deputy of St. Martin	
Connétable of St. Clement	Deputy R.G. Bryans (H)	
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisssier (S)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy of St. John		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		

**4. Draft Security Interests (Amendment of Law) (No. 2) (Jersey) Regulations 201-(P.96/2013)**

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

We come now to the draft Security Interests (Amendment of Law) (No. 2) (Jersey) Regulations. I will ask the Greffier to read the citation.

**The Assistant Greffier of the States:**

Security Interests (Amendment of Law) (No. 2) (Jersey) Regulations 201-. The States, in pursuance of Articles 93 and 95 of the Security Interests (Jersey) Law 2012, have made the following Regulations.

**4.1 Senator I.J. Gorst (The Chief Minister):**

Members will be aware the Security Interests (Jersey) Law 2012 replaces the existing law governing security interests in intangible moveable property. The law, as amended, is due to come into force in 2 stages, firstly on 1st October of this year and then on 2nd January next year. The

law introduces a new regime in Jersey to govern borrowing and lending in intangible moveable property. This activity underpins much of the daily work of the financial services industry. The regulations before us today amend our transitional provisions and clauses in relation to how further advances will operate under the law. During preparation for the law coming into force issues were raised concerning the operation of the transitional provisions for existing security interests made under the old Securities Interests (Jersey) Law 1983 and particularly the applicability of those provisions to after acquired property under a security agreement. That is property acquired by a lender after a security agreement has been entered into. This proposition will rectify those issues before the law comes into force on 1st October. At the same time as these issues were identified a further provision was also identified for amendment which deals with further advances under the law. These provisions are commonly used in security agreements to allow for further lending to occur over the same security that was initially subject to the lending. An amendment was proposed to this Article that clarifies the provisions in relation to further advances and removes any inference that a security interest agreement must contain particulars of the further advances secured by it which, of course, would not be possible. This allows for advances that were not contemplated at the time of the initial advance to be included within the definition of further advance. Therefore, I propose the principles of the proposition.

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

Are the principles seconded? **[Seconded]** Does anyone wish to speak on the principles? All those in favour of adopting the principles kindly show, those against. The principles are adopted. Now, I understand in accordance with the agreements arranged with the Chairmen's Committee that although this is lodged by the Chief Minister it would fall within the remit of the Economic Affairs Scrutiny Panel. Chairman, do you wish to... No scrutiny. How do you wish to proceed, Chief Minister? Do you wish to propose regulations 1 to 6 together?

**4.2 Senator I.J. Gorst:**

If I could. As I said in my opening comments it is straightforward. There is clarification of continuing security interest under Article 2 and Article 3 deals with further advances over the same asset as it were. So I propose them *en bloc*.

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

Regulations 1 to 6 are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? Those in favour of adopting the Regulations kindly show and against. They are adopted and you proposed the Regulations in Third Reading, Minister?

**Senator I.J. Gorst:**

If I may.

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

Is that seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting the regulation please ...

**The Connétable of St. John:**

Can we have the appel please, Sir.

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

Yes, the appel is called for in Third Reading. Members are in their designated seats. I will ask the Greffier to open the voting.

<b>POUR: 37</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator A. Breckon		

Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

## 5. Zero-hours Contracts: Regulation (P.100/2013)

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

We come now to the proposition of Deputy Southern, Zero-hours contracts regulation. I will ask the Greffier to read the proposition.

### The Assistant Greffier of the States:

The States are asked to decide whether they are of opinion to request the Chief Minister to work with the Minister for Social Security to, (a) investigate the extent to which zero-hours contracts are used across the various sectors of the economy, (b) examine the impact of these contracts on employers and employees, (c) work with the Jersey Advisory and Conciliation Service, J.A.C.S., to create a regulatory system to control this employment practice, and (d) prepare and lodge such draft legislation as is necessary to implement part (c) above for approval by the States.

#### 5.1 Deputy G.P. Southern:

I thought we might never get to this today but nonetheless here we are. I do not suppose, as I suggested earlier, it should take us very long to deal with this matter. Before I start I have to say that I will, with pleasure, be accepting the amendment lodged by the Minister for Social Security. How refreshing it is [Approbation] to see a Minister prepared to amend something rather than oppose it so thereby giving it a way forward and at the same time tighten up and more sharply focus what I intended. It is an excellent improvement to my humble proposition. That felt strange. [Laughter] Before we go any further, no matter what my position on zero-hours contracts is, I do not think it is the time to debate the pros and cons of zero-hours contracts at this particular meeting; that will come later. The fact is this says investigate the extent and if necessary do something about regulating it. It is a "what if", except to just illustrate one problem that exists with zero-hours contracts and it has come to me from a constituent who reports that his son-in-law was given a zero-hours contract and was working for some months under the following conditions. He describes this contract and this way of working as: "A disgusting arrangement". He goes on: "He would turn up for work at 8.00 a.m., wait often for the boss to ring him at 8.30 a.m. or 9.00 a.m. only to be told that there was no work that day or sometimes that week." He illustrates the problem with this very sharply: "The biggest problem was, or is, that you cannot go back into Social Security every Friday and receive benefit to cover basic living costs as you have signed up to this ridiculous and inhumane way of surviving." That is strong words, nonetheless certainly something that I have come across. Just to illustrate, I shall read to Members from one such zero-hours contract and Members might make up their own minds about the worthiness of going ahead and investigating this area of the employment market. It says, among some other things, but just briefly: "You will be informed each week of what duties are scheduled. You will be paid only for the hours worked. [That is fair enough.] There may be times when no work is available to you. You agree by signing this agreement that the company has no duty to provide you with any work at such time. You will devote your whole time, attention and abilities to those duties allocated to you during those hours you are required to work for this company. You may be required to work extra time when considered necessary which you will be paid at your standard rate." That is a first, no overtime rate. It then goes on: "There is no holiday-pay entitlement. This company does not provide sickness-payment." Then finally: "There is no company pension scheme or redundancy payment." Now, redundancy payments: if you work consistently for a company it is probably applicable nonetheless they are trying to get out of that. One can hear the tone of this as a contract. As a contract it is really not worth having. As a contract and working getting variable pay, week in and week out, matched with income support does not work very well. That is the case that I wish to be investigated and that is why I would like to do something about it. There is appropriate and entirely justified use of zero-hours contracts in many areas. There is also, I believe, and increasingly, abuse of zero-hours contracts and we need to know the extent of that abuse and we need to do something about it in those terms. So I maintain the proposition.

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

Is the proposition seconded? [Seconded]

## **5.2 Zero-hours Contracts: Regulation (P.100/2013) - amendment (P.100/2013 Amd)**

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

Now, there is, as the Deputy has said, an amendment in the name of the Minister which I will ask the Greffier to read.

**The Assistant Greffier of the States:**

Page 2, after the words: "To request", delete the words: "The Chief Minister to work with". For paragraphs (c) and (d) substitute the following paragraph: "(c) subject to the findings and conclusions of the investigations conducted in accordance with paragraphs (a) and (b) and subject

to the outcome of consultation with stakeholders to bring forward for approval such draft legislation as is deemed necessary to restrict and improve the misuse of zero-hours contracts.”

[14:45]

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

Do you wish to formally propose the amendment, Minister? It has been accepted.

**5.2.1 Senator F. du H. Le Gresley (The Minister for Social Security):**

I cannot pass the opportunity by to thank Deputy Southern for his praise of the actions of myself. **[Laughter]** It is such a rare occasion that it cannot pass without some comment from me. That apart, and in all seriousness, this is a matter that has been of concern to me and others and quite rightly we need to do more work to find out the extent of the problem in Jersey. Just to reassure some Members that we are not standing still working with the Statistics Office, or Statistics Unit, we will be using, next year, the survey of financial institutions which is run twice a year where a specific question will be asked about the number of staff employed on zero-hour contracts. We will also be using the index of average earnings, which is an annual return, which comes out in June of each year and published in August and also the Annual Social Survey which is prepared, released and circulated to a group of Islanders, that will be including questions about zero-hour contracts so we get the perspective from both employer and employee. Insofar as the Population Office, over which I have no control, but the Manpower Survey will also be asking questions about zero-hour contracts in December. So we have not stood still but we will be working to get the research done. Research is very important before we move to any legislation changes. This is an area that falls under my responsibility, the employment law, and once we have all the information and we have consulted with the relevant bodies we will see what needs to be done and that is the purpose of my amendment.

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

Is the amendment seconded? **[Seconded]**

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

Does any Member wish to speak on the amendment?

**5.2.2 Deputy J.H. Young:**

I rise briefly to speak in favour of a massive support of Deputy Southern and the Minister. I think it is excellent that we have got a consensus on the way forward and I take note of Deputy Southern's comment that it is not the time for a full debate on the pluses and minuses because there is undoubtedly circumstances, as he says, where zero-hours contracts are beneficial for both either employers or employees but there is equally quite a number of circumstances where the reverse is the case. The point I would like to focus on now, is the part (b) of the proposition that talks about the impact...

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

Well we are not there yet, Deputy. We are on the amendment at the moment. We will come back to proposition.

**Deputy J.H. Young:**

Sorry, I wanted to speak generally. I think I want to talk about the economic effects because I do think there is an issue as well and as well as the effects on individuals, the economic effects because I believe at the widespread increasingly use of zero-hours contracts which is reported in much of the media, in the public sector media in the U.K. and in private sector sources, indicates that it does suggest there is some link between loss of confidence that people cannot plan for



spending commitments. This uncertainty created of people not knowing where they are in terms of their earnings commitments creates lack of confidence and this as an economic inhibitor to long-term growth in the economy that we desperately need. I would hope very much that that would be included within the scope of the work we are proposing.

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

If I could just mention in the interests of good order, unless Members particularly want to speak on the amendment it may be beneficial to vote on the amendment and then we could have the debate on the proposition as amended. Are there any Members who specifically want to speak on the amendment? Deputy Tadier, you wish to speak on the amendment?

**5.2.3 Deputy M. Tadier:**

Indeed. Again I think it is important to flag this up. It may not be an issue but it is just to make sure that we are all singing off the same hymn sheet. With the wording “proven misuse of zero-hour contracts”, the issue that I can envisage depending on what the outcome is, is how is something proven to be misuse. In the example that Deputy Southern gave, which certainly concerns me from an employer’s point of view, that is not a misuse of a zero-hour contract. That is what zero-hour contracts are for. You employ somebody for zero-hours a week if there is no work to be done then there is no work that they can be given. The fact that that individual is on income support has a very damaging consequence both for the individual and also it is something that should concern us. If that individual is not on income support and does not need the money it has very different consequences. I would ask that when the Minister comes back after the review has taken place we do not simply look at the proven misuse, we also look at the unintended consequences that it has for zero-hour use of contracts. I would hope that any concerns that are flagged up during the review process and any regulation that is flagged up would be addressed irrespective of whether it meets that very narrow and if one is to interpret it legalistically of proven misuse criteria.

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

Does anyone wish to speak on the amendment? Do you wish to reply, Minister?

**5.2.4 Senator F. Du H. Le Gresley:**

I think I should respond to Deputy Tadier because he has made a very good point. We will look at everything in the round, which is I think what he is asking us to do. We will consult, as the amendment suggests, with relevant parties, including with our Employment Forum quite possibly who have experience of working with and receiving information from employee and employer groups. It would all be looked at in the round and we would not be so restrictive as the Deputy perhaps thinks we might be. With that I maintain the amendment and ask for the appel.

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

Yes, the appel is called for on the amendment of the Minister. Members are in their seats. I will ask the Greffier to open the voting.

<b>POUR: 36</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator A. Breckon		
Senator S.C. Ferguson		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		

Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

### 5.3 Zero-hours Contracts: Regulation (P.100/2013) - as amended

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

Does any Member wish to speak on the proposition as amended? The Constable of St. John.

#### 5.3.1 The Connétable of St. John:

Just a short bit, I hope when we are looking through the zero-hour contracts that some of these short-term contracts are also looked into because I am aware historically the States of Jersey were a large employer of people on short-term contracts. They may have been changed now to zero-hour contracts but I sincerely hope it encompasses the whole Island, all the work-forces whether it is States of Jersey or private sector.

#### 5.3.2 Deputy G.C.L. Baudains:

I noticed when Deputy Southern first started out he was grateful to the Minister for Social Security for bringing the amendment. Of course that does not mean that the Minister for Social Security will vote with the principle, he probably will, but I would be interested to know if Deputy Southern overlooked that. He did use the word “disgusting” if I recall correctly or referred to the word “disgusting” and I am inclined to agree with that because again he did suggest that we do not go into the absolute details of zero-hour contracts. I am not going to do that, but I have noticed they have been substantially abused. Of course there are occasions when a zero-hour contract is appropriate. If I needed my drains cleared whenever there is a torrential downpour then obviously it would only be when that occasion occurs but we are seeing increasingly people working 8.00

a.m. to 5.00 p.m. on a weekly-basis, week after week, but they are on zero-hour contracts. What I do not like about them is it really takes us back to days of casual labour decades ago and that is outrageous. Apart from all the other disadvantages, I do not think a lot of people realise when there is no work it does not mean to say you can go fishing or go on holiday even if you could afford to because that would be in breach of contract because you are not available to work. There are serious problems here. I will be supporting the proposition.

### **5.3.3 Deputy J.M. Maçon:**

Very briefly I just want to flag this. I have been following this debate on the U.K. news and one issue that does crop up is the issue of exclusivity which are applied to some of these contracts. The problem being if you are on a zero-hour contract you are struggling to get practically almost any work that you can, sometimes people may have multiple zero-hour contracts in order just to make ends meet. I think when the Social Security Department is looking at this they need to carefully evaluate the exclusivity-clauses in these contracts whether that is deemed to be an abuse of this process or not. I am happy to support this but I just felt it was right to raise that particular issue now.

### **5.3.4 Senator L.J. Farnham:**

I am also pleased to support Deputy Southern in this but a thought has just struck me and it appears we may have inadvertently found a solution to States Members' remuneration by issuing us all with a zero-hours contract after the next election.

### **5.3.5 Senator S.C. Ferguson:**

There is just one point, why do we suddenly have a lot of zero-hours contracts cropping up? As I trundle round I am getting the feeling that perhaps our employment law is getting so complicated and so full of red tape that it is one of the reasons because it is making it too expensive for people to employ people. I am all in favour of supporting employees but we have to have a balance and I am not sure that the balance is in the right place. If you look at the Jersey Employment Tribunal's site you will see the summary of completed cases this year. There are 10 cases on the website and the findings have been 9 for the employees and one for the employer. I cannot think that statistically this is valid. Something needs to be looked at here. The procedures seem to be biased towards the employee. That is fine, but at the same time the whole process has been made extremely expensive for the employer which might account for not more employer cases. Zero-hour contracts have extremely valid uses where you need flexibility or temporary employment at short notice and I am against the abuse of the system but I think we have probably legislated so much red-tape into existence that we have driven employers to use these. I would suggest that we need to review our employment law in total rather than deal with this one small part of it. I would only comment that there are very few zero-hour contracts in Guernsey. I think we should ask why and we also need to ask Jersey employers why they use so many of these contracts. I think yes, have an investigation into these contracts but let us look at it in the whole concept of perhaps reviewing our employment law.

### **5.3.6 Deputy M. Tadier:**

I was not intending to speak but following on from Senator Ferguson, those immortal words: "How long do we have?" but surely that will all come out in the wash. That would be my response to Senator Ferguson because as we have seen under (b) this will give an opportunity for employers and employees to contribute on the issue of zero-hour contracts. If there has been a mushrooming in recent years of zero-hour contracts, as we believe there has with all the unintended consequences or maybe even intended consequences that come with it, the employers are not going to be shy to tell us exactly why they are starting to use zero-hour contracts. Far from that being a reason to vote against this, I think it should pull us in the same direction to looking at these things in the round. I

am very happy to give this support. I may as well add, while I am on my feet, I have also had similar experiences at the time when we had the fulfilment industry at its full strength and of course most Members praise the fulfilment industry, do they not, saying what a great industry it was forgetting that it exploited many local workers. I knew people who worked down at the Rue des Pres trading estate who would get the bus in from St. Brelade because they did not have a driving licence. Sometimes they would get a lift in from their parents only to be told that there was not any work or after 2 hours of work to be sent home because there were too many of them and it barely covered the bus fare and their lunch frankly. This is certainly something that needs to be looked into and something that I am happy to support.

### **5.3.7 Senator A.J.H. Maclean:**

I will be very brief. I just wanted to congratulate Deputy Southern for the balanced way in which he introduced this proposition. I think it was important to make the point that there are valid uses for zero-hour contracts and he did make that point to be fair.

[15:00]

There is potential misuse and I think to understand the extent of that is important. Clearly from an economic point of view there are very valid reasons why zero-hour contracts are used. If nothing else in a difficult economic climate it is keeping the operating costs of a business down to assure that the alignment of employment and work meets that of the contracts that are needing to be fulfilled. All I would say, and I just wanted to emphasise the point, that when the Chief Minister is working with the Minister for Social Security that the work that is undertaken to review this includes wide consultation and ensures that all the business groups are necessarily properly consulted with so that a full and proper understanding of the genuine requirements of these contracts is understood and the likely impact on the economy of any changes that might necessarily be proposed.

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

If no other Member wishes to speak I will call on Deputy Southern to reply.

### **5.3.8 Deputy G.P. Southern:**

I shall try and be brief and thank most of the contributors for their support for this investigation. To the Constable of St. John, he wanted us to include short-term contracts and had some concerns about those. A short-term contract is far better than a zero-hours contract in terms of making ends meet and being able to do any number of things like, for example, to borrow money. Deputy Baudains complained that this was about the casualisation of labour and we certainly do not want to go back to the times when people used to be ticks out of a line. Deputy Maçon talked about exclusivity which is one of the issues. Senator Farnham suggested that we go on zero-hours contracts ourselves and I look forward to earning 50 per cent more than he does. [Laughter] Senator Ferguson unsurprisingly pointed to the ratio of judgments in the Jersey Employment Tribunal and I would suggest that that 9:1 ratio was something to do with the fact that they are increasingly trying to train employers up as to what they have to do to follow the employment law. They have an outreach system now so they will come into your company and tell you what is what and what you need to do. I point out that we have probably one of the least complex and least protective employment laws in the Western world in Jersey. It is not an overburden even though obviously employers tend to complain about it. Deputy Tadier made mention of the fulfilment industry being one of those that uses zero-hours contracts extensively. Senator Maclean talked about wide consultation. One point I must make, and I hope I do not have to return to this subject ever again, is that I thank the Minister for Social Security in particular for refocusing on the financials and manpower implications. There is, despite my statement that there might not be, a financial implication and I do not want to be returning to this in 6 months' time and being told that

the money was not found and that the survey has not been done and the regulations have not been done. It happens that I thought I had won the Hoppa bus 9 months or so ago, 10 months ago, and it turned out the financials were not there for that at the time when push came to shove. Let us not have the financials pulled on this because somebody in the budget says we cannot afford to do it. I think we have fairly unanimous, with one exception I think, support for this investigation. Let us get on and do it and make sure that it is done and we know what we are talking about and we can protect the worst form of abuses in this particular area of employment. I thank Members and I call for the appel.

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

The appel is called for on the proposition as amended by the Minister for Social Security. Members are in their seats. I will ask the Greffier to open the voting.

<b>POUR: 39</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator A. Breckon		
Senator S.C. Ferguson		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. John		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisier (S)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy S.S.P.A. Power (B)		
Deputy S. Pitman (H)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy T.M. Pitman (H)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		

## ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

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

We come finally to the arrangement of future business for future meetings. Can I call on the Chairman of P.P.C.?

**6. Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee):**

I can advise Members that P.51/2013 Chief Minister and the Chairman of Comité des Connétables: monthly meetings is to be withdrawn. P.115 Cold Weather Bonus: variation of conditions lodged by Deputy Southern is down for debate on 22nd October. P.82 Committee of Inquiry into the costs for local business by Senator Breckon which is down for debate on 22nd October is now to be moved to 5th November, Bonfire Night. Again to advise the Assembly that P.P.C.'s proposition P.116 Composition of the States Assembly will also be down for 5th November. I have not been notified of any other changes to the Order Paper.

**6.1 Deputy R.C. Duhamel:**

Sir, could I raise an issue? As mentioned in an earlier debate this week there is a court case with the Channel Islands Co-Operative Society Limited (Co-op) so that matter is *sub judice* and I had thought that Deputy Le Hérissier would have made the House aware of that and asked for his application to be debated on a different date.

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

Let us ask initially if the Deputy is willing to defer it. We may need to propose that deferral.

**Deputy R.G. Le Hérissier:**

Yes, I am willing.

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

You are happy to defer for a month or so.

**6.2 Senator L.J. Farnham:**

Just with reference to the proposition P.116 lodged today, there are 3 reform propositions with amendments due for debate on 22nd October and I am wondering if we should now give consideration to that because perhaps it would be sensible to address all of the reform proposals on one day.

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

Are you formally proposing that, Senator, P.93, P.94 and P.98 be deferred until 5th November?

**Senator L.J. Farnham:**

I was just getting to that. Yes please, I would like to propose that.

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

One of the proposers is absent today. Deputy Southern, you are one of the proposers.

**6.2.1 Deputy G.P. Southern:**

Yes, and I object to any deferment of that proposal. We were given assurance by the first people who proposed the first deferral that there would not be further deferral and I think we can safely debate those 4 propositions with the P.116 as backup to debate a fortnight later. I do not see any problem with doing that.

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

Deputy Trevor Pitman, do you have any views? One of them is your proposition.

**6.2.2 Deputy T.M. Pitman:**

I have deferred once. I think I will be like Deputy Southern and say it should go ahead.

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

Senator Farnham has formally proposed that these propositions be deferred from 22nd October to 5th November. All those in favour of that proposition? The appel is called for so if you wish to defer you vote pour. If you do not wish to defer you vote contre. This covers P.93, P.94 and P.98 currently listed for 22nd October. I will ask the proposers if they should be deferred. I will ask the Greffier to open the voting.

<b>POUR: 27</b>	<b>CONTRE: 12</b>	<b>ABSTAIN: 0</b>
Senator A. Breckon	Deputy R.C. Duhamel (S)	
Senator S.C. Ferguson	Deputy G.P. Southern (H)	
Senator A.J.H. Maclean	Deputy J.A. Hilton (H)	
Senator B.I. Le Marquand	Deputy S. Pitman (H)	
Senator F. du H. Le Gresley	Deputy K.C. Lewis (S)	
Senator I.J. Gorst	Deputy M. Tadier (B)	
Senator L.J. Farnham	Deputy T.M. Pitman (H)	
Senator P.M. Bailhache	Deputy T.A. Vallois (S)	
Connétable of St. Helier	Deputy A.K.F. Green (H)	
Connétable of St. Peter	Deputy J.M. Maçon (S)	
Connétable of St. Lawrence	Deputy J.H. Young (B)	
Connétable of St. Mary	Deputy of St. Peter	
Connétable of St. John		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy R.G. Le Hérisssier (S)		
Deputy of Grouville		
Deputy J.A.N. Le Fondré (L)		
Deputy S.S.P.A. Power (B)		
Deputy E.J. Noel (L)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy R.J. Rondel (H)		

**6.3 Senator A. Breckon:**

Can I ask that P.90/2013 Sunstone Holdings Limited and De Lec Limited is put on the agenda for 8th October, just 2 weeks yesterday.

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

Do you wish to relist your proposition concerning Sunstone Holdings Limited?

**Senator A. Breckon:**

Yes.

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

Is there time for the necessary review to be undertaken?

**Senator A. Breckon:**

As far as I am concerned, yes. I have some information which I can share with Members in the next couple of days.

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

Do you wish to make any comment, Chief Minister?

**6.3.1 Senator I.J. Gorst:**

It is difficult for me to say that that will be sufficient time. I received the impression that Members wanted an independent type approach to doing the review and understanding the timescale of the J.F.S.C. (Jersey Financial Services Commission). [Approbation] I cannot see that such an approach could be completed within a fortnight.

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

Do you wish to maintain your request, Senator? You can put it to the vote if you wish.

**6.3.2 Senator A. Breckon:**

The Jersey Financial Services Commission have their own staff and I do not know what the Chief Minister means by independent. If we have to start searching around for somebody then I do not think it is fair for the people involved whatever the result is to delay that unnecessarily. I would not be prepared to go too far but I would ask that it is listed for the 22nd because without a date it can just wander around for ever.

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

Are Members content at this stage to relist the proposition of Senator Breckon to 22nd October? There appears to be general consensus. Did you wish, Chairman of P.P.C., just to mention that your request which I think Members are effectively agreeing to that you wish to have an in-committee discussion at the next meeting on the Machinery of Government review?

**6.4 Deputy J.M. Maçon:**

Yes, P.P.C. will of course be advising Members about how we wish to proceed with that debate. The thinking at the moment is that perhaps it should be better structured to do with the various sections of the report to allow Members to discuss the various elements within that which we will advise Members in time. Do I need to formally ask Members to accept to hold the in-committee debate?

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

If Members are agreeing the future business they will be agreeing it as a part of that. Are there any other comments on the future business? Are Members happy to agree the business as listed?

**Deputy R.G. Le Hérissier:**

Will the in-House meeting be time limited on the Machinery of Government?

**Deputy J.M. Maçon:**

Yes, although we have not ironed out exactly what the time allocations will be.

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



Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP10

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**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON MONDAY 15th JULY 2013**

**Question**

In the course of the abuse case brought against James Donnelly in 2008/9 how many suspects were investigated in addition to Donnelly; how many initial suspects were not even interviewed, how many, if any, in addition to Donnelly were arrested and how many cases were sent to H.M. Attorney General's office for consideration to be given to the individuals being charged?

**Answer**

In respect of this case, there were three other individuals who were considered as suspects and they were arrested and interviewed. Prosecution case files were prepared and presented to the Law Officers' Department by the States of Jersey Police for consideration of criminal proceedings. None of the other three individuals in this case were charged with any associated offences.

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 2nd JULY 2013**

**Question**

Given that the court transcripts of a 2009 case, which resulted in James Donnelly being sentenced to 15 years in prison, revealed that a number of other individuals were also identified as abusers by both the individual eventually convicted and the victim, why was no prosecution pursued in this case?

**Answer**

Decisions whether to prosecute an individual are made in accordance with the Attorney General's Guidelines. The test which the Attorney General applies involves first an evidentiary test and if, and only if, a case passes the evidentiary test, a public interest test.

As the question indicates, the proceedings to which the Deputy refers took place in 2009. The matters to which he refers were identified at the time and given due consideration. It was decided that there was insufficient evidence to bring charges against any of the individuals who were named during the course of the proceedings against Mr Donnelly.

**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 18th JUNE 2013**

**Question**

Since police investigations began in 2007 in relation to historic abuse can the Minister advise if there have been any cases investigated by the States of Jersey Police where abuse was alleged by both another perpetrator of abuse and corroborated by a victim yet no prosecution was then brought and, if so, what was the reason for this?

**Answer**

The investigations which began in 2007 in relation to historical abuse are both voluminous and complex. Deputy Trevor Pitman, on the afternoon of 13th June 2013, in response to a request from the Minister, gave the name of the relevant accused person. However, despite this, it has not been possible to produce an answer by noon on Monday 17th June 2013.

The Minister will provide an answer as soon as possible but that answer will anonymise the details.

**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 5th MARCH 2013**

**Question**

Can the Minister inform members whether, in the early stages of the historic child abuse investigation, both a current States Member and an individual still employed by the States and himself facing a number of allegation relating to abuse, went to Haut de la Garenne and attempted to gain access past the Police cordon stating that they needed to collect/remove personal material?

**Answer**

The States of Jersey Police have no formal record of any such visit by either party and with the passage of time, there is no-one still serving within the States of Jersey Police who is able to confirm that any such visit took place.

However, I am aware that Deputy Kevin Lewis was very familiar with the building because of the time that he had spent there during the production of the Bergerac series. The premises were used for the Bergerac series for about 7 years after they had ceased to be used as a Children's Home.

When mention was made in the press of a large bath on the premises, he contacted the States of Jersey Police in order to offer them assistance. His offer was accepted and he met the then Deputy Chief Officer Harper and, without entering the building, showed him from the outside the area where the bath was situated.

I am also aware that one ex-officer has a recollection of a suspect turning up at Haut de la Garenne, as did other parties throughout the early stages of the Haut de la Garenne part of the investigation, but that no attempt was made by the suspect to enter the site.

**2.7 Deputy T.M. Pitman of the Chief Minister regarding the Historic Child Abuse inquiry terms of reference:**

In view of concerns raised by a number of States Members and stakeholders, will the Chief Minister ensure that the issues of both the police handover of investigations and the actions of those in political power will be fully covered in the Historic Child Abuse Inquiry terms of reference?

**Senator I.J. Gorst (The Chief Minister):**

The Deputy is aware that I have received correspondence from a number of stakeholders, including himself, asking that the terms of reference be extended. I have confirmed to those stakeholders that I will consult with Verita and the Council of Ministers before making any decision.

**2.7.1 Deputy T.M. Pitman:**

I thank the Chief Minister for his answer. Could he give us some indication of when we are likely to get an answer because some of those stakeholders are deeply concerned, as I think the Chief Minister will fully acknowledge?

**Senator I.J. Gorst:**

It will indeed take some time. I will need to understand when Verita can respond to me and I will also probably need to request a special sitting of the Council of Ministers. However, I have indicated that should the answer be in the negative or should we not be able to meet all those requests, then I would be prepared to defer the debate so that those stakeholders could bring amendments.

**2.7.2 Deputy M. Tadier:**

Does the Chief Minister realise that the stakeholders and we States Members who have been actively seeking amendments do not want the debate to be deferred? We simply want the Chief Minister to sit down with us in the earliest possible course - I know he is busy - hopefully before Christmas though, so that we can agree whether the Chief Minister will accept these amendments and if not, we can put them in without delaying this very important debate which has been delayed too long already.

**Senator I.J. Gorst:**

It seems this morning I cannot quite get it right. The Plémont proposition, it seems that Members wish I had brought in the name of the Council of Ministers. Now that I have brought a proposition which I think is rightly brought in the name of the Council of Ministers, Members are wishing it was brought in my name so they could simply sit down with me and we could change the terms of reference. It is rightly brought in the Council of Ministers' name. It shows that the Council of Ministers are supportive of a Committee of Inquiry and as Members know, that is, I think, the right thing to do. Therefore, if there are to be any changes, it is the Council of Ministers which must consider them.

**2.7.3 Deputy M. Tadier:**

I feel that the Chief Minister is being disingenuous. No one is commenting on the fact that this proposition should not be brought by the Council of Ministers; that is understood. But the Chief Minister knows himself that in the past, whenever there have been talks on this, either formal or informal, it has always been conducted directly with him and his Chief Officer, never with the Council of Ministers. I do not see any reason for any departure from that, although I am happy to talk with the whole Council of Ministers if he invites that. Would the Chief Minister explain why he needs to go back to Verita when quite simply we are asking for amendments which Verita had already recommended for the most part to be in there? They have now been removed. There is no need to stall this by going back to Verita for their comments. It is a very simple

issue which the Chief Minister can do by sitting and talking to us or even email correspondence so that we can get this in before Christmas without delaying the debate any further. Will the Chief Minister agree to that reasonable request?

**Senator I.J. Gorst:**

I am always happy to meet but that caveat remains that it is a Council of Ministers proposition and therefore the Council of Ministers needs to agree to any changes to the terms of reference.

**The Bailiff:**

Deputy Pitman, do you wish the final question?

**Deputy T.M. Pitman:**

No, Sir. Deputy Tadier's was so long and involved and very, very elegant so I will leave it at that.

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 20th NOVEMBER 2012**

**Question**

In the light of the revelations around the late entertainer Jimmy Savile and notwithstanding the fact that education and social institutions in Jersey now have in place policy guidelines explaining what employees' responsibilities in reporting suspected child abuse to the police authorities are, will the Attorney General outline whether actual legislation is in place to require employees or other members of the public to report allegations of abuse to the police and, in addition, what potential offences, if any, may be committed should people fail to do so?

**Answer**

There is no legal obligation on an employee in an educational or other institution to report suspected child abuse to the police. It follows that no criminal offence is committed in the event that someone does not report their suspicions.

As the questions acknowledges, employers place responsibilities on their employees and have established guidelines and best practice in terms of reporting suspected criminal conduct.

The Health and Social Services Minister has a statutory duty pursuant to the Children (Jersey) Law 2002 to investigate any reported concerns that might give reasonable cause to suspect that a child is suffering or is likely to suffer significant harm.



**2.3 Deputy T.M. Pitman of the Minister for Home Affairs regarding the itemisation of evidence retrieved during the Haut de la Garenne investigation:**

I know the Minister appreciates this was intended to be a written question. Will the Minister undertake to provide in writing a detailed audit trail identifying what items were retrieved during the Haut de la Garenne investigation, advise where they were sent for analysis, who authorised them to go, who examined them, where each item is currently stored and confirm that no items from this investigation have been lost or destroyed?

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

The answer to the first part of the question is no. That would neither be sensible nor practical - and that would include if I had a request for a written answer - as there were 4,625 such exhibits. An audit trail does exist for each exhibit on the home system. If any Member of the Assembly is interested in any particular item, then they could ask a specific question in relation to that although, of course, I do not have full details here today. Not all exhibits were retained and a number have been properly disposed of in accordance with major crime policy. Those that were retained are stored securely at the police station. I am not aware of any such item being lost.

**2.3.1 Deputy T.M. Pitman:**

I thank the Minister for his answer but could the Minister then advise that in light of the Norton case, a 1960s case, where we are told that evidence no longer exists and there is that concern that it may have been helpful in perhaps overturning what some say is a travesty of justice, can the Minister at least give assurances that nothing of real importance and relevance in this case has been destroyed, as he informs us that some things have been destroyed?

**Senator B.I. Le Marquand:**

I would be very disappointed if anything of real relevance had been destroyed because the major crime policy should obviously retain items of relevance or potential relevance. This is particularly important in certain cases of samples - blood samples and things like that - where there have been improvements in the technology, particularly DNA testing, which may now make a successful investigation possible. I can assure Deputy Pitman that the police are well aware of this and have been reviewing some of the old cases where there was such potential material.

[10:00]

**2.14 Deputy T.M. Pitman of the Minister for Home Affairs regarding the reopening of Operation Rectangle in light of allegations made in respect of Jimmy Savile at Haut de la Garenne:**

Following recent allegations regarding Jimmy Savile at Haute de la Garenne and further to his statement on 10th July 2012 that the door was not closed if new evidence came to light, will the Minister be requesting that Operation Rectangle be reopened?

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

It was recognised earlier this year by the States of Jersey Police that the Historical Abuse Compensation Scheme was likely to lead to new victims coming forward. Although any new historical allegations would not be investigated under the auspices of Operation Rectangle, any new complaints and complainants will be treated in exactly the same way as any other victim and their allegations recorded and investigated, and this of course equally applies to additional allegations in relation to Jimmy Savile.

**2.14.1 Deputy T.M. Pitman:**

I hope this is not too wide of the mark. Given that in the past the Minister confirmed that one of the officers who took over the investigation at Haute de la Garenne, and I am going to have to use the name because I do not know what his title was, Mr. Gradwell.

**The Bailiff:**

You do not need to use his name. You can just refer to him as an officer. You can describe his positions.

**Deputy T.M. Pitman:**

There are so many people who have come and gone that I might infer the wrong person, Sir. It is common knowledge. The Minister had used the name. I do not think it is a problem.

**The Bailiff:**

This is the officer who was in charge previously?

**Deputy T.M. Pitman:**

This is the officer who took over and went public on matters after Mr. Power and Mr. Harper.

**The Bailiff:**

Yes, you can use that name.

**Deputy T.M. Pitman:**

Thank you. Given that one of those officers, Mr. Gradwell, was confirmed by the Minister to have been leaking information during a live child abuse investigation to a U.K. journalist, Mr. Rose, is it not a concern to the Minister what is now coming to light that that journalist was one of the lead detractors - protagonist if you like - in dismissing all the abuse that went on in Wales that has now of course been proved to be true? Does that not concern the Minister in the way that our investigation was closed down and most people would say rubbish?

**Senator B.I. Le Marquand:**

From the time when I became aware of information which had been provided to the press by a Mr. Gradwell, I made my position quite clear that what he has done was utterly wrong and unprofessional. I am afraid I have no knowledge of the details of the remainder of the question.

**2.14.2 Deputy M.R. Higgins:**

I just want to follow up on what the Minister has said. He mentioned obviously that any abuse by Savile would not be covered by Operation Rectangle but obviously with the publicity

associated with the Jimmy Savile case, have any further people come forward regarding other forms of abuse and, if so, will the Operation Rectangle investigation be carried on?

[11:15]

**Senator B.I. Le Marquand:**

It is only a technical point as to whether it is done under the auspices of Rectangle or a separate investigation. It would be done under a separate investigation. If there were allegations which are solely related to the late Mr. Savile, then clearly it would be very difficult to go ahead with a detailed criminal investigation because he cannot be prosecuted. If there were other parties named who were living, then clearly you would have a different situation. But on top of that, of course, we have a situation in which the Metropolitan Police Force is in the process of investigating all matters including those which might only relate to Mr. Savile and the States of Jersey Police are clearly co-operating with that.

**2.14.3 Deputy M.R. Higgins:**

Can I just seek clarification on that, Sir? Does that mean, for example, anyone who facilitated Jimmy Savile's visits to Haute de la Garenne and other children's institutions would also be investigated on the access that they had to them?

**Senator B.I. Le Marquand:**

I think that is too broad. We are getting into operational decisions to be made by the police as to whether there are effectively special grounds to warrant a detailed investigation. Those are clearly operational matters for the police to determine based upon the information which they have. I can confirm that there have been additional allegations made concerning Mr. Savile.

**2.14.4 Deputy M. Tadier:**

Can the Minister confirm that in the past complaints were made to the police either under Operation Rectangle or previously about alleged abuse by Mr. Savile - or Sir Jimmy Savile, I guess we should call him - and will these cases be able to be reopened because they were not necessarily investigated for whatever reason? Will they be able to be reopened now that there is fresh evidence coming forward from a variety of sources?

**Senator B.I. Le Marquand:**

It is my understanding that there was one such allegation made previously and that was made during the ambit of Operation Rectangle. Obviously, if there is additional evidence or there are matters which might involve additional parties, then that is a different situation but, as I say, it is a difficult position for the police to be asked to investigate matters if there is no basis for allegation against a party other than the person who has died. Although as I have said already, that is what the Metropolitan Police are doing and the States of Jersey Police are co-operating with that.

**2.14.5 Deputy T.M. Pitman:**

I know I am not being deliberately stupid in not understanding what the Minister has said but if he is saying Operation Rectangle itself could not be reopened because Mr. Savile, *et cetera*, is dead, I am aware that there are 2 other names that are going to come out soon who are also dead - I believe - celebrities; is the Minister saying, just so I get this quite clear, that if it is living people who allegations are made against, the investigation can be reopened but if they are dead, then there is very little that the police can do? Could he just clarify that? I am not clear on it.

**Senator B.I. Le Marquand:**

Yes, that is correct. That would be the normal process because the whole purpose of a criminal investigation is with a view to a possible criminal prosecution. You cannot prosecute a person who has died and therefore it is difficult to see the purpose of a criminal investigation in relation

to a person who has died. That you might investigate for some other reason possibly but that would not be a useful use of police time in my view.

**2.15 Deputy T.M. Pitman of the H.M. Attorney General regarding directions given to witnesses in relation to naming other parties who allegedly carried out abuse at Haut de la Garenne:**

Were victims told by prosecution lawyers that they could only make statements relating to the couple who ran Haut la Garenne and could not name other parties who they alleged also carried out abuse at the home and if so, why would this have been the case?

**Mr. H. Sharp Q.C., H.M. Solicitor General (The Solicitor General):**

For obvious reasons, I am not going to discuss an individual case in such detail but, as it happens, I can happily answer this question, merely by reference to the basic principles of procedures that apply in all criminal cases. Of course, a criminal crime is concerned with a consideration by a jury or Jurats of particular allegations made against particular defendants. It follows that a witness who attends a criminal trial may only give evidence that is in fact relevant to those particular allegations being considered by the court on that occasion. It is not uncommon for a prosecution witness to be capable of giving evidence in respect of additional matters not relevant to the trial in question. In those circumstances, it is best, and established practice, for the prosecution advocate to warn the witness that their evidence will be focused only on the particular topics relevant to the trial. A purpose of this helpful conversation is that it reduces the risk of a witness inadvertently giving inadmissible evidence in court that might very well be followed by a defence application to discharge the jury or Jurats and thereby stop the trial.

**2.15.1 Deputy M.R. Higgins:**

Is it common practice for prosecution lawyers to ask witnesses for the prosecution to limit their evidence? For example, if the person was asked the question: "Did you make a complaint?" to sort of limit them so that they do not say who they made the complaint to. So, in other words, the question was being asked: "Did you make a complaint?" and they were advised not to name the person to whom they made the complaint to. Is that normal practice?

**The Solicitor General:**

The only time a prosecution lawyer is likely to lead a witness is when the witness is in fact in the witness box and a prosecution lawyer can sometimes lead a witness so as to prevent the adducing inadmissible evidence.

**2.15.2 Deputy M.R. Higgins:**

Can I just follow that up and say is it usual just before the person goes in the witness box and before the court trial happens?

**The Solicitor General:**

As I had rather hoped I had just explained, a prosecution lawyer may perfectly properly warn a witness not to mention particular pieces of information if it reduces the risk of that witness inadvertently, because they will not know the rules of evidence, adducing something that the jury or Jurats cannot hear about. This is not some unusual occurrence. It happens day in day out in courts around the world and has done for hundreds of years. I have done it myself in many cases.

**2.15.3 Deputy M. Tadier:**

Would it be normal practice for the individual witnesses or complainants to have it explained to them exactly why they should not be naming other parties because it seems to me that if this were done that would certainly help them to accept the restriction, whereas if they were not told they might think something was amiss.

**The Solicitor General:**

Prosecution advocates often tread with care because they do not want witnesses to start worrying about rules of evidence. Ordinarily, a prosecution advocate may well say: "This trial is about X. It is not about Y. Therefore, you must not mention Y."

**2.15.4 Deputy M.R. Higgins:**

Perhaps the Solicitor General could explain to me because I am still not clear on this aspect - and these are queries that come directly from victims - is it natural or normal practice for someone who is about to give evidence that they must not mention X because the trial is about Z and Y? When, as far as that victim is concerned, X was also part of that abuse and involved, and was at the same location, Haut la Garenne. The person would have wanted to name that person because they were still employed by the States. I just want to understand if that is not limiting their evidence because this is the concern of the victims.

**The Solicitor General:**

It is unfortunate if a witness attends a criminal trial, which is undoubtedly a very stressful experience and does not fully understand the process or perhaps what has happened but, as I have already said, there will be many occasions when a witness is capable of giving evidence in respect of matters that cannot be adduced in the particular trial and it is perfectly proper for the prosecution counsel to warn the witness. The trouble is, if the prosecution counsel does not warn the witness and the evidence goes in, then all that stress and worry about giving evidence will have to be repeated and experienced again at a second trial when the jury are discharged. That really would be very unfortunate and that is why prosecution counsel warn witnesses in those circumstances.

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 23rd OCTOBER 2012**

**Question**

In relation to the Jervis-Dykes child abuse scandal at Victoria College, why were none of the individuals, other than Mr. Jervis-Dykes, taken to court and prosecuted for their failings in effectively concealing the allegations of abuse?

**Answer**

The events addressed by this question were investigated by the Police in 1996 and Mr Jervis-Dykes was prosecuted in 1998.

As far as the Attorney General is aware no investigation files were received from the Police for consideration by the Law Officers in connection with persons other than Mr Jervis-Dykes.

**WRITTEN QUESTION TO THE MINISTER FOR EDUCATION, SPORT AND  
CULTURE BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 25th SEPTEMBER 2012**

**Question**

Will the Minister clarify what differences/changes in policy have been put in place with regard to reporting allegations of child abuse since the Victoria College incident and the subsequent Sharp Report and how does the policy both then and now comply with the Children (Jersey) Law 2002?

**Answer**

The ESC Department has a duty of care to children and young people in its care, and the Children's Service has a statutory duty to investigate all referrals relating to the possibility that a child is at risk of significant harm. Since 1990 investigations have been undertaken by the joint Children's Service and Police Family Protection Team, now known as the Public Protection Unit.

In addition, ESC has updated and developed its policies in this area in line with UK guidelines and best practice on safeguarding young people. These are regularly reviewed.

The policy requires all allegations to be reported to the Department, which takes a multi-agency approach and refers cases to the Children's Service where appropriate and if it is considered there is a risk to a young person.

The Senior Education Welfare Officer at the Department is the lead Child Protection Officer for the Service and each school has their own trained child protection co-ordinator. ESC abide by the Children (Jersey) Law 2002 and the Jersey Child Protection Committee procedures. We use the JCPC referral forms and thresholds.

All staff working with children and young people must have an awareness of child protection procedures. Training is in place in all schools and areas of the organisation and takes places regularly so that every employee understands their role and obligations in safeguarding young people in their care.



**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 17th JANUARY 2012**

**Question**

As a part of the Historic Abuse Inquiry did the investigators research and consequently obtain a full list of all individuals who were, at any time, on the Board of Governors of Haut De La Garenne (whether in paid or purely voluntary roles) under each of the various authorities under which the facility operated during the period of investigation?

Were all those individuals still living subsequently interviewed and, if so, will the Minister provide Members with a full list of those interviewed or advise where such information can be viewed?

**Answer**

The Historic Abuse Inquiry was a comprehensive investigation with a focus on securing evidence from alleged victims and where possible, then seeking corroborative evidence from a range of sources – including all individuals who may have had some form of association with Haut De La Garenne and may have been able to provide evidential witness evidence.

Regrettably, due to the lack of records, it was neither possible or in fact was not an active line of investigation in identifying previous Boards of Governors. This was an intelligence led enquiry and where identified and considered to be of evidential value, all individuals associated with Haut De La Garenne were traced and interviewed.

The States of Jersey Police hold a full record of all individuals interviewed as part of this inquiry (either as suspects or witnesses) but the identification and interview of previous Boards of Governors was not an active investigative strategy per se.

**3.8 Deputy T.M. Pitman of the Minister for Home Affairs regarding allegations surrounding the leak of confidential information relating to the historic abuse inquiry.**

Following recent comments made in evidence to Scrutiny Sub-Panel and in the Assembly alleging that confidential information relating to the historic abuse inquiry have twice been leaked to a *Daily Mail* journalist, what measures, if any, will the Minister be discussing with the new Chief Officer of the States of Jersey Police to ensure that police inquiries cannot be undermined in this way in the future?

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

It has been known for some time that the former Superintendent, who was the Senior Investigating Officer in the Haut de la Garenne investigation, provided confidential information not only to the local press but also to a *Daily Mail* reporter in connection with that officer's criticism of the way in which the investigation at Haut de la Garenne had been handled by the former Deputy Chief Officer and Senior Investigating Officer. I have previously publicly criticised the actions of the former Superintendent in so doing. However, even more concerning in my view is the link between the former Deputy Chief Officer himself and a reporter from the *News of the World*, some details of which are revealed today in my answer to written question 5. It is in my view totally unacceptable that a *News of the World* reporter, who subsequently wrote an utterly scurrilous and destructive article [Approbation] based apparently upon information provided by States of Jersey Police Officers, should have been entertained in London together with other officers involved in the criminal investigation at public expense by the then Deputy Chief Officer. There will always be a risk of criminal investigations being prejudiced if police officers behave improperly. [Approbation]

**3.8.1 Deputy T.M. Pitman:**

Could the Minister answer the question? What is he going to do to try and stop it happening or shall I just move to the next, the supplementary?

**Senator B.I. Le Marquand:**

I do not know what I can do to take effective action to stop maverick police officers acting in an improper way.

**3.8.2 Deputy T.M. Pitman:**

Given that the first leak is alleged to have come from a former Assistant Minister for Health at the time when I suppose Senator Shenton would have been Minister for Health rather than originating within the police, how will he be working with his ministerial colleagues to ensure future investigations are not put at risk?

**Senator B.I. Le Marquand:**

I am sorry I am going to ask the Deputy to repeat the first part of the question because I did not hear it.

**Deputy T.M. Pitman:**

The first alleged leak has allegedly originated from within the Health Department and the former Assistant Minister for Health rather than the police themselves so how will the Minister, if he can, be working with his colleagues in other departments to try and make sure that does not happen?

**Senator B.I. Le Marquand:**

I am aware that an allegation has been made by one witness to the Scrutiny Sub-Panel to the effect of such a leak. I have to say that I have not understood the precise nature of what was leaked or what was allegedly leaked in that way but, of course, I would also say that as a matter of course in relation to confidential matters, that States Members also should not be involved in leaking such information to the press.

**3.8.3 Deputy P.V.F. Le Claire:**

I wonder if the Minister would join with me in the abhorrence of the shocking allegations that have been coming out recently regarding the position of News International and whether or not any research has been undertaken in respect of the recent historic abuse inquiry, particularly in respect of the victims to ensure that their phones were not hacked in any way?

**The Deputy Bailiff:**

I think, Deputy, that does not relate at all to the question, which was about undermining of police inquiries in the future. Can you reformulate your question in such a way that it is linked to the first question?

**Deputy P.V.F. Le Claire:**

Would the Minister agree that as well as the confidential information that is required to ensure justice is carried out, it is also imperative that not only the confidential information is not leaked to the media but also the confidential telephone and privacies of the abused are also not undermined by the media?

**Senator B.I. Le Marquand:**

I absolutely agree with that. What has been revealed in the U.K. in relation to the practices of the *News of the World* is utterly disgraceful.

**3.8.4 Deputy P.V.F. Le Claire:**

I was trying to elicit an answer from the Minister in respect of ensuring that the privacies of the abused have also been protected and I have asked if he would at least undertake to investigate whether or not there has been any transgression of those abused.

**Senator B.I. Le Marquand:**

If there was any issue which gave rise to a criminal investigation, that, of course, would be an operational matter to be considered by the States of Jersey Police and not for me to give directions.

**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 25th MAY 2010**

**Question**

“Following my questions on 11th May 2010, when the Minister informed the Assembly that he did not know whether or not the former senior investigating officer of the Historic Abuse Inquiry had invited a number of the Haut de la Garenne survivors to the police station in November 2008, where they were shown evidence recovered from the cellars, will he advise whether this event can now be corroborated by the States of Jersey Police; why and for what purpose such an action took place; and advise whether showing evidence to individuals alleging abuse/assault would have, as a consequence, made all such evidence inadmissible in a Court of law?”

**Answer**

This event took place on 18 November 2008, following the press conference on 12 November at which some items were shown to the national media which were assessed as non-suspicious and non-evidential.

The items were shown to members of the Jersey Care Leavers Association in an effort to be open and transparent and to build their confidence in the police investigation team.

Ultimately it resulted in the JCLA undertaking a joint press conference with the police later that year.

It should be noted that such an event is not unusual when dealing with special interest groups in major enquiries.

As the items had been assessed as non-suspicious and non-evidential, the Police took the view that they would not be used in any subsequent criminal proceedings and that, therefore, issues of admissibility in subsequent proceedings would not arise.

**4.1 Deputy T.M. Pitman of St. Helier of the Minister for Home Affairs regarding the number of alleged abuse cases relating to the cellars at Haut de la Garenne:**

Would the Minister advise the Assembly how many of the 30 alleged abuse cases relating to the cellars at Haut de la Garenne are still part of the ongoing historic abuse investigations; how many, if any, are not being pursued; when was it decided to discontinue their investigation and for what reason?

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

In answer to a question previously I indicated there were 30 such allegations. Those, in fact, were made not by 30 people but by 8 people. These were all properly investigated by the police, sometimes with the benefit of legal advice and none of these complaints passed the evidential test so as to warrant a prosecution.

**4.1.1 Deputy T.M. Pitman:**

Could the Minister clarify whether the former lead officer in the case, Mr. Gradwell - I do not believe I can avoid naming him - invited some of the Haut de la Garenne survivors to the police station to show them some examples of evidence, i.e. shackles that had been found in the cellars. If this is correct would this action not have made the evidence inadmissible in a court of law?

**Senator B.I. Le Marquand:**

I am unaware of any such occurrence. That does not mean I am saying it did not happen, I am simply not aware of it. I would have needed to have specific notice of such a detailed question.

**4.1.2 Deputy T.M. Pitman:**

Could I ask that the Minister seek out the information and report it back to me? Would that be possible, please?

**Senator B.I. Le Marquand:**

It would be helpful if I could have something precisely in writing so I know exactly what the question is, I am then happy to make inquiries.

**4.1.3 Deputy M.R. Higgins:**

Yes, if I could just follow up on the question. Is it usual in criminal cases for an investigating officer to show evidence such as the things that have been said in a criminal case to witnesses before they have gone into court?

**Senator B.I. Le Marquand:**

There are grave dangers in criminal investigations of police officers revealing too much detail which can subsequently contaminate the evidence of witnesses. That is a particular concern in all criminal investigations and therefore officers should be very careful not to lead witnesses in any way by providing them with information or showing them items in such a way that might contaminate their evidence.

**4.1.4 Deputy F.J. Hill of St. Martin:**

Will the Minister confirm that among the 8 people who made the allegations that one of them was made through an advocate? Will the Minister confirm?

**Senator B.I. Le Marquand:**

Again, I do not have that level of detail.

**The Bailiff:**

Deputy Pitman, final question.

**4.1.5 Deputy T.M. Pitman:**

Could the Minister clarify whether the whole media strategy surrounding the historic abuse inquiry was a Home Affairs strategy or a police strategy? If a police strategy, was the lead individual still overseen by the Minister?

**The Bailiff:**

It is not clear how that arises out of this question but, Minister, it is up to you if you want to answer.

**Senator B.I. Le Marquand:**

I am answering with some caution because I do not want to trespass into expressing an opinion in relation to disciplinary matters as Members will understand. But it is my understanding that the media strategy was a police strategy not a Home Affairs strategy. I could be wrong on that but that is my understanding.

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 2nd FEBRUARY 2010**

**Question**

"Will H.M. Attorney General please clarify whether any of the three former members of 7 Bedford Row Chambers subsequently employed within or by the Attorney General's office, as mentioned in an answer to a written question on 19th January 2009, were involved in any way in work relating to the Historic Abuse Inquiry; and if so, would he advise what form this involvement took?"

**Answer**

The Attorney General does not understand why such clarification is sought or why the identity of who worked on the Historic Abuse Inquiry is relevant provided that they were competent to do so.

However, the answer to the question is that none of the three former members of 7 Bedford Row Chambers who were subsequently employed within the Law Officers' Department as stated in the answer to written question 5027 tabled on the 19th January 2009 worked on the Historic Abuse Inquiry during the time that they worked in the Law Officers' Department.

It is a matter of public record that one of those lawyers, Crown Advocate Stephen Baker, since entering private practice in Jersey, has been briefed in the Historic Abuse Inquiry: i) to advise on cases in which allegations of historic abuse have been made; and ii) to prosecute those cases which have been capable of prosecution in accordance with the usual tests applied by the Attorney General in Jersey (which correspond with the tests applied by the Director of Public Prosecutions in England.) Crown Advocate Baker has given extensive and professional advice on each of the case files he has reviewed where no prosecution has been commenced, and all such cases that he has prosecuted have resulted in convictions.

The other two members of the Law Officers' Department, who were formerly of 7 Bedford Row chambers, one now in private practice and one still with the Law Officers Department, have not worked on the historic abuse cases and do not currently do so.

**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS  
BY DEPUTY T. M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON MONDAY 21st SEPTEMBER 2009**

**Question**

Would the Minister explain to the Assembly why there appears to be such significant discrepancies between the facts of the historic abuse case outlined by the former Deputy Chief Officer of the States of Jersey Police and recent statements made to the media by his retiring successor and would the Minister clarify whether or not it is correct that the contentious 'skull fragment' has somehow been lost by the authorities?'

**Answer**

I am unable to read the minds of the former Deputy Chief Officer of the States of Jersey Police, and his successor, who has just retired. They are two separate individuals with their own viewpoints and interpretations of the facts. As members will be aware, the handling of the historic abuse enquiry is currently the subject of an ongoing investigation.

As regards the 'skull fragment', all exhibits from the historic abuse enquiry are accounted for. If the Deputy has evidence to the contrary, perhaps he should liaise with the Acting Chief Officer, States of Jersey Police.



Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP11

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DOCUMENT RECORD PRINT

Officer's Report

Number: R1

TO:  
STN/DEPT:

REF:

FROM: BRITTON, PETER  
STN/DEPT:

REF:  
TEL/EXT:

SUBJECT:

DATE: 10/11/2008

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**1. INTRODUCTION**

1.1 This is an interim report in respect of Operation Rectangle, a child abuse investigation conducted by the States of Jersey Police (SoJJP). It has been prepared at the request of SoJJP Deputy Chief Officer (DCO) David WARCUP, the Commissioning Officer for the review. It is designed to highlight initial findings and areas of concern. However, it should be borne in mind that review enquiries are still on-going and certain key individuals, particularly the retired Senior Investigating Officer (SIO), ex-DCO Lenny HARPER, have yet to be interviewed. Hence any observations in this report may be subject to amendment. Ex-DCO HARPER retired 31<sup>st</sup> August 2008 and the new SIO, Detective Superintendent Michael GRADWELL commenced his role on 8th September 2008, which is the cut-off date for the review.

1.2 It is also important to note that during the course of the investigation ex-DCO HARPER was mentored and advised by an Association of Chief Police Officers (ACPO) Homicide Working Group Advice Team. Between 29<sup>th</sup> February and 30<sup>th</sup> June 2008 they completed four reports, which incorporated sixty-nine recommendations, the majority of which are shown as complete.

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2. BRIEF CIRCUMSTANCES

- 2.1 On 10<sup>th</sup> September 2007, as a consequence of intelligence, allegations and prosecutions for child sexual abuse, it was decided to commence Operation Rectangle. Its broad Terms of Reference were to investigate 'historical child sexual abuse' in a number of institutions in Jersey, particularly the Jersey Sea Cadet Corp (JSCC) and the Haute de la Garenne Children's Home (HDLG). The Policy Books for the enquiry show ex-DCO HARPER as SIO and Detective Inspector (DI) Alison FOSSEY as his deputy.
- 2.2 Due to widespread publicity the enquiry quickly expanded. It required additional staff via the mutual aid arrangements, including computer support in the form of the HOLMES system.
- 2.3 As investigations progressed HDLG became the main focus of the enquiry. Apart from abuse allegations at HDLG there were also suggestions that human remains were buried at the home. Consequently whilst the abuse enquiry progressed, separate work involving outside experts, was undertaken to establish the viability of searching HDLG for human remains.
- 2.4 The 19<sup>th</sup> February 2008 effectively marked the start of the search of HDLG. It began on the land surrounding the home before moving inside the building and involved extensive excavation work. Further excavation work was later conducted at the nearby Victorian Tower war bunkers. Human remains found at HDLG were limited to children's teeth and a number of small bone fragments which carbon dating suggests could be centuries old. No remains were found in the war bunkers. By the time of the review both HDLG and the war bunkers had been released as 'crime scenes', but enquiries were still progressing in respect of the allegations of physical and sexual abuse.

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3. SIO POLICY AND STRATEGY

3.1 The Review Team were advised that DI FOSSEY led the initial abuse enquiry with ex-DCO HARPER providing oversight. However, as previously stated he is shown on all Policy Books as the SIO from the 10<sup>th</sup> September 2007. Instead of running a Policy Book which lists all decision (except sensitive ones) chronologically, ex-DCO HARPER used five books to deal with the following:-

- Search.
- Suspects/Persons of Interest.
- Main Lines of Enquiry.
- Media.
- Victims/ Witnesses.

There is no Policy Book dealing with Forensic Strategy which is a critical area in this investigation.

3.2 There are no specific Terms of Reference (ToR) for Operation Rectangle. The initial decision dated 1<sup>st</sup> October 2007 states:-

“Operation Rectangle is a single agency led investigation into historical sexual abuse involving a number of institutions in Jersey. This will include, but not be restricted to Haute de la Garenne Children’s Home and the Jersey Sea Cadets organisation. The case for investigation in respect of these (two institutions) organisations has already been subject of a

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report approved by the Deputy Chief Officer and has taken into account issues of probability and necessity to conduct the investigation.”

The policy was apparently written by DI FOSSEY and countersigned by ex-DCO HARPER.

3.3 Given the potential size, complexity and sensitivity of the enquiry one would have expected a more precise ToR. For example:-

- There are no recorded date parameters for the enquiry, which are critical to such an investigation.
- The term ‘sexual abuse’ is used in the first Decision whereas the next one refers to ‘serious indictable offences’. Given the historic nature of the enquiry guidance on offences to be investigated must be very clear.
- As regards suspects there is no reference as to whether it includes staff only, visitors or offences by children on children.

3.4 A major factor affecting the planning of Operation Rectangle was the decision to limit it to a single agency led investigation, eg. police only. It has been made very clear to the Review Team that this was due to the internal politics and alleged corruption in the Island, a lack of trust by victims of some of the authorities and the fact that at least one suspect was working as a social worker in the Island. It is felt that this decision probably had a profound influence on the subsequent investigation.

3.5 From a Command and Control perspective if ex-DCO HARPER was SIO then it raises the question of who supervised him at the strategic level. The Chief Officer, Graham POWER, stated that he dealt with the political aspects of the investigation, ex-DCO HARPER oversaw operational matters and that they would talk ‘from time to time’. This is an area that will need to be explored with ex-DCO HARPER.

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3.6 There were also concerns over Policy Decisions in terms of lack of detail and consistency, eg:-

- Initial decisions regarding the investigation of child sexual abuse and serious indictable offences were later extended to seemingly include all abuse, but with no recorded decision.
- A Policy declares the investigation as Category A+ and a Critical Incident. A later decision states that the above was only 'technical' and hence seeks to excuse the need for completing a Community Impact Assessment (CIA) or forming a Gold Group.
- The Policy regarding the reasons for searching HDLG has no detail.
- The Policy regarding the reasons for searching the Victorian Tower bunkers has very limited detail.

3.7 Policy 8 dated 28<sup>th</sup> December 2007, not to produce a CIA includes the rationale that there is 'no likelihood of community tensions leading to damage to community relations.' Given the high profile of the enquiry and the alleged public mistrust of and between the authorities, the decision appears perverse. However, following a recommendation by the ACPO Advice Team a CIA was completed and has subsequently been updated.

3.8 Policy 8 also dealt with reasons not to establish a Gold Group. It states, "it is not appropriate because of the involvement of other agencies in the allegations and the additional possibility of a Crown Advocate being approved imminently." It is felt that any fears in respect of other agencies could have been overcome and would have greatly benefited the enquiry. This issue has yet to be raised with ex-DCO HARPER.

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3.9 Another recommendation by the ACPO Advice Team advised that the Chief Officer and SIO consider convening an Independent Advisory Group (IAG). They suggested the IAG should not include former residents at HDLG, but could include the NSPCC or community groups and assist with the CIA.

3.10 The Chief Officer advised the Review Team that the IAG was formed over a weekend as a result of his phone calls to 'trusted people'. The Review Team has seen no Terms of Reference, but correspondence suggests that IAG exceeded their remit and became more like investigators than independent representatives of the community. The general view now appears to be that lessons have been learnt and that an IAG does have a role to play in Jersey. This is therefore best described as work in progress.

3.11 Two extremely important decisions in this enquiry relate to the searching/excavation of HDLG and the Victorian Tower bunkers. In respect of HDLG, on 22<sup>nd</sup> January 2008, after the search had began, Decision 13 under Main Lines of Enquiry states:-

"To invite Forensic Archaeology to Island to commence preliminary search of grounds of HDL using ground-penetrating radar in initial search for human remains."

The rationale for the decision is:-

"Information from two witnesses, although not site specific, raises a possibility, which should be investigated".

3.12 In a later report, some weeks after the search/excavation commenced, a more in-depth rationale is provided for the action taken namely:-

- (i) Bones were found at HDLG during renovation work in 2003.
- (ii) Advocate [REDACTED] had a 'client' who suggested bodies were buried at HDLG.



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- (iii) [REDACTED] states she saw dead bodies at HDLG.
- (iv) There is a general comment about looking for evidence supporting the abuse allegations and a quote that, "children had been dragged from their beds at night screaming or had then disappeared."

3.13 The Review Team examined this rationale and concluded the following:-

- (i) The bones found at HDLG in 2003 were examined by a pathologist together with another doctor. Both state that the bones are not human. That fact is also mentioned by Detective Sergeant Keith BRAY in a report submitted on 7<sup>th</sup> January 2008. He states that, "In conclusion the bones are not human remains and therefore that aspect of the enquiry is no longer an issue of concern". The Pathologist's view is also noted by Detective Constable Adele MOSS in her statement dated 11<sup>th</sup> January 2008.
- (ii) Advocate [REDACTED] 'client' was not known to police prior to the search at HDLG hence the information was third party only. He was later identified as [REDACTED] and when seen by police made a statement about general abuse at HDLG. However, he makes no mention of any bodies at HDLG. Interestingly he was seen by police prior to the search although they were not aware at that time that he was Advocate [REDACTED] 'client'. On that occasion he made no mention of any bodies at HDLG.
- (iii) [REDACTED] is recorded as being an alcoholic and extremely unstable. She has a Key Worker, who does not appear to have been spoken to and was under some form of psychiatric care. She was eventually interviewed on 16<sup>th</sup> January 2008 when she described:-

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- A girl jumping from a window at HDLG and dying from her injuries.
- Seeing a hand amongst some leaves near to HDLG.
- Witnessing a boy fall to his death from cliffs at Gorey Castle.
- Seeing two boys hanging together from a tree.
- [REDACTED] hanging himself.

[REDACTED] history and her interview suggest she could not be considered a reliable witness. Her allegations of crime in respect of dead bodies suffers from a total lack of corroboration.

- (iv) The general comment about looking for evidence supporting the abuse allegations is considered extremely speculative given the timescale. The quote about children screaming and disappearing is clearly meant to be sinister in nature. In reality many of the children at HDLG are said to have had 'problems' and many came and went on very short notice as this home was used for short-stay reasons and not just long-term care.

3.14 A final factor that should have been considered is that there are no children actually recorded as missing from HDLG. Whilst the records are not entirely complete as regards reasons for discharge from the home, there are no obvious missing children and no reports in the MIR from parents, relatives or friends suggesting such.

3.15 In respect of the search/excavation at the Victorian Tower bunkers. On 5<sup>th</sup> May 2008, Decision 19 states:-

"To treat bunkers at the Victorian Tower as new scene of enquiry."

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The rationale for the decision is:-

"Intelligence from a number of witnesses/sources, most with HDLG connections, which describe either finding human remains/child's body and also make allegations of serious sexual abuse by HDLG staff. Further information of possible occult connection."

3.16 A report dated 12<sup>th</sup> July 2008 lists the information referred to above as:-

- (i) Sexual assault of HDLG residents by staff inside the bunkers.
- (ii) The finding of a dead child in the bunker many years ago.
- (iii) The discovery of bones outside the bunkers many years ago.
- (iv) Satanic imagery on the bunker walls.
- (v) Around Easter 2008 earth had been disturbed at two locations by unauthorised persons which could be interpreted as an attempt to gain entry to the bunkers.

3.17 The Review Team examined the rationale and concluded the following:-

- (i) There is witness evidence of a person being sexually assaulted in a bunker, however, the Enquiry Team have doubts about the veracity of the account provided. In any event an excavation after such a long period of time is unlikely to provide any supporting evidence.
- (ii) The 'finding of a dead child' in the bunkers is information from [REDACTED] [REDACTED] (see para 3.13(iii))

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- (iii) The bones found many years ago may be a reference to either a 1988 find of a 19<sup>th</sup> century femur or animal bones found in a nearby farmer's field.
- (iv) The satanic imagery on the bunker walls is apparently a drawing of a head with horns seen on the wall of a bunker by a witness when 15-years of age.
- (v) It is stated that the earth disturbance at Easter 2008 'could be interpreted' as an attempt to gain entry to the bunkers. It was also suggested to the Review Team that it could equally be drugs connected. Any further speculation would seem pointless.

4. FORENSIC

4.1 The ACPO Homicide Advice Team recommended that the National Policing Improvement Agency (NPIA) should undertake a forensic review. Subsequently this was conducted by two of their Forensic Specialist Advisers.

4.2 Much of their review deals with strategic and administrative issues and thanked all those interviewed for their help, co-operation and all round professionalism. However, it is understood that due to leave commitments and tight timescales a key member of the investigation, the Forensic Services Manager (FSM) Vicky COUPLAND, was not interviewed in person, but was spoken to briefly on the telephone.

FSM COUPLAND does not agree with some issues raised and has submitted a response to the NPIA.

4.3 During the course of the investigation at HDLG, FSM COUPLAND has comprehensively documented her role in a series of eighteen (18) Major Incident Scene Management Logs. Entries relate to a range of areas and include:-

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- Strategies for forensic recovery and examination.
- Forensic meetings.
- Staffing issues.
- Media.
- General administration.

It is unclear what input the SIO had in formulating the strategies outlined in the logs.

4.4 The examination of HDLG and surrounding areas has been extensive and has involved many forensic disciplines. Numerous exhibits have been recovered and include:-

- A number of bone fragments -- eleven of these have been examined. Three have been identified as believed to be human bone. However, carbon dating has shown two of them to be dated 1450-1650 and the third to be 1650-1950. The other fragments are either animal bone or not bone at all.
- Sixty-five teeth -- these have been identified as child/juvenile teeth. Indications are that some fell out naturally whilst other were extracted. Some results in respect of the teeth are still outstanding.
- Restraints.
- Shackles.

The term restraints and shackles give a false impression. The restraints are in fact a piece of coiled wire whilst the shackles are a piece of metal chain and piece of metal.

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- 4.5 Great emphasis has been placed on a piece of bone (JAR/6) found at HDLG on 23<sup>rd</sup> February 2008. This was initially identified by Doctor Julie ROBERTS (Forensic Archaeologist) as bone, probably from the skullcap of a juvenile. This find was subject to much media interest. Some confusion then seemed to have existed as to whether this was bone or not. The issue seems to have been clarified in a report by Doctor Tom HIGHAM (Oxford Radiocarbon Accelerator Unit), dated 1<sup>st</sup> May 2008. In it he states that, "the sample was not in fact bone, but was almost certainly wood." He seemed surprised that Dr ROBERTS could so confidentially determine the exhibit to be an infant's specimen. He concludes that the sample is '(a) not bone and (b) not human.' Clearly with so much emphasis being placed on this item it is felt that further efforts should be made to try and define its origin.
- 4.6 Much forensic work has been undertaken by LGC Forensics. In order to establish their findings and the chronology of events the Review Team intend to interview appropriate members of their staff in the near future.

5. INTELLIGENCE

- 5.1 Although an early decision was made to focus the investigation on HDLG, it spanned a long time frame and therefore involved a large number of potential suspects. The terms Persons of Interest (PoI) and Suspect have been used in the conduct of the investigation, but the terms have never been defined and appear to have been virtually interchangeable. Failure to separate suspects, from those who failed to reach that status, rendered prioritisation more difficult. It is suggested that the following criteria could have been applied:-

- 'Suspect'

A person whom there are grounds to suspect of the offence and who would require a caution prior to questioning.

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1.2.

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- 'Persons of Interest'

A person, who enquiries or M.O. suggest, may possibly be in some way 'involved in' or 'connected to' the offence but falls short of the 'suspect' criteria.

5.2 The second ACPO report in late-March 2008 recommended that the SIO should consider a scoring matrix to manage and prioritise the arrest of any suspects. Although at that time the SIO made a decision not to use such a matrix, the Review Team considers that this would have been beneficial. During the period of the review the new SIO made a decision to create a flexible form of matrix and the Review Team concurs with this decision. Use of the Suspect and PoI criteria may have aided the prioritisation process and if raised at the start of the enquiry could have assisted in determining appropriate research levels.

6. ARREST

6.1 At the time of the review the following people had been arrested in connection with Operation Rectangle:-

- Gordon WATERIDGE.

- Michael AUBIN.

- 
- 
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Of these only WATERIDGE and AUBIN have been charged and await trial.

- 6.2 Contained in the Persons of Interest//Suspect Policy Book (Policy 7, dated 10/04/08) is the decision, "wherever possible to get preliminary file to Barrister THOMAS before arrest so that charges can be flagged up pre-arrest". The rationale being, "to avoid having to release suspects from custody without charge and to identify potential evidential problems early". This decision is seen as problematic as it could restrict any interview with a suspect and at worse could make any interview inadmissible at court. The new SIO and the relevant prosecutors are aware of this decision.

7. MEDIA

- 7.1 At the start of the enquiry medial appeals for witnesses and information attracted a large number of responses. The search at HDLG, however, caused an explosion of interest both local and international. There are concerns about the Media Strategy, the manner in which some information was imparted to the media, the quality of this information and the language employed.

8. MAJOR INCIDENT ROOM

- 3.1 The Major Incident Room (MIR) was set up in September 2007 to deal with the administration of the investigation and operated primarily as a 'manual' or 'paper' major enquiry system. Jersey did however utilise a computer-based spreadsheet for dealing with some aspects of the information gathered and for Action Management.

- 8.2 In late November 2007 it became clear that the MIR did not have the capacity to cope with the volume of information being received and that the HOLMES system would need to be introduced. On the 3<sup>rd</sup> January 2008, a meeting took place with the Devon and Cornwall Police (who provide Major Incident IT support for Jersey) to undertake 'Back Record



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Conversion' (BRC) to HOLMES. This process was started at Devon and Cornwall headquarters while new workstations were purchased and installed in Jersey. This BRC took longer than was initially envisaged due to the volume of material involved, but good support was provided by Devon and Cornwall Police who also loaned an experienced Office Manager (OM) Kevin DENLEY to run the MIR.

- 8.3 An area that has caused some concern during this review and which may be the subject of a future comment is the use of 'Officers Reports'. At the time of this review just over eight hundred reports have been submitted, many of these have been used instead of completing Action results or submitting a message, in some cases the report could have been more appropriately dealt with as an Other Document. This issue has been discussed with the OM and he has endeavoured to reduce the volume of reports.

## 9. CONCLUSION

- 9.1 Research prior to the Operation Rectangle outlined prior prosecutions and current allegations of physical and sexual abuse, which undoubtedly justified an investigation.

- 9.2 Such investigations benefit greatly from a multi-agency approach, but it was not considered viable due to circumstances unique to Jersey. It is felt, however, that had such difficulties been overcome, it would have greatly benefited the enquiry.

- 9.3 Command and control appears to have been an issue in areas such as:-

- Terms of reference.
- Policies.
- Supervision.

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- Gold Group support.
- Community Impact Assessment.

- 9.4 At the start of the investigation the media played a large role in publicising the enquiry and assisted in appeals for witnesses and information. When, however, the search/excavation at HDLG commenced it moved quickly on to a new level seemingly fed by a running commentary on the work/finds at HDLG. The interaction of the Enquiry Team with the media at this time does raise many issues.
- 9.5 The rationales for the searches/excavation at HDLG and the Victorian Tower bunkers does not appear to stand close scrutiny, particularly given the extent and cost of the work undertaken. Ex-DCO HARPER has not yet had an opportunity to comment, but at the present time we have grave doubts about the justification for conducting the searches.
- 9.6 That said, the search/excavations work was undertaken and no evidence of homicide was apparent and no obvious missing persons have been identified. We are therefore of the view that Operation Rectangle should consider this aspect of their enquiry concluded.
- 9.7 In respect of the on-going child abuse allegations, these are currently subject to a vigorous process, involving the legal authorities, which should reduce the list of suspects to single figures. These will then be prioritised and where appropriate progressed to prosecution.

Peter BRITTON  
Review Officer

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Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP12

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## **Operation HAVEN**

**An independent disciplinary investigation by Wiltshire Police following the suspension of Chief Officer Graham POWER of the States of Jersey Police on 12 November 2008**

Senior Investigating Officer:  
Brian MOORE QPM  
Chief Constable  
Wiltshire Police



**An independent disciplinary investigation by Wiltshire Police following the suspension of Chief Officer Graham POWER of the States of Jersey Police on 12 November 2008**

**Obligation to confidentiality**

1. Paragraph 1.2 of the discipline code (for Chief Officers of the States of Jersey Police) requires that all parties involved in the operation of this code will maintain confidentiality while proceedings are being progressed. The outcome of any particular case arising under the code will not, as a general rule, be publicised, but it is accepted that following the outcome of a particular case, the Home Affairs Minister and/or the States Employment Board and/or the Chief Officer, might decide that public disclosure is appropriate.
2. This Report contains personal data within the meaning of the Data Protection Act 1998 and Wiltshire Police would breach the first data protection principle if it were to disclose that information. Hence, the information is exempt under s.40(2) Freedom of Information Act 2000.
3. This Report contains information that has been, and continues to be, held by Wiltshire Police for the purposes of an investigation which it has a duty to conduct and which ought not to be disclosed (under s.30 Freedom of Information Act 2000).
4. An obligation of confidence upon Wiltshire Police arises from the duty outlined at one above and disclosure of information would be likely to prejudice relations between the United Kingdom and Jersey. Information, therefore, ought not to be disclosed (under s.27 Freedom of Information Act 2000).

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# 1. Background and context

1.1 This Report relates to a disciplinary investigation undertaken by Brian MOORE QPM, Chief Constable of Wiltshire Police, following the suspension on 12 November 2008 of Graham POWER QPM, Chief Officer of the States of Jersey Police, in relation to alleged failings in his supervision of the Historic Child Abuse Enquiry known as Operation Rectangle. The Wiltshire Police investigation is known as Operation Haven.

## 1.2 Chief Officer POWER's career history

1.2.1 Chief Officer POWER's police career commenced in 1966 in the then Middlesbrough Constabulary which through a process of amalgamation became a part of Cleveland Constabulary. In 1974, he was selected for the accelerated promotion scheme and was promoted to sergeant in 1975. In his early years in Cleveland, he served in uniform, CID and the traffic department. Later as a police sponsored student, he read Politics, Philosophy and Economics at Oxford University and achieved an MA with second class honours in 1979. He rose through the ranks to become Superintendent in 1985. In 1988, he transferred to North Yorkshire Police and was promoted to Chief Superintendent and became Commander for Harrogate Division.

1.2.2 After attending the Senior Command Course in 1991 he was appointed Assistant Chief Constable of Lothian and Borders Police in Scotland, where he oversaw 'management services' comprising recruitment, finance, I.T. and related disciplines. He became the Deputy Chief Constable of Lothian and Borders Police in 1994 and in the same year was awarded the Queen's Police Medal for his distinguished services to policing. In 1998, he took up a position as Her Majesty's Assistant Inspector of Constabulary for Scotland.



1.2.3 Following his retirement from the police service in Scotland, Graham POWER was appointed as the Chief Officer of the States of Jersey Police on 1 November 2000. His initial contract of service was for a period of five years and was due to expire on 31 December 2005. However, this contract has twice been extended and his current employment contract is due to terminate on 31 December 2010.

1.2.4 During his career, CO POWER has attended formal training courses as follows:

1974 Police College Bramshill  
Special Course (accelerated promotion)

1983 Police College Bramshill  
Research and Planning

1985 Northumbria Police training school  
Public Order Command course

1988 West Yorkshire Police training school  
Tactical Firearms Commander

1988 Police Staff College Bramshill  
Intermediate Command course

1990 Police Staff College Bramshill  
Public Order ground commander

1991 Police Staff College Bramshill  
Senior Command Course

1992 Police Staff College Bramshill  
Equal Opportunities

1.2.5 If the above is correct, it will be apparent that CO POWER has received no formal 'refresh' training since 1991.

1.2.6 In 1997, whilst Deputy Chief Constable of Lothian and Borders Police, Mr POWER planned and led the policing of the Commonwealth Conference which, at that time, was the largest political conference ever held in the United Kingdom.

1.2.7 In 1998, he led a team of investigators conducting a major review of a Grampian Police investigation into the abduction and murder of Scott SIMPSON, aged 9 years. In his concluding report, he made

x.662; pages  
1744-1855

several recommendations for future practice. Reference will be made later in this Report to that review.

- 1.2.8 This Inquiry has not been asked to pass comment on CO POWER's general attributes or reputation as a Chief Officer. However, given the insight that we have acquired in conducting this investigation, we conclude that CO POWER was a competent Chief Officer when managing the routine business of the States of Jersey Police. This is reflected in the overall performance of the Force and the generally positive opinions expressed by the Her Majesty's Inspectorate of Constabulary in 2006 and 2008. The evidence accrued by Operation Haven also suggests that, while CO POWER was confident and competent in managing the ordinary, he was ill-equipped to manage the extraordinary when it arose in the shape of Operation Rectangle.

### **1.3 Structure of the States of Jersey Police**

- 1.3.1 The Bailiwick of Jersey is a self-governing Island measuring 45 square miles and incorporating 12 parishes, each headed by a democratically elected Connétable with its own honorary police force. The professional States of Jersey Police has an Island-wide mandate and has existed, in its current form, since 1952. Effectively, therefore, the Island has 13 police forces.
- 1.3.2 The States of Jersey Police is responsible to the Home Affairs Minister who undertakes the role of what would be considered in the UK, a Police Authority. The Chief Officer's political accountability is to the Minister under Article 9 of the Police Force (Jersey) Law 1974 for the '*general administration and the discipline, training and organisation of the Force*'. In addition, the Chief Officer of Police is one of a number of Chief Officers on the Island who report directly to the Chief Executive to the Council of Ministers and Head of Public Service. The Chief Executive conducts a formal Performance Review and appraisal in respect of all Chief Officers, including the Chief Officer of Police. This includes performance against the Policing Plan, the application and maintenance of appropriate policing

standards as advised by HMIC, and in respect of the effective and efficient use of resources. However, the Chief Officer's Performance Review is more collaborative in nature due to the fact that the Chief Officer of Police also reports directly to the Home Affairs Minister. By law, the Chief Officer of Police has complete operational independence from the Council of Ministers.

- 1.3.3 The States of Jersey Police comprises 240 officers and 95 civilian support staff. The Senior Management Team consists of the Chief Officer, Deputy Chief Officer, a Superintendent and three Chief Inspectors. For ease of reference, a full organisational chart of the States of Jersey Police is included within the Evidential Bundle accompanying this Report. The States of Jersey Police currently operates from four operational sites: Police Headquarters, the 'Summerland' site in Rouge Bouillon, and the Special Branch offices at Jersey Airport and St Helier Harbour. d.61; page 15

## 1.4 Role profile for the Chief Officer

- 1.4.1 The role profile for the Chief Officer of Police, described in the post's job description, is to *'direct, control and command the States of Jersey Police Service and its civilian support staff in accordance with the Police Force (Jersey) Law 1974 and the policies of the Home Affairs Department in order to provide an effective and efficient police service and to advise the Home Affairs Minister on all aspects of the provision of policing in the island'*. The principal accountabilities of the Chief Officer are listed within the job description which can be found within the Evidential Bundle accompanying this Report. x.6;  
pages 9-15
- 1.4.2 The provisions of the Police (Complaints and Discipline) Jersey Law 1999 and the Police (Complaints and Discipline Procedure) (Jersey) Order 2000 do not apply to the Chief Officer. He is subject to a disciplinary code for the Chief Officer of Police which forms part of his contract. Although he remains subject to that code, it has been amended so as to substitute references to the Home Affairs Minister for references to the former Home Affairs Committee.

1.4.3 CO POWER sits on the States' Corporate Management Board, chaired by the Chief Executive to the Council of Ministers. The Chief Executive has a specific responsibility to the Corporate Management Board for the performance of all States' departments, not just for the police. CO POWER also represents the Channel Islands and the Isle of Man on the ACPO Terrorism and Allied Matters Business Area. He is a candidate assessor for the Home Office 'Police High Potential and Strategic Leadership Programme' which assesses members of the police service considered suitable for advancement to the most senior ranks.

## **1.5 Operation Rectangle – a brief chronology of events**

1.5.1 A full chronology can be found at Appendix 1

1.5.2 In April 2006, the States of Jersey Police became concerned at the number of allegations of reported child abuse against State employees and those in a position of trust and responsibility over children. These concerns were particularly highlighted when the Commanding Officer of the States of Jersey Sea Cadets was prosecuted for downloading pornographic images of children, including some sea cadets. Another male pleaded guilty to historic offences of child abuse at Haut de la Garenne, a former children's home. The States of Jersey Police began to examine a number of previous cases and as a result a Historic Child Abuse Enquiry, codenamed Operation Rectangle, commenced on 10 September 2007. During this review enquiry, references were made to abuse which had allegedly taken place at Haut de la Garenne. A 'covert' phase of the Historic Child Abuse Enquiry was undertaken from September until November 2007 when the investigation was made known to the public. The overt phase, from November 2007, concentrated on public appeals for potential victims and witnesses to contact the States of Jersey Police. This resulted in a positive response and on 13 December 2008, the enquiry was

preliminarily declared a 'critical incident' and classified as 'Category A+'. This Category is defined in the Murder Investigation Manual as '*a homicide or other investigation where public concern and the associated response to media intervention is such that normal staffing levels are not adequate to keep pace with the investigation*'.

MOG; d.17;  
page 77; para  
3.3.2

1.5.3 In January 2008, with the assistance of Devon & Cornwall Constabulary, Operation Rectangle data were transferred from a manual card indexing system to the full 'Home Office Large Major Enquiry System' (HOLMES) database. DCO Lenny HARPER performed the role of the SIO alongside his duties as Deputy Chief Officer and Detective Inspector Alison FOSSEY was appointed as the Deputy Senior Investigating Officer (DSIO). CO POWER was aware of the investigation and at times '*provided confidential briefings to the Minister for Home Affairs, Wendy KINNARD, the Chief Minister Frank WALKER and the Chief Executive Bill OGLE*'.

d.1071; page  
238; para 142

1.5.4 As enquiries continued, the decision was made to focus on the former children's care home at Haut de la Garenne within the investigation.

1.5.5 Haut de la Garenne was built in 1866 as a privately run home for destitute and orphaned children. In 1900 it became known as the Jersey Home for Boys. The Education Committee took responsibility for it in 1953 when it became a mixed-gender home and was re-named Haut de la Garenne. The building ceased to function as a children's home in 1983 and at the time of the search, in February 2008, it was a youth hostel.

1.5.6 During January 2008, a decision was taken to search the Haut de la Garenne for the presence of human remains. The rationale for this decision is commented on in a later Section of this Report. The search of the building commenced on 19 February 2008 and following a further decision to search 'Victorian Bunkers' nearby, the searches were completed on 2 August 2008. Immediately prior to the search commencing DCO HARPER held a meeting with LGC Forensics and representatives from the National Policing Improvement Agency



(NPIA) in order to assess the logistics for the search. As a result, a number of experts were called upon to assist with the investigation, including anthropologists, archaeologists and specialist search advisors. On 23 February 2008, Haut de la Garenne attracted national and international media attention when the 'potential remains of a child' were said to have been discovered inside the building. As a result of this discovery, the investigation fell into two distinct functions, the on-going enquires into sexual abuse and the search for human remains at Haut de la Garenne and its environs.

1.5.7 As Operation Rectangle gained media momentum from 23 February 2008 onwards, at the suggestion of CO POWER, the ACPO Homicide Working Group was contacted to provide mentoring and advice to the Operation Rectangle investigation team. Agreed terms of reference were signed by CO POWER and Andre BAKER, representing the ACPO Homicide Working Group. There has been much contention over the term of reference '2c', i.e., whether the ACPO Homicide Working Group was providing 'quality assurance' of the Operation Rectangle investigation. Between February and June 2008, the ACPO Homicide Working Group led by Andre BAKER, attended the Island and provided mentoring and advice mainly to DCO HARPER. The ACPO Homicide Working Group Team comprised Andre BAKER, Anne HARRISON and John MOONEY. Four reports with recommendations were submitted by them to the States of Jersey Police.

1.5.8 Following the events of 23 February 2008, DCO HARPER was appointed as SIO for Operation Rectangle on a full time basis and relinquished the DCO function to Superintendent Shaun DU-VAL. Detective Inspector Alison FOSSEY remained as the DSIO, although Acting Detective Inspector Keith BRAY assumed that role from January to March 2008 whilst Detective Inspector FOSSEY attended a training course followed by a period of annual leave.

- 1.5.9 The Home Affairs Minister at the commencement of Operation Rectangle was Senator Wendy KINNARD and the Assistant Minister was Deputy Andrew LEWIS.
- 1.5.10 On 29 May 2008, Deputy Andrew LEWIS took over Senator Wendy KINNARD's responsibility for Operation Rectangle after she declared a personal interest in the case. Deputy Andrew LEWIS then subsequently assumed the role of Home Affairs Minister in October 2008 after Senator KINNARD left her ministerial role.
- 1.5.11 DCO HARPER led Operation Rectangle as the SIO until his retirement in August 2008. His successor as the new DCO, David WARCUP, was appointed on 4 August 2008. There had been regular contact between David WARCUP and CO POWER prior to the commencement of his DCO role with the States of Jersey Police. As will be seen in this Report, CO POWER makes reference to speaking to David WARCUP by telephone and updating him on certain issues prior to his appointment. Detective Superintendent Michael GRADWELL, seconded from Lancashire Constabulary, was appointed as the new SIO for Operation Rectangle on 8 September 2008.
- 1.5.12 Upon his appointment, DCO WARCUP assumed responsibility for the strategic oversight of Operation Rectangle. In line with best practice and as suggested in Recommendation 68 of the ACPO Homicide Working Group report, DCO WARCUP wrote to Commander Simon POUNTAIN of the Specialist Crime Directorate, Metropolitan Police, in August 2008, formally requesting assistance in undertaking a full review of the Historical Abuse Enquiry and this was agreed. In September 2008, the Specialist Crime Review Group commenced their review of Operation Rectangle. A review is a specific, structured process undertaken by experienced, specialist investigators against the standards described in the Murder Investigation Manual and the Major Incident Room Standardised Administrative Procedure Manual.

x.468;  
pages 1308-  
1325

- 1.5.13 The purpose of the review and the report which followed was to provide advice, guidance and learning for the SIO and the Operation Rectangle team. A review will typically highlight well run aspects of an investigation and comment on areas that require attention. In order to be effective and to encourage staff to speak openly, the content of the final report of the review is intended to be provided and received in a spirit of learning. Public disclosure of the report is resisted and it usually attracts public interest immunity. Accordingly, it would not be disclosable for the purposes of a discipline hearing as to do so could undermine the public interest by inhibiting candour between interviewers and interviewees in the review process. The review report for Operation Rectangle has not, therefore, been relied on or quoted from in this Inquiry. Witness statements have, however, been provided by Peter BRITTON, Lead Review Officer, and Detective Superintendent Bryan SWEETING, the Head of the Specialist Crime Review Group.
- 1.5.14 Whilst the Specialist Crime Review Group was conducting the review, DCO WARCUP and Detective Superintendent Michael GRADWELL were also assessing aspects of the investigation. Comment will be made on their opinion throughout this Report. ACO WARCUP will state that on a number of occasions, he sought to raise concerns with CO POWER about the enquiry. In particular, the Media Section of this Report highlights the evidence of DCO WARCUP who tried to persuade CO POWER to participate in a press conference on 12 November 2008 to 'put the record straight' in relation to the items found at Haut de la Garenne and which were reported, incorrectly, to the public.
- 1.5.15 An interim review report was delivered to DCO WARCUP by the review officers from the Metropolitan Police Service on 10 November 2008. On 10 November 2008, DCO WARCUP wrote to Chief Executive Bill OGLE, outlining his concerns with regard to what he termed as *'failings in relation to the command and management of the ongoing Historic Child Abuse Enquiry.'*

x.657;  
pages 1701-  
1710



1.5.16 On the evening of 11 November 2008, DCO WARCUP and Detective Superintendent Michael GRADWELL provided a briefing to the Corporate Parent Group of Ministers in regard to Operation Rectangle in advance of a media briefing that was to occur on 12 November 2008. The purpose of the media briefing was to correct previous reports about Operation Rectangle that were in the public realm and were considered inaccurate and had the potential to harm future trials. The briefing announced that the forensic recoveries made on 23 February 2008 and subsequently at Haut de la Garenne provided no indication of any murders having taken place there, and that, contrary to public perception, there had been no bodies burnt or disposed of. On the evening of 11 November 2008, CO POWER was contacted whilst at home and invited to attend a meeting the following day with the Minister, the Chief Executive and the Head of Human Resources.

1.5.17 On 12 November 2008, CO POWER was informed that he would be subject to the Formal Disciplinary Process and was suspended from duty by Deputy Andrew LEWIS. DCO WARCUP was appointed to the role of Acting Chief Officer of Police. The suspension has been subject of a review process by the Home Affairs Minister, but remains in place at the time of writing this Report.

d.7;  
pages 9-10

1.5.18 In November 2008, Chief Constable Brian MOORE was requested by Her Majesty's Inspectorate of Constabulary, to undertake a disciplinary investigation into CO POWER's role in relation to Operation Rectangle. Terms of reference for the disciplinary investigation were agreed on 1 December 2008, and Operation Haven commenced on that date. Following a six month evidence gathering phase, Operation Haven made preparations for the interview of CO POWER and disclosed to him various documents relevant to the interview. In the absence of legal representation, CO POWER declined to be interviewed but supplied a lengthy written statement.

## 1.6 Operation Haven terms of reference

1.6.1 Chief Constable MOORE was formally commissioned to undertake the discipline investigation by Bill OGLEY, the Chief Executive to the Council of Ministers, by way of a letter dated 1 December 2008. The following terms of reference were agreed:

1.6.2 *In respect of States of Jersey Police Historic Child Abuse Investigation (Operation Rectangle) and in the context of the duties of the Chief Officer of Police, as set out in Article 9 (3) of the Police Force (Jersey) Law 1974, (i.e. the Chief Officer of Police shall be responsible to the Minister for the general administration\* and the discipline, training and organisation of the Force and of the Port Control Unit) to undertake a disciplinary investigation which seeks to establish,*

1.6.3 1. *Whether Chief Officer Graham POWER's performance met the ACPO/NPIA standards and guidance for the supervision of Operation Rectangle (including the supervision of the financial management of Operation Rectangle).*

1.6.4 2. *Whether Chief Officer Graham POWER's performance met the ACPO/NPIA standards and guidance for the supervision of Operation Rectangle as a critical incident.*

1.6.5 3. *Whether Chief Officer Graham POWER's performance met the ACPO/NPIA standards and guidance for the supervision of the media strategy in respect of Operation Rectangle. And,*

1.6.6 4a. *In discharging 1-3 above, if it is discovered that a person may have committed any criminal offence which may have a bearing on 1-3 above, this will be disclosed to the Acting Chief Officer of Police and the investigative approach will be agreed with him.*

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\* A separate report will be prepared by Operation Haven in respect of the financial management of Operation Rectangle and, therefore, this issue is not dealt with in this Report.

4b. *In respect of the States of Jersey Police, if it is discovered that a person may have committed any disciplinary breach which may have a bearing on 1-3 above, this will be disclosed to the Acting Chief Officer of Police and the investigative approach will be agreed with him.*

1.6.7 5. *To identify and report any corporate learning for the benefit of the States of Jersey Police identified from 1-4 above.*

1.6.8 A copy of the disciplinary code for the Chief Officer of Police (States of Jersey Police) is included in the Evidential Bundle accompanying this Report.

d.2; pages 1-4  
d.3; pages 5-8

## 1.7 Operation Haven planned method of investigation

1.7.1 In order to assess the performance of CO POWER in his supervision of Operation Rectangle, Operation Haven adopted the following investigation plan:

- Ascertain the standard of investigation applicable to the States of Jersey Police.

This Inquiry has sought to discover whether the standards that the States of Jersey Police were working to were the relevant ACPO/NPIA standards.

- Ascertain what CO POWER should have known about the ACPO/NPIA standards of investigation based on his previous experience.

Through enquiries with CO POWERS's previous forces and his experience within the States of Jersey Police, Operation Haven sought details of his training, his experience and the previous investigation standards he has worked to. Witness evidence seeks to include details of his knowledge and awareness of those standards.

- Ascertain what CO POWER did know about the ACPO/NPIA standards.

This was intended to be discovered during the formal interview of CO POWER by this Inquiry. In the absence of that interview, the examination of witness testimony, his prepared statement and documentation has allowed Operation Haven to draw conclusions relating to CO POWER's knowledge.

- Ascertain any failings by CO POWER in respect of the standard.

Evidence gathered from witnesses, the analysis of available documentation and the examination of his e-mail communication provided Operation Haven with material that was considered by expert witnesses in order to assess CO POWER's performance. Experts were used to help assure the findings of this investigation and provide an independent opinion. The expert witnesses were provided with access to relevant material including CO POWER's witness statement.

- Ascertain whether there has been a failing against a criminal or misconduct threshold.

The material gathered by this Inquiry has been examined by lawyers commissioned by Operation Haven.

- Ascertain whether there been a failure of performance by CO POWER.

Similarly, the material gathered has been examined by lawyers commissioned by Operation Haven.

## **1.8 The investigation and supervision standards for Operation Rectangle**

- 1.8.1 Operation Haven has sought to assess the actions of CO POWER against the relevant Association of Chief Police Officers and National Policing Improvement Agency standards which are included within the Evidential Bundle accompanying this Report and summarised below.

- **The Murder Investigation Manual** was first published on behalf of ACPO in September 1998. It was compiled by a group of experienced Senior Investigating Officers supported by experts and other professionals working in the criminal justice system. They carried out extensive consultation within the Police Service and partner agencies to identify good practice in homicide investigation. The resulting manual was widely praised for consolidating the wide array of complex issues involved and it is now regarded as the definitive guide on homicide investigation by practitioners and policy makers alike. It is used to underpin the training and development of SIOs and has become a reference point for the investigation of all types of major crime. The second edition was published in 2000 after being amended to take into account changes in legislation and procedure. The current edition, published in 2006, was further amended to take into account legislative, scientific and technical advances, together with procedural developments that have come about through lessons learned from public enquires, coroners' inquests, criminal trials and internal reviews. The current 2006 version of the manual focuses mainly on the role of the SIO and the strategic issues involved in investigating a homicide. Many of the associated tactical elements are now dealt with in separate manuals of guidance. MOG; d.17
  
- **The Major Incident Room Standardised Administrative Procedures** were published in a consolidated form on behalf of ACPO in 2005, providing the Police Service with clear information and guidance on the procedures to be used in a Major Incident Room. The success of any major investigation requires an organised and methodical approach and the Major Incident Room is central to this. All information gathered from members of the public, enquiry officers and other sources is recorded and managed using a standard set of administrative procedures, into a system used by the SIO to direct and control the enquiry. MOG; d.96



- **The Investigation of Historic Institutional Child Abuse** guidance was published on behalf of ACPO in 2002. It was produced after SIOs nationally recognised that a number of complex historical investigations had been undertaken with limited national guidance and an absence of documented good practice. There followed extensive consultation with SIOs throughout England, Wales and Northern Ireland who had experience in dealing with historic abuse investigations. MOG; d.778
- **Practice Advice on Critical Incident Management** was published on behalf of ACPO in 2007. The advice contained in the manual was developed in response to concerns raised by the Police Service in England, Wales and Northern Ireland regarding its ability to identify and manage critical incidents. The manual provides Chief Officers with a range of strategies for developing protocols and procedures to help forces to prepare for, identify and manage critical incidents. MOG; d.16
- **ACPO Media Advisory Group** guidance notes were published in 2002, replacing those previously published in 2000. The guidance aims to encourage consistency of practice by police forces when dealing with the media. The guide provides a clear working framework to assist police to maintain effective working relationships with the media. MOG; d.87
- **The Effective Use of the Media in Serious Crime Investigations** is a report published by the Home Office in 1999. It explores the central issues surrounding effective media handling in major crime investigation. It includes advice on developing media strategies, managing media interest, the disclosure and acquisition of information and wider concerns regarding relations with victims, families and communities. The information contained in the report was gathered following interviews with SIOs and media liaison officers involved in 16 investigations of murders and sexual assaults. MOG; d.88
- **Practice Advice on Core Investigative Doctrine** is a manual that provides definitive national guidance for all investigators on the key MOG; d.15

principles of criminal investigation, irrespective of its nature or complexity. It was produced by drawing on the collective experience of police practitioners, stakeholders and academics to provide a single definitive document providing a strategic overview of the investigative process and providing a framework for investigative good practice. It was published in 2005.

- **Working Together to Safeguard Children** was published by HM Government in 2006 and is a guide to inter-agency working to safeguard and promote the welfare of children. MOG; d.1105

1.8.2 The majority of these manuals have been produced by the NPIA. For clarity the roles of the NPIA, ACPO and Her Majesty's Inspectorate of Constabulary (HMIC) are explained below:

- NPIA was formed in April 2007, *'its purpose being to make a unique contribution to improving public safety'*. Through its National Improvement Strategy for Policing, its aim is to help its partners – ACPO, the Association of Police Authorities and the Home Office – to take a long term view about policing. d.1127;  
pages 479-80
- ACPO is an independent, professionally-led strategic body. In the public interest and, in equal and active partnership with government, ACPO leads and co-ordinates the direction and development of the Police Service in England, Wales and Northern Ireland.

1.8.3 ACPO and NPIA issue guidance to police forces in England, Wales and Northern Ireland on a variety of policing matters which are considered best practice. It is accepted that the States of Jersey Police is not bound to follow guidance issued by ACPO/NPIA. Evidence collected by Operation Haven indicates that CO POWER was aware of the existence of ACPO/NPIA guidance and that he was or should have been aware that certain guidance issued by ACPO/NPIA had been introduced to the working practices of the States of Jersey Police. His officers attended accredited NPIA training courses in the UK. There is also evidence which indicates

that States of Jersey Police sought to follow and introduce ACPO/NPIA guidance, where it was thought appropriate.

- The role of Her Majesty's Inspectorate of Constabulary is to promote the efficiency and effectiveness of policing in England, Wales and Northern Ireland through inspection of police organisations and functions to ensure that agreed standards are achieved and maintained. Also, that good practice is spread and performance is improved. Inspectors are appointed by the Crown on the recommendation of the Home Secretary and report to Her Majesty's Chief Inspector of Constabulary, who is the Home Secretary's principal professional policing adviser and is independent of the both the Home Office and the police service.

CO POWER invited Her Majesty's Inspectorate of Constabulary to inspect the States of Jersey Police in 2006, which incorporated a follow-up visit in March 2008. The two reports relating to these inspections and visits are contained within the Evidential Bundle accompanying this Report. The inspection procedure is explained in the statements of Her Majesty's Inspector Ken WILLIAMS CVO CBE QPM BA, and his Staff Officer, Ken REED, who carried out the inspection.

x.609;  
pages 1551-  
1602

x.612;  
pages 1603-  
1640

s.86; pages  
769-772

s.80; pages  
527-530

- 1.8.4 Prior to the first visit of the HMIC in 2006, CO POWER had identified 10 issues that required HMIC scrutiny. Within the inspection report produced by HMI Ken WILLIAMS is one area of assessment described as 'Investigating Major and Serious Crime'. Under the heading *Compliance with Association of Chief Police Officers (ACPO) Murder Manual*, the report states '*in the event of a serious crime... guidance will be sought from the Major Incident Room Standard Administrative Procedures and murder manual*'.

x.609; page  
1556; item 3a

x.609; page  
1575; para 3

- 1.8.5 These two points are also contained in the HMIC re-visit report in 2008, also produced by HMI WILLIAMS. This report has been published in full by the States of Jersey Police on their website.

x.612; page  
1608; item 3a

x.612; page  
1623; para 1



- 1.8.6 In their evidence to Operation Haven, both CO POWER and ex-DCO HARPER considered that NPIA standards were not applicable to the States of Jersey Police. The statement of CO POWER infers that the States of Jersey Police assumes no legal duty to adopt the standards of the NPIA though they may adopt those standards, if appropriate. This Inquiry agrees there is no legal duty on the States of Jersey Police, or any force, to adopt ACPO/NPIA guidance. However, as the HMIC Inspection of the States of Jersey Police indicates, standards will be assessed against the ACPO/NPIA guidance. This is the approach adopted by Operation Haven. A letter sent by CO POWER dated 20 December 2008 to the SIO of Operation Haven, Chief Constable MOORE, states *'I am not aware of any mandate which extends their [NPIA/ACPO] authority beyond the UK and certainly none which extends to this Bailiwick... I understand that those holding this view believe that if I am successfully held to account for an alleged breach of UK guidelines then the probable outcome is that all such guidance will thereafter become the bible for policing in this island'*.
- 1.8.7 Operation Haven contends that on balance, the States of Jersey Police had adopted the ACPO/NPIA standards, based on the HMIC inspections of 2006 and 2008 and on the evidence indicated in the statements of some States of Jersey Police officers and support staff.
- Detective Inspector Alison FOSSEY, the Deputy Senior Investigation Officer for Operation Rectangle, states *'there are no Jersey standards or Jersey standard operating procedures for an investigation like this'*.
  - Victoria COUPLAND, the States of Jersey Police Forensic Services Manager, states *'the forensic officers in Jersey work to the NPIA standard'*.
  - Superintendent Sean DU VAL refers to being *'recently qualified to UK national standard'*.

d.1071; page  
240; para 148

s.79; page 507;  
para 45

t.292; pages  
41-42

s.49; page 363;  
para 37

s.24; page 154;  
para 3

s.17; page 154;  
para 3

- Detective Chief Inspector David MINTY, Chief Inspector Andre BONJOUR, Inspector Mark COXSHALL, Inspector Mark HOUZE, were each trained as SIOs to the NPIA standard within the UK. s.48; page 330; para 1  
s.18; page 127 para 12  
s.47; page 325 para 15  
s.44; page 305; para 11
  - Detective Constable Le CHEVALIER was *'trained in Ashford to the NPIA/ACPO standard'*. s.71; page 427; para 2
  - ACO David WARCUP states *'At no time in discussions with the Chief Officer of the States of Jersey Police, Mr Graham POWER, has it ever been suggested that the standards to which I have referred should not be applied. Indeed on the contrary it was clear to me that the standards which applied or which we aspired to were the same as those in the UK. This was evident in relation to a number of areas which were discussed in general over time, including misconduct, firearms, child protection, and the problem of vulnerable people, the role of Multi-Agency Public Protection Arrangements (MAPPA) National Crime Recording Standards, call handling, and serious crime investigation'*. s.82; page 595; para 71
- 1.8.8 These members of his staff were only aware of and only refer to, UK standards.
- 1.8.9 In addition, CO POWER sought mentoring guidance and advice from the ACPO Homicide Working Group. The ACPO Homicide Working Group advise and mentor only to the NPIA standards.
- 1.8.10 For the above reasons Operation Haven contends that the ACPO/NPIA standards are applicable to this misconduct investigation and according to the Murder Investigation Manual Standardised Administrative Procedures any derogation from them should include the documentary evidence as to why the standards are not being adhered to. MOG; d.96; page 67; para 3.11.4
- 1.9 Former DCO Robert Leonard 'Lenny' HARPER**
- 1.9.1 This Inquiry accepts that the accountability of CO POWER should not increase because of the retirement of DCO HARPER from the Police

Service. Where the report identifies failings in the performance of ex-DCO HARPER, those failings were not visited on CO POWER because he is still accountable as a serving officer. Any failings that we conclude are attributable to CO POWER stand on their own merit in respect of CO POWER.

1.9.2 This Inquiry was not asked to investigate ex-DCO HARPER for misconduct matters as he had retired from the Police Service and was no longer subject to discipline regulations. We have little doubt, however, that had he still been serving at the time Operation Haven was launched, this Inquiry would have been considering his conduct.

1.9.3 As Operation Haven has assessed the performance of CO POWER against the relevant ACPO/NPIA standards applicable in the United Kingdom whilst having regard to the States of Jersey Police context, so we have considered identified failings against the conduct standard which is applicable in the UK. We have obtained legal advice in this regard and the specific advice relating to misconduct charges that would be applicable in the UK is contained in this Report. It is quite properly a matter for the competent Authority in Jersey to consider and accept or reject the advice we have received.

## **1.10 Use of police rank abbreviations**

1.10.1 At various times in this Report, the same witness will be referred to, but with different rank abbreviations. For example, Mr HARPER is sometimes referred to as 'DCO HARPER', 'ex-DCO HARPER' or 'former DCO HARPER'. These differences arise depending upon whether the event described or his commentary upon it was pre- or post- his retirement. Similarly, Mr WARCUP is described as 'DCO WARCUP' and 'ACO WARCUP', sometimes in the same paragraph or section. These differences relate to an event or his commentary on an event, pre- or post- the suspension of CO POWER and when Mr WARCUP became the Acting Chief Officer (ACO). This approach has been adopted for other police witnesses in 'acting' ranks or who retired at times relevant to this investigation. We hope this explanation assists the reader.

## 2. Executive summary

- 2.1 Having considered the evidence available to us, this Inquiry finds that Chief Officer Graham POWER did not possess an adequate range of current, technical policing skills to ensure that he was able to provide effective leadership of Operation Rectangle, probably the largest child abuse investigation in the States of Jersey Police history. We have found no evidence that CO POWER committed any criminal offence relating to his supervision of Operation Rectangle. However, we conclude that he may be in breach of the Discipline Code for Chief Officers in his failure to meet the relevant performance requirements placed upon him by s.9(3) Police Force (Jersey) Law 1974. These potential breaches are described in the Conclusions and Legal Advice Sections of this Report.
- 2.2 By his own admission, CO POWER did not know enough about major crime investigation, criminal procedure disclosure, Gold Groups and Independent Advisory Groups. CO POWER accepts that his *'training and qualifications were becoming dated'*, but this he states, was known to and accepted by, ministers and officials and senior colleagues. In our view, faced with Operation Rectangle, CO POWER's skills and experience were largely obsolete. However, to that point, we have no evidence that his performance was anything other than effective in the role of Chief Officer.
- 2.3 To his credit though, CO POWER sought the advice of the experts in the ACPO Homicide Working Group in respect of Operation Rectangle. Unfortunately, the ACPO advisors adopted a policy of only making recommendations to which CO POWER and his SIO, DCO HARPER, had signalled prior approval rather than making recommendations which robustly challenged them to change their opinions. The lack of clarity surrounding the ACPO Homicide Working Group's advice and mentoring role to the SIO created an environment in which it is now suggested by its representatives, DCO HARPER and CO POWER that some of the ACPO advice was misunderstood. Any misunderstanding which did arise helped to create a false sense of security for CO POWER which ought not to be to his detriment, albeit responsibility for Operation Rectangle rests squarely with him. His sense of security would have been better founded had he maintained his professional knowledge and development and had he supervised DCO HARPER



appropriately. From the moment that CO POWER agreed the appointment of DCO HARPER as SIO, CO POWER was rendered vulnerable by his own lack of training, skills and recent experience in major crime investigation. These vulnerabilities, we conclude, were compounded by misunderstandings of some of the advice provided to him by the ACPO Homicide Working Group.

- 2.4 Based on the evidence available to this Inquiry, we also conclude that CO POWER's position was made more difficult by his 'hands-off' management style which provided the strong-willed and passionate DCO HARPER considerable latitude to pursue his own course and without proper regard to the advice and roles of fellow professionals and other stakeholders. 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.
- 2.5 The Historic Child Abuse Enquiry codenamed Operation Rectangle which commenced in September 2007 proved to be the catalyst for many of the passions and weaknesses of the Chief Officers to be played out in full.
- 2.6 Telling factors were also DCO HARPER's lack of current training and experience as an SIO and his near imperviousness to self-doubt. These deficiencies and traits, combined with the emotive nature of child abuse itself linked to the suspicion of collusion and cover-up by echelons of the State, provided the platform for DCO HARPER to pursue his own agenda irrespective of the true merit of the evidence available to him. We highlight that these salient factors were compounded by CO POWER's apparent reluctance to impose robust supervision, his sense of loyalty to and sometimes admiration for, his Deputy, and CO POWER's own distrust of the political establishment.
- 2.7 In this Inquiry's view, CO POWER made a poor initial judgement in appointing his Deputy as SIO to Operation Rectangle in Autumn 2007, but the judgement at that time that did not amount to a failure in performance. Clearly alive to the significance and scale of media attention after 23 February 2008, CO POWER

wisely secured the assistance of the ACPO Homicide Working Group. Its clearly communicated advice on the need for strategic co-ordination of the investigation was not accepted by CO POWER and an apparent compromise – to appoint an Independent Advisory Group, with some Gold Group responsibilities – was agreed by the Chief Officer, but the inexperienced IAG members left without adequate professional support, were bound to fail and did so, in their role of providing robust advice to the States of Jersey Police on this most difficult of abuse investigations.

- 2.8 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. This Inquiry has not been able to establish any compelling evidence of CO POWER's ability to intercede to control DCO HARPER from the inception of Operation Rectangle in September 2007 until his retirement from the States of Jersey Police in August 2008 by which time fatal damage had been inflicted upon the integrity of Operation Rectangle and which would be publicly disclosed on 12 November 2008 as a result of the press conference held by DCO WARCUP and the CO POWER's subsequent suspension.

- 2.9 DCO HARPER's retirement heralded changes which were to expose the inadequacies in the handling and management of Operation Rectangle. DCO HARPER's successor, DCO David WARCUP, appointed in August 2008, and the separately appointed SIO, Detective Superintendent Michael GRADWELL, appointed in September 2008, set about assessing the investigation and quickly concluded that suggestions of homicide were without substance and that the enquiry lacked focus and direction. An independent review of the investigation by the Metropolitan Police Service challenged many of the earlier subjective assessments made by DCO HARPER and which went without critique by CO POWER, the only officer able to supervise DCO HARPER due to the latter's seniority. There were no *'partial remains of a child'* or *'shackles'* or *'cellars'* or *'bath'* or *'blood'*. There was no murder contrary to impressions created and not convincingly challenged.
- 2.10 The new senior officers, with the support of law officers, politicians and State officials, decided to provide an alternative perspective on the 'facts' in a press conference on 12 November 2008. Despite the clear evidence of, at best, misrepresentation in some States of Jersey Police press releases, CO POWER sought to play down the significance of the new revelations and to extol a media approach of a 'drip feed' of facts into the public realm over time. CO POWER's approach created fears in the new senior Operation Rectangle team of the type of cover-up and misrepresentation which CO POWER professed to oppose. CO POWER declined to attend the press briefing and, in so doing, to represent his Force at its lowest point during Operation Rectangle. CO POWER's suspension from duty followed later on 12 November 2008.
- 2.11 This Inquiry has gathered evidence from 94 witnesses and has carefully considered their motivations, where appropriate, in providing their evidence, particularly where they might stand to gain from CO POWER's difficulties. Whilst CO POWER declined to be interviewed by this investigation (on the basis that he was not able to secure appropriate legal representation), he provided a comprehensive 94 page witness statement in response to the large amount of material gathered by this Inquiry and presented to him by way of advanced disclosure. This disclosure was accompanied by our intimation of relevant 'issues' which we invited him to consider and address. We found CO POWER's statement



to be thoughtful, extensive and articulate. He fully and flatly denies any **wrong** doing on his part. CO POWER suggests that the ACPO/NPIA standards against which we have assessed his performance are not applicable to Jersey having regard to the context of the Island and the Chief Officer's role which he contends is unique from any Chief Constable position in the United Kingdom and CO POWER warns of the danger of equivocating standards applicable in a different jurisdiction. His witness statement helpfully follows the general structure of the terms of reference for Operation Haven and he offers answers to each of the queries raised. We dedicate a section of this Report to a more detailed summary of CO POWER's statement which helps inform our conclusions.

- 2.12 During the course of our investigation, thousands of States of Jersey Police e-mails relating to CO POWER were assessed by Operation Haven personnel. Two, in particular, are noteworthy for their inappropriateness. One on 23 February 2008 (the day of the significant 'find' at Haut de la Garenne) indicates at best, a flippant or dismissive attitude or at worst, a contemptuous attitude towards some elected politicians, but which on either interpretation set a poor example to DCO HARPER who read it. However, one dated 29 February 2008 contains 'joke' comments which are considered simply inexcusable by this Inquiry. This e-mail was sent from the Force e-mail system to a friend and former colleague of CO POWER in the United Kingdom. The inappropriateness of the e-mails is reflected in the charges suggested against CO POWER.
- 2.13 Operation Haven commissioned an independent company with relevant expertise to comment on the effects of Operation Rectangle on the reputation of the States of Jersey Police as measured through media volume and comment during the period when Operation Rectangle was active. It concludes that a positive impression was created of the Force, but a poor one was created of the Island and its institutions.
- 2.14 Whilst by no means the sole determinant of success, Operation Rectangle led to the investigation of 429 allegations made by 210 people and resulted in convictions of 2 defendants for 13 offences at Haut de la Garenne, for which they were sentenced to 2 years imprisonment and 2 years probation, respectively. One person was convicted of 19 offences elsewhere than at Haut de la Garenne and



received 15 years imprisonment. Two other persons await trial. The police costs of Operation Rectangle are estimated to be £6.665 million.

- 2.15 It will be noted that this Report only deals with those terms of reference that relate to supervision, critical incident management and media, but not the part-term of reference that relates to CO POWER's oversight of finance. A separate 'chapter' on that will be produced in due course and subject of a further report. The reason for the delay is that the States of Jersey Police commissioned a separate review of aspects of the financing of Operation Rectangle and which this Inquiry feels it is prudent to review before coming to any conclusions about the performance of CO POWER in supervising the finances allocated to Operation Rectangle.
- 2.16 As far as possible, this Inquiry has pursued lines of enquiry raised by CO POWER. At the time of writing this Report, we have been unable to interview a witness whom CO POWER clearly considers to be important to his case namely, Wendy KINNARD, the former Home Affairs Minister. Therefore, our conclusions bear the caveat that we reserve the right to amend our views and conclusions in light of any relevant evidence which Wendy KINNARD is able to provide when eventually she is interviewed.
- 2.17 Noting the above caveat, this Inquiry has presented the evidence gathered and our conclusions for review by John BEGGS QC and his instructing solicitor, Andrew KNIGHT. Their advice in respect of potential charges against CO POWER in terms of alleged failures in his performance and/or neglect of duty is described later in this Report. We have included their advice because we have assessed CO POWER's performance against United Kingdom standards having regard to the Jersey context and should also assess any alleged failings against the conduct standard which eminent Counsel advises would apply, on the facts presented, in the UK. It must, of course, be a matter entirely for the competent States of Jersey Authority to come to its own view on the evidence, conclusions and findings suggested by this Inquiry and on Counsel's advice.
- 2.18 Between 1 December 2008 and 31 July 2009, Operation Haven has cost the States of Jersey £405,000.

- 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.
- 2.20 We have included these considerations in our assessment of CO POWER's performance against the ACPO/NPIA standards relating to the investigation, management and supervision of suspected cases of homicide.
- 2.21 In addition, we have been careful not to 'indict' CO POWER – a serving officer – for failings which may be attributed to ex-DCO HARPER who is no longer a member of the Force. We consider it likely that had ex-DCO HARPER remained a serving officer a discipline enquiry would have considered his conduct. The conclusions we draw in respect of CO POWER stand on their own merit.
- 2.22 Below, we highlight each of the conclusions drawn from the evidence and provide a synopsis of how each conclusion was reached.
- 2.23 A similar approach has been adopted in respect of recommendations made as a result of our Inquiry.

## Supervision

### • Conclusion 1

- 2.24 **CO POWER's appointment of DCO HARPER as SIO was inappropriate when Operation Rectangle was solely an Historical Child Abuse Enquiry. This became a failure in performance of his duty to appoint an SIO of adequate qualification and experience after 23 February 2008 when Operation Rectangle became a homicide investigation.**
- 2.25 The Murder Investigation Manual is prescriptive regarding the role of Chief Officers in the appointment of SIOs.
- 2.26 DCO HARPER had not undertaken the role of SIO for 16 years before Operation Rectangle and was untrained for the requirements of Operation Rectangle. There

were more appropriate candidates for the role of SIO already available from within the States of Jersey Police albeit, like DCO HARPER, they lacked experience. Their greater appropriateness stems from the fact that each is currently trained.

- 2.27 There was a further option for CO POWER to have obtained assistance from Devon & Cornwall Constabulary to supply a suitably qualified SIO under a Service Level Agreement in existence between the two Forces. This option was considered but not pursued by DCO HARPER. It is not clear from the evidence whether CO POWER was aware of the Service Level Agreement or that option at all.
- 2.28 A number of opportunities arose for CO POWER to ensure an appropriate SIO was appointed to Operation Rectangle but he failed to act on any of them and as the investigation continued, his culpability became a matter of performance failure rather than a mere error of judgement.
- 2.29 The reasons given by CO POWER for appointing DCO HARPER as the SIO include a reluctance within the States of Jersey to accept any appointments made outside of Jersey, a possible link between the professional standards (i.e. discipline) issues that existed in the Force and Operation Rectangle and the need for personal robustness in the SIO to resist political pressure. Also, CO POWER suggests that DCO HARPER had almost overnight become the international 'face' of the enquiry in the media and that CO POWER could not countenance a change of SIO midstream. He appears to suggest that no matter what the deficiency in qualification or the potential effect on Operation Rectangle, it was simply beyond consideration that DCO HARPER could have been replaced by a qualified investigator. This Inquiry does not agree these are sufficiently valid reasons for continuing with an untrained SIO at the helm of such a major inquiry.
- 2.30 The key decision about the appointment of the SIO is not documented in any policy books, day books or pocket notebooks that we have been able to locate. We consider this to be a pertinent omission.
- 2.31 We conclude that CO POWER did not meet the standards required of him in that he failed to ensure he appointed an appropriate SIO to Operation Rectangle; one

who had both the training and experience to be able to perform effectively in the role.

- **Conclusion 2**

**2.32 CO POWER failed in the performance of his duty to ensure adequate terms of reference were created for Operation Rectangle which were agreed with and adhered to by the SIO.**

2.33 Established best practice in respect of the management of any major investigation requires that clear strategic parameters are established at the outset in order to give proper direction to the investigation. CO POWER should have set strategic parameters for Operation Rectangle and agreed terms of reference with the SIO. We have found no evidence that he did either.

2.34 The revelation that the *'partial remains of a child'* had been discovered at Haut de la Garenne on 23 February 2008 was a major opportunity for CO POWER to provide clear and unequivocal direction to the investigation. This Inquiry can find no evidence that new or amended terms of reference were established or that CO POWER sought to ensure this was done. Indeed, CO POWER admits he did not know whether any terms of reference for Operation Rectangle existed.

2.35 We conclude that there was inadequate supervision by CO POWER and that he failed in the performance of his duty to ensure that adequate terms of reference were either created or adhered to.

- **Conclusion 3**

**2.36 CO POWER failed in the performance of his duty to maintain adequate records of his supervision of DCO HARPER during Operation Rectangle.**

2.37 The Murder Investigation Manual is explicit in respect of the role of Chief Officers in major crime investigation. SIOs should be supervised and records kept of that supervision.

2.38 CO POWER's job description placed him under a duty to manage the effective investigation of crime with priority given to those crimes of greatest public concern.



- 2.39 CO POWER was the only person in a position to supervise DCO HARPER and it was the Chief Officer's responsibility to ensure that the Operation was being run to an acceptable standard.
- 2.40 This Inquiry has established and accepts that frequent meetings did take place between CO POWER and his Deputy. However, there were no detailed records kept of any briefings, meetings or other interaction between them and on that basis it is impossible to see any cogent evidence of CO POWER's supervision of DCO HARPER or Operation Rectangle.
- 2.41 This Inquiry concludes that CO POWER's supervision of DCO HARPER was deficient in a number of specific areas. For example; the use of Martin GRIME and his enhanced victim recovery dog; the provenance of Exhibit JAR/6; the relationship with the prosecution lawyers; and the media release in relation to suspects 'A'. In addition, it is a cause of concern to this Inquiry that CO POWER recorded so little of his decision-making. All in all, adequate records were not kept of their meetings and CO POWER's decisions. There is a lack of an auditable document trail to show a structured decision-making process. We have found that CO POWER had not countersigned a single policy decision to show any evidence of his involvement.

- **Conclusion 4**

- 2.42 **CO POWER made inappropriate use of the Force e-mail system.**
- 2.43 There are two examples of e-mail communications from CO POWER which this Inquiry finds to be inappropriate. Firstly, in an internal e-mail sent on 23 February 2008, when making reference to the electronic debate between politicians, he writes '*I think that all of our politicians have approached this investigation with honesty, openness, a desire to find the truth... and a solid determination to put political differences aside in the common interest... and so do my friends the elves and pixies*'.
- 2.44 Given the legitimate concerns of some politicians about the handling of Operation Rectangle, particularly by DCO HARPER, this was unprofessional and sets a poor example to colleague members of the States of Jersey Police who read it. One of

those was DCO HARPER, whom CO POWER was expected by politicians to be challenging about the Deputy's handling of the media.

- 2.45 The second example is an external e-mail dated 29 February 2008 sent by CO POWER to a friend, 'W' who resides elsewhere in the UK. CO POWER's e-mail says *'according to stories doing the rounds in the pubs, the abuse enquiry is a cover story; we are really selecting the winner of the world hide and seek championships. Or if you prefer what is the difference between a jersey royal and a jersey orphan?? Answer a jersey royal gets dug up after three months'*. This unprofessional comment by the Chief Officer can have no excuse or mitigation and suggests a deeply concerning attitude at such a critical time for his Force and the States of Jersey.
- 2.46 This Inquiry concludes that in each case, the e-mails sent by CO POWER were inappropriate and particularly so when sent over the Force network.

- **Conclusion 5**

- 2.47 **CO POWER failed in the performance of his duty to ensure that DCO HARPER maintained an effective working relationship between the prosecution legal team and the police investigation team for Operation Rectangle.**
- 2.48 It is accepted best practice for a close working relationship to exist between the SIO, his or her investigation team, and the prosecution lawyers appointed to the enquiry.
- 2.49 The problems that arose between Operation Rectangle and the legal team appointed by the States may be interpreted, in essence, as being personality-based issues between DCO HARPER and the prosecutors. Evidence of these difficulties is plentiful and detailed at length in the Supervision Section of this Report.
- 2.50 CO POWER was aware of developing problems soon after they arose. He does accept there were difficulties in the working arrangements with the law officers, and to his credit, he consulted with ACPO Homicide Working Group on how to improve the relationship with the lawyers.

- 2.51 We conclude that CO POWER was both over accommodating of his SIO's wishes and commensurately less than accommodating of the legitimate needs of the lawyers. He brokered the expectation of the lawyers by suggesting they should seek to build a relationship and gain favour with DCO HARPER through his support for a particular football team. The lawyers found that a less than a professional or satisfactory basis for developing a relationship with DCO HARPER. Rather, instructions should have been given to DCO HARPER by CO POWER to work effectively and productively with the lawyers.
- 2.52 This Inquiry finds that lawyers were not given appropriate access to material that they required until after the appointment of DCO WARCUP in August 2008. CO POWER was made aware of difficulties on a number of occasions, but we have found no evidence that he ever directed DCO HARPER to allow unfettered access to relevant material.
- 2.53 In June 2008 DCO HARPER publicly criticised the lawyers in the media as a result of a dispute between them over the charging of suspects in custody.
- 2.54 CO POWER was made aware and was required to attend the Attorney General's office as a result of the resulting furore. CO POWER offered little by way of explanation or remedy resulting in the Attorney General considering taking his own action.
- 2.55 This Inquiry has established that CO POWER did make some attempts to guide DCO HARPER's actions but we consider them to be inadequate and below the level of supervision reasonably required to effectively manage DCO HARPER in an enquiry of Operation Rectangle's significance.
- 2.56 It appears CO POWER preferred to try and 'ride things out' until DCO HARPER retired. In doing so, he permitted poor relations with the legal team to continue. We believe the ongoing difficulties between DCO HARPER and the lawyers could and should have been resolved by way of a directive from his supervisor. The only person in a position to do this was CO POWER and he failed to do so.
- **Conclusion 6**
- 2.57 **CO POWER failed in the performance of his duty to prepare for the impact that the searches at Haut de la Garenne would have on public opinion.**

- 2.58 This Inquiry concludes that the decision to dig at Haut de la Garenne was questionable based on the evidence available and DCO HARPER's initial view that there was 'not a shred of intelligence or evidence' to provide the grounds for doing so. Little additional evidence was forthcoming.
- 2.59 No record has been found as to whether DCO HARPER's initial view was subsequently referred to CO POWER for consideration when the decision to search was re-visited. Nevertheless, in all circumstances, this Inquiry believes it was reasonable to conduct the search and we do not attach formal criticism to ex-DCO HARPER or CO POWER for doing so. However, the risks – in terms of public and media speculation about police activity, if reported – should have been predicted and carefully planned for.
- 2.60 We have found no evidence that CO POWER applied his mind properly or at all to the implications of the search prior to its commencement. This Inquiry is left with the impression that CO POWER's passive acceptance of the opinion of the SIO was exacerbated by his own lack of experience. Nevertheless, in his role as Chief Officer, he should have provided strategic guidance to the SIO and ensured the hypothesis proffered for the search would stand scrutiny.
- 2.61 CO POWER asserts that he may not have had all the information he should have and that the decision was not primarily his. The lack of detail contained within Operation Rectangle's policy decisions for searching Haut de la Garenne provides no assistance in establishing whether CO POWER directed or supervised policy in this respect. The suspicion must be that he did not.
- 2.62 The deployment of Mr. GRIME and his enhanced victim recovery dog also had a significant effect in terms of media, finance and investigative consequences. CO POWER did raise concerns as to his deployment and the cost of it with DCO HARPER but was all too readily satisfied with the limited explanation provided.
- 2.63 There is a lack of documentary evidence to show any intrusive supervision of the SIO with regard to the continued search. This Inquiry concludes that the actions of DCO HARPER and his management of Martin GRIME went unsupervised for some considerable time.



2.64 This view of this Inquiry is that CO POWER exhibited a naive approach in relation to the search of Haut de la Garenne. Had he considered the possible implications of the search, CO POWER may well have had cause to reflect on the need for a plan to manage the impact. There is no evidence to suggest that he did so.

- **Conclusion 7**

2.65 **The operational performance of the States of Jersey Police was not demonstrably adversely affected during Operation Rectangle.**

2.66 Whilst it is clear that Operation Rectangle was a very expensive operation and had a huge media footprint, this Inquiry has established that it had no obviously adverse effect on other day-to-day operations in the Force and crime reduction and detection performance.

2.67 We have found that Operation Rectangle was not discussed in detail within the scheduled strategic meetings at Force level. However, meeting minutes for March to June 2008 reflect that, despite the demands of the investigation, the ability of the Force to provide a 'normal' policing function was not affected. In July 2008, the matter of the impact of Operation Rectangle on staffing levels was raised. CO POWER responded recognising that supervision, quality control and very careful management would be required for the duration of Operation Rectangle.

2.68 CO POWER acknowledges the tensions between Operations Management and Operation Rectangle in relation to resources. However, open source evaluation of Force crime reduction and detection data does not reveal any drop in performance during the relevant period. CO POWER suggests it that in the main Force Performance was maintained without detriment to the community. Operation Haven has found no evidence to contradict this standpoint.

## **Critical incident**

- **Conclusion 8**

2.69 **CO POWER failed in the performance of his duty to ensure a Gold Group was created following the declaration of the investigation as a critical incident on 13 December 2007 and also following the 'find' at Haut de la Garenne on 23 February 2008.**

- 2.70 This Inquiry finds that the command and control structure for the management of Operation Rectangle did not comply with the standards set out in the relevant professional practice guide and that CO POWER is culpable for the failures of the States of Jersey Police to establish a Gold Group.
- 2.71 It is a recurring theme in their accounts that both CO POWER and DCO HARPER considered it undesirable to establish a Gold Group due to the allegations of establishment collusion, conspiracy and cover-up. However, there were feasible alternatives to Gold Group membership which did not involve those whom CO POWER and DCO HARPER were reluctant to appoint. A Gold Group could have been successfully convened.
- 2.72 The formation of a Gold Group is normal practice in critical and major incidents and DCO WARCUP did precisely that when he took up post following the spirit of ACPO guidance and practice without apparent difficulty. CO POWER would have it that it was at his direction that the Group was set up but on balance, this Inquiry accepts it was at the instigation of DCO WARCUP.
- 2.73 It is a fact that the ACPO Homicide Working Group did not make the important recommendation about a Gold Group within their reports, although we are satisfied the issue was discussed with CO POWER. We conclude that the advice of the ACPO Homicide Working Group in Operation Rectangle was sometimes ambiguous, either in the manner given or interpreted, and this created a false sense of security for CO POWER.
- 2.74 However, this Inquiry does find that CO POWER was ultimately responsible for ensuring a Gold Group was created but that he failed to put one in place for this major enquiry; one which required the full and proper engagement of CO POWER to ensure its smooth running.

- **Conclusion 9**

- 2.75 **Whilst this Inquiry accepts that a Community Impact Assessment was prepared commendably by junior officers, CO POWER failed in the performance of his duty to ensure that a CIA appropriate for Operation Rectangle was properly implemented and pursued by the States of Jersey Police.**

- 2.76 There can be no question that Operation Rectangle was a critical incident in view of the likely significant impact on the confidence of victims, their families and the community. It was declared as such on 17 December 2007.
- 2.77 DCO HARPER held the view that there was no risk of community tensions and that a CIA was not required since this was only 'technically' a critical incident and countermanded the decision of 17 December 2007. He undertook to review his position as the enquiry progressed but did not do so.
- 2.78 Thus, a CIA was not considered or completed until 19 March 2008 having been recommended by the ACPO Homicide Working Group.
- 2.79 To the credit of various members of the Operations Management Team, the absence of a CIA was raised at their meetings but despite the advice of trained staff within the States of Jersey Police, DCO HARPER chose to progress the investigation without proper regard for their professional advice.
- 2.80 CO POWER accepts he was not familiar with the concept of CIAs and attempts to argue that a CIA was not a matter for his concern, trying to relinquish responsibility to DCO HARPER whom he identifies as a 'Chief Officer' for the purpose of those guidelines. We do not find this attempted abrogation acceptable.
- 2.81. CO POWER and DCO HARPER have both fallen short of the standards expected of them but in this Inquiry's view. CO POWER's position effectively amounts to conceding that he did not know what a CIA was, refusing to consider whether it was of relevance and passing responsibility post facto to DCO HARPER. In our view CO POWER failed to supervise or give guidance to DCO HARPER whilst attempting to absolve himself of responsibility.

- **Conclusion 10**

- 2.82 **CO POWER failed in the performance of his duty to establish a relevant, supported IAG with clear terms of reference.**
- 2.83 Given the resistance from CO POWER and DCO HARPER to the creation of a Gold Group as suggested by the ACPO Homicide Working Group in February 2008, it appears a compromise was reached whereby an IAG was established as an alternative. CO POWER and DCO HARPER agreed that it would perform

some of the functions of a Gold Group, albeit neither had knowledge or experience of Gold Groups or IAGs.

- 2.84 Such a compromise concerns us. This Inquiry finds that the functions and expectations of the IAG recommended by the ACPO Homicide Working Group and particularly how the IAG might fulfil some of the functions normally within the remit of the Gold Group, were never made clear to the IAG members.
- 2.85 Unfortunately, those subsequently appointed as IAG members were given little direction, guidance or support and were unsure of their role and what part they actually had to play. This Inquiry believes that an untrained and inexperienced IAG expected to fulfil additional, unspecified strategic goals normally associated with a Gold Group could never have been effective. The members of the IAG were committed and passionate in their attempts to fulfil their role but the lack of input and clarity experienced by them exacerbated their frustrations and eventually led to a breakdown of trust with the Force.
- 2.86 We are satisfied that CO POWER initiated the establishment of the IAG, although we conclude the execution was half-hearted, 'tick-box' and ineffectual. In addition, the composition of the IAG should have reflected the community affected by the investigation but the selection of individuals identified to form the Group was not necessarily independent giving rise to the risk of the IAG being labelled an 'old boy's network'.
- 2.87 DCO HARPER chose to chair the IAG but this practice does not conform to the standards against which Operation Rectangle is compared. It would be usual for the SIO to brief the IAG but not to chair it. DCO HARPER's concerns of corruption and a lack of independence affected his actions throughout his entire time as SIO, yet despite that neither he nor CO POWER gave consideration to applying either risk assessment or formal vetting processes to the selection procedure for members of the IAG.
- 2.88 It is a common theme raised by members of the IAG that they were lacking in understanding of what function they were supposed to be providing and that members were given little or no support in resolving those issues they raised with CO POWER and DCO HARPER. This Inquiry finds on the basis of the evidence



gathered, that IAG members were entirely justified in feeling as they did and that they were bound to fail to achieve their objectives – advising and challenging the States of Jersey Police in its management of the critical incident, Operation Rectangle.

- **Conclusion 11**

- 2.89 **CO POWER should not be held to account for failing to take timely and effective action to resolve concerns raised by the IAG. The evidence suggest he did take action.**
- 2.90 We have earlier concluded that CO POWER should be called to account for failure in performance of his duty to establish a relevant, supported IAG with clear terms of reference. However, this separate issue is concerned with whether or not he dealt with the concerns raised by the IAG, having been set up in the form they were.
- 2.91 CO POWER encountered difficulties relating to the perception of the IAG by States' members who saw it as a threat, conflicting with their role as elected members. It is also true to say that CO POWER had encountered resistance throughout from the Attorney General who was not convinced of the need for such a body and disputed the relevance it may have to an investigation in Jersey. His concerns become more overt following the publication of a newspaper advert placed by the IAG which was interpreted as a public appeal which might 'contaminate' potential jurors and prejudice future proceedings.
- 2.92 When the Attorney General's views became known it gave rise to complaint from members of the IAG who were annoyed at how they felt they were being misrepresented in their actions. CO POWER responded in recognition that managing the Jersey media was difficult and thanked the IAG for their time and involvement in what he described as a difficult task.
- 2.93 A situation developed where the members of the IAG felt unsupported and were unsure of what their actual role was and this resulted in representations being made to CO POWER who responded to Stephen REGAL immediately. He purported to recognise the difficulties the IAG had encountered and 'identified' with their concerns. He thanked them for the effort and support that the group had

shown and recognised their worry that they considered their task to be 'hard' and 'ambiguous', about which there are conflicting views, and the uncertainty as to the appropriate way forward. He also recognised the need for a re-launch and re-affirmed his position that the IAG had an important role to play in his view. He suggested a meeting at which DCO WARCUP would be present and this did subsequently occur.

2.94 It cannot be said that CO POWER fully confronted any of the issues necessary in order to restore the IAG's confidence but he had at least taken some action in an environment where support was less than forthcoming from senior colleagues in the States. In all the circumstances, and taking into account our previous conclusion on the subject of the IAG, we do not conclude that he should be regarded as culpable on this point.

- **Conclusion 12**

2.95 **CO POWER failed in the performance of his duty to ensure that Operation Rectangle was managed as a multi-agency investigation in accordance with accepted guidance.**

2.96 The SIO, DCO HARPER, consciously managed Operation Rectangle as a single-agency enquiry and this was endorsed by CO POWER who contends he did consider the concept of a partnership based approach for Operation Rectangle but both he and DCO HARPER were influenced by their belief in the existence of corruption in the Island. This Inquiry accepts CO POWER's view was honestly held that he felt constrained by fears of corruption. However, a thoughtful and measured approach could have alleviated some or all of his concerns and an officer of CO POWER's experience should have been capable of developing such an approach.

2.97 The single-agency approach was in sharp contrast to accepted guidance which recognises a multi-agency strategy as being the most effective and appropriate method of dealing with such allegations. It is essential for partner agencies to critically challenge, advise and bring their own experience and expertise to such an investigation.

2.98 In this Inquiry's view, the limitations of a single-agency investigation were avoidable as other solutions could have been considered. We note and give credit for, the involvement of the NSPCC.

2.99 This Inquiry has seen no properly recorded decision-making processes in Operation Rectangle justifying the rationale for deliberately acting outside best practice guidance, most of which arises from significant cases of child abuse and homicide in the UK.

- **Conclusion 13**

2.100 **CO POWER should not be criticised for failing to commission a major crime review of Operation Rectangle, but should receive advice and appropriate training.**

2.101 The importance of carrying out an independent review of major crime investigations is recognised as good practice throughout the Police Service in the UK. The Murder Investigation Manual is explicit in the purpose and objectives of a review and sets out the timing of when reviews should be conducted.

2.102 It is evident that throughout Operation Rectangle DCO HARPER was disinclined to agree to a review of the Operation despite the opportunities which presented themselves. There cannot be any sensible objection to a review, in our opinion.

2.103 Ambiguity and confusion arose as to the role of the ACPO Homicide Working Group, particularly in relation to their term of reference, '2c; to quality assure the investigation'. This was not a usual function of the ACPO advisers and there is no clarity as to how this term became included. The ACPO Team state they could not have undertaken a review and suggest they also advised the States of Jersey Police that a Review Team conduct a full review. However, not until their last report was completed in June 2008 does a recommendation appear that the Metropolitan Police should provide a review team. It is evident to us, on the balance of the evidence, that CO POWER was reassured that they were providing quality assurance to the investigation and that he relied on that being the case even though that was not one of their functions.

2.104 CO POWER could have been more challenging over the position taken on reviews by DCO HARPER and CO POWER appears to have placed too much reliance on

the 'expertise' of the ACPO Homicide Working Group. He is ultimately responsible for ensuring that a proper review of Operation Rectangle took place but it is accepted that his lack of experience combined with the relative expertise of the ACPO Homicide Working Group created a false sense of security. In these circumstances CO POWER should not be criticised for failing to commission a major crime review but the Inquiry feels he would benefit from training and advice in this area and in a number of the related professional disciplines associated with major crime inquiries.

## MEDIA

- Conclusion 14

- 2.105 **CO POWER neglected his duty to establish or provide any formal strategic oversight of the States of Jersey Police's media strategy in respect of Operation Rectangle.**
- 2.106 Arguably, no other element of Operation Rectangle had a greater impact on the States of Jersey Police and the Island than the media attention after 23 February 2008. There is no doubt that following the 'find' of a suspicious item on that date, media coverage reached an unprecedented level for the Island of Jersey.
- 2.107 Had a structured communication strategy and strategic co-ordinating process been established, the media would have been better managed. There was no Gold Group or other strategic co-ordinating group in place throughout the time that DCO HARPER was SIO for Operation Rectangle.
- 2.108 The Chief Executive to the Council of Ministers created what was in effect a civilian Gold Group when Operation Rectangle became a homicide investigation which CO POWER recognised was standard good practice. It is inexplicable, therefore, why he did not ensure appropriate structures were in place for the police oversight of Operation Rectangle.
- 2.109 In his witness statement to this Inquiry, CO POWER makes little reference to the strategic management of the media. Yet, without a strategic framework guiding communications activity, major criminal investigations can easily become subject to sensationalist, inaccurate, distorted and unbalanced media reporting, all of



which can have a negative impact upon victims and the confidence vested in the enquiry team by the general public.

- 2.110 CO POWER comments on the existence and formulation of a Gold Group following the appointment of DCO WARCUP, but he offers no explanation in his statement as to what framework was managing or co-ordinating any communication or media strategy before DCO WARCUP's appointment.
- 2.111 CO POWER was responsible for ensuring a strategic co-ordinating body was created for the Operation Rectangle investigation. We can find no evidence that he did so. We conclude he did not consider the implications of failing to form any strategic oversight body in relation to media management.
- 2.112 This Inquiry concludes that CO POWER's management of the media, directly or indirectly, was sufficiently sub-optimal to merit disciplinary proceedings being taken against him for neglect of his duty to establish or provide any formal strategic oversight of the States of Jersey Police's media strategy in respect of Operation Rectangle.

- **Conclusion 15**

- 2.113 **CO POWER neglected his duty to ensure that a documented and updated media strategy existed between November 2007 and February 2008 during the Historic Child Abuse Enquiry, Operation Rectangle.**
- 2.114 Established good practice suggests that both the Historic Child Abuse Enquiry and the post 23 February 2008 homicide enquiry required formulation of considered and well-constructed media strategies. Such strategies would have facilitated professional interaction with the media, maintained confidence in the police within the community, ensured confidence within the investigation team and maximised the opportunities for witness and victim identification.
- 2.115 Although a Policy Book was commenced in October 2007 in relation to media issues, the entries are brief and not a proper substitute for a media strategy. This Inquiry suggests that following the decision to release to the public information that a child abuse investigation was underway, the SIO and CO POWER, as the SIO's supervisor, should each have ensured that a comprehensive media strategy was in place.

- 2.116 Ultimately, responsibility for the effectiveness of the media strategy rests with CO POWER. Any strategy should have identified the need to protect the victims and witnesses from media intrusion, to protect the investigation from prejudicial reporting and have identified the need to minimise any media coverage that could prejudice legal proceedings. It should also have considered the needs of key external stakeholders in order to reduce the potential for discord.
- 2.117 The opportunity existed for CO POWER to make enquiries into the media strategy from the outset and, certainly, from when the operation was made known to the public in November 2007. That he did not, especially in view of the advice he gave to the States after 23 February 2008 recognising there would be significant media management demands upon the Island's government, is inexplicable.
- 2.118 The inevitable conclusion to be drawn is that CO POWER did not follow his own advice and that he failed to ensure that Operation Rectangle was provided with a well constructed and documented media strategy. In the opinion of this Inquiry the media strategy needed to be broader than, but inclusive of, the criminal investigation and that is a wider responsibility than the SIO's. There was a need for co-ordination by CO POWER which we find little tangible evidence of.
- 2.119 CO POWER should have understood the necessity for a media strategy when Operation Rectangle became 'overt' in November 2007 and again immediately after it was declared a critical incident in December 2007 and again after the 'find' on 23 February 2008. He should have ensured that one was compiled swiftly and with the necessary expert input. We find no evidence that he did so.

- **Conclusion 16**

- 2.120 **CO POWER neglected his duty to ensure an appropriate media strategy was in place and being adhered to following the 'find' on 23 February 2008. This strategy should have been regularly reviewed and was not.**
- 2.121 There was a complete absence of a media strategy prior to 23 February 2008 and in the months following, there existed only a poor and sparsely constructed document accompanied by a 'States-Police' protocol established at the apparent suggestion of the Chief Executive to the Council of Ministers.

- 2.122 On 1 March 2008 a media strategy was completed by the Jersey Police Press Officer. It was underpinned by the comment *'this strategy will be constantly reviewed and may be amended to take account of changing circumstances'*. It contains appropriate, adequate, aims and this Inquiry does not criticise them. The issue is that they were either not followed through or were pursued to excess.
- 2.123 The media strategy appeared to be cobbled together rapidly and reactively from a generic document and its major weakness was in not anticipating potential risks and outcomes associated with tactical actions or how these would be addressed.
- 2.124 The media strategy was not completed until 1 March 2008. It did not direct, guide or accord with the actions taken by DCO HARPER and before its completion, a number of significant media releases had been made by the States of Jersey Police. It was not updated after 13 March 2008, demonstrating a failure of the commitment to constantly review the strategy in order to take account of changing circumstances.
- 2.125 The absence of a strategic plan made the management of communications in the context of a high profile major investigation more difficult and created an environment in which media coverage was unmanaged, at times inaccurate and, thereby unhelpful to the investigation. Indeed, DCO HARPER appears to have been singularly responsible for determining what information was divulged to the media, when and by what mechanisms, and how and when to respond to coverage with which he was unhappy.
- 2.126 Within days of the 23 February 2008 'find' at Haut de la Garenne, the States of Jersey Police became subject of criticism for the content and method of the media releases. In light of the political criticism that the Force was attracting in the early weeks in March 2008, along with the advice provided by the ACPO Homicide Working Group and the presence of the communication protocol with the States, CO POWER should have recognised the need for a sophisticated media strategy that would guide the States of Jersey Police through the difficult and intense media attention during this most vulnerable period. Unfortunately, evidence of CO POWER's influence is absent throughout and leads this Inquiry to conclude he failed to intervene and retrieve the media debacle.

- 2.127 Ex-DCO HARPER professes that the media strategy was subject of many discussions between him and CO POWER and that he knew they were 'operating in a hostile environment'. If this is the case there can be no doubt as to the duty of CO POWER to ensure that the strategy created on 1 March 2008 was fit for purpose. It is telling that the issue of the media strategy did not again feature in CO POWER's activities until 25 June 2008 when it did so following a media release by DCO HARPER in relation to the charging of two suspects.
- 2.128 On 30 June 2008 CO POWER did recognise that some action was required from him in respect of media policy after robust challenge by the Attorney General. Sadly, CO POWER seemed to believe that a copy of the ACPO media policy and items from HOLMES 'might do'. This was indicative of a naive detachment from, and an apparent lack of understanding of, the dire implications of the developing media situation.
- 2.129 The Attorney General continued to raise concerns about the content of the media strategy, providing opportunity for the Chief Officer to address this important matter and to satisfy the Attorney General that appropriate measures were in place. Despite CO POWER's assurances, the evidence suggests that he did not do so.
- 2.130 This Inquiry can find no evidence that CO POWER was aware of the media strategy until it was given to him as disclosure material by this Inquiry. If accurate, this is surely the strongest indictment of his failure to manage the media aspects of Operation Rectangle.

- **Conclusion 17**

- 2.131 **CO POWER neglected his duty to supervise the media releases made by the States of Jersey Police to ensure their accuracy and balance or to effectively challenge misrepresentation by the media.**

- 2.132 There were a number of significant events prompting what this Inquiry considers were inappropriate or ill considered media releases: which contained the following phrases, assertions or actions:

- the discovery of the suspicious 'fragment' at Haut de la Garenne on 23 February 2008



- conferences led by DCO HARPER with Haut de la Garenne as the backdrop
- the States of Jersey Police attempt to clarify previous releases yet still confirming that '*partial remains of what is believed to be a child*' had been recovered
- the confirmation that partial access to a 'cellar' had been gained
- the 'cellar' being described as 'an underground room with unrendered walls'
- the description as 'cellars' the voids under the flooring
- that police had uncovered what some of the witnesses have referred to as a trapdoor
- assertions that 'the dog indicated to two different spots within the bath' and that presumptive tests for '*blood*' have given a positive result'
- Statements that forensic archaeologists searched an area of the cellar rooms three and four and have discovered some more bone fragments and two 'milk teeth' from a child or children.

2.133 There is no doubt, in our view, that the States of Jersey Police were misquoted on a number of occasions. CO POWER and ex-DCO HARPER will contend that they did attempt to correct these mistakes. However, the lack of media strategy or strategic oversight from CO POWER made this task much more difficult and created the environment in which misquotation was more likely.

2.134 On 26 February 2008, CO POWER reassured the Chief Executive that he (CO POWER) was experienced in media management in a crisis. With this self professed experience, it is hard to understand why CO POWER did not discharge his responsibilities by giving strategic direction to the enquiry in general terms and why he did not specifically moderate the tone of the media releases.

2.135 From the outset, CO POWER was asked questions about the releases and what was being reported in the media by Island politicians. It is not unreasonable to conclude that these enquiries were an indication of the reaction to what had been released and should have prompted action from CO POWER to set the record straight and to ensure that DCO HARPER was being appropriately supervised. The only evidence we have been able to find of any action by CO POWER to

address concerns about media reports is an e-mail to the Home Affairs Minister but which was dismissive and complacent in tone.

- 2.136 It was suggested by the Chief Executive and the Home Affairs Minister that future press conferences should be in a more controlled, formal setting. They sought assurance that in future all announcements and responses to questions would be more circumspect to avoid speculation. It was suggested that CO POWER could take the lead, wearing uniform and working from a conference room.
- 2.137 CO POWER responded by e-mail in support of the way his SIO was handling the media and declined the invitation to go before the media, thus providing further evidence that his grip on Jersey's biggest investigation in living memory was inadequate.
- 2.138 On 4 March 2008, CO POWER met with the Attorney General during which a range of issues concerning the Attorney General's belief that the media reporting to date would result in abuse of process arguments, on the basis that a fair trial would be prejudiced, was raised.
- 2.139 CO POWER told him that DCO HARPER was due to retire in a matter of months and that there was a limit to the amount of practical control which he, CO POWER, could exercise. We find this unacceptable. This Inquiry believes that CO POWER should have done all within his authority to modify DCO HARPER's media approach and to provide strategic direction as to how Operation Rectangle should progress, especially in media terms.
- 2.140 This Inquiry can find no evidence that any steps were taken to address media misreporting. In his statement CO POWER suggests little criticism of the content of DCO HARPER's media releases and leaves the impression that he, as Chief Officer, either agreed or condoned their release. Alternatively, he failed to supervise DCO HARPER's work or perhaps had no real grip on the media 'strategy' at all.
- 2.141 The content of the press releases has come under much criticism from media experts, senior police officers and politicians alike. This Inquiry finds that CO POWER made little, if any, effort at 'quality assurance' and allowed the essence of the releases to remain unchecked, even in light of the furore that

surrounded them. CO POWER also failed to 'quality assure' the subsequent coverage from the media as it misrepresented the facts. Minimal challenge or attempts at correction were made and the news media at large were left unfettered in their sensationalism and speculation.

- **Conclusion 18a**

2.142 CO POWER neglected his duty to provide strategic oversight of States of Jersey Police media policy following receipt of confirmation that Exhibit JAR/6 was not human bone, as previously portrayed by the States of Jersey Police within its media releases.

- **Conclusion 18b**

2.143. CO POWER neglected his duty to correct the content of misleading press releases made by States of Jersey Police following receipt of forensic opinion about the nature of Exhibit JAR/6.

- **Conclusion 18c**

2.144 CO POWER neglected his duty to supervise DCO HARPER in relation to his media releases following receipt of forensic opinion about the nature of Exhibit JAR/6.

2.145 A letter from Dr Thomas HIGHAM at the Oxford laboratory was sent on 1 May 2008 addressed to DCO HARPER confirming the work carried out on Exhibit JAR/6 and the conclusion that it was not bone but almost certainly wood.

2.146 On 5 May 2008, Senator James PERCHARD raised with CO POWER the matter of there being a rumour in existence that stated the skull was not human and that maybe, when the time is right, it would be advisable to put the record straight 'publicly' on this. The response from CO POWER was '*I think that it will be possible to do this as part of a general release relating to the scientific results of more recent finds when these are available*'. Whilst this approach sounds reasonable, this Inquiry can find no evidence that the States of Jersey Police ever did make such a 'general release' prior to the press conference on 12 November 2008.

2.147 DCO HARPER would have it that he did not receive Dr HIGHAM's letter of 1 May 2008, but this Inquiry has established that Dr HIGHAM e-mailed

DCO HARPER a copy of the letter on 17 May 2008. If there had been any room for doubt beforehand, there could now be no doubt that from that time DCO HARPER knew Exhibit JAR/6 was not bone.

- 2.148 Even so, on 18 May 2008, DCO HARPER formulated a press release for circulation which summarised the findings of the examination of Exhibit JAR/6 by the laboratory. He is equivocal in his reference to Exhibit JAR/6 implying that the laboratory had not definitively stated it was not bone and instead focussed on their comment that if there was a need to show definitively what it was it would require further examination.
- 2.149 DCO HARPER recounts in the same press release, details of recent finds – 20 pieces of bone and six children's teeth – which were all found in what he was calling the 'cellar' area. He spoke of expecting the results of forensic tests to date them in the next week stating '*at that stage we will know more about the possibility that there might have been unexplained deaths of children within Haut de la Garenne*'. In this way, he had effectively glossed over the issue of Exhibit JAR/6 and encouraged the very worst impressions in the minds of the public and particularly the media.
- 2.150 Nevertheless, Senator James PERCHARD persisted in his attempts to have the status of Exhibit JAR/6 made subject of a public statement in the Senate. CO POWER merely advised the Home Affairs Minister Wendy KINNARD to comment that many items had been sent for examination, but by the time she came back to him and pointed out that she would be asked exactly when DCO HARPER knew it was not bone, he had left Jersey for a conference on the Isle of Man which may account for the lack of a response from him.
- 2.151 On 20 May 2008, whilst at this conference, CO POWER says that someone told him that the first 'find' was a piece of coconut and that this came as a total '*bolt from the blue*'. In light of the sequence of events outlined above, this Inquiry is sceptical that CO POWER had no inkling of this, especially bearing in mind the existence of daily meetings between himself and DCO HARPER. Nevertheless, it appears that by 20 May 2008 – at the latest – CO POWER accepts that he was now fully aware doubts existed about the nature of Exhibit JAR/6.



- 2.152 CO POWER explains that he had discussions with DCO HARPER and Senator Wendy KINNARD where he sought more information and advised on 'holding lines' to take with the media. He states that he asked DCO HARPER directly about the doubts over the first 'find' and was told that there had been confusing messages coming from the Laboratory, but that DCO HARPER would 'take full responsibility'.
- 2.153 If CO POWER's recollection is correct, he had grounds to suspect that Exhibit JAR/6 was not human, yet permitted or failed to correct DCO HARPER's continuing misleading statements about the scientific evidence being 'inconclusive' rather than present the true situation to the public.
- 2.154 CO POWER's method of dealing with this was to call for a report from DCO HARPER on the matter whilst advising Chief Executive Bill OGLEY and Home Affairs Minister Wendy KINNARD to seek to close down further discussion on the matter and not make further comment on the basis she was waiting for a report on the matter.
- 2.155 This Inquiry concludes this attempt to 'close down further discussions' was unhealthy procrastination. An open and transparent approach would have been to report what was known at that time. CO POWER failed to do so.
- 2.156 Even as late as 8 June 2008, CO POWER was enquiring of DCO HARPER as to the current position in relation to the fragment and asking 'are we accepting that it is not human or do we see the results as inconclusive?' DCO HARPER replied '*we see the results now as inconclusive*'. This inaccurate view was not challenged by CO POWER, who we have good reason to believe, knew this was not a fair or wholly truthful stance to maintain and who continued in his failure to effectively supervise DCO HARPER on the issue. If CO POWER was in any doubt, should have sought an independent review. He did not do so and the police and politicians were being misled.

- **Conclusion 19**

- 2.157 **CO POWER created and/or permitted an environment where lack of supervision allowed DCO HARPER to proceed without regard to the effect of his actions on Operation Rectangle. Nevertheless, this Inquiry accepts that**

**CO POWER could not have prevented the media release regarding suspects 'A' on 24 June 2008.**

- 2.158 The events that preceded the suspects 'A' incident are detailed in the body of the Report and are described elsewhere in this summary. They concerned the breakdown in relationships between the prosecution legal team and DCO HARPER as SIO, particularly in relation to the media release made by DCO HARPER on 24 June 2008.
- 2.159 DCO HARPER dictated that media release to Press Officer Louise JOURNEAUX following the release from custody of the suspects 'A'. It was pejorative in tone and sought to make clear that the only reason that the States of Jersey Police were not able to charge suspects was because of the actions of the lawyers to the enquiry. He ignored advice to take time to consider the contents of that release prior to issue.
- 2.160 Unsurprisingly, the media seized upon the issue and pursued with the Attorney General the suggestion that he interfered with case to prevent charges being brought. He in turn requested a written explanation from CO POWER as to why the release was made along with an assurance that similar attacks on the prosecution would not be repeated. He made it clear that the conduct of DCO HARPER had seriously jeopardised current prosecutions describing the release as *'irresponsible and damaging to the criminal justice process in Jersey'*.
- 2.161 CO POWER comments in some detail on the incident in his statement, recognising the impact of DCO HARPER's release and the associated problems it caused. To his credit, it could be argued that CO POWER took action when confronted by the Attorney General. He explains his recognition of a need for a recovery plan and that he engaged in a face to face meeting with DCO HARPER. CO POWER instructed DCO HARPER in his future dealings with the Law Officers and the method by which press releases would now be made. All in all this demonstrated more positive and intrusive supervision than at most other times throughout Operation Rectangle, in our view, evidencing some level of admonishment of DCO HARPER.

- 2.162 It appears to this Inquiry that the relationship between DCO HARPER and CO POWER is central to understanding how the many problems involving DCO HARPER were managed. If one is to believe the regular meetings between the two covered all aspects of Operation Rectangle, including the media releases, then one should expect that CO POWER would be addressing each issue as it arises and that his level of supervision would be commensurate with the cumulative effect DCO HARPER was having on Operation Rectangle.
- 2.163 Had CO POWER ensured firmer control of DCO HARPER, particularly in the area of media management, then it is certainly likely, in the view of this Inquiry, that the entire furore surrounding Operation Rectangle would have been avoided. Nevertheless, this Inquiry accepts that, in this isolated case, CO POWER could not have prevented the media release regarding suspects 'A' on 24 June 2008, and accordingly that he should not be found to be culpable for it.

## 2.2 Recommendations

- Recommendation 1

- 2.2.1 **The States of Jersey Police considers secondments of trained SIO's to United Kingdom forces to ensure that they maintain and enhance their skills level, with a view to obtaining Professionalising Investigations Programme 3 accreditation.**
- 2.2.2 States of Jersey Police have committed to sending their officers to the UK for SIO training and there are currently 6 officers who have completed various aspects of that training. It is in no way intended to have negative connotations for the States of Jersey Police in commenting that the opportunities for those officers to exploit that training and develop their skills is limited. There is a real risk that the time elapsed between attending a training course and being called upon to exercise the skills learnt is so great that the officer could no longer be considered competent. The development of secondments to UK Forces for trained officers would safeguard the investment in their training and ensure that the States of Jersey Police is well placed to respond to major incidents.

- **Recommendation 2**

**2.2.3 The States of Jersey Police ensures that all operations are included within the National Intelligence Model process as outlined by the 'Practical Advice on Tasking and Co-ordinating 2006'.**

2.2.4 Best practice suggests that Operation Rectangle should have been managed and resourced in line with the National Intelligence Model and, in particular, the Tasking and Co-ordinating process. This is a fortnightly meeting of managers and partner agencies whose aim is clearly explained in Practical Advice on Tasking and Co-ordinating 2006, *'the T&CG [Tasking and Coordinating Group] meeting is the central point of the tasking and co-ordination process and is essential for turning intelligence into action. The T&CG makes decisions between competing demands on resources and also provides direction to staff. In addition to managing resources the T&CG will agree the priority with which crime and disorder problems should be dealt. An efficient T&CG will prompt focused activity through the tasking and co-ordination process'*. This appears not to have been applied during Operation Rectangle and it is recommended that future operations are subject of this process in order to reap the benefits it can yield.

- **Recommendation 3**

**2.2.5 The States of Jersey Police reviews the design of policy books to provide for examination by supervisors and should implement policy requiring such supervision to occur.**

2.2.6 It is a common feature that none of the policy books for Operation Rectangle provide any indication of having been examined by CO POWER. This Inquiry accepts that, unlike policy books in use in the UK, the States of Jersey Police policy books are not designed with space for a supervisor to 'sign and check'. The States of Jersey Police may wish to consider revising their policy books to incorporate this element. It is obviously good practice for the SIO's supervisor and/or Chair of the Gold Group to check policy documents so as to be reassured of the SIO's competence and the planned direction of the enquiry. In the view of this Inquiry, this good practice should be made a requirement. It is recommended that the States of Jersey Police review and implement appropriate policy as well as redesigning the policy books in use to facilitate formal recorded examination of them and the decisions contained therein.



- **Recommendation 4**

**2.2.7 The States of Jersey Police gives serious consideration to adopting the ACPO/NPIA Practice Advice on Critical Incident Management 2007 as Force policy, provide training and ensure the policy is well understood at all levels of the Force.**

2.2.8 At places in his statement, CO POWER demonstrates he had some understanding of the concept of critical incident management and suggests that he raised the subject of development and implementation of processes for critical incident management at some time at the Force Executive Strategy Group. However, he concedes that work on this issue did not proceed effectively. We consider that implementation and training in the application of these guidelines is crucial to how States of Jersey Police identify and assess critical incidents. We recommend that the States of Jersey Police adopt the ACPO/NPIA guidance, implementing it and provide training to ensure it is embedded and understood throughout the Force, including Chief Officers.

- **Recommendation 5**

**2.2.9 The States of Jersey Police reviews policy and procedure in respect of the completion of policy books, giving particular consideration as to when they should be used and what should be recorded in them, in line with NPIA Guidance. Training should be given to current and prospective SIO's.**

2.2.10 Policy Books are essential for recording decisions as to why certain actions were or were not taken and why particular decisions were made. Policy Books are essential to demonstrate the integrity of an investigation. Professionally used they are a means by which any manager of the SIO, Chair of a Gold Group, other Chief Officer, or those charged with the review of an investigation can examine the 'heart' of the investigation, hypotheses and lines on which it is run. SIOs and other officers such as media officers and forensic scene managers should also become conversant with the use of policy books in appropriate cases. For these reasons we recommend that the States of Jersey Police review policy and procedure in respect of the use and completion of Policy Books.

- **Recommendation 6**

**2.2.11 The States of Jersey Police reviews policies and procedures in respect of Community Impact Assessments to ensure policy and procedures are fit for purpose.**

2.2.12 The ACPO policy is unequivocal in that following a homicide, a CIA will be completed jointly between the SIO and local uniform commander within 4 hours of the first report. This was not done in the case of Operation Rectangle. DCO HARPER held views that were very different from other trained and better informed officers and CO POWER sought not to involve himself in the matter. The result was that no CIA for Operation Rectangle was ever promulgated across the Force when it was needed and those better qualified than DCO HARPER were ignored in their attempts to remedy the situation. There was a demonstrable lack of understanding at senior level of the purpose of a CIA and its application in an investigation of this nature. For this reason, we recommend that the States of Jersey Police should review their policies and procedures in respect of Community Impact Assessments to ensure they are fit for purpose.

- **Recommendation 7**

**2.2.13 The States of Jersey Police takes the opportunity to establish an IAG in Jersey, based on the UK model and guidance, so that the IAG is able to participate productively in future incidents as they arise and that the States of Jersey Police develop policy and procedure which properly trains and supports IAG members.**

2.2.14 The use of IAGs has become established best practice throughout Police Forces in England, Wales and Northern Ireland. When comprised of members who reflect the make-up of the community in which they live, IAGs can be a valuable resource in the investigation of major crime, particularly in the representation of minority groups where they may highlight sensitive or other issues which would be of importance. For IAGs to be effective, they need to be properly structured with members properly briefed and fully aware of their role. The advantages of developing such a structure in advance of a specific need are obvious. Particularly, it would avoid the diversion of resources away from the investigation in order to establish the IAG, allowing members to become involved and

comfortable in their role and, most importantly bearing in mind the experience of Operation Rectangle, would provide for other interested parties, such as the Law Offices and States' Politicians, to become familiar with the Group and the beneficial function it can perform. When not engaged in critical incident management IAGs perform other valuable functions such as advising on diversity training, the fairness of 'stop and search' and the policing of minority communities. We recommend that the States of Jersey Police give consideration to establishing an IAG in Jersey.

- **Recommendation 8**

**2.2.15 The ACPO Homicide Working Group learns lessons from Operation Rectangle in order to improve its support to senior investigating officers in the future. In particular, it should ensure clarity about what is understood by its quality assurance role, documenting all recommendations it considers appropriate to the needs of the investigation (not necessarily of the SIO or Chief Officer) and preventing circumstances which could give rise to any intimation of a possible conflict of interest for advisors and mentors.**

2.2.16 CO POWER placed great reliance on term of reference 2c) of the ACPO Homicide Working Group which he believed would result in the quality assurance of Operation Rectangle whereas members of the ACPO Homicide Working Group have confirmed this was not a function they had ever intended, or had the capacity, to fulfil. We have found that not all recommendations made by the ACPO Homicide Working Group were documented at the time they were discussed with CO POWER and/or DCO HARPER, for example the recommendation that Operation Haven be subject to formal review. We have also encountered the perception of a possible conflict of interests in that a member of the ACPO Homicide Working Group was a candidate for the position of an officer he was mentoring which was to become vacant upon that officer's retirement. We recommend that the ACPO Homicide Working Group learn the lessons arising so as to avoid repetition in any future deployment.

### 3. The supervision of Operation Rectangle by Chief Officer POWER

#### 3.1 Introduction

3.1.1 Prove or disprove whether Chief Officer Graham POWER's performance met the ACPO/NPIA standards and guidance in relation to his supervision of Operation Rectangle.

3.1.2 The following six key factors have been identified as pertinent in assessing CO POWER's supervision of the inquiry. These factors are important for the reasons set out in subsequent paragraphs.

- The appointment and retention of DCO HARPER as the Senior Investigating Officer (SIO) for Operation Rectangle
- The terms of reference for, and strategic direction, of Operation Rectangle
- The day-to-day supervision by CO POWER of DCO HARPER in relation to Operation Rectangle
- The supervision by CO POWER of DCO HARPER in respect of his relationship with the prosecution legal team
- The justification for the search at Haut de la Garenne
- The management of Operation Rectangle within the normal day-to-day operations of the States of Jersey Police.

3.1.3 This Section should be read in conjunction with the Supervision Timeline which highlights key events relating to this Section.

d.1135; page  
529-534



### 3.2 The appointment and retention of DCO HARPER as the Senior Investigating Officer (SIO) for Operation Rectangle

3.2.1 The standard against which CO POWER's performance has been assessed is set out in the Murder Investigation Manual produced on behalf of the Association of Chief Police Officers (ACPO) by the National Policing Improvement Agency (formerly known as National Centre for Policing Excellence). The Manual was first published in 1998 and last updated in 2006; the latter version is the one Operation Haven has applied. It is considered by ACPO to be the definitive guide on homicide investigation and is used to underpin the training of SIOs and is also relevant to the investigation of all types of major crime. It explicitly sets out the roles and responsibilities of the SIO, the strategic management of homicide and major incident investigations, the role of chief officers, major crime reviews, working with other agencies, investigative support, crime scene management, forensic strategy, searches and community involvement, amongst other subjects.

MOG; d.17

3.2.2 Specifically, under the section headed 'The Role of Chief Officers in Major Crime Investigation', the Murder Investigation Manual states that '*Chief Officers should be involved in the selection and appointment of SIO's and ensure that the appropriate development and training needs are met*' and further that '*advice from the Crown Prosecution Service regarding the obligations of homicide investigation under Article 2 of the European Convention on Human Rights is that – the SIO and investigators are trained and experienced; They are supervised; It is reviewed; Records are kept*'. Although the States of Jersey do not have a Crown Prosecution Service, the principle of utilising trained and experienced investigators is, nevertheless, relevant as the European Convention on Human Rights is incorporated into the Human Rights (Jersey) Law 2000.

MOG; d.17;  
page 76; para  
3.2MOG; d.17;  
page 76; para  
3.1

3.2.3 It is the view of this Inquiry that whether or not an individual has pursued a specialised career in crime investigation, it would be cause

for concern if a Chief Officer of Police was unaware of the standards pertaining to the selection and appointment of an SIO of appropriate seniority with the requisite training, skills and experience. Even where a Chief Officer's specific training has become outdated, experience should alert him to the necessity to ascertain and comply with current standards, as per the Murder Investigation Manual, which prescribes that *'Chief Officers retain an individual responsibility to develop and maintain their current knowledge of issues related to murder and major crime investigations'*.

MOG; page 76;  
para 3.2

3.2.4 An early example of the fact that CO POWER was aware of the standards which could be expected of someone in his position is highlighted in a report he authored whilst serving as Deputy Chief Constable of Lothian and Borders police in 1997. He had been appointed to review a Grampian Police murder investigation into the death of a nine year old child. The report contained several recommendations. In particular, it confirmed that *'experience and training in major crime investigation is essential'*. This is a basic but essential tenet to follow and the greater the impact of a case on a community, the greater the emphasis that should be placed on that appointment and the underlying skills and experience of the SIO. Detective Superintendent Bryan SWEETING, the head of the Specialist Crime Review Group of the Metropolitan Police Service, comments *'What this means to me is that at a Senior level within any police service you should ensure your most experienced SIO deal with Category A investigations and not just the next available SIO'*. However, this does not negate the need for a trained SIO. Whilst DCO HARPER did have some experience as an investigator, he did not meet the skill requirement set out in the Murder Investigation Manual.

x.662; page  
1790; para 4.88

s.65; page 392;  
para 12

3.2.5 Operation Rectangle was a complex, high-profile enquiry to search for suspected victims of homicide. The States of Jersey Police policing plan for 2008 states *'.... during 2007, the Force opened a child abuse investigation which has developed into the biggest enquiry of its kind*

d.1128; page  
505

*in the Island's history...'* The need for an organised managerial structure at the outset should have been catered for and revisited in a systematic way as the dynamics of the enquiry changed. Detective Superintendent SWEETING states *'Challenges should have been made at critical points of the investigation and a supervisor; in this case it could only have been Mr POWER, should have made those critical challenges'*.

s.65; page 396;  
para 28

3.2.6 It appears to this Inquiry that at least two distinct opportunities occurred to make the right choice in the appointment of an SIO for Operation Rectangle. The first was at the outset of the Historic Child Abuse Enquiry which commenced in September 2007, and the second, crucial opportunity, was following the 'find' of a suspicious item on 23 February 2008 at Haut de la Garenne. This elevated the enquiry to a new level such that it then became, for all intents and purposes, a homicide enquiry.

- **Opportunity one – Historic Child Abuse Enquiry**

3.2.7 In September 2007, whilst the Historic Child Abuse Enquiry was in its initial stages, DCO HARPER had been performing the dual function of SIO for the enquiry and Deputy Chief Officer. The suggested rationale for DCO HARPER's appointment as SIO can be found within the statements of CO POWER and ex-DCO HARPER. (These are commented upon in the following paragraphs). Both Officers were concerned that some previous cases of child abuse had not been prosecuted by the Attorney General. Ex-DCO HARPER states *'It seemed that the SoJP were being blamed for not bringing prosecutions'*. Perceived failures to prosecute were considered by DCO HARPER and CO POWER as having led to mistrust of the States of Jersey Police by victims of child abuse, exacerbated by a perceived 'link' between the Jersey Sea Cadet Corps, (which had been the focus of previous enquiries), and a serving senior States of Jersey Police police officer. In his statement dated 2 April 2009, ex-DCO HARPER states that CO POWER agreed there should be an investigation into matters of historical child abuse and that he (DCO HARPER) should run it: *'I basically said that here was a job*

s.81; page 537;  
para 16

s.81; pages  
537-538; para  
16 & 17

d.1071; page  
244-250; paras  
164-182

s.81; page 537;  
para 16

*that had to be done and he [CO POWER] agreed, saying that I should use Alison FOSSEY and a couple of others to investigate'.*

3.2.8 However, there is some uncertainty as to the role of DCO HARPER at this time. CO POWER comments in his witness statement *'in the earlier stages, Rectangle was an enquiry running alongside a number of others being carried out by the force. DI Alison Fossey was the SIO and Lenny Harper was maintaining strategic oversight'*. He continues *'I would need more access to files to discover when Lenny Harper moved from having strategic oversight to being SIO. I know that when this happened nothing much changed in reality'*.

d.1071; pages  
245-246; para  
168 & 169

3.2.9 This is an important issue that requires clarification. Ex-DCO HARPER makes no reference to his role being that of 'strategic oversight' and clearly he believed he was the SIO from the outset of Operation Rectangle. Ex-DCO HARPER states *'It became known as Operation Rectangle and Graham POWER wanted me to take control'*. The first Policy Book (contained in Appendix 3 of this Report) details DCO HARPER as the SIO on the front cover with Detective Inspector Alison FOSSEY as the Deputy SIO. More importantly Detective Inspector FOSSEY states *'I was appointed DSIO by Mr HARPER in September 2007. The SIO in this case was Deputy Chief Officer Lenny HARPER'*. Clearly there is confusion on this matter. The SIO, DCO HARPER believed he was performing this role. The Deputy SIO, Detective Inspector FOSSEY, believed she was also performing the role of SIO. This Inquiry has concerns that at the outset of Operation Rectangle, the opinion of the Chief Officer differed to that of his Deputy about who was leading the investigation.

s.81; page 537;  
para 16

s.49; page 354;  
para 1

3.2.10 Irrespective of CO POWER's thoughts on when DCO HARPER assumed the role of SIO, he cites the following reasons for this appointment.

- Reluctance within the States of Jersey to accept any appointments made outside of Jersey. *'I have described earlier... the long and exhausting battle that had to be endured in order to obtain authority to*

d.1071; page  
244; para 164



*advertise and recruit a new DCO from outside of the island, and how that left the Minister for Home Affairs in a position in which she could not realistically make a further approach for permission to fill another senior post externally'. Whilst this Inquiry accepts that the recruitment of a new DCO may have taken some time, such reason is not a satisfactory basis for selecting the incumbent DCO as the SIO. This Inquiry considers that there were more appropriate candidates for the role of SIO already available from within States of Jersey Police. These alternatives will be referred to later.*

- CO POWER has commented on a possible link between the professional standards [i.e., misconduct] issues that existed in the Force and Operation Rectangle. *'It was decided that Lenny Harper would have this role for reasons which included the professional standards elements and, to put it plainly, some uncertainty regarding who in the force could or could not be trusted at that time'. This Inquiry accepts that suspected corruption was relevant to the decision-making process about selecting the SIO for Operation Rectangle, but this concern could have been overcome. Detective Superintendent SWEETING comments 'It would have been appropriate for Mr HARPER to supervise a currently trained and skilled SIO and to take the strategic lead'. This option could have included the appointment of Detective Inspector Alison FOSSEY as the SIO, as she was trained, experienced in Child Protection matters and already involved in the enquiry, thereby negating the concern regarding the 'uncertainty' which CO POWER alludes to. We have no reason to believe that CO POWER or DCO HARPER suspected that Detective Inspector Alison FOSSEY was corrupt.*

d.1071; page  
245; para 168

s.65; page 396;  
para 26

- CO POWER has commented on the suggestion that Detective Inspector FOSSEY should have been the SIO at the commencement of Operation Rectangle. *'There was also the probability that media interest would intensify (although nobody foresaw the extent to which this would happen) and that there would be the customary political attempts to interfere or score points. Alison Fossey was a good*

d.1071; page  
245; para 168

*investigator, but relatively new to her rank. She was not skilled in dealing with political challenges and not confident in a hostile media environment'. The need for personal robustness in the SIO appears to be a third reason why the Chief Officer selected DCO HARPER as the SIO. With his strength of character and ability to stand up to pressure. 'He was no diplomat and his disdain for those who he regarded as unprofessional or obstructive to progress was sometimes visible. Over time he came to have a negative view of a number of Jersey Politicians, many of the senior figures in the public sector, and the Law Officers Department. In those cases he tended to manage relationships in a rather formal and professional way. I do not recall him being deliberately offensive in those relationships but there was no visible warmth either'.*

d.1071; page  
223; para 80

- 3.2.11 However, there is evidence that CO POWER intended his role in Operation Rectangle to be one of dealing with any political pressure that arose, thus allowing the SIO to continue managing the Operation. He states his *'identified role'* is *'protecting the investigation from political interference'*. This even became a recommendation within the Homicide Working Group report. *'Recommendation 13. That the Chief Officer maintains a safety zone between the investigation and any demands of politicians'*. It is our view, therefore, that to cite this reason for not appointing Detective Inspector Alison FOSSEY as the SIO in the initial stages of Operation Rectangle, i.e., that the SIO had to be able to deal with *'political challenges'* contradicts the role that CO POWER considered to be his domain.

d.1071; page  
213; para 42

x.466; page  
1297

- 3.2.12 Operation Haven has identified a further option that was available to the Chief Officer. The HMIC Baseline Assessment, Self Assessment of March 2006 in respect of the States of Jersey Police states *'The force has a service level agreement with Devon and Cornwall Police for the provision of support in major investigations. The support available includes, SIO, Scenes of Crime, Search Teams, House to House teams, Major Crime investigators, Major incident room staff & a Disclosure officer'*. This option would have negated any concerns

x.606; page  
1513

regarding the potential for the SIO to be 'corrupt', would have provided a trained and experienced SIO and allowed CO POWER to confidently argue the issue of the appointment of an external SIO with the Jersey politicians. Further, the service level agreement would have provided a timely resolution given the dynamics of the investigation. We note that a HOLMES team from Devon & Cornwall Constabulary was deployed without difficulty in support of Operation Rectangle.

3.2.13 In trying to understand the process by which DCO HARPER became the SIO, it is a matter of concern to this Inquiry that CO POWER and DCO HARPER have recorded so little of their decision-making processes. The key decision about the appointment of the SIO is not documented in any policy books, day books or pocket notebooks that we have been able to locate. (All known Policy Book entries are reproduced in Appendix 3.) We consider this to be a pertinent omission. There should have been significant records available of the rationale, especially where options existed with some more contentious than others. A contemporaneous record would have provided a reliable indication of what CO POWER was thinking at the time and would be of greater value than the retrospective account which we now must rely on. The Murder Investigation Manual states in relation to Policy Files that *'It is the definitive record upon which they [SIO's] will rely when subsequently asked to account for decisions'*. Our view is that this decision was fundamental to the enquiry and should have been recorded with detailed reasoning.

d.17; page 64;  
para 2.5.1

3.2.14 One of the first problems that the appointment of DCO HARPER as the SIO caused was the lack of supervisory options. Peter BRITTON of the Metropolitan Police Review Team states *'it was clear to me that if Mr HARPER was acting as SIO, the only person who could provide any supervision would be Mr POWER'*. Detective Superintendent Bryan SWEETING also comments *'in these circumstances where Mr HARPER had been appointed SIO, his supervision rests with Mr POWER unless he decided to delegate that responsibility to*

s.64; page 383;  
para 7

s.65a; page  
399; para 4

*another although in this case I see no evidence of that'. The appointment of a more junior rank SIO for Operation Rectangle than DCO HARPER would have provided more tiers of supervision, thereby relieving the Chief Officer of a direct supervisory role. Put simply, appointing the DCO as the SIO meant that only CO POWER could supervise him. The ACPO Homicide Working Group, a Gold Group (if one had been formed), the IAG, and Ministers could not perform this function. Anne HARRISON of the ACPO Homicide Working Group comments in her witness statement 'We were not supervising the investigation; we were providing advice and support'.*

s.76; page 452;  
para 5

3.2.15 CO POWER, in response to questions asked of him by Peter BRITTON regarding the SIO appointment, explained that *'there was a long-term plan to bring in a Deputy and appoint an SIO from outside and that Mr HARPER would bridge that gap'*. Whilst the appointment of a Deputy Chief Officer occurred with the arrival of DCO WARCUP, Operation Haven has found no substantial evidence to support the suggestion that there was a 'long term plan' in existence to appoint an external SIO.

s.64; page 383;  
para 7

3.2.16 Indeed, when CO POWER met Andre BAKER on 20 May 2008 *'we discussed the case. He had issues regarding Alison FOSSEY being the SIO as she was not from the Island. Neither was David WARCUP, the person selected to be the new Deputy Chief Officer upon Lenny's retirement. We discussed the fact that Lenny was moving on and he said that people in power on the Island would not have wanted him to stay on. He added that some had concerns that Lenny was planning to write a book. Further discussion took place around Operation Rectangle. Mr POWER said that David WARCUP may want to lead the enquiry but that he must have a role for DCI Dave MINTY. I asked if he had the expertise. Graham POWER replied 'well he was born on the Island and was head of the financial management unit'. POWER felt that he could be the SIO on OP Rectangle. I suggested that we might meet with Lenny HARPER and Dave WARCUP soon to discuss succession planning for the new*

s.79; page 509;  
para 55



SIO. He agreed to this. I pointed out that Alison FOSSEY had the corporate memory of the investigation and must remain the IO'. These comments, if correct, may suggest that CO POWER did not intend to appoint an external SIO in May 2008, and that he was inclined towards an internal appointment.

- 3.2.17 Chief Executive to the Council of Ministers, Bill OGLEY, states that during June or July 2008, Graham POWER approached him to discuss the options for a replacement SIO. These options were to either obtain the services of a UK experienced SIO or to appoint a qualified SIO from the States of Jersey Police. CO POWER named a possible SIO from within the Force and Bill OGLEY believes that this was DCI MINTY. CO POWER's dilemma was that SIOs from within the Force did not have the experience of working on such a major and high profile case and wanted the opinion of Bill OGLEY on how the options would be regarded locally. In addition, the Head of Human Resources for the States of Jersey Police, Liz WEBSTER, also has no recollection of any long term plan and was not aware of the intention to advertise for an external SIO until 30 June 2008. r.4.t, page 6
- 3.2.18 Although CO POWER states that he had a long-term plan, the lack of any supporting evidence from members of the ACPO Homicide Working Group, the Metropolitan Police Review Team, Chief Executive Bill OGLEY, and ACO WARCUP may suggest the contrary. If a plan was in existence then it should have been known to and understood by those key personnel supporting the Chief Officer. Detective Superintendent Bryan SWEETING states '*I discussed the issue of bringing in an SIO from off the Island with both Graham POWER and Lenny HARPER. Mr POWER stated that he had thought of this idea previously but it wasn't an easy alternative to consider as it required authority from The States and very difficult to do at short notice. Mr HARPER could not recall whether this idea had been discussed previously or not.*' The absence of any contemporary documentation or supportive witness evidence casts doubt that any such long-term plan, as suggested by CO POWER, existed. s.65; page 395;  
para 25

- **Opportunity two – Haut de la Garenne**

3.2.19 The events of 23 February 2008 provided perhaps the most significant opportunity for CO POWER to reconsider the appointment of DCO HARPER as the SIO. If any doubt had previously existed about the suitability of DCO HARPER to be the SIO, the potential homicide enquiry should have prompted examination of his training and experience, especially in light of the immense interest from the national and international media. Homicide investigation is usually complicated and technically sophisticated, requiring training, expertise and experience, if a successful outcome is to be achieved. The Murder Investigation Manual states '*The role of the SIO in a homicide investigation is potentially one of the most complex and challenging positions within the Police service*'. Homicide investigation is made even more demanding by virtue of media scrutiny of high profile cases. Therefore, a currently trained SIO is more likely to achieve a successful outcome than one who is not.

MOG; d.17;  
page 26; para  
1.3.1

3.2.20 CO POWER has commented at some length in his statement about the advice of the ACPO Homicide Working Group and the issue of the SIO appointment. Following the request for their assistance and mentoring on 24 February 2008, the ACPO Homicide Working Group was informed that DCO HARPER was to continue as the SIO. Anne HARRISON states '*a decision had already been made by the States of Jersey Police that he was to be the SIO and that he required support and advice. That was the purpose of us going to the Island*'. Andre BAKER comments '*a decision had been made by the Chief Officer that he [DCO HARPER] should be the SIO*' and, therefore, no recommendations regarding this issue were made by the ACPO Homicide Working Group. There is certainly a misunderstanding between ex-DCO HARPER and the ACPO Homicide Working Group on the point of whose decision it was to allow him to continue as the SIO. Ex-DCO HARPER states '*it was their recommendation that I should become the full time SIO which resulted in Shaun DU VAL taking on my role as Deputy Chief Officer*'. This is obviously in contrast to the above comments of Anne HARRISON and Andre

d.1071; pages  
241-243; paras  
154-159

s.76; page 460;  
para 25

s.79; page 520;  
para 104

s.81; page 537;  
para 17

BAKER who imply that the decision was a 'fait accompli'. We comment subsequently in this Report about some aspects of the ACPO Homicide Working Group's engagement which appear to have provided grounds for misunderstanding and confusion which did not serve Operation Rectangle well.

3.2.21 However, the evidence of the ACPO Homicide Working Group is that it did not recommend that DCO HARPER should continue in the SIO role. Operation Haven can find no evidence that the ACPO Homicide Working Group recommended DCO HARPER as the SIO. We can find no documentary evidence or other written evidence that supports ex-DCO HARPER's assertion that the ACPO Homicide Working Group recommended his appointment.

3.2.22 It is also pertinent to point out that the ACPO Homicide Working Group has no locus in which to countermand the DCO or the Chief Officer. It has no authority to make requirements and its mandate is solely to provide advice. However, this Inquiry would expect the ACPO Homicide Working Group to be appropriately robust and challenging on the vital issue of the appointment of an untrained SIO to a critical incident.

3.2.23 In his statement, CO POWER recalls, '*they [ACPO Homicide Working Group] recommended that he [DCO HARPER] should become full-time [SIO]*'. There is no suggestion that he and DCO HARPER may have already decided that the DCO would remain as the SIO. He continues that '*to change him in mid-flow for no better reason than the absence of current qualifications or similar reasons... would not be credible... and could have had far reaching consequences*'. This Inquiry finds this an unacceptable reason given that it appears to suggest that no matter what the deficiency in qualification or the potential effect on Operation Rectangle, it was simply beyond consideration that DCO HARPER could have been replaced by a qualified investigator.

d.1071; page  
246; para 171

d.1071; page  
247; para 174

3.2.24 Even when following the events of 23 February 2008, Operation Rectangle had escalated in significance, CO POWER persisted with DCO HARPER in the role of SIO, as opposed to substituting a qualified person. CO POWER's logic is outlined in his statement where he suggests that *'running alongside this [issues concerning professional standards] was the undoubted fact that Lenny Harper had, within the space of a few hours, become established internationally as the public face of the enquiry'* and that *'almost overnight we had moved to a position in which any replacement of Lenny Harper as SIO would have been world news'*. In respect of these insights to CO POWER's thinking, this Inquiry does not agree they are sufficiently valid reasons for continuing with an untrained SIO at the helm of such a major inquiry.

d.1071; page  
247; para 173

d.1071; page  
247; para 174

3.2.25 It is worth noting that Operation Fincham (the murders of Jessica CHAPMAN and Holly WELLS in Soham, Cambridgeshire in August 2002) and Operation Sumac (the murders of five prostitutes in Suffolk, in November/December 2006) each changed the SIO after the investigations commenced. It is not uncommon to do so. The circumstances existed for DCO HARPER to provide strategic oversight to the enquiry and, if desired, to remain as the media 'face' whilst a trained SIO managed the investigation of Operation Rectangle. Detective Superintendent Bryan SWEETING states *'it would have been appropriate for Mr HARPER to supervise a currently trained and skilled SIO and to take the strategic lead'*. This Inquiry considers the views expressed by CO POWER in paragraph 3.2.24 above, as short sighted.

s.65; page 396;  
para 26

3.2.26 CO POWER should have realised his decision was a 'judgement call' and that it should have been recorded and kept under review especially when the growing significance of the case became apparent at key times, namely:

- Post Operation Rectangle becoming 'overt' in November 2007



- Immediately after the 'find' on 23 February 2008
- Following the political and legal criticism of the management and handling of Operation Rectangle
- Pursuant to the concerns raised over Exhibit JAR/6 (see the Media Section of this Report).
- In light of the increasing levels of expenditure on the investigation
- And in the knowledge that other SIO 'options' existed

3.2.27 In this latter regard, it is clear from the witness statements of CO POWER and Detective Chief Inspector David MINTY and contemporary e-mail messages, that CO POWER did entertain the appointment of Detective Chief Inspector MINTY to the role of SIO *'in spite of the difficulties, I persisted in considering an internal appointment of an SIO at an appropriate time, and David Minty continued to feature in those deliberations'*. Detective Chief Inspector MINTY comments *'Sometime during the week commencing 25 February 2008 Mr POWER asked me at a morning ACPO briefing to take an interest in the Haut de la Garenne investigation and to 'shadow' DCO HARPER... This was, I think, because DCO HARPER was coming up for retirement and Mr POWER wanted a continuity and succession plan for the SIO role in the investigation'*. However, it is clear that no substantive outcome was arrived at and it was not until 30 June 2008 that an advertisement was placed for a new SIO following the decision to appoint DCO WARCUP to the States of Jersey Police and prior to his appointment on 4 August 2008. CO POWER comments *'the appointment of David Minty as SIO was one of the options I took forward to my discussions with David Warcup. Had this option been agreed it would of course have enabled a much earlier phased handover of responsibility. However it emerged that Mr Warcup preferred to have an independent SIO from the U.K. I cannot remember the details of my discussions with David Warcup, but they must have involved consideration of the need*

d.1071; page  
248; para 176

s.48; page 339;  
para 23

d.1071; page  
248; para 176

*for the enquiry to be seen to be fully independent of local political considerations, and how the appointment of a long-serving Jersey officer might impact on this'.*

- 3.2.28 Whilst this Inquiry accepts that DCO WARCUP preferred the appointment of an external SIO, this did not occur for four months after the events of 23 February 2008. A trained SIO, albeit of limited experience, was present within the States of Jersey Police. As this Inquiry suggests in this Report, a number of alternatives were readily available to CO POWER throughout Operation Rectangle. Detective Chief Inspector David MINTY is but one example. The significant events referred to in Paragraph 3.2.26 above provided a number of clear and on-going opportunities for CO POWER to have acted to secure an individual with accredited skills.

### **3.3 The relationship between CO POWER and DCO HARPER**

- 3.3.1 This Inquiry has considered the relationship between CO POWER and DCO HARPER as it affects the latter's appointment as SIO and in relation to the general conduct of the inquiry. The views of some witnesses may assist in deciding whether the contrast in their personalities was a factor both in DCO HARPER's appointment and retention as the SIO for Operation Rectangle.

- 3.3.2 Detective Sergeant Keith BRAY was closely involved with Operation Rectangle and observed that DCO HARPER *'had a strong influence'* over CO POWER. Detective Sergeant BRAY *'witnessed Lenny HARPER being allowed to do whatever he wished with regards to the investigation, without any obvious supervision from above'*. We are aware of no basis to impart unfair bias in Detective Sergeant BRAY's evidence.

s.26; page 191;  
para 15

s.26b; page  
195; para 2

- 3.3.3 Attorney General William BAILHACHE recalls that CO POWER told him on 16 April 2008 that *'there was a limit to the amount of control which he [CO POWER] could exercise over the Deputy Chief Officer'*.

s.85; page 737;  
para 54

- 3.3.4 In March 2008, Frank WALKER (Chief Minister between 2005 and 2008) had concerns regarding the supervision of the investigation. He states *'sometime in March, I do not recall the exact date, I had a meeting with Graham POWER and we spoke about the investigation. He gave me a full update and I asked him whether he was using Lenny HARPER's words or his own. What I wanted to know was whether he [CO POWER] was in control. He stated that he was updating me on what Lenny HARPER had told him. This was the first inkling I had that he may not have been either as fully informed or as fully in control of the investigation as I would have expected'*. If this is an accurate representation of the facts, then we are concerned that simply regurgitating the views of the SIO without critique or challenge on matters of substance is not conducive to effective supervision. s.84; page 712;  
para 15
- 3.3.5 In relation to the criticism being received from various politicians, CO POWER comments *'Almost overnight we had moved to a position in which any replacement of Lenny HARPER as SIO would have been world news. At one point frustrated by what he perceived as constant political sniping, he told me that if political actions interfered with his role as S.I.O. he would "not go quietly"*. (The underlining is CO POWER's emphasis). We feel these comments suggest that CO POWER feared the consequences of changing the SIO, and whilst he should have been aware of the potential conflict that could arise, it should not have deterred him from asserting his authority over DCO HARPER. d.1071; page  
247; para 174
- 3.3.6 There are clear indications that DCO HARPER had a strong personality. CO POWER describes him as *'no diplomat and his disdain for those who he regarded as unprofessional or obstructive to progress was sometimes visible'*. Inspector David BURMINGHAM, a member of the Chief Officers' staff office, states *'I can describe Mr HARPER as being very dominant'* and Inspector Mary LE HEGARAT comments *'The organisation as a whole became a culture of fear because officers felt that even if they made a genuine mistake they would be heavily penalised by him [DCO HARPER], in* d.1071; page  
223; para 80  
  
s.1; page 6;  
para 36  
  
s.15; page 114;  
para 54

*one way or another*'. Such a culture, if it existed, may have had a bearing on the investigation of Operation Rectangle and hence the need for intrusive supervision. In contrast, however, ex-DCO HARPER states *'I never felt that he was not supporting me and I never felt he was giving me a free run either'*. He recalls that only once in their discussions did he hear CO POWER say *'I am the Chief Officer'*. Ex-DCO HARPER recalls that CO POWER was *'invasive'* in his supervision and states that *'he was his own man and more than a match for me'*.

s.81; page 555;  
para 62

s.81; page 556;  
para 63

s.81; page 556;  
para 64

3.3.7 Whilst this is DCO HARPER's view, this Inquiry has found very little evidence of CO POWER challenging DCO HARPER. We examine a number of situations in this Report where challenge could and should have arisen and we provide comment accordingly:

- The manner of use of Martin GRIME and the enhanced victim recovery dog (see Section 1.9)
- The Exhibit JAR/6 (see the Media Section of this Report)
- The relationship with the prosecution lawyers (see section 1.8)
- The media release in relation to suspects 'A' (see the Media Section of this Report).

3.3.8 This Inquiry concludes from the above, that the evidence of intrusive supervision by CO POWER of DCO HARPER is minimal.

3.3.9 Evidence of CO POWER's avoidance of confrontation with DCO HARPER can be gleaned from ACO WARCUP's statement, when he recounts a conversation with CO POWER and Detective Superintendent Michael GRADWELL after a meeting on 10 October 2008 *'he [CO POWER] stated that he had a problem which I and Mick GRADWELL did not have, which was an allegiance to Lenny HARPER. He [CO POWER] had supported him right through, had tried to keep him 'in check' and had to manage the fact that not many people on the Island supported him. He [CO POWER]*

s.82; pages  
650-651; paras  
291-293



*knew that certain aspects were not right but had to manage him, 'particularly [sic] the last six weeks' [sic].*

3.3.10 Operation Haven has considered the position of ACO WARCUP and the possible motives for such assertions. The suspension of CO POWER and the subsequent Inquiry could be construed as providing a benefit for ACO WARCUP in terms of status and financial reward. Therefore, we have carefully sought to establish where his evidence is supported by experts, key personnel within Operation Rectangle and other witnesses, and where it is not.

3.3.11 For example, ACO WARCUP has commented, in some depth, on the lack of strategic command through a Gold Group. His views are corroborated by Bill GRIFFITHS, the expert on Critical Incident Management commissioned by Operation Haven. Bill GRIFFITHS states *'a Gold Group was later formed by DCO Warcup when he took up his post and, from the minutes, seems to follow the spirit of ACPO guidance and practice without apparent difficulty'*.

s.82; page 614;  
paras 152-154

d.1106; pages  
337-339; paras  
83-93

3.3.12 ACO WARCUP has explained in some detail his concerns about the media coverage of Operation Rectangle and the possible abuse of process arguments that arose due to the inaccurate or misleading reports released by the states of Jersey Police *'I am absolutely clear in relation to this and other conversations which I had with Mr POWER, particularly in relation to the importance of ensuring that the public were properly informed and the fact that future trials would be in jeopardy if the correct facts were not put into the public arena'*. This view has been echoed by Matthew TAPP, an external media consultant who was commissioned (albeit by DCO WARCUP) to conduct an external communications review of Operation Rectangle. (Details of this review and his comments can be found in the Media Section.) Matthew TAPP states *'I recommended to him [CO POWER] that the force was duty bound now that the murder investigation had finished, to announce this much publicly and to apologise for what I believed to be the inaccurate description and presentation of 'the finds' recovered from HDLG'*.

s.82; page 644;  
para 259

s.31; pages  
211-212; para  
14

- 3.3.13 ACO WARCUP's statement comments at some length about the relationship between the prosecution legal team and Operation Rectangle *'having had the opportunity to review the situation which existed I was firmly of the opinion that the decision not to fully include the lawyers in the process was wrong and acted to the detriment of the investigation'*. This assertion is supported by the view of the lead Advocate, Stephen BAKER. *'He [DCO HARPER] plainly did not want the lawyers involved. He appeared to have no experience of working closely with lawyers in the earlier stages of investigations'*. Advocate BAKER continues *'Mr HARPER seemed to come from the preconceived view that the Attorney General and, therefore, his lawyers would seek to frustrate this investigation. This preconceived view meant that the working relationship was bound to fail'*. s.82; page 599;  
para 87
- 3.3.14 Although CO POWER might wish to suggest that ACO WARCUP has motive to 'remove' CO POWER from the Chief Officer role, ACO WARCUP's assertions have been tested against the views of others. We cannot say against which of these witnesses it may be suggested that a 'conspiracy' against CO POWER was formed. Suffice to say, this Inquiry is alive to the proposition and takes it into account in coming to our conclusions. s.77; page 475;  
para 26
- s.77; page 477;  
para 34b

### 3.4 DCO HARPER's experience as an SIO

- 3.4.1 DCO HARPER had not undertaken the role of SIO for 16 years before Operation Rectangle and was untrained in both the current Professionalising Investigations Programme accreditation process (a joint ACPO/NPIA programme to improve investigative competence), and in the previous system of modular training for each aspect of major crime investigation. By his own admission, his CID days ended in the early 1990s and he had never attended an SIO course. His is not a case of outdated training, rather one of no current training whatsoever. DCO HARPER's background is such that he could not legitimately lay claim to being considered a qualified SIO on the basis of prior acquired experience referred to as "Grandfather Rights" in s.81; page 532;  
para 3

SIO accreditation terms. (The expression 'Grandfather Rights' is not a nationally recognised term, but is a phrase that has been used to describe very experienced and fully trained SIO's who retain a high degree of expertise due to their *recent* training and investigative experience even though they have not actually undertaken the current accreditation process.)

- 3.4.2 Before any SIO is tasked with investigating homicide he or she must have undergone a professional development programme combining an appropriate SIO course followed by a work-based assessment against National Occupational Standards by trained and competent assessors. At the end of this process, the candidate is deemed to be 'competent' with a documented audit trail to support this assertion and their status updated on the National SIO Database maintained by NPIA. Even existing SIOs have to undergo this process. Neither DCO HARPER nor CO POWER are accredited in this way or possess 'Grandfather Rights' to perform as an SIO. Neither is included on the NPIA database. r.10.j; page 14
- 3.4.3 This view is endorsed by Detective Superintendent Bryan SWEETING, who states that DCO HARPER should not have been appointed as the SIO as, despite the 'corruption' rationale expressed by CO POWER and DCO HARPER *'his skill levels were not sufficient or current enough to enable him to lead the investigation'*. This Inquiry believes that the decision to appoint DCO HARPER as SIO was a regrettable judgement. It was contrary to the advice in the Murder Investigation Manual that Senior Investigating Officers are *'trained and experienced'*. However, as the investigation continued, and the scale of the issues and problems became increasingly obvious, the culpability of CO POWER in not addressing the skills and training of the SIO became a matter of performance failure by CO POWER rather than a mere error of judgement. s.65; page 396;  
para 26
- MOG; d.17;  
page 76; para  
3.1

- 3.4.4 Detective Superintendent Michael GRADWELL also commented that DCO HARPER was not a qualified SIO in a memorandum dated 5 October 2008 to DCO WARCUP. This memorandum is strongly worded throughout and recognises that *'Former DCO Harper is not a qualified senior investigating officer – this type of issue was addressed during the review into the Soham murder enquiry... former DCO Harper appears to have been allowed to follow his own agenda, making, 'knee jerk', unprofessional reactions without management oversight or interjection'*. x.93; page 310
- 3.4.5 Whilst Detective Superintendent Michael GRADWELL was specifically appointed to manage Operation Rectangle, in the interest of fairness this Inquiry also considers his motives in making critical comments relating to its supervision. He has made strong assertions that Operation Rectangle was not run to a satisfactory standard. For example, he states *'I raised concerns about the investigation by the former senior investigating officer and highlighted issues about 'the partial remains of a child', the cellars, the teeth, the shackles, the bath and other matters that I considered to have been misrepresented'* (see Media section of this Report.) These concerns, however, have been reiterated by other witnesses. Matthew TAPP comments *'statements made in relation to the item recovered on February 23rd were not accurate, and incited enormous media coverage which at times was hysterical and sensational and was, in turn, equally inaccurate and misleading. The description as "cellars" [of] the voids under the flooring was inaccurate and allowed the media to create a false impression in the public mindset. The description of an item recovered from Haut de la Garenne as 'shackles' was not accurate. The language used to describe the 'bath' could have been more accurate'*. s.5a; page 52;  
para 50  
x.263; page  
699
- 3.4.6 Throughout his statement Detective Superintendent GRADWELL criticises the former operational set up. *'There was no provision for intelligence sharing within the Force and due to the lack of a Gold Group there was no co-ordination or understanding of on-going* s.5a; page 53;  
para 63



*operational issues*'. This opinion has been supported by others. Detective Superintendent Bryan SWEETING states *'It is my view that this was clearly a critical incident within the Island and the role of a Gold Group would have supported both Mr POWER, the investigation and the wider community'*. s.65; page 394;  
para 21

3.4.7 Therefore, it is the view of this Inquiry that whilst Detective Superintendent GRADWELL has strong motivations (which we are aware he has disclosed to national media), his comments and opinions on relevant issues can be tested against the views of other witnesses.

3.4.8 Kevin DENLEY, a very experienced Major Incident Room Office Manager, came to Operation Rectangle initially as part of the support provided by Devon & Cornwall Constabulary, and then remained as a member of support staff once his retirement date had been reached. In light of his experience, he passes much comment on DCO HARPER in his role as SIO *'I would expect to get some serious direction from the SIO. The Policy Decisions were few and far between... Mr HARPER just wasn't doing this. Mr HARPER only came to the Incident Room on fleeting visits... he wouldn't come into the room and give a team brief each day... one of the briefings we did have was staged for the press... I do not think there would be one SIO in the country that would have announced to the media that they had discovered child remains without having it fully checked out first... I think Mr HARPER was just out of his depth as an SIO'*. s.22; pages  
148-151; paras  
11, 18, 24, 26

3.4.9 In respect of the appointment of DCO HARPER as the SIO, Jon STODDART, Chief Constable of Durham Constabulary and Chairman of the ACPO Homicide Working Group, expressed his views in the following terms *'in my opinion, because of the small ACPO team, either extra resilience at ACPO level should have been sought or a fully qualified SIO brought to the investigation'*. It has been established by this Inquiry that Superintendent Shaun DU VAL was appointed as Acting Deputy Chief Officer after DCO HARPER became the dedicated SIO to Operation Rectangle. It is to s.62; page 380;  
para 12

CO POWER's credit that he made this appointment. However, whilst Superintendent Shaun DU VAL's 'acting' role may have provided the extra resilience suggested by Chief Constable STODDART, the position remains that CO POWER failed to place a qualified SIO within the enquiry during its crucial stages. Also, as we have stated, with DCO HARPER as the SIO, only CO POWER could supervise him in that capacity.

- 3.4.10 The subsequent advertisement for the post of SIO (to replace DCO HARPER following his retirement) was apparently drafted by the ACPO Homicide Working Group on 30 June 2008, following discussion with and at the request of, CO POWER. It specifically required that candidates should be accredited to Professionalising Investigations Programme Level 3, or has equivalent investigative experience as a pre-requisite in order to apply for the post. The advert was written by Anne HARRISON and Andre BAKER, in conjunction with Detective Inspector Alison FOSSEY. d.810; page 97
- 3.4.11 If CO POWER had followed this course of action in February 2008, it would have ensured, in all likelihood that an appropriately qualified SIO was appointed and there would have been no need for a replacement upon DCO HARPER's retirement. There was a four month period between the events of 23 February and the release of the advert for a new SIO in late June 2008. This Inquiry believes that the significant events in this enquiry (mentioned in paragraph 3.3.26) should have prompted the appointment sooner. The SIO timeline for Operation Rectangle (see the Evidential Bundle accompanying this Report) highlights the opportunities available. Whilst this is a view from hindsight, this Inquiry feels that certainly the momentous effect of the discovery on 23 February 2008 should have prompted substantive and documented reconsiderations by CO POWER about the need for a trained SIO. s.79; pages 512-513; para 71
- 3.4.12 Detective Superintendent Bryan SWEETING, as part of his review, spoke with CO POWER in October 2008 on the issue of appointing d.1134; pages 527-528
- x.548; page 1411

DCO HARPER as the SIO, at which time CO POWER stated that '*on paper, there was no one else in the Force to deal*'. As we have suggested, this was neither the case in fact nor the only option available to CO POWER.

- 3.4.13 The reality was that five States of Jersey Police senior officers had attended UK SIO training courses. These officers are Superintendent Shaun DU VAL, Detective Chief Inspector David MINTY, Inspector Mark COXWELL, Inspector Mark HOUZE and Detective Inspector Alison FOSSEY. (One other senior States officer was suitably trained but due to his close association with the Sea Cadets and the fact that he was subject of a disciplinary investigation, this Inquiry accepts that it may not have been appropriate to appoint him as the SIO.) Although none were accredited to Professionalising Investigations Programme Level 3, they had recent and relevant knowledge of the Murder Investigation Manual, Major Incident Room Standardised Administrative Processes and 'best practice'. Therefore, a number of officers were qualified for the covert and overt stages of Operation Rectangle. As the enormity of the investigation emerged, this Inquiry considers it a failing by CO POWER not to have appointed a qualified SIO. The five named officers were all better qualified for the role of SIO than DCO HARPER, albeit they too were lacking in experience. It also remained open to appoint a trained and experienced SIO through the Service Level agreement which existed between the States of Jersey Police and Devon & Cornwall Constabulary. CO POWER's assertion that '*there is no one else in the Force to deal*' is not considered valid by this Inquiry.

s.17; page 120;  
para 7  
s.48; pages  
330-331; para 1  
s.47; page  
325; para 15  
s.44; page 305;  
para 11  
s.49; page 355;  
para 9

x.548; page  
1411

- 3.4.14 This Inquiry concludes that opportunities to appoint a suitably trained and suitably experienced SIO, both for the Historic Child Abuse Enquiry and following the 'disclosure' at Haut de la Garenne, were not taken. The only person who could have retrieved the situation was the CO POWER. His experience from the Grampian enquiry and his general length of senior police service tend to suggest that he was, or at least should have been, aware of the significance of an SIO's

appointment. His failure to address the situation in respect of Operation Rectangle represents unacceptable performance from the Chief Officer.

- 3.4.15 This Inquiry accepts as a genuine and recurrent problem for senior managers within States of Jersey Police that, even where the appropriate training is provided, limited opportunities exist for officers and staff to develop the necessary experience to hone their skills. Other avenues by which individuals may practice their skills should be explored. Most commonly, this is achieved by working alongside others on suitable cases before then taking the lead role with support at hand. States of Jersey Police must consider the resilience (and resource implications) of maintaining reasonable experience to augment training.

- **Recommendation 1**
- 3.4.16 **The States of Jersey Police considers secondments of trained SIOs to UK forces to ensure that they maintain and enhance their skills level, with a view to obtaining Professionalising Investigations Programme 3 accreditation.**

### 3.5 The supervision of DCO HARPER as SIO

- 3.5.1 The appointment of DCO HARPER to the role of SIO meant that, other than CO POWER, no other officer could exercise supervision of him. Peter BRITTON specifically brought this to CO POWER's attention on 29 October 2008, but CO POWER again cited difficulties in recruiting an external SIO at short notice as a reason for committing to the appointment of DCO HARPER.

s.64; page 383;  
para 7

- 3.5.2 Detective Superintendent Bryan SWEETING considered the matter in his statement in this way *'having the Deputy Chief Officer as an SIO is fundamentally flawed in my view because it relies upon the Chief Officer being experienced in dealing with and leading major investigations and I do not believe that Mr POWER has such experience. Any homicide or serious investigation requires a high*

s.65; pages  
393-394; para  
19



*level of supervision and this is not a role I would expect a Chief Officer to take on, the role requires practical experience'.*

- 3.5.3 This Inquiry considers that whilst it is to his credit that CO POWER accepts he is deficient in this area (*'for the avoidance of doubt I have no current qualifications or training whatsoever in the investigation of serious crime, or in the oversight of such investigations'*), it is to his discredit that he did not recognise this as being a very strong reason why he should have resisted the appointment of DCO HARPER as SIO. d.1071; page 207; para 16
- 3.5.4 This Inquiry considers that the absence of current SIO qualification and current experience in DCO HARPER, and CO POWER's own lack of experience in the supervision of homicide inquiries should have alerted him of the need for concerted action to address the issue of supervision and oversight of Operation Rectangle.
- 3.5.5 This Report will detail in later sections with the consequences of this inappropriate appointment (see Media section of this Report).
- 3.5.6 It may be concluded that, having appointed the DCO as the SIO, there were broadly three supervisory approaches available to CO POWER: s.62; page 379; paras 7 & 8  
s.65a; page 399; para 4  
s.76; pages 451-452; para 5
- 3.5.7 The first approach would be to supervise the SIO himself although, in light of the above comments, this is not considered a viable option. The second option would involve engaging the advice and mentoring skills of an officer who was trained and proficient in this area. Whilst CO POWER contends that this was accomplished in the commissioning of the ACPO Homicide Working Group, its engagement in no way absolves the Chief Officer of his supervisory responsibilities in respect of DCO HARPER.
- 3.5.8 CO POWER's supervisory responsibility was commented upon in the initial ACPO Homicide Working Group report *'other than from a supervisory and responsibility standpoint, Graham Power, Chief Officer for States of Jersey police, is not involved in the actual* x.466; page 1286; para 7.1

*investigation*'. The point is reiterated by Andre BAKER who says in his statement *'it is made clear in this passage that he [CO POWER] had a supervisory role to play in addition to attending to political matters'*. It appears to this Inquiry that the initial construction of the ACPO Homicide Working Group report downplays the importance of the Chief Officer's supervisory role, whereas Andre BAKER's witness statement gives emphasis to it. We are cautious about placing weight on either construction other than to conclude that CO POWER was responsible for Operation Rectangle. We cannot be certain, however, how thoroughly and completely the ACPO Homicide Working Group impressed this burden on CO POWER.

s.79b; page  
526; para 4

3.5.9 It is the view of this Inquiry that had CO POWER elected not to supervise DCO HARPER as SIO, then CO POWER should have documented such a decision. We can find no evidence of this decision having been taken and this Inquiry has had to assume that he was the SIO's supervisor in the absence of any other viable candidate.

3.5.10 The third 'option' is to trust the SIO's judgment. Although this is seldom a valid, safe or productive option on its own, it appears to this Inquiry to be broadly the approach that CO POWER adopted. He trusted in his SIO's ability and appeared to take more comfort than was appropriate from the advice and reports of the ACPO Homicide Working Group. Again, this Inquiry would reiterate that the ACPO Homicide Working Group has no authority to make requirements of the SIO or Chief Officer and the advice it provides is simply that. This does not remove the responsibility of the Chief Officer. Given that CO POWER accepts that he was neither qualified nor experienced to supervise an SIO, we conclude that he placed himself in a position of being unable to provide command oversight to Operation Rectangle.

3.5.11 CO POWER states *'I estimate that about 80% of my time was given to running the force and most of the other 20% was spent dealing with issues related to Rectangle'*. This Inquiry accepts that this may be

d.1071; page  
249; para 180

factual, however the lack of documentation available makes it impossible for us to confirm this assertion. If this claim is accurate, we are unable to distinguish what proportion of CO POWER's time was spent responding to problems caused by the actions of the SIO and how much to proactive supervision, guiding the SIO in his management of the investigation.

### 3.6 Conclusion

3.6.1 In coming to our conclusions, this Inquiry has carefully considered the unique context of Jersey in terms of the size of the Force and its Chief Officer cohort and the relative dearth of experience of its SIOs. We have also considered CO POWER's explanations regarding the political difficulties of external appointments as well as the motivations which could be suggested of some key witnesses. We have set these considerations against the clear standards required to investigate, manage and supervise suspected cases of homicide.

3.6.2 We conclude that CO POWER did not meet the standards required of him in that he failed to ensure he appointed an appropriate SIO to Operation Rectangle; one who had both the training and experience to be able to perform effectively in the role.

3.6.3 We accept that CO POWER had a limited choice of SIOs, although the option did exist within his own Force to appoint from a number of officers who had recently attended relevant training courses. It was certainly feasible for one of them, with appropriate support, to have been made SIO. This would have provided Operation Rectangle with a suitably trained SIO, thus allowing DCO HARPER to take a more strategic role. DCO HARPER's appointment had a detrimental effect (which we describe later in this Report) on the conduct of the investigation and placed CO POWER in the position where only he could supervise DCO HARPER.

3.6.4 CO POWER has quoted 'political problems' in securing authority for the appointment of an SIO from the UK as being the reason why he

d.1071; page  
244; para 164

did not pursue that option at an early stage of the enquiry. Difficulties may have existed, but it seems they were assumed to have been so great that no attempt was made or discussion had to move towards a solution until the appointment of Detective Superintendent Michael GRADWELL in September 2008.

3.6.5 It has been suggested by some witnesses that DCO HARPER was a very strong character, used to getting his own way. Some witnesses suggest CO POWER recognised this and accepted it was sometimes beyond his capability to manage DCO HARPER. In essence, we cannot eliminate the hypothesis that CO POWER was content to simply let DCO HARPER 'get on with it'.

s.85; page 737;  
para 54

3.6.6 CO POWER was not experienced in the field of major crime investigation and not able, therefore, to effectively supervise DCO HARPER in the role of SIO. Whilst the appointment of DCO HARPER as SIO was questionable at the outset, the subsequent homicide enquiry provided the ideal opportunity to reconsider that decision. Despite discussions with members of the ACPO Homicide Working Group, CO POWER did not fully address the vulnerability of his supervisory position in that he chose neither to appoint one or another of his qualified internal candidates nor to make the case for an external appointment until Operation Rectangle was out of control. By then, the successor DCO and SIO could only try to limit the damage.

• **Conclusion 1**

3.6.7 **CO POWER's appointment of DCO HARPER as SIO was inappropriate when Operation Rectangle was solely an Historical Child Abuse Enquiry. This became a failure in performance of his duty to appoint an SIO of adequate qualification and experience after 23 February 2008 when Operation Rectangle became a homicide investigation.**

### 3.7 The Initial terms of reference for, and strategic direction of, Operation Rectangle

3.7.1 The Murder Investigation Manual provides further guidance under the heading, 'the Role of Chief Officers in Major Crime Investigation'. Within this section it comments '*Advice from the Crown Prosecution Service regarding the obligations of homicide investigation under Article 2 of the European Convention on Human Rights is that... Records are kept*'.

MOG; d.17;  
page 76; para  
3.1

3.7.2 Established best practice in respect of the management of any major investigation requires that clear strategic parameters are established at the outset in order to give proper direction to the investigation. Peter BRITTON states '*because this was a major investigation for States of Jersey Police I would expect that terms of reference would be agreed by the Chief Officer setting the parameters of the investigation*'. The SIO is required to establish investigative parameters to help inform the investigation team and ensure members are absolutely clear as to the objectives of the investigation and the boundaries they are working within. Normally, a Chief Officer (by virtue of a strategic oversight body/Gold Group) would provide strategic direction for the enquiry, incorporating considerations such as the needs of the local community, avoiding disruption to routine policing elsewhere in the Force area and other overarching issues. As we have considered, following the appointment of DCO HARPER as SIO, only CO POWER could have performed a supervisory function. If this was true at the outset of the Historic Child Abuse Enquiry, it became even more obvious following the 'find' on 23 February 2008. From this point on, it was crucial that strong strategic direction was provided to the investigation, having regard to the international scrutiny to which the Force and Jersey itself became subject.

s.64; page 387;  
para 21



- **Historic Child Abuse Enquiry**

3.7.3 During the initial investigation Operation Rectangle was concerned with historic child abuse only. On 1 October 2007, Decision 1 was recorded in the Main Lines of Enquiry policy file by Detective Inspector Alison FOSSEY as follows: *'Operation Rectangle is a single agency led investigation involving a number of institutions in Jersey. This will include, but not be restricted to Haut de la Garenne Children's home and the Jersey Sea Cadets organisation. The case for investigation in respect of these two institutions has already been subject of a report approved by the Deputy Chief Officer and has taken into account issues of proportionality and necessity to conduct the investigation'*.

Appendix 3

3.7.4 Examination of the Main Lines of Enquiry policy file (see Appendix 3) shows that this simple decision and Decision 2 (in which various Human Rights considerations and specific time parameters in relation to suspects are raised) are the only parameters recorded for the entire investigation. The second category of policy file, the 'victim/witness' file contains no parameters or terms of reference that would namely be expected in an investigation of this kind. For example this Inquiry would expect in a investigation of this kind to see parameters to inquire in relation to the victims which focus the investigation to inquire into within a specific time frame. The other categories of policy file – 'suspect', 'media', 'search', 'financial' and 'sensitive', likewise provide no parameters that provide direction and give focus to investigative activity.

Appendix 3

Appendix 3

3.7.5 Neither are the decisions recorded countersigned by a supervisor. It is debatable whether, at this stage, CO POWER, as Chief Officer, should have been active in ensuring appropriate terms of reference existed or whether he should have asked to see them for the purposes of supervision. This may not have been a major enquiry (in UK terms), but at the outset within the context of a small island community, which apparently held suspicions that child abuse was being 'covered up', and that some senior or prominent people had

been involved, it should have been clear that this investigation would have a major impact. In the view of this Inquiry it is the responsibility of the SIO's manager or supervisor to ensure the investigation commences on a solid footing and in the right direction. The only person – we make this is a recurrent point – who could have done so was CO POWER, yet there is no evidence of him taking any active role in setting parameters for the enquiry.

3.7.6 When Detective Superintendent Michael GRADWELL took over the role of SIO he notes that he found the initial terms of reference *'to lack of clarity and focus and the array of policy books to be confusing. I was unable to easily establish what Operation Rectangle was trying to achieve, what work had been done and what work had to be done'*.

s.5a; page 57;  
para 74

3.7.7 This Inquiry considers that it is the responsibility of the SIO to ensure that the parameters and key decisions in an inquiry are properly recorded. It is the responsibility of the SIO's manager to ensure that the SIO is maintaining adequate records of these fundamental considerations to the investigation.

- **Haut de la Garenne**

3.7.8 Following the revelation that the *'partial remains of a child'* had been discovered at Haut de la Garenne, Operation Rectangle became a homicide enquiry. This was a major opportunity for CO POWER to provide clear and unequivocal direction to the investigation, which was now attracting international attention. This Inquiry can find no evidence that new or amended terms of reference were established or that CO POWER sought to ensure this was done.

3.7.9 When asked by Operation Haven about strategic parameters, CO POWER cited reference to the second Homicide Working Group report; paragraph 19. This states *'the team has asked the SIO to define the parameters of the investigation. He has confirmed that it includes: the homicide investigation at Haut de la Garenne; the historical child abuse investigations at Haut de la Garenne; a confidential allegation in respect of a high profile member of the*

d.1071; page  
251; para 185

*community; any suspect who worked at Haut de la Garenne who then went on to work in child care and allegations relate [sic] to that subsequent role; any victim at Haut de la Garenne who was relocated into alternative child care and further abused; and any offence that occurred with a connection to Haut de la Garenne, e.g., day trip boat rides. It does not include any allegations of cover up, conspiracy to pervert the course of justice by a public official or any other unrelated homicide or allegation of child abuse'. Whilst these parameters are all relevant, this Inquiry team has found no documentary evidence that these were written down or otherwise recorded anywhere (other than in the ACPO Homicide Working Group report) by the States of Jersey Police.*

x.467; page  
1302; para 19

3.7.10 CO POWER appears to intimate in his statement that only the SIO was involved in developing the strategic parameters. The successful outcome of an investigation also includes broad considerations such as public confidence, the use of resources and co-ordination of partnership effort. In his witness statement, Peter BRITTON makes the point that he *'would expect that Terms of Reference would be agreed by the Chief Officer setting the parameters of the investigation'*. We agree with Mr BRITTON'S view.

s.64; page 387;  
para 21

3.7.11 ACO David WARCUP says *'that there was no formal command structure in place and it also became evident there were no clear parameters for the investigation'*. Furthermore, *'during the weeks following my appointment Mr POWER showed little or no direct interest in the inquiry and provided no direction or instructions. Matters initiated by him were generally restricted to correspondence items or items of incoming email which were passed for my attention'*.

s.82; page 387;  
para 127

s.82; page 612;  
para 138

3.7.12 Following Detective Superintendent Bryan SWEETING'S discussion with CO POWER on 29 October 2008 regarding Operation Rectangle, Detective Superintendent SWEETING makes the following observation *'another supervision point on this investigation is that there were no Terms of Reference for Operation RECTANGLE and*

s.65; page 394;  
para 20



*given the potential size, complexity and sensitivity of the enquiry there should have been formal terms of reference agreed between the SIO and Mr POWER as supervisor. As a result of this there are no recorded date parameters for the enquiry which is crucial to such an investigation together with other important information such as what is meant by 'sexual abuse' (this was not defined), there is no reference to suspects and whether this includes staff, visitors, residents, etc. Given the historic nature of the enquiry, guidance on offences to be investigated must be very clear'.*

3.7.13 Detective Superintendent SWEETING also asked CO POWER whether he had seen or had approved any terms of reference, to which CO POWER reportedly replied *'I think he [DCO HARPER] did but I don't know'*. CO POWER also said *'I would not have signed any TOR's. CO POWER sought to justify this by adding that 'Lenny oversaw with a significant free hand, I was trying to manage the political interference'.*

x.548; page  
1410

• **Conclusion**

3.7.14 Based on the evidence before us, this Inquiry concludes that CO POWER failed in his supervisory responsibilities and obligations to ensure that the terms of reference for the Historic Child Abuse Enquiry and the post 23 February 2008 investigation of Operation Rectangle provided a clear strategic direction for police activity. All that existed were very limited terms of reference for Operation Rectangle during the Historic Child Abuse Enquiry phase of the enquiry. Subsequent to the 'find' on 23 February 2008, when the level of the enquiry was raised *de facto* to that of a homicide investigation, again, no new or appropriately revised terms of reference were documented.

3.7.15 According to the evidence of Detective Superintendent SWEETING, CO POWER did not know whether any terms of reference existed. There is no record that he took any action to ensure that any terms of reference or strategic parameters were established. There is no

x.548; page  
1410

record that CO POWER reviewed the existing terms of reference or requested to have sight of them. The status of the enquiry from 23 February 2008 onwards should have prompted a competent and involved Chief Officer in CO POWER's position and experience, to have regularly and systematically reviewed the effectiveness of Operation Rectangle. Professionally constructed terms of reference and clearly defined specific, parameters for the running of the enquiry would have ensured that Operation Rectangle had the best chance for success and be regarded with confidence by all those with an interest in the outcome.

- **Conclusion 2**

3.7.16 **CO POWER failed in the performance of his duty to ensure adequate terms of reference were created for Operation Rectangle which were agreed with and adhered to by the SIO.**

### **3.8 The day-to-day supervision of DCO HARPER in relation to Operation Rectangle**

3.8.1 The Murder Investigation Manual states, under the heading 'The Role of Chief Officers in Major Crime Investigation' that 'The Crown Prosecution service advice regarding the obligations of homicide investigation under Article 2 of the ECHR (incorporated into Human Rights (Jersey) Law 2000), referring to SIOs and investigators, is *'they are supervised'*.

MOG; d.17;  
page 76; para  
3.1

3.8.2 In the job description for CO POWER, under the heading 'Job Context' it states, *'Being on an island presents its own unique problems with regard to operational policing. In instances of major incidents and serious crime... risk management is a significant factor in the decision making process of operational policing'* and under the heading 'The Strategic Aims', *'to manage the effective investigation of crime with priority given to those crimes of greatest public concern'*.

x.6; page 12

x.6; page 14

3.8.3 There is no doubt that Operation Rectangle involved allegations of serious crime which could potentially have had a huge impact on

public confidence. The need to 'manage' both the risk and the investigation was paramount. Reference has been made to the fact that CO POWER was the only supervisor of DCO HARPER and it was CO POWER's responsibility to ensure that the Operation was being run to an acceptable standard.

- 3.8.4 Detective Superintendent Bryan SWEETING makes the important observation, referring to Murder Investigation Manual – *'supervision of an investigation is vital... and that records are kept of that supervision'*. Also *'the role of the Chief Officer (or delegate) cannot be overstated'*, continuing, *'I would expect to see a documented supervision trail for an investigation of this type'*. He further states that there are no detailed records of any briefings or meetings between CO POWER and DCO HARPER. Without such details, and with the lack of evidence elsewhere, it is impossible to see CO POWER's 'footprint of supervision' in respect of DCO HARPER or Operation Rectangle. s.65a; page 399; para 3
- 3.8.5 Detective Superintendent SWEETING concludes *'I would expect to see with such a serious investigation and huge community concerns that this investigation achieved the highest standards in line with ACPO and NPIA guidance. I did not see evidence that this enquiry met those standards in the areas... of supervision or SIO standards'*. s.65a; page 399; para 5
- 3.8.6 This Inquiry has examined the pocket notebooks of CO POWER. Records of his meetings with DCO HARPER have been recorded but, in our view, with insufficient working detail. For example, there is no content of discussion or record of decisions made. The entries generally show 'confer with DCO' or 'confer with LH' and occasionally the word 'update' is added. Most importantly, there is no record of CO POWER providing instructions, taking issue with or enquiring about the matters he was being briefed on. On the occasions where the two met at Police Headquarters, the fact of these meetings is recorded, but there is no detail available. We know from CO POWER's pocket notebooks that he visited the Major Incident Room for Operational Rectangle on a number of occasions but there s.65a; page 400; para 5
- d.1125; pages 371-420

is no record that he supervised the policy files, or countersigned decisions recorded in those files. We cannot determine from the available records whether and to what extent, CO POWER provided strategic oversight to this high-profile case.

3.8.7 CO POWER has stated that *'I kept a note of the meetings in my notebook, and where appropriate, generated emails or other messages in consequence of what had been said at the meeting. If someone wants to call these meetings 'informal' then I beg to differ. They were fit for purpose, and nothing more elaborate was required. I might add that the style of meeting I had with Mr Harper would be quite characteristic of how things are often managed in Jersey, and I suspect other small communities'*. Where a homicide enquiry arises, particularly one which assumes international significance this inquiry would expect to see the highest standards of supervision maintained and proof of their standard available.

d.1071;page  
252; para 189

3.8.8 Following his suspension, CO POWER was asked by this Inquiry to produce his pocket notebooks and daybooks and, although all of his notebooks were supplied, only torn out pages of a bound book were produced. Gary KITCHEN, the disclosure officer for Operation Rectangle comments on the request made of CO POWER to produce material and states he received a letter from CO POWER indicating *'I do not keep a "day book" and any document which has that appearance will only contain personal notes, phone numbers, "jobs to do" and the like.'* The pages supplied were date stamped and cover the months from June 2008 to November 2008. The daybooks for the crucial period preceding this were not supplied. The daybook leaves provided do not show any entry which would assist in demonstrating CO POWER's supervision of DCO HARPER. (See schedule of pocket notebook entries that *may* relate to the supervision of DCO HARPER by CO POWER within the Evidential Bundle accompanying this Report.)

s.89; page 777;  
para 3

x.713; page  
1874

d.1125; pages  
371-420

3.8.9 This Inquiry has examined the cordon logs at Haut de la Garenne, which were kept to record entry to and departure from the crime



scene. They appear to show that between 21 February 2008 and 14 July 2008, CO POWER visited the site on 18 occasions. These *may* be considered as supervisory visits, although we have no records detailing what he did there and the effect of these visits upon his supervision of the investigation, if any.

3.8.10 Attorney General William BAILHACHE recalls that, following the arrest and release without charge of suspects 'A' on 24 June 2008 and the subsequent media statements made by DCO HARPER, he spoke with CO POWER about the conduct of the DCO. The Attorney General suggests that he told CO POWER that the conduct of DCO HARPER *'was completely unacceptable'* and that he had *'seriously jeopardised the current prosecutions and... might have seriously jeopardised any prosecution arising out of the Historic Child Abuse Enquiry'*.

s.85; page 746-  
747; para 83 &  
85

3.8.11 Such strong words from the Senior Law Officer should, in our view, have prompted intrusive, supervisory engagement from CO POWER with DCO HARPER. Operation Haven cannot determine whether CO POWER positively acquiesced to the challenging line taken by his Deputy or passively acquiesced through an inability to control him. This Inquiry can find no evidence that CO POWER's intervention led to the resolution of the concerns expressed by the Attorney General and appear typical of a pattern of a lack of supervision in this case. This is reinforced by comments from the Attorney General who recalls that prior to the incident involving suspects 'A', on 16 April 2008 (and a previous occasion that he cannot recall), CO POWER informed him that there was a *'limit to the amount of control which he could exercise over the Deputy Chief Officer who was due to leave the employment of the Force in any event in the next 3 or 4 months'*. CO POWER's statement makes no reference to this comment by the Attorney General. The Attorney General's statement was served on CO POWER as part of the disclosure process prior to CO POWER preparing his statement.

s.85; pages  
736-737; para  
54

- 3.8.12 The question arises as to whether CO POWER possessed sufficient professional knowledge of the standards to allow him to properly supervise DCO HARPER, or the necessary appetite, attitude and managerial ability to do so. There is an admission in CO POWER's letter dated 18 July 2008 to the Attorney General regarding the enquiry when he says *'I do not know as much as I should about major crime investigation'*. Certainly there appears consensus that CO POWER did not have current skills to oversee homicide investigations. x.696; page 1872
- 3.8.13 Senior police officers, including CO POWER, have a duty to ensure they maintain their levels of competence and assume responsibility for their professional development as per the Murder Investigation Manual. It advises that *'Chief Officers retain an individual responsibility to develop and maintain their current knowledge of issues related to murder and major crime investigation'*. MOG; d.17; page 76; para 3.2
- 3.8.14 As to appetite and attitude, there are two examples of e-mail communications from CO POWER which give insight into CO POWER's attitude to his supervision of the DCO. Firstly, in an internal e-mail sent to DCO HARPER and Superintendent Shaun DU VAL on 23 February 2008, when making reference to an e-mail 'debate' between politicians, he writes *'I think that all of our politicians have approached this investigation with honesty, openness, a desire to find the truth and a solid determination to put political differences aside in the common interest... and so do my friends the elves and pixies'*. t.131; page 22
- 3.8.15 This was unprofessional and sets a poor example to the SIO. It also paints a picture of CO POWER's apparent attitude to some of the Island's politicians' engagement with Operation Rectangle.
- 3.8.16 The second example is an e-mail dated 29 February 2008 sent by CO POWER via the Force internet to a friend in the UK, in which CO POWER says *'according to stories doing the rounds in the pubs, the abuse enquiry is a cover story; we are really selecting the winner'*. t.263; page 36

*of the world hide and seek championships. Or if you prefer what is the difference between a jersey royal and a jersey orphan?? Answer, a jersey royal gets dug up after three months'. This unprofessional comment by the Chief Officer can have no excuse or mitigation at such a critical time for his Force and Jersey.*

- 3.8.17 For all CO POWER's and ex-DCO HARPER's assertions that they had the interest of the victims at the fore (ex-DCO-HARPER comments *'They [victims] were concerned that it had all been a cover up. I had to convince every one that our investigation would be open and transparent and not affected by those such as the Government and lawyers'*), CO POWER's jokes were particularly insensitive comments. The effect on the victims, had they been aware, and the likely reaction from the media had these comments found their way into the public domain, would have had severe implications for public confidence in the Chief Officer. If these comments betray his true attitude (rather than poor 'gallows' humour), then they also speak to the seriousness of his approach to his supervision of the investigation. Sending this e-mail at that time may indicate a worrying level of detachment from the reality of what was unfolding and that CO POWER simply had no comprehension of the true scale of what his Force and the Island were confronting.
- s.81; page 540;  
para 23
- s.81; page 550;  
para 50
- 3.8.18 Ex-DCO HARPER has provided his views on the supervision he received from CO POWER *'I have been asked to comment on how I was managed by Chief Officer POWER. We would have a meeting each, most mornings at 0900. He was the Discipline Authority for PSD matters so there was a limit on what I could say concerning those matters. Sometimes I told him more than I should in this respect but we could not operate without bending the rules like this. He and I attended various meetings and he got all the minutes of any PSD meeting. There was very little going on that he did not know about.'*
- s.81; page 536;  
para 14

3.8.19 Ex-DCO HARPER continued, *'In terms of being intrusive or leaving things to me, he did both in different measures. He was very incisive with a quick brain and was very good at analysing things. He would say, 'It's a matter for you but I might... as a way of managing. I do not remember getting to a stage where we really disagreed on matters. I could not see the logic in some of his sanctions awarded in cases of discipline but it was not a major issue... In general terms we kept our roles separate and he tended to leave things to me. Where he saw that it was a matter which might have implications damaging to the Force, and he disagreed with my actions, he would interfere. There were a few matters during Operation Rectangle which we talked through and in two cases I got my way and in one case he got his way'.*

s.81; page 536;  
para 15

3.8.20 Further on ex-DCO HARPER states *'He [CO POWER] believed in invasive supervision and stuck to his principles and always knew what was going on. He was eminently suited to his role. He had a far wider perception of strategic matters than I did. He could not be described as being too operational. He was successful in managing me. He was the Chief Officer in every single way. He was his own man and more than a match for me'.* We have considered ex-DCO HARPER'S views and conclude that the available evidence does not support his contention about CO POWER's supervision.

s.81; page 556;  
para 64

• **Conclusion**

3.8.21 This Inquiry concludes that CO POWER's supervision of DCO HARPER was inadequate in a number of specific areas. Adequate records were not kept of their meetings as advised by Murder Investigation Manual and, whilst there is no dispute that they had regular communication, the lack of an auditable document trail to show a structured decision-making process appears to epitomise the approach CO POWER took in his supervision of DCO HARPER. CO POWER has not countersigned a single policy decision to show any evidence of his oversight. Had he looked at them, he would have given himself an opportunity to intervene. This may not have been



the 'Jersey way', but must be the standard in respect of suggestions of mass murder of children in the care of the state.

3.8.22 We conclude that CO POWER was not up to date with the standards and knowledge of 'good practice' expected of him, in respect of his role as Chief Officer supervising Operation Rectangle. He was, therefore, not in a position to supervise or otherwise challenge DCO HARPER an officer known to CO POWER to lack current training and accreditation as an SIO.

3.8.23 We conclude that CO POWER brings discredit upon himself by setting a poor example of leadership which falls below the professional standards expected of a Chief Officer, through his inappropriate use of the Force e-mail system.

- **Conclusion 3**

3.8.24 **CO POWER failed in the performance of his duty to maintain adequate records of his supervision of DCO HARPER during Operation Rectangle.**

- **Conclusion 4**

3.8.25 **CO POWER made inappropriate use of the Force e-mail system.**

### **3.9 The supervision by CO POWER of DCO HARPER in respect of his relationship with the prosecution legal team**

3.9.1 It is accepted good practice for a close working relationship to exist between the SIO, his or her investigation team, and the prosecution lawyers appointed to an enquiry. The more complicated and serious the investigation, the greater the need for this relationship to be a strong and effective one, based on mutual trust and confidence. Major Incident Room Standardised Administrative Procedures are not prescriptive on the matter, but advocate the following *'The SIO is also responsible for ensuring the early engagement of the Crown Prosecution Service and counsel where necessary'*. This Inquiry is aware that the Crown Prosecution Service is not the prosecuting authority in Jersey, but the analogy applies.

d.96; para 1.2.1

- 3.9.2 The problems that arose between Operation Rectangle and the legal team appointed by the States may be considered, in essence, as being personality-based issues between DCO HARPER and the prosecutors. Evidence of these difficulties is plentiful.
- 3.9.3 In November 2007, DCO HARPER spoke to Attorney General William BAILHACHE regarding a child abuse investigation centred on the Jersey Sea Cadet Corps and the former children's home at Haut de la Garenne. DCO HARPER raised concerns about the possibility of senior police officers having obstructed the enquiry and difficulties which were encountered in obtaining files from both the Children's Service and the Jersey Sea Cadets Corps. DCO HARPER informed the Attorney General of his intention to launch a public appeal for victims to come forward. A helpline was to be set up to facilitate this. s.85; page 722;  
paras 2-9
- 3.9.4 In January 2008, the Attorney General enquired as to the progress of these proposals and DCO HARPER briefed him accordingly, providing details of victim and suspect numbers and an overview of the scale of the enquiry. Most significantly, the Attorney General recalls he [DCO HARPER] told him that DCO HARPER *'had three independent sources (I do not recall if he identified the sources) telling him that there were human remains in the grounds (of Haut de la Garenne)'*. s.85; page 724;  
paras 10 & 11
- 3.9.5 The Attorney General states *'I asked him whether he needed any help from us at this stage. He said that he did not want to arrest anyone unless he had evidence looked at to ensure it meets the evidential test. He said it would be helpful to have a Crown Advocate appointed at an early stage – perhaps in a month or so'*. The Attorney General subsequently advised Crown Advocates Stephen BAKER and Cyril WHELAN that he was retaining their services in anticipation of prosecutions arising from Operation Rectangle. The Attorney General wrote to DCO HARPER to confirm the arrangement on 17 January 2008. In turn, UK Barrister Simon THOMAS was instructed by Advocate Stephen BAKER to assist him in preparing any cases which were generated. s.85; page 725;  
para 16

- 3.9.6 Problems first arose concerning the charging of a suspect 'B'. On 29 January 2008, Advocate Stephen BAKER was informed by an e-mail from DCO HARPER that suspect 'B' was in custody and would be charged the following day with three cases of indecent assault at Haut de la Garenne. Advocate Stephen BAKER comments *'I thought it was highly surprising that a man was to be charged without me being asked to advise. I knew nothing about the facts of the case. What I did know was that it is crucial in child abuse cases to prosecute cases in the right order'*. x.591; page 1462  
s.77; page 470; para 9
- 3.9.7 Advocate BAKER sent an e-mail to DCO HARPER on 30 January 2008 with this advice *'our strong advice as regards the case brought to our attention yesterday is that there should be no charges brought at this stage... I appreciate this advice will probably not be welcome at this stage given the efforts which have gone in to date. However, we have no doubt that it is in the best interests of the victims in all of the cases under investigation to reflect on the best approach'*. x.594; page 1465
- 3.9.8 DCO HARPER, nevertheless, proceeded to charge suspect 'B' and e-mailed Advocate BAKER explaining his rationale. Advocate BAKER comments on the e-mail *'I received an e-mail from Mr HARPER telling me that he felt the need to register his concern and apprehension. He went into some detail about his feelings surrounding the case and the events of that day. He stated that he was a little angry at the way things had unfolded in relation to the charging of [suspect B] and wished to put my advice and the timing of it into context'*. s.77; page 472; para 19
- 3.9.9 Advocate BAKER further comments *'the events surrounding the charging of [suspect 'B'] marked the beginning of a disastrous relationship with Mr HARPER. The lawyers tried their best to develop a working relationship but it proved impossible. With hindsight it is obvious that we were never going to be able to develop a good working relationship because of Mr HARPER's mindset which seemed to be that these types of cases were easy to prosecute and* s.77; page 474; para 24 & 25

*that the lawyers were there to frustrate not help him. Given the context of working here in Jersey and in the UK I was extremely surprised at the hostility at which we were met by Mr HARPER. I have never experienced such hostility in my career. I have never experienced such an unpleasant working environment. I hope never to do so again. It soon became apparent that we could not do right for doing wrong. Mr HARPER was a man not prone to self doubt. He did not react at all well to anybody telling him anything he did not want to hear'.*

- 3.9.10 CO POWER was evidently aware of this case and the developing problems soon after they arose. His pocket notebook for 30 January 2008 includes the entry '*update on abuse enquiry from DCO – issue regarding charging*'. d.1125; page 387
- 3.9.11 Albeit CO POWER has acknowledged there existed an 'issue', his note does not detail what the issue was or his response or what instructions, if any, were given to DCO HARPER. However, in his witness statement CO POWER does accept it was '*not a positive episode in the working arrangements with the law officers*'. d.1071; page 260; para 214
- 3.9.12 To his credit, CO POWER consulted with ACPO Homicide Working Group on the issue of lawyers and how to '*build a closer working relationship*'. He determined to act on the advice offered by Andre BAKER that '*a step approach may be the best way to achieve such*'. d.1071; page 261; para 215
- 3.9.13 Attorney General William BAILHACHE received an e-mail on 4 March 2008 from CO POWER stating that the police would welcome having a lawyer on the case. Further discussion ensued before agreement could be reached for Barrister Simon THOMAS to commence working at Police Headquarters on 22 April 2008. It was not an easy process, despite CO POWER's commitment to the 'step approach'. As Barrister THOMAS notes '*in the first three weeks of April there were negotiations afoot with regards to getting me installed at the police station. The legal team were all amazed that there*' x.684; page 1857  
s.70; page 413; para 17



*should be such reluctance to having us present and giving advice. We felt that there were two options, either to walk away from the case or to attempt a softly softly approach gradually building up a relationship with investigators on the terms being offered by Mr HARPER hoping to develop those into uninhibited access once trust grew. Subsequently there were suggestions made most of them by Mr HARPER in the media, that this was an attempt by the Attorney General to somehow control the enquiry, implicitly suggesting that the AG wanted to impede prosecutions. I found such suggestions which question my integrity to be offensive'.*

3.9.14 Arrangements were made for Barrister THOMAS to meet with DCO HARPER on 22 April 2008, when he started working from Police Headquarters. Barrister THOMAS, Advocate BAKER and Advocate Cyril WHELAN met first with CO POWER in his office, seeking to reassure him of their commitment to work with the Police to ensure successful prosecutions. Barrister THOMAS remembers CO POWER saying he *'had to build on working a relationship with Lenny HARPER and I remember him asking if I supported Manchester United as this was his suggested way of getting to know Mr HARPER... What I was expecting to hear... from Mr POWER was that he had instructed Mr HARPER to work with the lawyers and that the reluctance that we had experienced hitherto was not to continue. This is especially so given the clear command structure that I understand to be in place in the police force. The fact that I was being encouraged to talk about football seemed to me to be an implicit acknowledgement by Mr POWER that Mr HARPER was a difficult character and one had to find ways to gain his trust if the relationship was to work'.*

s.70: page 414;  
para 18

3.9.15 Advocate BAKER states *'Somewhat surprisingly Mr HARPER did not attend the arranged meeting of the 22nd April 2008. The reason given was because he was too busy. I found Mr HARPER's failure to attend surprising'.* This was a meeting held to discuss extremely important issues and raises the question as to why CO POWER did not ensure that DCO HARPER was present.

s.77: page 480;  
para 45

- 3.9.16 Barrister THOMAS later met with ex-DCO HARPER at the States of Jersey Police Headquarters and was provided with a room and computer access away from the incident room. However, he was not given access to the material that the lawyers sought. It is clear that CO POWER had only dealt with part of the problem. In CO POWER's witness statement, he states he adopted a 'step approach' on the advice of Andre BAKER of the ACPO Homicide Working Group, and went into the meeting with this in mind. Despite the problem that had occurred, CO POWER was *'determined to overcome this and achieve full integration with the legal team'*. He does not say exactly what the next 'step' would be and the role he was to play in ensuring a positive outcome. d.1071; page 261; para 215
- 3.9.17 ACO David WARCUP in his witness statement states that *'having had the opportunity to review the situation... I was firmly of the opinion that the decision not to fully include lawyers in the process was wrong'*. s.82; page 599; para 87
- 3.9.18 Detective Superintendent Michael GRADWELL, the second SIO for Operation Rectangle, states in his witness statement that *'it was essential and best practice that the legal team and the investigation team work closely and professionally and within the incident room'*. This Inquiry agrees with the good practice advice and the views of the witnesses. DCO HARPER and CO POWER were either hopelessly out of date in their approach to collaborative working with prosecution lawyers or motivated by suspicions of corruption in the prosecution team which they did not evidence at the time and have not done so since. s.5a; page 54; para 69
- 3.9.19 Further problems occurred in the relationship when on 30 April 2008 when an article appeared in the Guardian newspaper website, reporting that DCO HARPER had been severely and wilfully obstructed in the enquiry. Attorney General William BAILHACHE brought this to the attention of CO POWER and DCO HARPER and held a meeting with them on 13 May 2008 at which DCO HARPER x.698; page 1859  
s.85; page 741; para 63

denied being responsible for the article. In this meeting, the enquiry was discussed and the Attorney General repeated the necessity to allow lawyers full access to all evidence and material.

- 3.9.20 The statements of the Attorney General, Advocate BAKER and Barrister THOMAS, all make reference to the importance to the investigation of providing the lawyers with access to all evidence and unused material. CO POWER was made aware of this on a number of occasions, but this Inquiry has found no evidence that he ever directed DCO HARPER to allow unfettered access. His lack of current professional knowledge may provide the reason why this was not done. In a letter (previously referred to) which was sent by CO POWER to the Attorney General on 18 July 2008, CO POWER confesses *'I do not know as much as I should about... the rules of disclosure'*. s.85; page 757;  
para 118  
s.77; page 477;  
para 33  
s.70; pages  
412-413; para  
16  
  
x.696; page  
1872
- 3.9.21 The final breakdown in the relationship between DCO HARPER and Barrister THOMAS came in June 2008, when the Barrister was provided with a file in the case of suspects 'A'. He gave advice and they were arrested on 24 June 2008. Barrister THOMAS then provided further advice, whilst they were still in custody, that they should not be charged at that stage. The reasons for this advice are fully explained in his statement. He details their telephone discussion on the matter, with DCO HARPER refusing to act on his advice for further statements to be taken. Barrister THOMAS describes the exchange as *'the most unpleasant conversation I have ever had with a police officer. The attitude of Mr HARPER to criminal investigations was deeply concerning'*. s.70; pages  
419-422; para  
34-44  
  
s.70; page 422;  
para 44
- 3.9.22 DCO HARPER, in an apparent direct challenge to Barrister THOMAS' advice, sought to charge suspects 'A'. In order to do so, it was necessary to call out the Centenier for the parish that evening to obtain authority to charge. The Centenier attended and having read the case papers declined to charge the suspects. x.613; pages  
1666-1667

- 3.9.23 This matter is also referred to by Advocate BAKER who comments *'when the Centenier refused to charge, Mr HARPER went to the press. In my view this was wholly improper. This action by Mr HARPER entirely destroyed the relationship. We were aware he was retiring and would be replaced. It was our hope that a competent SIO would replace him'*. s.77; page 476;  
para 32
- 3.9.24 DCO HARPER's press release laying the blame on the law officers for the suspects' release without charge, which was copied to CO POWER, can be found in the Media section of this Report. X377; page 892
- 3.9.25 CO POWER and Home Affairs Minister Andrew LEWIS were required to attend Attorney General William BAILHACHE's office as a result of the furore triggered by DCO HARPER's press release. This is also dealt with in the Media section of this Report, but it is worthy of note that the Attorney General, states that he does *'not recall that Graham POWER had very much to say'* about the matter. s.85; page 747;  
para 86
- 3.9.26 The Attorney General states that, as a result of the refusal by DCO HARPER to fully engage with the lawyers, there was an unnecessary increase in legal costs incurred whilst defending the abuse of process action brought by Operation Rectangle defendants and through managing disclosure queries. The Attorney General also comments that he believes CO POWER failed in his supervision of DCO HARPER by not ensuring the prosecution legal team had full access to files and documentation. s.85; page 757;  
paras 118-120
- 3.9.27 Deputy Andrew LEWIS recalls in more detail the position taken by CO POWER. He states that *'Mr POWER was taking a stance of supporting Mr HARPER's position and how he was dealing with the media. I also recall that during the discussion about having prosecutors being involved during the investigation Mr POWER said that Lenny HARPER was an old style cop, who did not like the idea of prosecutors being a part of the investigation team and that Lenny HARPER would not agree to this strategy and that it would never be adopted prior to Lenny leaving the Force'*. The fact remains s.12; pages 86-  
87; para 9



that CO POWER was his supervisor and, therefore, in a position to direct him if CO POWER disagreed with his Deputy's position.

- 3.9.28 CO POWER contributes his recollection saying that *'I may have had some brief discussion with Lenny Harper on the media release during the earlier part of the day, but if I did it is not recorded'*. Following the meeting commented on in Paragraph 1.8.25, CO POWER states *'I had a face-to-face discussion in my office with Lenny Harper about the media release... I told him that nevertheless his actions had created something of a crisis which I would now have to manage. I instructed him as follows... he should submit a written duty report on the incident'*. CO POWER requested DCO HARPER to provide a written duty report on the incident, together with copies of the media policy, which were then forwarded to the Attorney General. This aspect is covered in more detail in the Media section of this Report. d.1071; page 262-263; para 223
- 3.9.29 CO POWER states that he advised the soon to retire DCO HARPER that he had spoken with the incumbent DCO WARCUP, who would assume oversight of the enquiry, and that his [DCO WARCUP's] preference was to have lawyers integrated in the enquiry team. CO POWER also states it would be helpful if DCO HARPER did not impede any transition. CO POWER then states he had little contact with DCO HARPER after that meeting leading up to his retirement. d.1071; page 263; para 226
- 3.9.30 This Inquiry believes the ongoing difficulties between DCO HARPER and the lawyers could and should have been resolved of by way of a directive from his supervisor, CO POWER. The only person in a position to do this was CO POWER and he failed to do so. The deteriorating and un-addressed position led to an irreversible break down in relationships between DCO HARPER and the prosecution lawyers. This is simply an unacceptable situation which CO POWER should have prevented.
- 3.9.31 However, reference has been made in this Report to comments made by CO POWER to Attorney General William BAILHACHE that he had limited control over DCO HARPER *'Graham POWER told me that* s.85; page 732; para 42

*DCO HARPER was due to retire in a matter of months and that there was a limit to the amount of practical control which he, POWER, could exercise. I understood him to say that this was a difficult management problem and that he was keen to ensure he did not make matters worse by exercising an authority which Mr HARPER might have construed in a hostile way.' And 'there was a limit to the amount of control which he could exercise over the Deputy Chief Officer who was due to leave the employment of the Force in any event in the next 3 or 4 months. I said that I was minded to write to him formally to request that a lawyer join the investigation team. He asked me to leave it with him'.*

s.85; page 737;  
para 54

3.9.32 The above, if correct, appears to be an admission that CO POWER was not able to supervise his Deputy, regardless of the consequences for Operation Rectangle. CO POWER's attitude appears to change in a letter to the Attorney General, dated 30 June 2008, when addressing the selection process for a new SIO. CO POWER states *'you can rest assured that the selection process will have proper regard to candidates experience in working alongside prosecutors'*. This is something which should have been taken into account from the outset when making the decision to appoint and retain DCO HARPER as the SIO.

x.694; page  
1861

3.9.33 In his statement, CO POWER describes in great detail the relationship with the legal team and the difficulties caused by previous cases, prompting DCO HARPER's mistrust of the lawyers. He states *'I note that members of the Law Officers Department, and lawyers involved in Rectangle have made statements. While these statements inevitably set out views which show some marginal differences between the lawyers involved, on one point they are unanimous. They all confirm that they were all given everything they asked for. Every lawyer in every statement describes a sequence of events which led to them being provided with every access and every facility they requested. They are equally unanimous that all of this was delivered under my command, either by me personally or by*

d.1071; pages  
256-265; paras  
202-234

d.1071; page  
256; para 202

*subordinates instructed to do so on my behalf. I cannot find in the evidence a single word of dissent on this important evidential'.*

- 3.9.34 In contrast to this the Attorney General states '*Graham POWER may have had the impression that the lawyers got everything they asked for and that he did everything reasonable to settle the relationship between them and the police. I think in his heart of hearts he knows or ought to know that is not true.*' s.85a; page 764; para 7
- 3.9.35 It should also be noted that CO POWER makes reference to the Attorney General's Annual Review of 2008 of which extracts appeared in the Jersey Evening Post on 25 June 2009. CO POWER states '*In the report there is reference to the issues around Rectangle, and the Attorney General is quoted as saying 'However some of the faults must have been on the side of the law officers whether of communication or otherwise. Whatever the cause, the result was that the law enforcement agencies did not work together as they should'*' [underlining. (Emphasis added by CO POWER.)] d.1126; page 425  
d.1071; page 264; para 228
- 3.9.36 Operation Haven has sought clarification on this matter from the Attorney General who has commented as follows in a further witness statement '*This is an opening paragraph to the section of the introduction which deals with the question of public confidence in the criminal justice system. The passage on which I have been asked to comment follows some sentences which criticise senior police officers. To accept that there may have been some fault on the part of the Law Officers was intended in part as a softening of that criticism but also reflected that I had become aware in March 2009, as a result of a media enquiry that there had been an error on the part of one of my lawyers in July 2005 in relation to a child abuse case'.* Whilst this Inquiry notes the details of the '*error on the part of one of my lawyers*', this refers to events some two years prior to Operation Rectangle and appears to be oddly out of context to the point made in the Attorney General's Annual Review of 2008. s.85b; page 767; para 2

3.9.37 However, the Attorney General continues with his criticism of the behaviour of former DCO HARPER *'the express or implied allegations of cover up and lack of integrity, made in private to the media by the then Deputy Chief Officer, were scandalous and, coupled with his approach to the Crown Lawyers, were a substantial cause of the concerns raised about the fairness of the criminal justice system and struck at the heart of it. This section of the Annual Report dealt with that very important issue, although it is obvious that as it is a public document I had to find language that was politic for continuing the good relations with the police which by that time had been rebuilt with the arrival of David WARCUP'*. s.85b; pages 767-768; para 3

3.9.38 This Inquiry finds that a period of nearly seven months elapsed before a proper working relationship between lawyers and the Operation Rectangle enquiry team was formed. This occurred following the appointment of DCO WARCUP and as a result of his agreement with the Attorney General to allow full access to all evidence by the legal team. We can find no professional justification for this delay other than the prejudice of DCO HARPER and the failure to tackle this robustly by CO POWER.

• **Conclusion**

3.9.39 In the view of this Inquiry, it is clear that a poor working relationship existed between the Police, principally through DCO HARPER, and the lawyers engaged on Operation Rectangle. DCO HARPER's apparent belligerence caused difficulties in the day-to-day consideration of prosecution decisions, encouraged unwanted media attention as a result of his portrayal of the lawyers, created tensions between the Police, the Law Office and the States, and resulted in an abuse of process application in respect of the very cases DCO HARPER was publicly committed to. Again, the only person in a position to challenge DCO HARPER was CO POWER and he failed to do so before irreversible harm had been caused.



3.9.40 This Inquiry accepts CO POWER did make some attempts to guide DCO HARPER's actions. However, those attempts appear to us to be inadequate and below the level of supervision reasonably required to effectively manage DCO HARPER in an enquiry of Operation Rectangle's significance. It appears to this Inquiry that CO POWER preferred to try and 'ride things out' until DCO HARPER retired. In doing so, he permitted poor relations with the legal team to continue. We can countenance no circumstances in which it should be necessary to publicly criticise prosecution lawyers in the media in the absence of compelling evidence of their corrupt practice. We are aware of no such evidence, albeit we accept that this was DCO HARPER's honestly held belief.

- **Conclusion 5**

3.9.41 **CO POWER failed in the performance of his duty to ensure that DCO HARPER maintained an effective working relationship between the prosecution legal team and the police investigation team for Operation Rectangle.**

### **3.10 The justification for the search at Haut de la Garenne**

3.10.1 This Inquiry believes that there is no specific standard contained in any of the NPIA manuals for how a decision to search should be made. If this view is correct, the justification for a search must, therefore, be a matter for professional judgment based on the particular facts of the case.

3.10.2 It is apparent from DCO HARPER's policy book entries relating to the search of Haut de la Garenne that the rationale he developed to justify the search (in particular the full scale dig inside the premises) is based upon historic accounts from witnesses of varying reliability. However, Decision 13 of the Search Policy Book also makes reference to the Ground Penetrating Radar confirmation of anomalies under the floor and '*dog indications*'.

Appendix 3

- 3.10.3 In respect of CO POWER's oversight, given the absence of comprehensive decision records, it cannot be established what information was in CO POWER's possession regarding DCO HARPER's intention to search Haut de la Garenne or whether CO POWER questioned the proposals put to him. Assuming CO POWER had agreed the proposal it would be incumbent on him to critically assess the bases for the decision to search. The lack of detail contained within Operation Rectangle's policy decisions for searching Haut de la Garenne provides no assistance in establishing whether CO POWER directed or supervised policy in this respect. The suspicion must be that he did not. Appendix 3
- 3.10.4 CO POWER comments that *'the reasons which led Lenny Harper as the Senior Investigating Officer to conclude that an examination of some locations at HDLG was appropriate are well documented. That was primarily his decision. From what I was told of the evidence, his decision seemed perfectly reasonable'*. d.1071; pages 265-266; para 235
- 3.10.5 In this statement, CO POWER seems to be asserting that he may not have had all the information he should have and that the decision was not primarily his. Nevertheless, in his role as Chief Officer, he should have provided strategic guidance to the SIO and ensured the justification(s) proffered for the search would stand scrutiny, given the obvious significance of searching a former children's home for evidence of missing, possibly murdered children.
- 3.10.6 CO POWER comments further *'if we had not searched HDLG when we did, then it would have become necessary for it to be searched at a later date'*. It may be concluded that the search of Haut de la Garenne was always going to take place and, for whatever reason, DCO HARPER and CO POWER believed it to be necessary, even though it was not based on a critical examination of the evidence before them. d.1071; page 266; para 237
- 3.10.7 In any event, it is apparent that CO POWER endorsed the decision to commence the search since it was he who sent an e-mail headed t.165; page 35

'Investigations on States Owned Property' to Bill OGLEBY on 20 February 2008 in which he writes *'Bill. Just to let you know the scientists have identified an area inside the premises [Haut de la Garenne] which they say needs further exploration. We already have some witness evidence relating to the same area of the building'*. He copied this e-mail to DCO HARPER and added *'Lenny Bill rang. I told him in plain language that we would be ripping up the floor... for the record he gave his agreement'*.

3.10.8 On 11 February 2008, a string of e-mails between the States of Jersey Police Forensic Service Manager, Victoria COUPLAND, and DCO HARPER, reflect her attempts to persuade him to search the inside of Haut de la Garenne. DCO HARPER is adamant in his reply that they will not search that area as *'there is not a shred of intelligence or evidence to suggest that anything untoward took place in any of the rooms. We would be 'fishing'*.

x.425; page  
1248

3.10.9 It appears to this Inquiry that the only additional information obtained by DCO HARPER after that point, when he was so adamant that the search should not take place, was the opinion of a builder who conducted work on the building in 2003 and held a contrary view to a pathologist who, in 2003 when bones were found at Haut de la Garenne, classified them as animal rather than human. It cannot be ascertained, in the absence of documentary records to assist us, why the view of this builder should have had such a profound effect on DCO HARPER, causing him to change his initial viewpoint. Neither has any record been found as to whether this particular aspect of the decision was referred to CO POWER for consideration.

3.10.10 It seems more likely to this Inquiry, that CO POWER felt that, against the political backdrop and suggestions of 'cover up' and concealment, there was no alternative but to search Haut de la Garenne with a view to bringing the rumours and speculation to an end. Operation Haven accepts that this legitimate objective must be taken into account when assessing the performance of the Chief Officer in respect of this facet of our Inquiry.

- 3.10.11 We now deal with the introduction of Martin GRIME and his Enhanced Victim Recovery Dog (EVRD) to Operation Rectangle. Operation Haven has established through enquiry with the NPIA, that Martin GRIME was an ACPO accredited dog handler whilst he was a serving police officer, but forfeited accreditation upon his retirement in July 2007. We mentioned that Mr GRIME remains on the ACPO accredited list of experts though his EVRD is no longer accredited by ACPO. Whilst Martin GRIME's original contract to Jersey was for five days, his actual deployment lasted for 130 days.
- 3.10.12 The forensic review carried out by Malcolm BOOTS of the NPIA questioned the presence of Martin GRIME on site for such a long time. Malcolm BOOTS, was informed that Martin GRIME had been acting as a Deputy Crime Scene Manager to Forensic Service Manager COUPLAND, at the request of DCO HARPER. The forensic review noted Martin GRIME's lack of formal training or qualifications to perform the role of Deputy Forensic Service Manager and that to utilise him in this role *'cannot be recognised as good practice'*. The review also noted that *'there was concern from some persons interviewed that too much reliance had been placed on the dogs'*. It is accepted that dogs are 'presumptive screening assets' only and that any alerts or indications they give must be forensically corroborated. In addition, it is a fact that there were no concise terms of reference for the deployment of Martin GRIME and his EVRD or his subsequent use as a search advisor, apparently with the support of DCO HARPER.
- 3.10.13 CO POWER himself states *'the search dog seemed to play a significant role in determining whether a specific location needed to be examined further. I am not an expert on dogs or what they do'*.
- 3.10.14 Again, there is a distinct lack of documentary evidence to show any intrusive supervision of the SIO with regard to the continued search. This Inquiry concludes that the actions of DCO HARPER and Martin GRIME went unsupervised for some considerable time. To

s.78; page 486;  
para 9

x.541; page  
1391; paras  
20.1-20.3

x.541; page  
1392; para 20.5

x.541; pages  
1388-1389;  
para 13

d.1071; page  
266; para 236



CO POWER's credit, there is an e-mail exchange between him and DCO HARPER dated 10 May 2008 in which CO POWER raises the question of the continued use of Martin GRIME and his EVRD. He says *'Lenny, it has struck me for some time that he [Mr GRIME] is an expensive resource who has more than his fair share of down time'*. DCO HARPER replied in the same e-mail string *'to be fair to him though, he hasn't got much down time as he is also the NPIA search coordinator and is fully employed'*. CO POWER replies *'Thanks. Better understood now'*. CO POWER does not appear to pursue the matter further. t.428; page 76

3.10.15 However, DCO HARPER's reply was not factually accurate. Martin GRIME was neither an NPIA search advisor nor fully employed. In his statement, Martin GRIME states that *'I am a Subject Matter Expert registered with the UK National Policing Improvement Agency and specialist homicide canine search advisor... I advise Domestic and International Law enforcement agencies on the operational deployment of police dogs in the role of homicide investigation. I develop methods of detecting forensically recoverable evidence by the use of dogs and facilitate training'*. His expertise lay purely in the use of dogs in searching, not as a 'search co-ordinator'. s.78; page 485;  
para 2

3.10.16 Peter BRITTON notes that during conversation with him, CO POWER accepted that *'the dog was 'probably unreliable' and that the dog handler, GRIME, had too much influence over the enquiry, again, Mr POWER didn't say how he managed or dealt with that issue'*. This Inquiry has been unable to establish whether CO POWER made any further attempts to supervise the SIO in this key part of the investigation. s.64; page 385;  
para 12

3.10.17 Peter BRITTON concludes *'decisions should be made based on professional policing judgement and evidence. When you look at the facts, the excavation and searching of Haut De La Garenne... was not justified'*. s.64; page 385;  
para 13

- **Conclusion**

3.10.18 There are two significant issues in relation to the search of Haut de la Garenne. Firstly, whether the search was justified and secondly, whether CO POWER supervised the decision-making process, given the significance of the search and what it implied about Operation Rectangle.

3.1019 Operation Haven concludes that the decision to dig at Haut de la Garenne was questionable. DCO HARPER was not trained to an acceptable level and, in the case of CO POWER, we note his own admission that he had no current training '*in the oversight of such investigations*'. Nevertheless, this Inquiry can conceive why, in all circumstances, it may have been considered reasonable to do so. We do not raise formal criticism of DCO HARPER or CO POWER for their decision to do so. We do point out however, that the decision to search having been made, the risks in terms of public and media speculation about police activity, if reported, should have been predicted and carefully planned for.

d.1071; pages  
207-208; para  
16

3.10.20 The decision to search Haut de la Garenne and the far reaching consequences for Jersey, its people and its reputation, should have been foreseen. More thought and objectivity should have been applied to the decision-making process and managing the aftermath. We have found no evidence that CO POWER applied his mind properly or at all to the implications of the search prior to its commencement. This Inquiry is left with the impression that CO POWER's passive acceptance of the opinion of the SIO was exacerbated by his own lack of experience.

3.10.21 Once the decision to search had been made, CO POWER should have exercised proper supervision to revisit and document the necessity for the search operation and the continued justification for it. Had he considered the possible implications of the search, CO POWER may well have had cause to reflect on the need for a plan to manage the impact. There is no evidence to suggest that he

did so. This Inquiry's opinion is that the following comments from CO POWER exhibit a naive approach in relation to the search of Haut de la Garenne '*I told him [Connétable Silva YATES] the Force was about to start some exploratory work at Haut de la Garenne, and this was part of a search for evidence in relation to the abuse enquiry. I said that we would hope to keep the work discreet but we might be there for a couple of weeks'. Also 'we hoped to undertake necessary work at HDLG and to leave afterwards, with the minimum of media attention. We were not looking for a media presence at HDLG'.*

d.1071,page  
239;para 144

- **Conclusion 6**

3.10.22 **CO POWER failed in the performance of his duty to prepare for the impact that the searches at Haut de la Garenne would have on public opinion.**

### **3.11 The management of Operation Rectangle within the normal, day-to-day operations of the States of Jersey Police**

3.11.1 Whilst it is clear that Operation Rectangle was a very expensive operation and had a huge media footprint, this Inquiry cannot establish that it had any demonstrably negative effect on other day-to-day operations in the Force.

3.11.2 We have found that Operation Rectangle was not discussed in detail within the scheduled meeting agenda at Force level. However, meeting minutes for March to June 2008 reflect that, despite the demands of the investigation, the ability of the Force to provide a 'normal' policing function was not affected. In July 2008, the matter of the impact of Operation Rectangle on staffing levels was raised. CO POWER responded in the following terms, '*supervision, quality control and very careful management will be required over the next few months*'.

x.360; page  
763

3.11.3 Best practice would dictate that Operation Rectangle should have been managed and resourced in line with the National Intelligence

d.1124; page  
15; para 1.3.1

Model processes, in particular, the Tasking and Co-ordinating process. This is a fortnightly meeting of managers and partner agencies whose aim is clearly explained in Practice Advice on Tasking and Co-ordinating 2006, Section 1.3.1, page 15: '*The T&CG [Tasking and Coordinating Group] meeting is the central point of the tasking and co-ordination process and is essential for turning intelligence into action. The T&CG makes decisions between competing demands on resources and also provides direction to staff. In addition to managing resources the T&CG will agree the priority with which crime and disorder problems should be dealt. An efficient T&CG will prompt focused activity through the tasking and co-ordination process*'. This appears not to have been followed as an approach in Jersey during Operation Rectangle.

3.11.4 CO POWER describes the '*inevitable tensions between Operations Management and Rectangle in matters relating to resources*'. This is an unavoidable consequence of an operation of this size and impact if the National Intelligence Model is not applied in order to ensure the Operations Management Team and other stakeholders are better informed of the reasoning behind resource decisions. However, open source evaluation of Force crime reduction data and detection does not reveal any drop in performance during the relevant period. This is reflected in the statement of CO POWER who states '*it was a difficult period, but with a few exceptions, the performance of the Force was maintained, and the wider community did not suffer significant adverse consequences as a result of the resource impact of Rectangle*'. Operation Haven has found no evidence to contradict this statement.

d.1071; page  
253; para 192

d.1071; page  
253; para 193

3.11.5 Whilst this Inquiry has found no evidence that Force crime reduction and detection performance suffered as a result of resources being diverted to Operation Rectangle, we conclude that Operation Rectangle was managed in a 'silo' without due regard to other activity in the Force. Detective Chief Inspector David MINTY states '*Op RECTANGLE did not fit into this formula as DCO HARPER reported*

s.48; page 334;  
para 8

*direct to the Chief Officer Graham POWER and every other member of the Force Management Team was completely excluded from all updates and decisions'. He also adds 'I was not aware that CO POWER had set up a Financial Oversight Group prior to this, and I think that is indicative of how this enquiry was run, i.e. we were excluded from all key decisions and developments and any oversight'.*

s.48; page 344;  
para 37

3.11.6 This Inquiry understands the need for confidentiality, but it is seldom appropriate to maintain confidentiality at the cost of effective co-ordination at Force level. The fact that the senior officers of the Force were unsure of what was happening in respect of such a huge and public inquiry is not conducive to the effective management of the Force and teamwork.

- **Conclusion 7**

3.11.7 **The operational performance of the States of Jersey Police was not demonstrably adversely affected during Operation Rectangle.**

- **Recommendation 2**

3.11.8 **The States of Jersey Police ensures that all operations are included within the National Intelligence Model process as outlined in the 'Practice Advice on Tasking and Co-ordinating 2006' document.**



## 4. The supervision of Operation Rectangle as a critical incident by Chief Officer POWER

### 4.1 Introduction

4.1.1 Whether CO Graham POWER's performance met the ACPO/NPIA standards and guidance for the supervision of Operation Rectangle as a critical incident.

4.1.2 The standards applicable to the management of Operation Rectangle as a critical incident are:

- ACPO Murder Investigation Manual 2006 – Section 3
- Practice Advice on Critical Incident Management 2007, produced on behalf of Chief Police Officers and the National Policing Improvement Agency.
- Working Together to Safeguard Children: A guide to interagency working to safeguard and promote the welfare of children – Her Majesty's Government 2006
- ACPO The Investigation of Historical Institutional Child Abuse 2002 – Section 7.1 Community Impact Assessment

4.1.3 A critical incident is defined in ACPO/NPIA Practice Advice on Critical Incident Management 2007, prepared by Bill GRIFFITHS CBE BEM QPM, as '*any incident where the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family and/or the community*'.

MOG; d.16;  
page 6; para 1.1

4.1.4 In his foreword to the NPIA Practice Advice, Bill GRIFFITHS states, '*There are two main facets to Critical Incident Management:*

MOG; d.16;  
page 3

- *Identifying and dealing with incidents where the effectiveness of the police response may have a significant impact on the confidence of the victim, their family or the community;*

- *Taking proactive steps to restore public confidence after a critical incident has been identified.*

4.1.5 Chief Officers have a responsibility through their senior officers and Basic Command Unit (BCU) commanders, to ensure that all officers and staff understand the concept and terminology used in critical incident management. They must encourage a culture of vigilance and quality assurance so that any incident that has the potential to escalate into a critical incident is identified early and is managed effectively. A key aspect of effective critical incident management is building relationships with communities and winning their trust and confidence'.

MOG; d.16;  
page 3

4.1.6 Bill GRIFFITHS makes it clear that whilst the Critical Incident Guide represents the best available advice and comparative practice from around the UK, including the Metropolitan Police Service, it is published as 'professional practice' and as such has no mandatory or 'legal' status.

d.1106; pages  
325-326; para  
28

4.1.7 The role of Chief Officers is crucial to successful critical incident identification and management. The NPIA Practice Advice states *'There is an obligation on Chief Officers to ensure that critical incidents are only declared when it is necessary and appropriate to do so, and that the response is proportionate to the scale of the incident. It is important that where an incident is declared critical, the subsequent response quickly identifies the causes and a management plan is implemented to restore the quality of the police response and re-build public confidence. It is only through a prompt well-coordinated response that the police will be able to reassure the victim, their family and the community and restore any lost confidence in the Police Service'*. This Inquiry suggests responsibility for strategic co-ordination of the police response to Operation Rectangle rested clearly with CO POWER.

MOG; d.16;  
page 25; para  
3.5

- 4.1.8 This Section should be read in conjunction with the Critical Incident Timeline which highlights key events relating to this Section. d.1136: pages  
535-543

## 4.2 Structure of this section of the Report

- 4.2.1 Sections 4.3–4.7 of this Report cover the chronology in relation to specific elements of critical incident management. Sections 4.8–4.15 analyse the issues that this Inquiry consider to be of relevance having considered the actions of CO POWER against the applicable standards.

## 4.3 Declaration of Operation Rectangle as a critical incident

- 4.3.1 On 13 December 2007, Detective Inspector Alison FOSSEY declared Operation Rectangle a 'Category A + critical incident'. This decision was recorded in a document known as the Main Lines of Enquiry Policy Book. Decision 6 refers. Appendix 3  
page 10;  
Decision 6

- 4.3.2 However, on 28 December 2007, DCO HARPER added a further entry to this Policy Book (Decision 8) stating that the Operation would not require a Community Impact Assessment and there was no necessity to form a Gold Group. Both a Community Impact Assessment and a Gold Group are considered essential in the management of critical incidents as per the NPIA Practice Advice. DCO HARPER's entry reads *'Decision: Not to produce a Community Impact Assessment or establish a Gold Group in terms of the Manual. Reason: Although technically a critical incident and Cat A investigation this is solely because of the context of the Island and the size of the Force. There is no likelihood of community tensions leading to damage to comm. relations. In respect of the Gold Group it is not appropriate because of the involvement of other agencies in the allegations and the additional possibility of Crown Advocates being appointed imminently'*. This entry is written and signed by DCO HARPER. All policy book decisions are included in Appendix 3 of this Report. Appendix 3  
page 12  
Decision 8



- 4.3.3 There is a contradiction in the two policy decisions made regarding the declaration of Operation Rectangle as a critical incident and it is evident that the SIO, DCO HARPER, and the deputy SIO, Detective Inspector Alison FOSSEY, had a difference of opinion on this issue. Detective Inspector FOSSEY explained that DCO HARPER would not sign the policy decision regarding the categorisation of the investigation as a critical incident. The assumption that this Inquiry makes is that he changed his mind on the issue, as DCO HARPER had previously agreed with her on 13 December 2007 that it should be classified as a critical incident. Detective Inspector Alison FOSSEY states in her witness statement *'both of these decisions are recorded in the Policy Book but for some reason Mr HARPER did not sign off the decision regarding the categorisation of the investigation. It is possible he didn't do this as he later changed his opinion. This can be evidenced by a later policy decision on 28 December 2007 where he has recorded that it was not necessary to do a Community Impact Assessment or establish a Gold Group'*.
- s.49; page 357;  
para 15
- s.49; page 357;  
para 14
- s.49; page 357;  
para 15
- 4.3.4 The decision made by DCO HARPER to treat the Historic Child Abuse Enquiry as 'technically a critical incident' appears to provide his justification, at the time, for not producing a Community Impact Assessment (CIA) or establishing a Gold Group. Having been given this direction by the SIO, Detective Inspector Alison FOSSEY did not apply the NPIA Practice Advice in the management of Operation Rectangle.
- s.49; page 363;  
para 37
- 4.3.5 After the significant developments of the 23 February 2008 and with the agreement of CO POWER, the ACPO Homicide Working Group was approached and asked to appoint a mentoring and advice team for DCO HARPER as SIO for the Historic Child Abuse Enquiry. Following first deployment on 29 February 2008, the ACPO Homicide Working Group's key recommendation relating to critical incident management was Recommendation 17 of the first report produced between 29 February and 2 March 2008 *'That the Chief Officer and*
- d.1071; page  
241; para 154
- x.466; page  
1288

*SIO consider a Community Impact Assessment and convene an Independent Advisory Group (IAG). The IAG should not include former residents of this home, but could include advisors from the NSPCC or community groups. The IAG could advise on the CIA'.*

- 4.3.6 This Recommendation again raised the issue of critical incident management with DCO HARPER and directly with CO POWER. It recommended they re-think their rationale for not implementing best practice advice, particularly in relation to conducting a CIA and forming a Gold Group.

#### 4.4 Community Impact Assessment

- 4.4.1 Whilst it had been the earlier opinion of the SIO that a CIA was not necessary, DCO HARPER did eventually accept and act on the advice contained in the ACPO Homicide Working Group report and a CIA was completed on or around 19 March 2008. As we shall explain in due course, little practical use was made of its insight.

x.394; pages  
1053-1065

- 4.4.2 Section 7.6 of the ACPO Homicide Working Group report states *'the investigation was declared a critical incident and a Cat A + by the SIO – Decision Number 8. He also decided not to hold a Gold Strategy group or complete a Community Impact Assessment (CIA). The reasons for the lack of a CIA are shown with regard to his concerns of possible suspects in public offices. A CIA can be wholly internal to the police and one should be considered. To assist such an Independent Advisory Group could be convened for this specific investigation/enquiry. This team are more than content to assist with this proposal'.*

x.466; page  
1287

- 4.4.3 It is apparent that despite DCO HARPER's reticence to consider a CIA, his colleagues identified the requirement for a CIA. DCO HARPER outlined his resistance to the proposal in his witness statement *'I resisted the need for a Community Impact Assessment. I felt that we did not need one because we had no community tensions. I agreed to it because the Manual says that we should do it. However, this was not South London, Belfast or Moss Side. It*

s.1; pages 4-5;  
para 25

s.81; pages  
538-539; para  
19

s.47; pages  
324-325; paras  
14 & 16;

*became a priority action but not a top priority. Alison FOSSEY said that we should have one'.* page 326; paras 23-24

- 4.4.4 Acting Chief Inspector Mark COXSHALL, a trained SIO, was clear on the need for a CIA. He formed the view that the Historic Child Abuse Enquiry was a classic example of a situation requiring one. He was also of the opinion that the DCO had a disregard for the CIA process *'I was surprised at the stance taken by DCO HARPER because if ever there was a need for a CIA, to monitor public feeling, this was it'.* s.47; page 326; para 33
- 4.4.5 Despite DCO HARPER's views and prior to the ACPO Homicide Working Group recommendation being made, Acting Chief Inspector COXSHALL arranged for Inspector Mary LE-HEGARAT, of the Community Safety Branch, to prepare a draft CIA in anticipation of one being required. s.47; page 325; paras 19-20
- 4.4.6 Following the ACPO Homicide Working Group recommendation, DCO HARPER tasked Detective Inspector Mark HOUZE on 12 March 2008 to complete a CIA. Detective Inspector HOUZE liaised with Inspector LE-HEGARAT and made use of the information she had previously gathered. Upon completion, Detective Inspector HOUZE submitted the CIA to Acting Superintendent David MINTY who circulated it amongst the Operations Management Team, including Acting DCO Shaun DU VAL, in accordance with good practice. This activity ensured those likely to be affected by anything within the CIA, about community reaction to Operation Rectangle, were in possession of relevant information and able to plan a response. However, DCO HARPER intervened in the process and dictated that the CIA remain internal to Operation Rectangle for its sole use. He specifically directed that the Operations Management Team should not be given copies, thereby further demonstrating his lack of comprehension of the use and purpose of CIAs. s.44; page 304; para 6  
s.44; page 314; para 2

4.4.7 This Inquiry has established there were eight versions of the CIA which were updated following reviews.

Version	Date Produced	Haven Ref
1	Not dated – around 17 March 2008	x.392
2	19 March 2008	x.394
3	28 March 2008	x.399
4	2 April 2008	x.401
5	15 May 2008	x.405
6	15 October 2008	x.410
7	27 October 2008	x.122
8	13 November 2008	x.124

4.4.8 Other draft versions of the CIA are referred to by Detective Inspector HOUZE in his statement. CO POWER was not made aware of the CIA by Detective Inspector HOUZE, as DCO HARPER had made it clear it was for his attention only. Nevertheless, in accordance with the ACPO Homicide Working Group recommendations, the CIA became a standing item on the Force Management Board agenda from the end of March 2008.

s.44; page 305;  
paras 13-19

s.44a; page  
314; para 2

## 4.5 Independent Advisory Group

4.5.1 To further comply with Recommendation 17 of the ACPO Homicide Working Group's report, an IAG was formed and terms of reference were drawn up with the assistance of Andre BAKER of the ACPO Homicide Working Group. DCO HARPER stated *'it was discussed between me, Graham POWER and Andre BAKER and as a result, Andre BAKER drew up the Terms of Reference for the IAG, incorporating some of the functions of a Gold Group'*.

s.81; page 544;  
para 32

4.5.2 The ACPO Homicide Working Group assisted in establishing the IAG with Andre BAKER sending DCO HARPER generic terms of reference and agendas as examples for use in the IAG meeting. CO POWER and DCO HARPER identified who they felt they could trust to become members of the IAG, and letters of invitation were sent out. Terms of reference and an agenda were distributed with the letter.

s.79; page 504;  
para 33

x.322; page 720

4.5.3 The following were the terms of reference adopted:

- *To identify and address any risks or potential areas of criticism regarding the investigation, matters leading up to it or since it commenced.*
- *To address any areas of risk with regards to the investigation.*
- *To consider issues for victim and community.*
- *To consider impact to or from any other agency or public body.*
- *To consider media implications'.*

x.322; page 721

4.5.4 Trustworthy individuals are crucial to the success of any IAG, more so in this case, given the allegations and inference of corruption and cover-up. The IAG comprised a selection of individuals considered to be 'appropriate', although it seems from comments made by Anne HARRISON of the ACPO Homicide Working Group, that the composition of the group selected was entirely at the discretion of DCO HARPER and CO POWER *'both Mr POWER and Mr HARPER discussed who would be the appropriate persons to sit on the group and Andre BAKER gave some advice on the Terms of Reference for such groups'.*

s.76; pages  
456-457; para  
15

4.5.5 The IAG consisted of five members of the community from a variety of backgrounds:



IAG Member	Background	Statement Ref
Carole CANAVAN	Retired solicitor, member of the Rotary Club	s.36; s.36a
Kevin KEEN	Finance Director of local department store; associated with numerous commerce and community organisations	s.34; s.34a
Reverend Geoffrey HOUGHTON	Local vicar, previously Police Chaplain	s.32; s.32a
Emma MARTINS	Data Protection Commissioner for the States of Jersey	s.20; s.20a
Stephen REGAL	Managing Director of a local construction company, member of the Jewish community and member of the Ethnicity Board in Jersey	s.25; s.25a

- 4.5.6 The inaugural IAG meeting was held on 13 March 2008, with Andre BAKER and John MOONEY of the ACPO Homicide Working Group in attendance. As can be seen from the minutes, Andre BAKER spoke regarding the purpose, background and rationale for establishing an IAG in connection with the Historic Child Abuse Enquiry. Its purpose was described to those present as a group of 'critical friends' whose role was to advise the Police. Issues of integrity were mentioned and the IAG was briefed that it would hear of 'dreadful matters', a term understood to mean the possible demise or abuse of children at Haut de la Garenne. It is clear from the minutes that DCO HARPER emphasised to the IAG that '*nothing was out of bounds within the terms of reference*'. He warned members that the community would be speaking to the IAG about the investigation, the victims, the community, the impact on other agencies following arrests and the media's interest. This was the very first time an IAG had been held in Jersey. It was a new experience for everyone concerned including the Police. It does not appear that any form of training or other preparation was considered for members – certainly none was delivered.

x.415; pages  
1144-1146

s.20; page 136-  
137; para 10

s.25; page 178-  
179; para 24

s.32; page 218;  
para 2

x.415; page  
1144; para 2

s.34; page 245;  
para 16

s.36; page 264;  
para 3

x.415; pages  
1144-1146

4.5.7 The next IAG meeting was held on 26 March 2008 and was attended by three members of the ACPO Homicide Working Group namely Andre BAKER, John MOONEY and Anne HARRISON, as well as DCO HARPER, who chaired the meeting. Minutes were taken of the IAG meetings, usually by Victoria ELLIS, the Personal Assistant to DCO HARPER. CO POWER attended two IAG meetings on 6 May and 19 August 2008. A combination of official IAG meetings (with police) and private IAG meetings (without police) were held on the following dates:

x.415; pages  
1148-1149

x.223; page 468

<b>Date of Meeting</b>	<b>Type – Police/Private</b>
13 March 2008	Police
17 March 2008	Police
26 March 2008	Police
18 April 2008	Police
6 May 2009	Police (CO POWER attends)
27 May 2008	Police
6 June 2008	Private meeting only
16 June 2008	Police
27 June 2008	Private meeting only
18 July 2008	Private meeting only
1 August 2008	Private meeting only
19 August 2008	Police (CO POWER attends)
23 October 2008	Police
5 November 2008	Police
25 November 2008	Police
5 December 2008	Police

4.5.8 From the outset, minutes were not circulated for security reasons. Therefore, IAG members read and agreed them prior to the commencement of the next meeting. There was a strong feeling from members Emma MARTINS and Geoffrey HOUGHTON that the minutes were not a true reflection of what was discussed. DCO HARPER was concerned about sensitive documentation/information being divulged and, therefore, wanted the minutes to be brief and limited in detail.

s.20; page 135;  
para 9

s.32; pages  
221-222; para  
11

- 4.5.9 One member of the IAG, Carole CANAVAN, took detailed notes of the meetings for her own records. From these notes, Stephen REGAL prepared a typed account of the detail contained within it. x.323; pages 723-754  
x.223; pages 466-476
- 4.5.10 By June 2008, the IAG was becoming dissatisfied with the information provided by DCO HARPER. This, in turn, led to the situation where the non-police members opted to hold separate, private meetings without the police present. All of the non-police meetings were attended and a record kept, by Carole CANAVAN. s.25; pages 174-176; paras 12-14  
x.223; pages 466-476
- 4.5.11 Two key issues hindered the success of the IAG which eventually led to a breakdown in communication between DCO HARPER and the Group. Firstly, the IAG raised its concern that some two months after appointment, it still did not have a proper 'job description' and there was a lack of clarity as to what was expected of members. Secondly, the IAG raised directly with DCO HARPER, the matter of detailed information relating to Operation Rectangle appearing on a 'blog' authored by Senator Stuart SYVRET. DCO HARPER informed the members that he had taken coffee with the Senator at his home, but did not directly answer their question. In summary, the IAG wrote to DCO HARPER expressing concerns on 6 June 2008, 1 July 2008 and 21 July 2008 and to CO POWER on 4 August 2008. s.25; pages 174-176; paras 12-14  
x.227; page 484  
x.224; pages 477-480  
x.225; pages 481-482  
x.226; page 483
- 4.5.12 A further breakdown arose when the IAG placed a notice in the Jersey Evening Post during June 2008. The Group had done so intending to publicise the IAG's function and to invite members of the public to contact members with any concerns about child abuse and the enquiry via a PO Box set up at the same time. Prior to doing this, the IAG discussed the matter with DCO HARPER who was not, evidently, against the idea, having agreed both the content of the notice and to pay for the PO Box from Operation Rectangle funds. However, the Attorney General was concerned about the effect such a notice could have on Operation Rectangle, as it may have been perceived as '*advertising for evidence*'. He raised his concerns with x.148; page 407  
s.36; pages 265-266; para 5



CO POWER who, in turn, raised them with DCO HARPER. IAG members were now aggrieved that having acted in good faith by consulting and obtaining DCO HARPER's approval, they were being openly castigated, with, by now, no support from CO POWER or DCO HARPER. They felt DCO HARPER was also back-tracking on his commitment to supporting them. A copy of the press notice can be found appended to this Report in the Evidential Bundle.

x.148; page 407

4.5.13 Members of the IAG reiterate that the notice was produced with the knowledge of DCO HARPER, it was drafted by the States of Jersey Police Press Officer, Louise JOURNEAUX, and was paid for by the States of Jersey Police. This is in direct contradiction to the conclusion drawn by the ACPO Homicide Working Group which, in Section 4.3 of their final report dated 30 June 2008, states *'the ACPO HWG team are also concerned that the IAG undertook this public poll without reference to and discussion with, the SIO'*. On balance, this Inquiry is inclined to accept the account of the members of the IAG. All five members refer to the prior knowledge of the SIO as does Louise JOURNEAUX. She comments in her statement *'I also had involvement direct with the IAG when I met with them to arrange a press release giving details on how the community could make contact with them. I did this in the knowledge that Mr HARPER had agreed with the IAG that this could be done but he was not actually involved with the production of this release.'* Ex-DCO HARPER states his understanding as follows *'I had agreed that they could publicise their existence and how the public could make contact with them. I was not aware that they intended inviting comments on how the investigation was being handled'*. Whatever the facts, relationships became strained.

x.469; page  
1339s.43; page 287;  
para 26s.81a; page  
569; para 26

4.5.14 On 1 July 2008, Stephen REGAL on behalf of the IAG members e-mailed DCO HARPER raising concerns over their role and what was expected of them. As no response was received, a second e-mail was sent on 21 July 2008. It was apparent by this time that the IAG was feeling ignored and was concerned that there had not been any

x.224; pages  
477-480x.225; pages  
481-482

recent official meetings with the Police. However, despite the lack of Police contact the Group continued to receive feedback from the community *'following our joint e-mail to you we are disappointed not to have received an acknowledgment, even though you may not have been operational, we presume that the investigation proceeds. As we have not attended any meetings with the investigation team for over a month and since we continue to receive both written and verbal communications from the community we have arranged a number of meetings of the Group in order to clear responses and the like. We have again decided to communicate our apprehension to you so that our concerns are recorded'*.

x.326; pages  
757-758

- 4.5.15 The IAG was 'puzzled' about its role in the investigation and expressed concern at the complete lack of forewarning members received prior to press releases. The e-mail continued to highlight the impact the investigation was having on the public and the feedback they had received as a group indicating that public expectation had been raised, but which was not being met by the results of the investigation. The IAG emphasised public concern that confidential information was continuing to appear in public *'comment continues to be received on information being published in the Public Domain that by normal practice should have remained confidential to the investigating team. Many people have expressed unease as to where this information, which certainly cannot be classified as idle speculation, is emanating, it certainly is not from the IAG and this in itself is causing the Group members deep concern'*.

x.326; pages  
757-758

- 4.5.16 DCO HARPER's response informs the IAG why his official meetings with them had ceased, highlighting the Attorney General's concerns about the existence and appropriateness of the group *'there have been some issues between them, the AG and the Chief Officer which I have not been involved in. I deliberately refrained from commenting on the AG's call for the group to be disbanded'*. DCO HARPER appears to take issue with the public view expressed to him by the IAG that the nature of press releases had elevated public expectation

s.85; pages  
754-755; para  
112

to a level much higher than the results appeared to deliver *'I take issue with the observation that information being provided has managed expectations to a higher degree than tangible results have shown. We have three going through the courts, files with the lawyers, and all of this compares favourably with similar enquires elsewhere'*. x.326; page 756

- 4.5.17 DCO HARPER also took issue with the view represented by the IAG, that confidential information had somehow been published in the public domain *'I am not sure what information is being published in the public domain which should have remained confidential and, in any event, I do not know how the group would make that judgement. I am not aware of any FACTS which the media have published which are in that category'*. x.326; page 756

## 4.6 Gold Group

- 4.6.1 Section 3.3.3 Murder Investigation Manual states *'Where an incident falls within the definition of a critical incident, the nominated chief officer (or other chief officer as appropriate) must declare the matter a critical incident and ensure that the investigation team know this. The chief officer should then arrange a Gold Support Group'*. MOG; d.17;  
page 78; para  
3.3.3

- 4.6.2 This Inquiry has established that a Gold Group was not formed until September 2008, when David WARCUP was appointed DCO. DCO HARPER had held strong views and had agreed with CO POWER that a Gold Group would not be formed. According to DCO HARPER *'my understanding of Gold Groups is that they are used fairly frequently on the operational side of policing. I understand that they are to look at the overall strategy and would be attended by the SIO, Chief Officers and other agencies such as Social Services, Education and Health. That would cause a problem because people from Social Services and Education were suspects in the investigation. This is why I did not want a Gold Group'*. He had also resisted the involvement of anyone outside the Police and had been running the enquiry as a single-agency investigation. s.81; pages  
544-545; para  
32

Indeed, the first recorded decision in DCO HARPER's Policy Book setting out the 'main lines' of enquiry' confirms as much, although there is notable absence of a reason given for the decision *'Operation Rectangle is a single-agency led investigation into historical child sexual abuse involving a number of institutions in Jersey.'*

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4.6.3 The decision not to have a Gold Group was discussed between the ACPO Homicide Working Group and DCO HARPER. Anne HARRISON states *'It had been noted by the HWG Team from the policy books that such a consideration had already been made by the SIO and he specified his reasons for not having one. Whilst there was further discussion between Mr HARPER and the HWG Advice Team regarding a Gold Group, he reiterated his reasons as to why he thought that one would not work saying such a group would not be helpful in this particular case. Having raised the issue, it is the SIOs decision as to whether he wishes to pursue the suggestion'*. DCO HARPER considered the Gold Group to be a 'non-starter' as he believed that, of those likely to sit on it, some were suspects within the Operation.

s.76; pages  
456-457; para 15

4.6.4 Andre BAKER of the ACPO Homicide Working Group states he recalls discussing the advantages of Gold Groups with both CO POWER and DCO HARPER. However, both informed him they did not want one. Within his statement he comments *'We then talked about forming a Gold Group and Lenny stated that that they were not having that yet as all possible players in Jersey have a possible link to the suspects. We discussed the use of using people from the UK or outside'*. Andre BAKER continues *'we met with Graham POWER and Lenny HARPER and toured the site. We discussed with them the forming of a Gold Group. Both Graham POWER and Lenny HARPER said that they did not want a Gold Group. We then tried to convince them of the value of an IAG, Graham POWER said he would be happy with an IAG'*.

s.79; page 498;  
para 12s.79; page 502;  
para 23



- 4.6.5 DCO HARPER's interpretation of these discussions is *'He (Andre BAKER) and Graham POWER were quite happy that a Gold Group was not a good idea. In the absence of such a Gold Group, I received my strategic direction from ACPO HWG and from Graham POWER. There was very little that I did not discuss with Graham POWER. I discussed the way forward frequently and his views were stronger than mine on occasions'*. Further comments regarding this can be seen in Detective Inspector Alison FOSSEY's statement, *'a Gold Group is a necessity when an incident is declared critical. I did not doubt that we were dealing with a critical incident where the effectiveness of the police response was likely to have a significant impact on the confidence of the victims and the community'*.
- 4.6.6 Nevertheless, in the light of a clear decision having been made, apparently jointly by CO POWER and DCO HARPER, not to convene a Gold Group, the ACPO Homicide Working Group did not make a formal recommendation for such a group to be established. ACO WARCUP sets the scene quite explicitly as far as his management was concerned *'during the weeks following my appointment Mr POWER showed little or no direct interest in the enquiry and provided no direction or instructions.'* ACO WARCUP explains *'I established a Gold (Strategic Co-ordinating) Group and invited a member of the Law Officers' Department to participate, together with a representative of the Chief Minister's Department, which had oversight of all States Departments, including Health, Social Services and other key departments who could assist in furthering the enquiry. In addition a Senior Officer from the Home Affairs Department was invited to join the group. Broadly speaking, the Group is a multi-agency group responsible for developing strategy in relation to the incident in question. The Group should develop policy and guidance and give direction to the Senior Investigating Officers and others who are responsible for delivering the tactical 'day to day' response to the incident. The Gold Group*

s.81; pages  
544-545; para  
32

s.49; pages  
357-358 para 17

s.82; page 612;  
para 138

s.82; page 616;  
para 158

s.82; page 621;  
paras 185-186

would consider such matters as: Enquiry Parameters; Resourcing; Finance; Media; Any areas of risk and potential criticism. The first meeting of the group was held on Monday 1 September 2008'.

- 4.6.7 CO POWER would have it, however, that it was at his direction that ACO David WARCUP acted, *'I note from the disclosure evidence provided that all relevant witnesses confirm the success of the Gold Group, established under my command and on my instructions. I note that the Gold Group was operating successfully for over two months before my suspension. I believe that my timing for the establishment of a Gold Group was correct, and I will give reasons for this later in this statement'*. CO POWER is correct in his assertion that the Gold Group was established two months prior to his suspension. However, this is as far as the available evidence is wholly in agreement with his position. ACO WARCUP details in great depth the position he found when he joined the States of Jersey Police and describes, in equal depth, the positive measures he took to address the inadequacies and failings he encountered. His statement should be considered in its entirety in order to gauge fully the impact of his comments. To illustrate the point relating to Gold Groups, ACO WARCUP has included the agendas of his meetings in his statement, together with factual and specific reasons for his actions. When balanced against an equivocal and unspecific account given by CO POWER, who stated to Detective Superintendent Bryan SWEETING that he did not know what a Gold Group was *'when I questioned Mr POWER about this issue he stated he had no knowledge of Gold Groups and no experience of them'*, it is ACO WARCUP's account which appears more credible, in the view of this Inquiry. However, we do accept that CO POWER agreed to the formation of a Gold Group, albeit at other's instigation.

d.1071; page  
268; para 245

s.65; page 395;  
para 22

- 4.6.8 CO POWER's rationale for the delay in establishing a Gold Group is provided in his statement where he states *'Lenny has documented his reasons for not establishing a Gold Group in December 2007. In summary these relate to the fact that there were allegations touching*

d.1071; pages  
268-269; para  
248

*upon potential partner agencies, and that the establishment of a group at that time could involve the risk of compromise. He was right in that decision. In the early rush of activity after Rectangle became public knowledge, allegations of involvement, conspiracy and cover-up were flowing thick and fast. Prominent individuals were being 'named' and it was impossible to predict where all of the allegations were leading. I was sure that the Force needed to move towards something along the lines of a 'Gold Group' model, but equally sure that this could only be done when the evidential picture had achieved a level of stability which was not present in the early stages. It was through this chain of events that the Gold Group came into being and was launched at a time when it had the maximum chance of success. I am pleased that this new innovation in the policing of the Island has proved successful. I attribute much of its success to the preparation and timing which I brought to its introduction'.*

#### **4.7 Baseline assessments by Her Majesty's Inspectorate of Constabulary**

4.7.1 In 2006, Her Majesty's Inspectorate of Constabulary (HMIC) conducted a baseline assessment of the States of Jersey Police. A review of progress was made in 2008 to establish whether the issues identified in the 2006 assessment had been completed. Both documents refer to the States of Jersey Police's management of critical incidents. The States of Jersey Police reported to HMIC that it was aware of the concept of critical incident management, but comment in the Force's Self Assessment Response to HMIC in March 2006 that *'critical incidents and major crime are rare for the Force. However, in an island community with an expectation of a high standard of service for lower level crime issues, the definition of critical incident and major crime will include matters that fall outside the definition elsewhere'*.

x.612; pages  
1603-1640

x.606; page  
1497

4.7.2 The 2006 Self Assessment Response identifies that the States of Jersey Police needed to improve its position and undertake formal

x.606; page  
1498

training in relation to critical incident management. However, HMIC recognised as a strength that the States of Jersey Police crime screening and investigation policy included the definition of a critical incident and that control room staff had undertaken generic training which included, amongst other things, an input on critical incident management. A further strength identified in the same document, was the use of CIAs as part of the overall operational response *'in the event of any critical incident and major crime, community impact assessments are carried out as part of the overall operational response and reassurance messages as disseminated. Honorary police liaison ensures that early signs of concern amongst the general populace are identified'*. This Inquiry is aware that these 'strengths' are, of necessity, based on the information the Force provided to HMIC which assumes the veracity of what it is told.

x.609; page  
1576

4.7.3 Within the body of the 2008 'Revisit' Report, it is noted that the States of Jersey Police provided some awareness briefing and input to staff on critical incident identification and actions to be taken, but the Report recommends that training should be provided to operational officers, supervisors and control room operators.

x.612; page  
1625

4.7.4 This Inquiry concludes that critical incident identification and management was relatively immature as a professional requirement on the Island and considerable further development was necessary to meet standards. However, we are clear that the need for critical incident management was known to a number of middle managers in the Force and the ACPO Homicide Working Group, each of which drew the requirements to the attention of DCO HARPER and CO POWER.

## 4.8 Key issues identified

4.8.1 This Inquiry has identified seven key issues directly relating to the management of Operation Rectangle by CO POWER as a critical incident. These have been gleaned by careful examination of the manuals of guidance and then assessing whether the actions of



CO POWER ensured Operation Rectangle was being managed in line with these criteria.

Issue 1 Declaring Operation Rectangle as a critical incident.

Issue 2 Establishing a Gold Group from the outset and, particularly, following the events of 23 February 2009.

Issue 3 Identifying the need for a CIA from the early stages of Operation Rectangle in September 2007 and reviewing the need for a CIA at significant points.

Issue 4 Establishing an IAG with clear terms of reference; ensuring appropriate membership of the IAG and adequate support to the IAG.

Issue 5 Resolving concerns raised by the IAG.

Issue 6 Establishing Operation Rectangle as a single-agency led investigation.

Issue 7 Commissioning a review of Operation Rectangle in line with best practice.

4.8.2 This Inquiry has identified a number of experts in fields relevant to this discipline investigation. In the case of critical incident management, there are two key witnesses; David MILLAR, an expert in the formation, structure and management of IAGs, and Bill GRIFFITHS CBE BEM QPM, the Author of Practice Advice on Critical Incident Management 2007. Throughout this Section the professional opinions of both are referred to.

#### **4.9 Issue 1 – declaring Operation Rectangle as a critical incident**

4.9.1 It is evident there was a difference of opinion between DCO HARPER as SIO and Detective Inspector Alison FOSSEY as Deputy SIO regarding the assessment of Operation Rectangle as a

critical incident. There are also contradicting policy book entries made by Detective Inspector Alison FOSSEY on 13 December 2007 and later by DCO HARPER on 28 December 2007. Initially, DCO HARPER agreed that Operation Rectangle was a critical incident, however, his second decision effectively down graded it as he describes it as only '*technically a critical incident*'. There is little doubt that it was considered to be a critical incident by those individuals engaged on the Operation and commissioned specialists, such as the ACPO Homicide Working Group, who refer to the SIO declaring the investigation a '*critical incident and a Cat A+*'.

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s.49; page 357-358; paras 16-17

4.9.2 DCO HARPER justifies his decision-making in relation to this by relying upon the context and size of the Island. He asserts '*I resisted the need for a Community Impact Assessment. I felt that we did not need one because we had no community tensions*'. However, it is the very completion of a CIA, in a thorough and professional manner, which would have identified whether or not community tensions were likely. In the view of this Inquiry, this is a case where DCO HARPER may have put the 'cart before the horse'. In addition, DCO HARPER states there will be no Gold Group because of the '*involvement of other agencies in the allegations and the additional possibility of Crown Advocates being appointed imminently*'. These comments may suggest some confusion by DCO HARPER as to what a Gold Group is and what its structure should be.

s.81; pages 538-539; para 19

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4.9.3 We are unable to comment whether the decision over the declaration of Operation Rectangle was a unilateral decision or one made in consultation with CO POWER. If DCO HARPER and CO POWER are taken at their word, with the regular meetings and briefings that occurred between them, CO POWER should have been aware of the issue. It is a common feature that none of the policy books for Operation Rectangle provide any indication of having been examined by CO POWER. This Inquiry accepts that, unlike policy books in use throughout the UK, the States of Jersey Police policy books are not designed with space for a supervisor to 'sign and check'. The States

of Jersey Police may wish to consider revising their policy books to incorporate this element. However, it is obviously good practice for the SIO's supervisor to check policy documents so as to be reassured of the SIO's competence and the planned direction of the enquiry. In the view of this Inquiry, this is good practice. In any event, either CO POWER knew and sanctioned the approach taken by his DCO not to record Operation Rectangle as a critical incident or did not know and should have, and would have, if he had provided strategic direction to the enquiry as was CO POWER's duty.

4.9.4 It is the clear view of Bill GRIFFITHS that Operation Rectangle demonstrated all the characteristics of a critical incident *'It is felt that had DCO HARPER displayed better leadership and understanding of the management of critical incidents and not countermanded his earlier decision agreed with his deputy, a different more manageable progression of events may have occurred'*. It is also Bill GRIFFITHS' view that the potential for Operation Rectangle to become a critical incident could have been identified during the scoping in September 2007, when Operation Rectangle was a covert investigation or in November 2007 when it became public knowledge. This view is echoed by Detective Superintendent Bryan SWEETING who says *'Other key issues I feel should have been addressed by the supervisor of this case are the lack of a Gold Group, Independent Advisory Group, Community Impact Assessment, and the involvement of key partners at a senior level. The Murder Investigation Manual 2006 states that where an incident falls into the definition of a critical incident the nominated Chief Officer (or delegate) must declare the incident a critical incident and ensure the investigative team know this. It is my view that this was clearly a critical incident within the Island and the role of a Gold Group would have supported both Mr POWER, the investigation and the wider community'*.

d.1106; pages  
327-328; para  
37

s.65; page 394;  
para 21

4.9.5 Throughout his statement, CO POWER demonstrates his understanding of the concept of critical incident management. He

explains how he took an interest in it following a police vehicle fatality *'sometimes guidelines and working practices developed in other jurisdictions can form the basis of local procedures. The best way to illustrate this might be to refer to a real issue which is relevant to this enquiry. That is, the concept of a 'critical incident.'* I took an interest in this about three to four years ago. One afternoon I was in my office when I made a routine computer check on live incidents. I read one entry which said that there had been an incident involving a police vehicle and two people were dead. I went to the control room and established that a police car on its way to an incident had been involved in a collision with another vehicle. It later transpired that only one person was dead and the other badly injured. I realised that this would have significant implications. I established a separate command and control for the incident and allocated different people to lead on the different areas or responsibility. These included contact with the Law Officers, the Minister, the Media and the Jersey Police Complaints Authority, as well as the customary actions regarding scene management and related issues. As the dust settled I began to wonder what would have happened if I had not been there. Would the staff on duty have known what to do, and did we have operating procedures which would cope with such a situation?'

d.1071; page  
240; para 149

- 4.9.6 This fatality appears to have led CO POWER to discuss the concept of 'critical incidents' with his colleagues. CO POWER suggests that he raised the subject of critical incident management in the Force Executive Strategy Group though he cannot recall the date. He states *'this type of project would have followed a familiar process. When we identify a deficiency in local policy and procedure somebody is allocated to prepare a paper. This would involve research into how things are done elsewhere. It is possible that ACPO procedures might be examined. The person responsible might take ACPO guidelines and amend these to take account of local law and procedure. It might also be necessary to translate any ACPO guidance into a more reader-friendly language.'*

d.1071; page  
240; para 150

4.9.7 Unfortunately, CO POWER cannot recall if the work was ever completed. However, he explains how, in usual circumstances, a paper of this kind would have been circulated through police management meetings for approval. It would then be a matter for him to decide whether there was a need for political ownership. He writes *'in the case of the Force adopting English guidelines for use locally this would probably be the case.'* Finally, he would have presented it at a Ministerial meeting with the Minister for Home Affairs and the Assistant Minister. This implies that all potential procedural changes would be presented in this fashion prior to formal ratification by the Chief Officer.

d.1071; page  
240-241; para  
151

4.9.8 ACO WARCUP holds a different view. He states that the Chief Officer is able to create policy for the States of Jersey Police without regard to agreement from the politicians. Former Home Affairs Minister Andrew LEWIS also comments that unless the issue requiring change is 'publicly controversial' or has a financial implication that is in excess of the current budget, then the head of the Force would have the freedom to introduce any new working practice or operational guideline as they saw fit. On balance, this Inquiry believes that CO POWER could have developed critical incident management processes within the Force without the leave of politicians.

s.12b; page 97;  
paras 2-3

4.9.9 If true, the scenario described by CO POWER demonstrates his awareness of ACPO/NPIA guidance on critical incident management some years prior to Operation Rectangle, yet he allowed the enquiry to progress without apparent regard to such guidance. This view is also held by Bill GRIFFITHS who says in his report *'while I understand that the operating context and small size of the SoJP requires different considerations for a very small chief officer team, I find it inconceivable the Chief Officer POWER would not have been aware of the professional practice guide published to the service as a whole by NPIA on behalf of ACPO, particularly given that the HMIC baseline reviews undertaken in this Force in March 2006 and*

d.1106; page  
332; para 59



March 2008 make copious references to critical incident procedures and training extant in the Force at the time'. Examples of the references to which Bill GRIFFITHS refers can be seen in the HMIC Baseline Assessment 2006, Force Self Assessment which is included in the Evidential Bundle accompanying this Report.

- 4.9.10 CO POWER held the position of Assistant to Her Majesty's Chief Inspector of Constabulary of Scotland from 1998 until 2000. This was a crucial time in the development of critical incident 'thinking' which evolved from the Stephen Lawrence Inquiry. Bill GRIFFITHS describes the publicity from the Inquiry as being 'massive'. *'Critical incident thinking in ACPO evolved from the Stephen Lawrence Inquiry which published its report in February 1999. There had been massive national publicity throughout 1998 from the time the Inquiry was announced by Jack Straw, and this was not confined to London, particularly when phase two of the Inquiry travelled the country. The unexpected admission of 'Institutional Racism' in his Force by Sir David Willmot, Chief Constable of Greater Manchester Police, was particularly well reported'*. At this time in his role as Assistant HMIC in Scotland, CO POWER advised on policy. Bill GRIFFITHS continues *'During this period, Mr POWER was the Assistant to the HMCIC of Scotland where he was required to advise on policy (para 10). He makes the point (in para 9) that, when on the executive of ACPO (S) there was a mandate to preserve the distinctive nature of Scottish policing. However, from my own experience of ACPO Crime Committee, I have always observed the membership and attendance of Scottish colleagues representing ACPO(S) and their interest and enthusiasm to maintain contact with professional developments in the rest of the UK. The Strategic Command Course hosts all national senior officers and some of the course is held in Talliallen'[sic]. This Inquiry would be surprised if CO POWER was not aware of the Stephen Lawrence enquiry and its call for critical incident thinking.*

d.1107; page  
347; para 9

d.1107; page  
347; para 10

4.9.11 It is Bill GRIFFITHS' view that CO POWER should have known of professional developments in critical incidents since 1998. *'On the other hand, the following factors have strengthened my view that CO POWER could and should have known of professional developments on critical incidents since 1998 and his declared position of professional 'ignorance' is barely credible, given that:*

d.1107; page  
348; para 13

- *The Stephen Lawrence implications for command and control seem to have escaped Mr POWER's attention when an HMI in Scotland with responsibility for policy development*
- *He did not pick up any 'intelligence' (other than described in para 5 above) on this development from discussions with colleagues during his frequent UK contact since his appointment as Chief Officer in December 2000*
- *He did not hear about critical incidents when, in company with fellow UK Chief Officers, he was assessing HPDS candidates*
- *He did not notice the Flannagan [sic] Report into the Soham murders (which in 2004 recommended that ACPO adopt the critical incident definition for all forces)*
- *He did not grasp the implications for critical incident management from Denis O'Connor's 2004 report 'Mind the Gap'*
- *He did not recall the detail of the 2006 and 2008 HMIC reports into his own force*
- *He did not know that his DCO (who clearly did know something of the guidance) made a specific policy decision to act outside of the 'manual' (Exhibit MGG/5 Decision 8)'.*

4.9.12 CO POWER makes it clear that he was not involved in decisions regarding the application or otherwise of critical incident guidelines – these were made by the investigating team and specifically DCO HARPER. *'Decisions relating to the application or otherwise of critical incident guidelines were taken by the investigating team and in particular by Mr HARPER, who was the 'Chief Officer' responsible*

d.1071; page  
268; para 244

*for the enquiry. I recall no direct involvement on my part and would not necessarily expect to be involved in the kind of details which, for example, are included in the comments of Detective Inspector FOSSEY as described above'.*

4.9.13 Whilst it is accepted that the key decisions concerning critical incident management were made by DCO HARPER as SIO, the point has been emphasised elsewhere in this Report, that the only person in a position to provide strategic direction to, as well as management and supervision of, DCO HARPER, was CO POWER. This Inquiry is concerned that CO POWER was prepared to abrogate his responsibilities in the manner he describes.

4.9.14 DCO HARPER's attitude to critical incident management is also worthy of comment *'I feel that always trying to work to the ACPO manuals would be trying to work to standards adopted in the UK and it seems to me that most of those were introduced to deal with the problems the Met had with investigations involving ethnic minorities. There was a lot which we did not follow because it was not relevant and some which we did adopt caused us problems later such as difficulties over the role of the IAG. I resisted the need for a Community Impact Assessment. I felt that we did not need one because we had no community tensions. I agreed to it because the Manual says that we should do it. However, this was not South London, Belfast or Moss Side. It became a priority action but not a top priority'.* This Inquiry views DCO HARPER's lack of understanding of the concept of critical incident as concerning. Given the frequent contact between DCO HARPER and CO POWER, we expect that CO POWER should have been aware of his DCO's views and to have engaged positively to ensure effective critical incident management was in place. This would have helped to pre-empt and resolve public, press and political concerns of which there were a number in Operation Rectangle.

4.9.15 CO POWER's approach was that officers should selectively use UK guidelines that they consider to be relevant locally *'what is evident is*

s.81; pages  
538-539; para  
19

d.1071; pages  
267-268; para  
243



*that Jersey officers are showing an awareness of UK guidelines and are effectively 'cherry picking' those aspects which they see as locally relevant. That is what they are supposed to do'. It appears to this Inquiry that CO POWER was aware of critical incident management, but consciously chose to manage Operation Rectangle in his own way, effectively ignoring many aspects of accepted good practice.*

- 4.9.16 Bill GRIFFITHS refers to the ACPO/NPIA guidance as being just that, and not in anyway legally binding on UK forces; just good practice. It would be surprising if the same principles of best practice had no application to Jersey. d.1106; pages 325-326; para 28
- 4.9.17 DCO HARPER's understanding of critical incidents was outdated and CO POWER, the only officer in the States of Jersey Police in a position to manage DCO HARPER, either allowed these decisions to be made or failed to provide supervisory oversight to detect and challenge them. Bill GRIFFITHS concludes *'it is felt that had DCO HARPER displayed better leadership and understanding of the management of critical incidents and not countermanded his earlier decision agreed with his deputy, a different, more manageable progression of events may have occurred. In the event, what transpired was, on any assessment against the ACPO definition of a critical incident, a tier 3 (force level and one for chief officer leadership – guide 3.6/27) critical incident for the States of Jersey Police'*. DCO HARPER's failure on such a significant issue should have been addressed by CO POWER. We are aware of no compelling evidence that he did so. d.1106; page 328; para 37
- 4.9.18 Ultimately, there was a failure to declare Operation Rectangle a critical incident. It should have been identified as such in the initial assessment of the scope of the investigation in September 2007. If not then, at least when the investigation became public knowledge in November 2007 and also again on 23 February 2008. At least three opportunities were missed; each compounding the last as public, political and media reaction to revelations gained momentum. d.1106; page 330; para 51

- **Recommendation 3**

4.9.19 The States of Jersey Police reviews the design of policy books to provide for examination by supervisors and should implement policy requiring such supervision to occur.

- **Recommendation 4**

4.9.20 The States of Jersey Police gives serious consideration to adopting the ACPO/NPIA Practice Advice on Critical Incident Management 2007 as Force policy, provide training and ensure the policy is well understood at all levels of the Force.

#### 4.10 **Issue 2 – Establishing a Gold Group from the outset and particularly following the ‘find’ on 23 February 2008**

4.10.1 A Gold Group was not formed until DCO WARCUP's appointment on 4 August 2008. Indeed, the inaugural meeting was chaired by him on 1 September 2008. He is clear about precisely how he came to form the Group, whilst CO POWER would have it that it was at his direction that the Group was set up. ACO WARCUP is explicit that it was something he immediately identified as essential and discussed with the Chief Officer, from whom he met initial resistance. He states CO POWER was reluctant to see the arrangements put into place, particularly when the then DCO WARCUP's desire to adopt multi-agency arrangements with strategic partners was raised. It was made clear to DCO WARCUP that CO POWER continued to oppose involving other agencies, due to the potential confidential nature of the enquiries *'I indicated to Mr POWER that it would be my intention to form a Gold (Strategic Co-ordinating Group) and to put in place a proper structure to manage the enquiry. Initially Mr POWER was reluctant to see these arrangements put in place, particularly as I had indicated that the Gold Structure would be a multi-agency arrangement and would involve other strategic partners. As a result of further discussions it was agreed, however, that I would put arrangements in place in view of the fact that it was established good*

s.82: page 608;  
paras 123-125

*practice. Details of the composition, terms of reference and other administrative details in relation to establishing a Gold (Strategic Coordinating Group) were not discussed in detail with the Chief Officer at this time. It was apparent to me that despite the fact that Mr POWER had accepted the need for a Gold Group he clearly maintained a resistance in respect of involving other agencies due to what he described as the potential confidential nature of enquiries and the potential conflict of interest within a small Island. Indeed, when discussing matters relating to the enquiry, he referred frequently to the personal relationships which exist between local people and how such issues caused problems in relation to policing within the Island'.*

4.10.2 CO POWER attempts to explain why he agreed with DCO HARPER not to establish a Gold Group in December 2007 and accepts that the issue was discussed with Andre BAKER of the ACPO Homicide Working Group in February 2008 *'I remember discussing 'partnership working' more than the concept of a 'Gold Group', although the two concepts are basically the same. These discussions were with Lenny Harper and Andre Baker and also, I think, with Wendy Kinnard, although I am less sure of the latter. Lenny Harper has documented his reasons for not establishing a Gold Group in December 2007. In summary, these relate to the fact there were allegations touching upon potential partner agencies, and that the establishment of a group at that time could involve the risk of compromise. He was right in that decision. I was sure that the Force needed to move towards something along the lines of a 'Gold Group' model, but equally sure that this could only be done when the evidential picture had achieved a level of stability which was not present in the early stages'.*

d.1071; pages  
268-269; para  
248

4.10.3 It should be noted that this is an explanation offered by CO POWER when making his statement to Operation Haven. In doing so, he is looking back over events and may be offering now an explanation in answer to suggestions of professional failings on his part. There is a

weight of evidence in contradiction of his position and no meaningful documentation exists in support of his assertions. Indeed, CO POWER informed Detective Superintendent Bryan SWEETING, when they met on 29 October 2008, that he had never held a Gold Group and would not know how to do so *'When I questioned Mr POWER about this issue he stated he had no knowledge of Gold Groups and no experience of them'*. Detective Superintendent SWEETING's notes of their meeting suggest CO POWER maintained contact with Andre BAKER of the ACPO Homicide Working Group, due to his (CO POWER's) inexperience in this area. CO POWER also appears to suggest to Detective Superintendent SWEETING that had he been recommended to form a Gold Group by the ACPO Homicide Working Group he would have done so, thereby apparently apportioning blame for a lack of professional guidance on the ACPO Homicide Working Group.

s.65; page 395;  
para 22

x.548; page  
1412

4.10.4 Bill GRIFFITHS is concerned that of the 27 recommendations raised by the ACPO Homicide Working Group in their first report, there is no reference or recommendation relating to a Gold Group in line with the ACPO critical incident guidance. It is a fact that the ACPO Homicide Working Group did not make such a recommendation within their reports. What cannot be easily reconciled is the apparent disparity in the discussion around Gold Groups between Andre BAKER, CO POWER and DCO HARPER, and the disclosure CO POWER later makes to Detective Superintendent SWEETING concerning his (CO POWER's) lack of knowledge on Gold Groups. The overriding impression that remains for this Inquiry is that CO POWER failed properly and fully to put in place the structure and mechanism to manage all aspects of Operation Rectangle and its effect on the Force and public. Whilst others – such as DCO HARPER and the ACPO Homicide Working Group – must also accept some culpability for their in-action or lack of recommendation, the final responsibility rests with CO POWER. It should be noted that this is not some abstract responsibility; Operation Rectangle was a

d.1106; page  
338; para 88



major enquiry by any measure and one which required the full and proper engagement of CO POWER to ensure its smooth running, both as a criminal investigation and as the primary instrument to secure and monitor public confidence.

4.10.5 It is a recurring theme that both CO POWER and DCO HARPER considered it undesirable to establish a Gold Group due to the allegations of establishment collusion, conspiracy and cover-up. DCO HARPER describes the situation as he saw it a very bleak way *'in respect of the media approach, it has to be remembered that victims' confidence with the Police was rock bottom. Views of Social Services, Education and the Attorney General were all tainted in the eyes of the victims because of their previous attempts to tell of their experiences. They were concerned that it had all been a cover up. I had to convince every one that our investigation would be open and transparent and not affected by those such as the Government and lawyers. That was against a backdrop of politicians widely known to have committed offences such as assaulting their wife and importing porn. I had to take some sort of action to make sure that we were trusted and that people would come forward'*.

s.81; pages  
550-551; para  
50

4.10.6 CO POWER echoes this view *'there was a convincing argument that there was not yet sufficient clarity around who, in the potential partnerships which would constitute the group, might be directly or indirectly compromised as a consequence of the investigation. After discussion I decided that we would press ahead and form an IAG. All that I knew about an IAG was what Andre Baker told me at the meeting.'*

d.1071; page  
271; para 257

4.10.7 However, Section 3.3.3 of the Murder Investigation Manual 2006 provides a list of essential and discretionary members of Gold Groups. Whilst the discretionary list would suggest the involvement of those in the legal profession and local authority officers, whom we accept that the SIO and Chief Officer had some concerns over, close examination of the 'essential' list does provide feasible alternatives.

MOG; d.17;  
page 78; para  
3.3.3

The list suggests that a Gold Group could have been successfully convened. For example:

#### 4.10.8 Essential

- ACPO Chair – CO POWER
- Media Adviser – Louise JOURNEAUX
- Line Supervisor of SIO – CO POWER
- The SIO or IO – DCO HARPER
- BCU SMT Member – Superintendent DU VAL
- Staff Associations – Suitably trusted member

#### 4.10.9 Discretionary

- IAG Member(s)
- Police Specialists
- NSPCC

4.10.10 Further weight is added to this argument by Bill GRIFFITHS '*a Gold Group was later formed by DCO Warcup when he took up his post and, from the minutes, seems to follow the spirit of ACPO guidance and practice without apparent difficulty*'. d.1106; page 338; para 90

4.10.11 It is the view of Detective Superintendent SWEETING that, on balance, and with careful negotiation, most of the issues anticipated by the SIO could have been overcome. It is the opinion of Bill GRIFFITHS, who accepts that other than the involvement of the NSPCC, there was no consideration being given to alternative solutions, that '*while the rationale for not following the guidance with respect to Gold Groups may have been based on sincerely held concerns by DCO Harper, there is no evidence of any consideration given to alternative or bespoke solutions other than to involve the NSPCC by attachment to the inquiry team (Fossey para 20). Nor does he [DCO HARPER] appear to have considered the benefits for SoJP of proper oversight and coordination within the Force*'. s.65; page 395; paras 23-24

d.1106; page 338; para 91

s.49; page 358; para 20

4.10.12 Those professionals now involved in assessing Operation Rectangle conclude that a Gold Group should have been formed. Chief Constable Jon STODDART of the ACPO Homicide Working Group s.62; pages 379-380; para 11

s.5a; page 53; para 63

states that Operation Rectangle was a critical incident and in the UK a Gold Group would have been established.

- 4.10.13 Detective Superintendent Michael GRADWELL's evidence suggests the difficulties encountered as a direct consequence of omitting this vital Group. *'There was no provision for intelligence sharing within the Force and due to the lack of a Gold Group there was no co-ordination or understanding of on-going operational issues.'* s.5a; page 53; para 63
- 4.10.14 ACO WARCUP describes the formation of a Gold Group as normal practice in critical and major incidents *'an incident is defined as either 'critical' or a 'major incident' it is normal practice for a Gold Group or Strategic Co-ordinating Group to be established. The functions and membership of a Gold Group will inevitably vary according to the nature of the incident'*. s.82; page 615; para 153
- 4.10.15 Whilst the rationale for the Gold Group not convening until September 2008 has been considered, there is overwhelming evidence from the subject expert, Bill GRIFFITHS, and experienced senior police officer witnesses to this Inquiry that a Gold Group was critical to the successful management of Operation Rectangle.
- 4.10.16 In fairness to CO POWER, we must point out that attempts were made to incorporate aspects of a Gold Group into the remit of the IAG. However, this was unsuccessful, as there was apparent confusion between the two roles. This view is expressed by David MILLAR who says *'there seems to have been some confusion as to the difference between the two concepts, fostered by the CO's decision not to convene a Gold Group. In many ways there was an attempt to run the IAG as if it were a Gold Group, albeit one with missing members. Within three months from the instigation of the IAG, concerns were expressed in the statement of Emma MARTINS regarding the 'Lenny HARPER road show. These should have been acted upon by a competent Chair of a Gold Group, had one existed'*. d.954; page 129; para 5.7
- 4.10.17 It is the opinion of Bill GRIFFITHS that the command and control structure for the management of Operation Rectangle did not comply with the standards set out in the professional practice guide. He d.1106; page 339; para 93

suggests CO POWER is responsible and accountable for the failures of the States of Jersey Police to establish a Gold Group *'It was unequivocally the responsibility of CO Power to ensure a proper structure, including assuming Gold command personally if that was the best option for the particular context of SoJP. He was not helped by the approach adopted by DCO Harper, in particular, to overturn the decision to declare a critical incident in December and to reason for non-compliance with the NPIA professional practice guide'*.

d.1106; page  
336; para 79

4.10.18 Numerous opportunities presented themselves to CO POWER to establish a Gold Group. The first being when Operation Rectangle was declared a critical incident in December 2007. Whilst this was not taken, the next most obvious opportunity arose following the developments of 23 February 2008. Based upon ACPO guidance and current best practice, Bill GRIFFITHS advises that Operation Rectangle failed to implement or adhere to appropriate standards *'upon the declaration of a critical incident in December 2007, all appropriate aspects of the guide should have been implemented, and if not then, no later than the discovery of what were thought to be the remains of a child at HDLG in February 2008 (Sweeting para 11). At this stage, it was obvious that the investigation was now at a new and much more potent level of public concern – the possible murder of children in the care of the state perpetrated by those responsible for their welfare and safety'*.

s.65; page 391;  
para 11

d.1106; page  
330; para 52

4.10.19 This Inquiry is clear that CO POWER and DCO HARPER appear to have honestly held beliefs that key people, who may otherwise have been considered for inclusion in a Gold Group, were either untrustworthy or potentially suspects in the investigation. As stated above, this could and should have been overcome through consideration of the requirement for 'essential' and 'discretionary' members of Gold Groups. There is also an absence of any policy decision from which further conclusions can be drawn. Where departure from the guidance occurs, it is imperative that documented reasons for doing so are recorded justifying the departure and putting



alternatives in place. There are no decisions regarding strategic oversight recorded of which we are aware.

- 4.10.20 This Inquiry concludes, in the light of CO POWER's refusal to instigate a Gold Group following discussion with Andre BAKER and DCO HARPER, and CO POWER's admission to Detective Superintendent Bryan SWEETING that *'he had no knowledge of Gold Groups and no experience of them,* the contents of CO POWER's statement may be no more than an attempt to justify his failings. Even if the reasons he provides for 'delaying' the instigation of a Gold Group are accepted as valid, they are not so significant as to be beyond a Chief Officer to overcome, given the advice available to CO POWER. Bill GRIFFITHS rightly identifies that the ultimate responsibility with respect to the formation of a Gold Group falls to the Chief Officer *'however, as before, the responsibility and accountability for the perceived shortcomings of SoJP with respect to the formation of a Gold coordination group must fall to him as Chief Officer.'* s.65; page 395; para 22
- 4.10.21 This Inquiry does not attach much significance to the apparent differences of view now expressed between Andre BAKER and the Jersey Chief Officers. We conclude that the advice of the ACPO Homicide Working Group in Operation Rectangle was sometimes ambiguous, either when given or received, and which created a false sense of security for CO POWER. d.1106; page 339; para 93
- 4.10.22 We do point out that it is evident from an early stage of the enquiry, that the NSPCC was involved as an independent body, an arrangement described by Detective Inspector Alison FOSSEY as *'a compromise and in accordance with suggested best practice from the ACPO Institutional Child Historic Abuse Guidelines, the NSPCC were involved at an early stage as an independent body'*. She also states that managing the Operation as a single-agency investigation was not the manner in which she was accustomed to managing investigations in the Child Protection Unit. *'This is not the way I* s.49; page 358; para 20
- s.49; page 358; para 18

*would normally run investigations, as I was used to conducting joint investigations working on the Child Protection Unit'.*

- **Conclusion 8**

4.10.23 **CO POWER failed in the performance of his duty to ensure a Gold Group was created following the declaration of the investigation as a critical incident on 13 December 2007 and also following the 'find' at Haut de la Garenne on 23 February 2008.**

- **Recommendation 5**

4.10.24 **The States of Jersey Police reviews policy and procedure in respect of the completion of policy books, giving particular consideration as to when they should be used and what should be recorded in them, in line with NPIA Guidance. Training should be given to current and prospective SIOs.**

#### **4.11 Issue 3 – Identifying the need for a CIA from the early stages of Operation Rectangle in September 2007 and reviewing the need for a CIA at significant points.**

4.11.1 Bill GRIFFITHS advises that once an incident is declared 'critical', all applicable aspects of the relevant guidance should be implemented. This, he argues, should have occurred in the case of Operation Rectangle *'upon the declaration of a critical incident in December 2007, all appropriate aspects of the guide should have been implemented, and if not then, no later than the discovery of what were thought to be the remains of a child at HDLG in February 2008 (Sweeting para 11). At this stage, it was obvious that the investigation was now at a new and much more potent level of public concern – the possible murder of children in the care of the state perpetrated by those responsible for their welfare and safety'.* The ACPO policy is, as he describes *'unequivocal in respect of all homicide; a CIA will be completed jointly between the SIO and local*

d.1106; page  
330; para 52

s.65; page 391;  
para 11

d.1106; page  
341; para 103

*uniform commander within 4 hours of the first report'. This was not done. As has been evidenced, a CIA was not considered or completed until recommended by the ACPO Homicide Working Group in Recommendation 17 'that the Chief Officer and SIO consider a Community Impact Assessment and convene an Independent Advisory Group. The IAG should not include former residents at this home, could include advisors from the NSPCC or community groups. The IAG could advise on the CIA'.*

x.469; page  
1329

- 4.11.2 This recommendation was acted on when a CIA was completed on 19 March 2008. *'On 19 March a Community Impact Assessment was completed. The first meeting of the Independent Advisory Group was held on the 13 March 2008'.* By the 27 March 2008, the CIA was a standing item on the Force Management Board agenda.

x.467; page  
1298

s.44; page 307;  
para 31

- 4.11.3 This Inquiry accepts the expert opinion of Bill GRIFFITHS that a CIA should have been completed and a Gold Group formed once Operation Rectangle was declared a critical incident in December 2007. However, DCO HARPER held the view that a CIA was not required as there was *'no likelihood of community tensions leading to damage to community relations.'* His policy decision, written in December 2007, reads *'Decision: Not to produce a Community Impact Assessment or to establish a Gold Group in terms of the manual. Reason: Although technically a critical incident and a Cat 'A' investigation this is solely because of the context of the Island and the size of the Force. There is no likelihood of community tensions leading to damage to comm. relations. In respect of the Gold Group it is not appropriate because of the involvement of other agencies in the allegations and additional possibility of Crown advocates being appointed imminently'.* Comment has been made earlier as to the flawed logic of this approach which was in direct contradiction to the advice contained in the ACPO critical incident Guide.

Appendix 3

- 4.11.4 DCO HARPER's policy decision of 28 December 2007 states, he will reconsider his decision-making should human remains be found or

Appendix 3

other developments take place. *'Decision: Not to instigate external review of investigation unless it becomes a murder/homicide enquiry. Reason: At this time the enquiry is dealing with 'detected' matters ranging from assault to rape. All suspects are named, known or deceased. Should there be human remains found or other developments emerge which change the likely status of the investigation I will reconsider'*.

4.11.5 Bill GRIFFITHS expresses surprise that no re-assessment took place, even following the events of 23 February 2008 when DCO HARPER himself declared that the *'partial remains of a child'* had been found at Haut de la Garenne. *'Given his view (expressed in MGG/5 decision 9) that the situation could change in the event of the investigation becoming a homicide, it is concerning that DCO HARPER did not commission a CIA on 23 February 2008. Furthermore, he declined to take up the offer to initiate one from Inspector COXSHALL who had been the acting operations chief inspector on the weekend of the significant find'*.

d.1106; page  
341; para 104

4.11.6 To his credit, Acting Chief Inspector Mark COXSHALL, on 26 February 2008 raised the subject of CIAs in the Operations Management Meeting. He was later informed by DCO HARPER that a CIA was not required. Inspector COXSHALL, a UK trained SIO, was aware that it was the role of Operations to prepare a CIA in liaison with the SIO *'I am well aware that in the UK, under the command of the Basic Command Unit (ref Murder Investigation Manual – 2006) it is the Ops role to prepare the CIA at the request and guidance of the SIO. On Monday 25 February 2008, I allocated to Inspector COUSINS the overseeing and maintenance of the Cordon resilience. On 26 February 2008 at the Operations Management meeting, I raised the matter of the CIA being prepared. At the meeting it was determined that it would be appropriate to draft a CIA, in anticipation of the Historical Abuse Team (HAT) Enquiry requesting one – having not heard back from them, as yet'*.

s.47; page 325;  
paras 17-19

4.11.7 Despite the advice of trained staff within the States of Jersey Police conversant with current standards and guidance and the practical application of them, DCO HARPER chose to progress the investigation in a different way; he demonstrated a lack of consideration towards the views of qualified staff around him. Chief Inspector David MINTY also makes reference to the fact there was no pre-planning through a CIA or terms of reference for the operation *'I think it is fair to say that the Operations Management Team (myself, CI BONJOUR, CI SCULTHORP, DCI BEECHEY and Supt DU VAL) were all surprised by the Operation Rectangle 'investigation process'.* The group's anxieties were:

s.48; pages  
344-345; para  
40

- *'That the incident was never declared as a critical incident.*
- *There was no CIA consideration.*
- *That it was a drain on our resources.*
- *That we all seemed to be excluded from the main investigative processes.*
- *There was no internal communication strategy.*
- *Our main concern was the media strategy being used by Mr HARPER because although we knew nothing internally about the case, we were learning everything we knew from SKY news and other media sources.*
- *That Mr HARPER was not a trained SIO.*
- *It was unusual to have a DCO conducting an enquiry of this nature.*
- *Despite all this there was ACPO HWG Review process in place?'*

4.11.8 CO POWER accepts he was not familiar with the concept of CIAs and made a conscious decision not to allow himself to be drawn into discussions of its relevance on Jersey. Again, CO POWER refers to the guidelines and passes responsibility to DCO HARPER who he



identifies as a Chief Officer for the purpose of those guidelines *'under the guidelines the responsibility for ensuring that an assessment is carried out rests with 'Chief Officers'. Lenny Harper was a 'Chief Officer' for the purposes of those guidelines'*. CO POWER offers his view on who he considered to have ownership of the CIA in his statement *'irrespective of my views regarding the relevance of a CIA, it had clearly been commissioned by the SIO and that was a matter for him'*.

d.1071; page  
270; para 254

d.1071; page  
271; para 256

4.11.9 In this Inquiry's view, this is an unacceptable position for the Chief Officer to adopt. It effectively amounts to CO POWER conceding that he did not know what a CIA was, refusing to consider whether it was of relevance and passing responsibility to DCO HARPER. In our view he failed to supervise and give guidance to DCO HARPER. CO POWER has absolved himself of responsibility without establishing if his DCO possessed the understanding and skills to address this issue which, it appears to this Inquiry, DCO HARPER did not. Furthermore, CO POWER's statement does no more than present an equivocal argument as to why he was not responsible. A CIA should have been completed in the initial stages of Operation Rectangle, and particularly when it was declared a critical incident in December 2007. This was only done once recommended by the ACPO Homicide Working Group and even then its circulation was restricted to the Operation Rectangle enquiry, so that it was not used in the way it was designed – to properly marshal and bring to bear the collective resources, skills and experience of the Force and trusted partners to resolve Operation Rectangle, a critical incident.

4.11.10 CO POWER and DCO HARPER have fallen short of the standards expected of them in the Practice Advice on Critical Incident Management. CO POWER explains, however, *'I did, however continue to monitor a reliable source of community views on a regular basis. This was the crime victim survey work undertaken by the Force research unit. Among other things, victims were asked a few simple questions designed to provide a measure of public*

d.1071; page  
271; para 256

*confidence in the Force. The results were published quarterly, but I would visit the unit on a regular basis. I did this because I had a natural professional interest, and also because the then Chief Minister, Frank WALKER, and the Chief Executive, Bill OGLEY, had told me from time to time that Rectangle was 'damaging the reputation of the Force'. I once asked Frank WALKER how he knew this, and he said that he knew it was true because all of his dinner-party guests and tennis partners said so. I was inclined to believe that the people to whom he referred were not necessarily a cross-section of the community, and thus sought reassurance from a more scientific source. For this reason I repeatedly checked with the research unit to see if there was any statistically significant change in public perceptions which might be attributed to Rectangle. None was found'.*

4.11.11 Although this demonstrates CO POWER's professional desire to monitor public views, this Inquiry has established that the 'Research Unit' (official name is the Planning and Research Department) is responsible for, amongst other things, the production of statistical and performance reports, annual reports, policing plans and that its work also includes conducting public satisfaction and crime surveys. It does not assess the public's confidence in the States of Jersey Police. The results may have presented a scientific method of monitoring the reputation of the States of Jersey Police in general terms, but the surveys undertaken did not relate specifically to Operation Rectangle; are not an alternative to, and do not negate the requirement for, a CIA.

- **Conclusion 9**

4.11.12 **Whilst this Inquiry accepts that a Community Impact Assessment was prepared commendably by junior officers, CO POWER failed in the performance of his duty to ensure that a CIA appropriate for Operation Rectangle was properly implemented and pursued by the States of Jersey Police.**

- Recommendation 6

4.11.13 The States of Jersey Police reviews policies and procedures in respect of Community Impact Assessments to ensure policy and procedure are fit for purpose.

#### 4.12 Issue 4 – Establishing an IAG with clear terms of reference, ensuring appropriate membership of the IAG and adequate support to the IAG.

4.12.1 Given the resistance from CO POWER and DCO HARPER to the creation of a Gold Group as suggested by the ACPO Homicide Working Group in February 2008, it appears a compromise was reached whereby an IAG was established as an alternative. CO POWER and DCO HARPER argued it would perform some of the functions of a Gold Group. In his statement to Operation Haven, and possibly with the benefit of hindsight, CO POWER comments *'for reasons which I have discussed previously, I had reservations regarding the importation of English policing methodology into a small island force. However, I was resolved that an IAG would be formed and given a chance to succeed. In taking this decision I had a number of considerations in mind. Firstly, it might prove to be worthwhile in itself. Secondly, I had committed myself to working to the advice given by Andre Baker, and this was his advice. I either had to accept it or think of a good reason why not and I could not think of one. Thirdly, in spite of my ingrained resistance to bureaucracy I was coming to the view that Rectangle was reaching a scale at which some of the management processes used in larger forces may need to be applied. This included a gold group. I saw the formation of an IAG as 'making a start' which could be progressively developed into other processes'*.

x.466; page  
1287

d.1071; page  
271; para 257

4.12.2 Anne HARRISON of the ACPO Homicide Working Group recalls the discussion held with CO POWER and DCO HARPER concerning this issue *'there was also a discussion regarding an Independent Advisory Group (IAG) and Mr POWER was present at this time. This*

s.76; pages  
456-457; para  
15



took place at HDLG and both Mr POWER and Mr HARPER discussed who would be the appropriate persons to sit on the group and Andre BAKER gave some advice on the Terms of Reference for such groups. IAGs are a particular area of expertise of Andre BAKER. Recommendation 17 of our report refers. I am aware that Andre BAKER was in fact present at the first IAG and both he and I were there for the second. I assume that Andre BAKER gave the appropriate advice as to their functions at the first meeting. Because no Community Impact Assessment had been made, as would have been expected as a Critical Incident, Cat A plus, Recommendation 17 of our first report also included the need for the SIO to consider one. This was acted upon fairly swiftly. In respect of the Terms of Reference, Andre BAKER did send me a draft of Gold Group Terms of Reference and an IAG agenda for my consideration. As there was not going to be a Gold Group, we were looking at which issues could be appropriately included in the IAG Terms of Reference. I produce documentation, marked ASH/8 relating to this with my comments, but what he eventually sent to Mr HARPER, I do not know'.

x.589; pages  
1458-1461

- 4.12.3 The functions and expectations of the IAG recommended by the ACPO Homicide Working Group and, particularly how the IAG might fulfil some of those normally within the remit of the Gold Group, were never made clear to the IAG members. Bill GRIFFITHS draws attention to this 'in his first visit in February, Mr Baker raised the formation of a Gold Group directly with both Messrs Power and Harper which was declined (Baker para 23). His first written report containing 27 recommendations contained no reference or recommendation concerning a Gold Group in line with the guide despite the examination by his team of MGG/5 (Harrison para 5) which contained the decision and counter-decision regarding the declaration of critical incident as well as the specific decision not to invite an external review. Nor was this important issue re-visited in any subsequent review recommendations. However, it seems a compromise was negotiated by Mr Baker (MG11 para 23) in which

s.79; page 502;  
para 23

d.1106; page  
338; para 88

d.1106; page  
338; para 89

*agreement was secured for an Independent Advisory Group to be set up for Op Rectangle that could perform some of the functions. However, these functions are not specified'.*

4.12.4 Such a compromise, if it was such, concerns us. Neither CO POWER nor DCO HARPER had experience of an IAG and rather than explore what exactly the functions of Gold Groups and IAGs were and how they might be relevant to the enquiry, they simply opted for what appears to be a less than thoughtful accommodation to the ACPO Homicide Working Group 'pressure'. It is accepted that the States of Jersey Police had no experience of IAGs, but the Force had called for, and was being given support from, the ACPO Homicide Working Group. It follows that all prospective members of an IAG in Jersey would be untrained and inexperienced in this field and would require clear guidance from the police to enable them to successfully fulfil their role. Unfortunately, those subsequently appointed as IAG members were given little direction or guidance and were unsure of their role and what part they actually had to play. Carole CANAVAN, for example, states *'we did not receive clear direction as to what our role and function was. When we did query this with Lenny HARPER we did not receive any clear advice'*. This Inquiry believes that an untrained and inexperienced IAG expected to fulfil additional, unspecified strategic goals normally associated with a Gold Group is never going to be wholly effective.

s.36a; page  
273; para 4

4.12.5 Emma MARTINS felt the IAG had been 'used' and lacked clarity of function, a feeling repeated by other IAG members *'a lot of information was thrown at us, as genuine people and with hindsight I felt used. There was no clarity as to our function, the information was brief and we were talked at'*.

s.20a; page  
142; para 5

4.12.6 The initial correspondence received by IAG members from CO POWER included terms of reference. However, these were brief and summarised. During the inaugural meeting of the IAG on 13 March 2008, an explanation of the IAGs role was provided by

x.322; pages  
720-722

Andre BAKER. Section 2 of the minutes records a précis of the details given to the Group '2. *Agreement of the Agenda. An introduction into the purpose and background to the setting up of this Independent Advisory Group was given by Mr Andre BAKER, ACPO – The idea of this forum is that the IAG are a group of critical friends and will discuss matters in confidence and with confidence. Integrity needs to be high, an ACPO review was started three weeks ago and 25 of the 27 recommendations were implemented almost immediately.*'

x.415; page  
1144

4.12.7 However, despite this, most members of the IAG became increasingly unsure of their role. Stephen REGAL recalls being told his role was to act as a 'critical friend'; *'to clarify, all I really knew prior to the arrival of Mr GRADWELL and WARCUP about our role and expectation of us was that we were 'critical friends' and that was it'*.

s.25a; page  
183; para 13

4.12.8 It is clear that CO POWER was not present at the inaugural meeting of the IAG and that for his own stated reasons he was intentionally maintaining a distance allowing DCO HARPER to manage the direction the IAG took. The lack of input and clarity experienced by members of the IAG exacerbated their frustrations and eventually led to a break down in trust. All members were new to IAGs, including DCO HARPER, and teething problems were to be expected. However, there is no indication that attempts were made by DCO HARPER to explore how the function of an IAG worked elsewhere. This could and should have been a valuable learning tool for the Jersey IAG, but was not considered. Evidence of the confusion the IAG members felt regarding their role is also seen in the letters and e-mails sent to CO POWER and DCO HARPER. This Inquiry has considered correspondence dated 21 July 2008 from Stephen REGAL when frustrations concerning definition of and parameters for, the IAG's role were made clear to DCO HARPER. Stephen REGAL reports *'we are all puzzled regarding our role in this investigation. Our understanding from the brief by ACPO is, among other items, to act as the conduit to the community'*.

x.415; page  
1143

d.1071; pages  
271-272; para  
258

s.36; pages  
263-264; para 2

s.25; page 177;  
para 19

s.34; page 243;  
para 11

s.32; page 222;  
para 13

x.225; page 481

4.12.9 This Inquiry has considered DCO HARPER's response. It appears that DCO HARPER was distancing himself from the actions of the IAG members with regard to the issue of the 'appeal' made by them. Also, he felt that they were not qualified to comment on media issues and were incorrect in their assessment and reporting back of public opinion – the very role they should have been carrying out.

4.12.10 David MILLAR considered by this Inquiry to be a subject matter expert on the role and management of IAGs. He suggests that efforts could have been made to establish contacts with IAG members elsewhere, especially in view of the potential severity of impact on the community; a matter he suggests could have been identified by the ACPO Homicide Working Group. He also comments on members' understanding of their role in the IAG *'there was no clear understanding of what relevance the IAG could, or should have to Operation Rectangle, and in consequence no clear understanding of the members own roles'*.

d.954; page  
123; para 4.2

4.12.11 The members of the IAG were committed and passionate in their attempts to fulfil their role. In an attempt to generate some understanding of her mission, Emma MARTINS conducted her own research via the internet, *'my main recollection of this meeting was Mr HARPER giving details of Operation Rectangle rather than a specific brief on the purpose of an IAG. However, Andy BAKER, I think from the Homicide Working Group was present at the meeting and he gave some information on his experience of working with IAG's. (However, as a consequence of not having absolute clarity of how the group should act, I later went onto the internet to research information as to the role of an IAG)'*.

s.20; page 136;  
para 10

- **Appropriate membership of the IAG**

4.12.12 The IAG was chaired by DCO HARPER. The practice of the SIO sitting as Chair of the IAG does not conform to the ACPO/NPIA standards against which Operation Rectangle is compared. Bill GRIFFITHS expands on this *'the meetings were chaired by*

d.1106; page  
339; para 94



*DCO Harper and this continued until his retirement. I have never encountered a case where it is practice, or indeed advisable, for a SIO to chair an IAG'.*

4.12.13 Detective Superintendent Bryan SWEETING concurs with this view *'it is essential to bring in partner agencies to critically challenge, advise and bring their own experience and expertise to such an investigation. It is my view that on balance, with careful negotiation most of the problems envisaged by the SIO should have been capable of being overcome. Some efforts were made to form an IAG after advice from the Homicide Working Group and this proved to be an ineffective group without clear terms of reference and defined roles. It is my view that this group would not normally be chaired by the SIO'.*

s.65; page 395;  
para 24

4.12.14 Bill GRIFFITHS suggests that the SIO should be involved in briefing the IAG, but not chair it *'nonetheless, there remains an important function for a SIO in briefing the IAG. This would often be in the form of a briefing note or 'current situation report', as it is known, that would make clear which information was already in the public domain or suitable for disclosure to the community and which was for inclusion and discussion confidentially with the group and where their advice was sought. An explanation would be provided of the reason for non-disclosure of (usually sensitive) information known to the investigation'.*

d.1106; page  
339; para 95

4.12.15 It is the view of David MILLAR that the composition of an IAG should to some extent reflect the community affected by the investigation. He also felt that the questions raised by IAG members in the meeting of 26 March 2008 when they asked about the operation of similar groups in the UK, should have led to some internal discussion between the Chief Officer and SIO. *'Members asked how similar groups work in the UK. AB explained their use and structure in UK. In the UK people are drawn from a list to be part of the group for a particular investigation'.*

x.415; page  
1149

4.12.16 The individuals identified to form the Group were not necessarily independent. In David MILLAR's opinion *'the selection of individuals who could be trusted' is hardly independent as two had worked for the SOJP, and a third knew the Chief of Police via membership of a Rotary Club*. It is his considered opinion that *'the selection of members runs the risk of being labelled an 'old boy's network'. These individuals cannot be seen as part of any minority group – much the opposite. Their ability to be seen as being able to represent the views of, or understand the impact of Operation Rectangle upon with [sic] those care home residents and their families has to be questioned'*.

d.954; pages  
125-126; para  
4.6

4.12.17 He also considered the appointment of Emma MARTINS to be inappropriate given her previous employment with the States of Jersey Police and the outstanding data protection case against the SIO *'it is equally almost beyond belief that in the evidence of the statement by one of the IAG members, she is aware that there is a case of suspected unlawful disclosure of data where the SIO is a potential suspect himself. There was a clear conflict of interest in the IAG member's professional role as a Data Protection Commissioner.'* It appears that the very issue CO POWER and DCO HAPER were concerned about – lack of independence – is something they themselves can now be criticised for.

d.954; page  
132; para 5.9

4.12.18 The notes made by Carole CANAVAN capture the concerns expressed by Emma MARTINS regarding the IAGs suspicions as to how Senator Stuart SYVRET was obtaining information regarding the investigation and placing it on a web site blog. Emma MARTINS appears to have felt that if there were data protection breaches, her position on the IAG would be compromised. The notes read, *'EM [Emma MARTINS] concerned that data protection breached and that her position on the group is thereby weakened'*. This Inquiry is pleased to note that Emma MARTINS appreciated the potential conflict of interest and we feel that she was not well served by the initial and continuing lack of direction and support given to the IAG members. We do not seek to criticise her in these circumstances.

x.223; page 475

4.12.19 DCO HARPER makes it clear to Detective Superintendent Bryan SWEETING that he was anxious not to use a multi-agency approach because of his concerns about corruption. However, Detective Superintendent SWEETING is of the view that *'the initial decision to conduct this enquiry as a single-agency led investigation, e.g., police only is in sharp contrast to the accepted guidance outlined in 'Working Together to Safeguard Children' Ministerial Guidance supported by ACPO. A multi-agency approach is considered the most effective and appropriate method of dealing with such allegations. Having spoken with both DCO HARPER and CO POWER they both held very similar views that due to alleged corruption in certain Island authorities a lack of trust by the victims and that at least one suspect working at a senior position in one of the Islands authorities, they decided to go ahead with a single-agency investigation'*.

s.65; page 395;  
para 23

4.12.20 Despite DCO HARPER's concerns, no consideration was given to applying either risk assessment or formal vetting processes to the selection procedure for members of the IAG.

4.12.21 David MILLAR explains the relevance of this in his report *'I would have expected the Chief Officer to have an understanding of the risks inherent in divulging confidential information to an IAG, and to have ensured that a Risk assessment took place to cover this, and that a policy was drawn up by which the operation of the IAG from the SOJP perspective could be controlled. Neither the Chief nor his Deputy seems to have considered this. Given that by this time there had been an allegation that the enquiry was being 'blocked' by unknown persons in high places this Risk assessment was surely essential.'*

d.954; pages  
124-125; para  
4.5

- **Adequate support to the IAG**

4.12.22 We are satisfied that CO POWER initiated the establishment of the IAG, although we conclude the execution was half-hearted, 'tick-box' and ineffectual. However, he was not routinely involved in the

meetings which became a role for DCO HARPER. The IAG was informed this would be the case during the inaugural meeting. The minutes of that meeting simply state, *'The Chief Officer Mr POWER is independent of the investigation'*.

x.415; page  
1144

4.12.23 A similar quote to this was recorded by Carole CANAVAN of the IAG in her notes, which stated *'he stated Graham POWER is independent of the investigation. He had received support from Wendy Kinnard. If the minutes are correct, this Inquiry finds this concept of the Chief Officer's 'independence' confusing. He should have been very closely aligned to the investigation through his supervision and support, in equal measure.*

x.223; page 468

4.12.24 Furthermore, the IAG was not offered support or guidance. Such guidance could have been provided by way of documentary advice or by putting members in touch with IAGs elsewhere with whom they could discuss structure, function, experience, etc. David MILLAR argues this could have been suggested by the ACPO Homicide Working Group. *'Despite the IAG creation being a formal recommendation by the HWG, this body appears to have offered no documentation and no contacts with existing IAG members elsewhere. In view of the potential severity of impact on the community, a network or contact with other IAG members elsewhere could have been suggested by HWG. In the absence of any suggestion, the Chief Officer would have been wise to ask if this were possible; there is no evidence that he did ask, nor that anyone else did'*.

d.954; page  
123; para 4.2

4.12.25 The IAG members each comment in their statements that they did not feel they had been given adequate support or guidance. Their inexperience and lack of contact with anyone with whom they might legitimately discuss what they were being asked to deal with caused difficulties. There was no 'safety valve' for them to gain some release or perspective on the graphic and harrowing information that had been imparted to them; this affected some members. Stephen REGAL, for example, states *'I found the information that*

s.25; page 172;  
para 3



*Mr HARPER told the group to be very upsetting and shocking. Whilst I consider any form of child abuse to be terrible, I was incredibly shocked by the details that Mr HARPER gave us when he stated that certain organisations had covered the abuse up, I found this so upsetting and worrying. Due to the emphasis that Mr HARPER had placed on confidentiality I knew I would not be able to discuss any issues raised outside of the IAG, this I found tough as I would have spoken to my wife about it but knew that I could not'.*

4.12.26 Emma MARTINS was surprised by the attitude of the ACPO Homicide Working Group and SIO when, during one early IAG meeting, it was apparent that she was both shocked and upset at the content of the information given *'I remember at one meeting Lenny had an ACPO officer with him and I reacted in a horrified way at detailed information we were given and the guy with Lenny said something along the lines of not taking things personally and not being able to afford to get emotional about things'.*

s.20a; page  
142; para 4

4.12.27 Carole CANAVAN also felt that the IAG did not receive adequate support or guidance from DCO HARPER. She does not level the same accusation at CO POWER, purely because the members had been told he would not be involved in IAG and she did not have the knowledge or experience to question this. *'As an IAG member I do not believe that I received adequate support or guidance from Lenny HARPER. I did not have any expectation of Mr POWER therefore can not say that he failed in this respect.'*

s.36a; page  
274; para 7

4.12.28 David MILLAR is critical of how matters had developed and adds weight to the contention that CO POWER and DCO HARPER failed in their duty, *'it is not surprising that the statement is made 'we are all puzzled regarding our role in this investigation' (email Stephen REGAL to Vicki ELLIS dated 21 July 2008, copied to all other IAG members). By this time there had been six full meetings of the IAG; the fact that this situation had been allowed to develop demonstrates to me lack of supervision on the part of the Chief*

d.954; pages  
125-126; para  
4.6

x.225; page 481

*Officer who had not attended any of these meetings. It also demonstrates a lack of a duty of care to the IAG members'.*

4.12.29 Bill GRIFFITHS' opinion is that the IAG did not have proper terms of reference, and that the relationship between them and the States of Jersey Police broke down. He is clear it failed to achieve its objectives, either as an IAG, in the pure sense, or in fulfilling some of the functions of a Gold Group, as CO POWER had suggested it would *'While the intent of the HWG recommendation to form an IAG with respect to Op Rectangle was agreed by CO Power, it was only reluctantly implemented by DCO Harper, did not have proper ToR or accepted working practice to build trust and this seemed to lead to a breakdown in positive relationships. Therefore, while the appointment and engagement of an IAG was, in fact, a ground breaking development in the history of SoJP it did not deliver on the intention of the HWG recommendation. It certainly did not deliver on HWGs suggestion that this group could perform some of the functions of a Gold Group'.*

d.1106; page  
340; para 99

4.12.30 In summary, and despite the initial guidance of, and discussion with, the ACPO Homicide Working Group, this Inquiry concludes there was a failure to establish a relevant, supported IAG with clear terms of reference to support Operation Rectangle.

- **Conclusion 10**

4.12.31 **CO POWER failed in the performance of his duty to establish a relevant, supported IAG with clear terms of reference.**

- **Recommendation 7**

4.12.32 **The States of Jersey Police takes the opportunity to establish an IAG in Jersey, based on the UK model and guidance, so that the IAG is able to participate productively in future incidents as they arise and that the States of Jersey Police develop policy and procedure which properly trains and supports IAG members.**

#### 4.13 Issue 5 – Resolving concerns raised by the IAG

4.13.1 CO POWER did not routinely attend the IAG meetings, attending two out of 14 meetings prior to his suspension. He may seek to argue he was not aware of IAG concerns. DCO HARPER stated '*as the DCO, I spoke with Chief Officer POWER every day. I briefed him each day and never held anything back*'. We can be certain CO POWER was aware of the Attorney General's concerns over the 'advert' placed in the local newspaper since CO POWER e-mailed DCO HARPER regarding the issue on 19 June 2008. '*Lenny. The AG rang me for a chat. I think it is fair to say that we both agree with what he said. (It had to happen). He was concerned about the public appeal by the IAG and raised some valid issues about this action in a small community. I thought that a telling point was the fact that it was inviting contact with potential jurors. I said that this had taken us by surprise a bit ourselves and if I recall what you told me correctly then we saw it as well intentioned but ill advised. I said that we did not think that it would happen again and that there should be no further public appeals. He said that he thought that the business of the group was disclosable. I did not agree and gave reassurance about minutes of meetings, etc. I expect that this issue will be discussed at a future meeting anyway, but I expect that you will agree that the fallout should be minuted for the record. Please speak if there is any problem with any of this*'.

s.81; pages  
533-534; para 6

x.149; page  
410-411

4.13.2 Emma MARTINS, along with all other IAG members, was forwarded the same e-mail. She responded to CO POWER, making it quite clear that the IAG was misrepresented and reminding CO POWER of the role the States of Jersey Police played in placing the article in the paper. She expressed annoyance at the behaviour the IAG was said to be engaged in, yet the only response she received from CO POWER was recognition that managing the Jersey media was difficult; he also thanked the IAG for their time and involvement in what he described as a difficult task. It cannot be said that CO POWER confronted the issue in order to restore the IAG's confidence.

x.149; page 408

4.13.3 CO POWER encountered further difficulties relating to the perception of the IAG by States' members. He explains in his statement, made some months later, how, despite explaining its purpose, they saw it as a threat, conflicting with their role as elected members. *'Having agreed to an IAG I then set about putting it together. I used contacts to produce a list of names and was pleased when all agreed to take part. I took a personal involvement in the early business of the group then deliberately pulled back to allow the relationship between the group and the Rectangle team to develop. Quite early in the life of the IAG I found myself fielding political 'flack' from a variety of sources. No matter how often the purpose of the group was explained it was clear that some States members saw it as a threat. The group was portrayed as some sort of 'watchdog' or oversight Board which, it was argued, usurped the role of elected members. It was not long into the life of the group that the Attorney General became involved. This happened after the group had, with the best of intentions, invited public representations in respect of Rectangle. The Attorney General asked that I meet with him about this'*

d.1071; page  
271; para 258

4.13.4 Stephen REGAL comments *'after Mr HARPER retired Mr GRADWELL took over and in November 2008 issued us with detailed and in some cases restricted information detailing our terms of reference... What was so different between the meetings with Mr GRADWELL and Mr HARPER was the fact that Mr GRADWELL asked us as a group for feedback which we had not previously been asked for. The IAG is now run completely differently. We have been fully appraised of our role and the expectation whereas previously we did not know what the expectation was of the Group'*

s.25; page 176;  
paras 15-16

4.13.5 In coming to our view, this Inquiry has taken into account the opinion of the Attorney General who was clearly not in favour of the IAG. We are unclear about his experience with respect to IAGs. However, it is a mitigating factor for CO POWER that the Attorney General held such a perspective. In our view, it is the Chief Officer who should be up to date with good policing practice rather than the Attorney



General. It was CO POWER's responsibility to adequately brief the Attorney General on modern policing methods and to provide sufficient guidance to the IAG to ensure its effectiveness.

4.13.6 This Inquiry believes a stable, active and value-adding IAG could and should have been established sooner if clearer direction had been provided by CO POWER, despite the 'reservations' of his Deputy, DCO HARPER.

4.13.7 This Inquiry accepts that the formation of an IAG was questioned by the Attorney General, a prominent figure in the States of Jersey. The Attorney General felt that public consultation by the IAG could contaminate potential jurors and prejudice future proceedings. He, therefore, had reservations *'I was not sure that there was a role for such a group here in Jersey for this specific case alone. Whilst I can see the relevance of having such groups set up in the U.K. to advise for example where there were racial difficulties, I was not sure that there was any potential difficulties in this case which could be perceived by the community and which were unknown to the police'*. This Inquiry notes the views expressed by the Attorney General. CO POWER builds on them in his witness statement (having been provided with a copy of the Attorney General's witness statement as part of disclosure). We suggest that the Attorney General's position offers some mitigation to CO POWER's own failings but does not justify them.

4.13.8 Even though CO POWER implemented the ACPO Homicide Working Group recommendation to form an IAG, in his statement submitted to Operation Haven he now says he sees the logic in the view represented by the Attorney General. CO POWER comments that throughout their working relationship, the Attorney General has been sensitive to the introduction of UK practices into the Island. In this context he offers the explanation that he was aware the introduction of an IAG would run counter to the Attorney General's views and describes what he considers to be a 'catch 22' situation for him *'in*

s.85; pages  
754-755; para  
112

d.1071; page  
272; para 260

*case it is not obvious I make the point here that in some ways the experience regarding the IAG almost encapsulates one of the principal dilemmas in the command of an island force, and in some respects the command of Rectangle. If we do not follow UK procedures we may be accused of failing to follow 'best practice'. If we do follow U.K. procedures we may be accused of unnecessarily importing foreign practices and undermining local autonomy'.*

4.13.9 An e-mail sent from a member of the public, Martin SAYERS, to the then Home Affairs Minister, Wendy KINNARD, at 22:46 hours on 18 March 2008, partly illustrates the point. *'I was very concerned about the article in the JEP tonight concerning the watchdog group. How can you have an independent watchdog group if it is chosen by the department that is being scrutinized?'*

x.416; page  
1171

4.13.10 A situation now existed where the members of the IAG felt unsupported and were unsure of what their actual role was. Additionally, States members felt under threat from what they perceived the role of the IAG to have been. All this could have been avoided with clear, strong leadership at the outset, adequate terms of reference, representative membership, appropriate support mechanisms and real engagement from the Chief Officer. States members' fears would have been allayed if these had been achieved, and if CO POWER had reported accurately on the matter to the Home Affairs Minister. None of this took place. No action to remedy the problems as they arose was taken and the IAG was allowed to drift in a state of confusion, contributing little of true value to Operation Rectangle and feeling forced to follow their own direction through private meetings in the absence of guidance from the most senior officers of the States of Jersey Police.

4.13.11 It is apparent that in addition to the impetus provided by DCO WARCUP, Detective Superintendent Michael GRADWELL helped provide the IAG with direction as to their role and purpose. Stephen REGAL states *'whilst Mr HARPER was involved with the*

s.25; pages  
178-179; para  
24

*IAG I did not feel that we were provided with a clear direction of what our role and purpose was, this changed when Mr GRADWELL provided us with this information (SR/6 and 7). I would say that our police contact point was Mr HARPER or Vickie ELLIS. Issues of confidentiality were discussed and impressed upon the IAG by Mr HARPER. No examples of best practice on how to run an IAG were provided to us by Mr HARPER. We did not receive any training and were all novices to the IAG. I did not know that an IAG could exist without the Police forming part of it'.*

4.13.12 It became apparent that matters had not improved since the IAG's inaugural meeting on 13 March 2008. On 4 August 2008, CO POWER was sent an e-mail by Stephen REGAL on behalf of the IAG expressing anxieties in respect of the continuing effectiveness of the Group, the concerns raised by the Attorney General and the lack of response received from DCO HARPER. x.226; page 483

4.13.13 CO POWER's response to Stephen REGAL, the same day, purports to recognise the difficulties they had encountered and identifies with their concerns *'second thing... thanks for all the effort and support that the group has shown so far. Your message indicates that you think this is a hard and ambiguous assignment about which there are conflicting views, and uncertainties as to the appropriate way forward. You appear to believe that some see value in what you do and others think it would be better if you did not exist. Well done. You have understood the situation correctly. I think we need to 're-launch'. For the avoidance of doubt, my own position is that your team has an important role to play and that we would be weaker without your support. I suggest a meeting with myself, David Warcup and Alison Fossey to clear the air and get things back on track. I will action this now. Meanwhile thank you for your continued support'*. x.416; page 1217

4.13.14 The next IAG took place on 19 August 2008. To his credit, CO POWER attended with DCO WARCUP and according to the minutes, both gave an oversight of the strategic direction of the x.415; page 1165

enquiry. DCO WARCUP had taken up post on 4 August 2008 and responsibility for the IAG would ultimately transfer to him.

- **Conclusion 11**

4.13.15 **CO POWER should not be held to account for failing to take timely and effective action to resolve concerns raised by the IAG. The evidence suggest he did take action.**

#### **4.14 Issue 6 – Establishing Operation Rectangle as a single-agency led investigation.**

4.14.1 The subject matter experts consulted by this Inquiry raise concerns that Operation Rectangle was not managed as a multi-agency investigation. For reasons previously outlined, it was a deliberate strategy by the SIO to manage the operation as a single-agency enquiry. Peter BRITTON considered this method of investigation to be in sharp contrast to accepted guidance as outlined in 'Working Together to Safeguard Children.' *'It is not normal practice for an enquiry of this kind to be a single-agency led investigation and whereas I cannot comment on the justification put forward by Mr POWER and Mr HARPER for this decision I can say that it is in sharp contrast to the accepted guidance as outlined in the 'Working Together to Safeguard Children' which is a HM Government Document published by the Department of Education and Skills'.*

s.64; page 387;  
para 19

4.14.2 Both CO POWER and DCO HARPER expressed similar views in their decision-making. Both stated their approach was influenced by their belief that corruption existed in the Island and it was this rationale that led them to pursue a single-agency approach. Detective Superintendent Bryan SWEETING makes a very similar observation to that expressed by Peter BRITTON *'the initial decision to conduct this enquiry as a single-agency led investigation, e.g. police only is in sharp contrast to the accepted guidance outlined in 'Working Together to Safeguard Children' Ministerial Guidance supported by ACPO. A multi-agency approach is considered the*

s.65; page 395;  
para 23



*most effective and appropriate method of dealing with such allegations. Having spoken with both DCO HARPER and CO POWER they both held very similar views that due to alleged corruption in certain Island authorities a lack of trust by the victims and that at least one suspect working at a senior position in one of the Islands authorities, they decided to go ahead with a single-agency investigation'.*

- 4.14.3 Detective Superintendent SWEETING is explicit in his view, which is directly contrary to that of CO POWER and DCO HARPER *'It is essential to bring in partner agencies to critically challenge, advise and bring their own experience and expertise to such an investigation. It is my view that on balance, with careful negotiation most of the problems envisaged by the SIO should have been capable of being overcome'.* s.65; page 395; para 24
- 4.14.4 Peter BRITTON is unequivocal on the management of Operation Rectangle as a single-agency investigation *'because this was a major investigation for States of Jersey Police I would expect that terms of reference would be agreed by the Chief Officer setting the parameters of the investigation. Multi-agency investigations terms of reference would normally be discussed with Prosecutors, Social Services and other relevant agencies to provide the investigation focus and direction. There were no specific, signed terms of reference for Operation Rectangle'.* s.64; page 387; para 21
- 4.14.5 David MILLAR expresses concern that Operation Rectangle was not led as a multi-agency investigation *'given the nature of sexual abuse of children, and the vulnerability of those who have survived such experiences, one might have expected the IAG to challenge the decision by the SOJP to hold a single-agency investigation... There is in the first ever IAG meeting one reference only to the SOJ Family Protection team and a 'multi-agency approach' (13<sup>th</sup> March 08)'.* d.954; pages 130-131; para 5.8
- 4.14.6 In this Inquiry's view, the limitations of a single-agency investigation were avoidable as other solutions could have been considered.

Bill GRIFFITHS outlines how he felt these could have been developed *'I would have expected an intelligence strategy and inclusion protocol to be developed by the SIO. This is standard practice in the investigation of police misconduct. In dealing with other agencies where police access to intelligence records would be constrained without 'inside' assistance, a simple screening criteria based on employment history could surely have identified at least one senior official in each of Social Services, Education and Health departments that could not have been involved in the allegations under investigation (some 15 years before) and yet could provide necessary access within the agreed protocol and also to work with witness liaison and ABE [Achieving Best Evidence] trained officers on the approach to and support for victim/witnesses'*.

d.1107; page  
350; para 23

4.14.7 DCO HARPER expresses his rationale for adopting a single-agency approach in his Policy Book which, in summary, relates to concerns about corruption. CO POWER contends he did consider the concept of a partnership based approach for Operation Rectangle and did discuss 'partnership working'. However, due to the allegations impacting on potential partner agencies, he felt it would have compromised the investigation. *'In the early rush of activity after Rectangle became public knowledge, allegations of involvement, conspiracy, and cover-up were flowing thick and fast. Prominent individuals were being 'named' and it was impossible to predict where all of the allegations were leading. I was sure that the Force needed to move towards something along the lines of a 'Gold Group' model, but equally sure that this could only be done where the evidential picture had achieved a level of stability which was not present in the early stages'*. Whilst this may have been his early opinion, it is only now mentioned in his statement to Operation Haven – there is no documented audit trail of this being his intention at the time. If there was good reason for not commissioning a multi-agency investigation in December 2007, there are no policy decisions or other records properly documenting this. On balance,

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d.1071; pages  
267-268; para  
248

this Inquiry accepts CO POWER's view as honestly held that he felt constrained by fears of corruption. However, as we have been able to demonstrate, a thoughtful and measured approach could have alleviated some or all of those concerns and an officer of CO POWER's experience should have been capable of developing such an approach in a timely way.

4.14.8 After retirement, ex-DCO HARPER prepared a document to be used as an affidavit for use in civil proceedings initiated by Senator Stuart SYVRET and John HEMMING, MP. They were attempting to seek intervention from Justice Secretary, Jack STRAW, into the Jersey child abuse 'situation'. They applied, unsuccessfully, for permission to seek judicial review, arguing that Jack STRAW was under a duty to impose independent judicial control over the Jersey court system. It is this affidavit that best explains the perceived conspiracy and cover-up that DCO HARPER suggests cast a shadow over Operation Rectangle. The matters he raises are:

x.613; pages  
1641-1673

- Concerns over prosecuting paedophiles exacerbated by the case of a public servant within the States of Jersey who was also a member of the Jersey Sea Cadets.
- Concerns that a police officer (Officer 'X') had passed information on to paedophiles regarding police investigations. A more senior police officer, with connections to the Jersey Sea Cadets, told an investigating officer that she could not interview Officer 'X'.
- Information from one officer that 'Y' had abused children whilst on outings with the cadets. This investigation led the Officer to enquiries at location 'Z'. However, Officer 'X' insisted that he went with the investigating officer to 'Z', where the Officer was not allowed to see the members' register, but had relevant dates read out to him by Officer 'X'. A member of 'Z', however, arranged for the Officer to see the register without Officer 'X' being present and the Officer discovered that a group of police officers, including Officer 'X', attended 'Z' frequently when 'Y' was there



**with students.** DCO HARPER was informed that the investigating officer was under great pressure to drop the case involving 'Y', as it was harming the reputation of his employer's institution.

- Another officer informed DCO HARPER that he had compiled a report in which he recommended and requested that a Historic Child Abuse Enquiry was commenced in respect of Haut de la Garenne. The report was allegedly given to the senior officer with **sea cadet** 'connections' and was not progressed.
- Various areas of conflict between the Attorney General and DCO HARPER.

4.14.9 Within his affidavit, DCO HARPER concludes *'with such an absence of controls, such an absence of accountability, the ordinary decent people of Jersey are helpless. Intentionally or not, the system has allowed corruption to flourish to such an extent that those seeking to combat it are the ones open to scorn. In what other society in the British Isles and beyond, are the police criticised for trying to professionalise themselves? No matter what efforts are made, ultimately they run into a brick wall. This will not be rectified until some sort of independent element is inserted'*.

x.613; page  
1673

4.14.10 It appears to be DCO HARPER's honestly held belief that he was operating in an environment which he considered to be corrupt and in which he had few allies. This Inquiry accepts that both DCO HARPER and CO POWER suspected corruption and cover up by some in influential positions. However, this Inquiry has seen no properly recorded decision-making processes in Operation Rectangle justifying their rationale for deliberately acting outside best practice guidance, most of which arises from comparable cases of both child abuse and homicide in the UK. However, even if DCO HARPER and CO POWER are correct in their concerns about corruption, it remains the opinion of subject experts that their concerns could have been overcome to ensure that Operation Rectangle was an effective investigation.

4.14.11 It has not been any part of Operation Haven's remit to inquire into any allegations regarding supposed corruption within the States.

- **Conclusion 12**

4.14.12 **CO POWER failed in the performance of his duty to ensure that Operation Rectangle was managed as a multi-agency investigation in accordance with accepted guidance.**

#### **4.15 Issue 7 – Commissioning a review of Operation Rectangle in line with best practice**

4.15.1 Policy Decision 9, written by DCO HARPER on 28 December 2007, states *'Decision: Not to instigate external review of investigation unless it becomes a murder/homicide enquiry. Reason: At this time the enquiry is dealing with 'detected' matters, ranging from assault to rape. All suspects are named, known or deceased. Should there be human remains found or other developments emerge which change the likely status of the investigation, I will reconsider'*.

Appendix 3

4.15.2 The importance of carrying out an independent review of major crime investigations is well recognised throughout the UK Police Service. The Murder Investigation Manual states *'the objective of any review is to constructively evaluate the conduct of an investigation to ensure:*

MOG; d.17;  
page 84; para  
4.2

- *It conforms to nationally approved standards*
- *It is thorough*
- *It has been conducted with integrity and objectivity*
- *That no investigative opportunities have been overlooked*
- *That good practice is identified'*.

s.49; page 360;  
para 26

4.15.3 DCO HARPER's Policy Book entry suggests he will review his decision-making should human remains be found. Despite the announcements by the DCO on 23 February 2008, a review did not

happen and a '28 day review' was not commissioned as per Murder Investigation Manual standards (paragraph .4.5). The Deputy SIO, Detective Inspector Alison FOSSEY, requested this, but it was declined by DCO HARPER. She says *'Mr HARPER and I had frequent discussions around our difference of opinion and he was aware that I did not believe he was following correct procedure. A good example of this was when I requested that a review be carried out of the investigation (as recommended by the Murder Investigation Manual, which also deals with all Major Crime Investigations). Mr HARPER decided however 'not to instigate external review of the investigation unless it becomes a murder/homicide enquiry'. This is decision 9 dated 28th December 2008. The Murder Manual states that serious crimes where the gravity of the offence suggests it would be prudent, should be reviewed. I tried to get DCI Dave MARSHALL from the Metropolitan Police who is one of the main authors of the ACPO Historic Institutional Child Abuse guidelines to do an independent review of the investigation to make sure we were following correct policy and procedure and were on the right track before we converted the enquiry onto HOLMES'*.

s.49; page 360;  
para 26

- 4.15.4 A further opportunity to commission a review presented itself to DCO HARPER around 28 February 2008. Anne HARRISON of the ACPO Homicide Working Group states *'in respect of what Lenny HARPER and Mr POWER were expecting of us, particularly in respect of 2c, it is hard for me to now be specific. However, at an early stage, and before we first left for Jersey, we were looking at a range of additional options for Lenny HARPER to consider. For example, on 28 February 2008, I had discussion with ACC Chris BORLAND of Devon and Cornwall who had already offered up his Review Team to Operation Rectangle and was still willing to become involved. Phil DAVIES was also available as long term Strategic Advisor and these options were offered to Lenny HARPER so he should have been aware that we were not actually conducting*

s.76; page 452;  
para 5

*a 'Review'. These were not taken up by Lenny HARPER. He had put an entry in the Policy Book as to why there would be no review back in December 2007'.*

4.15.5 Whilst Anne HARRISON has a clear recollection of this aspect of the enquiry, ex-DCO HARPER's memory is not clear. He cannot recall this offer being made, and indicates in his statement that he would have been sceptical about using Devon & Cornwall Constabulary for this purpose as they were providing support in the Major Incident Room. *'I have been asked what I can recall of Devon and Cornwall Police offering to review Operation Rectangle. I have no recollection of this being offered, had it of been the case I am sure I would have had reservations in using them as they were providing staff to the enquiry, especially in the MIR. There would have been a question as to their independence. Once ACPO became involved, I don't think I would have even considered the thought of Devon and Cornwall doing a review. In summary I can not recall such an offer being made even during the period leading up to 23rd February 2008'.* This Inquiry finds ex-DCO HARPER's position illogical. Devon & Cornwall Review Team's purpose is to review Devon & Cornwall inquiries and, of course, Devon & Cornwall staff were manning the Major Incident Room. There cannot be any sensible objection to Anne HARRISON's proposal, in our view.

s.81a; page  
561; para 7

4.15.6 Ex-DCO HARPER maintained his belief that the services provided by the ACPO Homicide Working Group were sufficient *'after the discovery of the initial fragments we referred to the Murder Manual more and more. I know that it contains something about reviews and we did consider them but we did not think it was necessary in our particular circumstances. Andre BAKER was there and he felt that his presence there was sufficient as we acted on the ACPO HWG recommendations'.*

s.81; page 550;  
para 49

4.15.7 Nevertheless, at the first meeting he held on the Island with DCO HARPER, Andre BAKER suggests he advised that a Review



team conduct a full review of the investigation. There was no mention of this as a recommendation in the body of the ACPO Homicide Working Group report until Recommendation 68 was made in the very last report they completed in June 2008 *'in fact both in our reports and verbally, we recommended that a Review team should be called in to conduct a full review of the investigation, which is not what we were doing. We were providing advice and mentoring Lenny HARPER, Detective Inspector Keith BRAY and DS Dave HILL. We quality assured the investigation insofar as comparing what had been done in the enquiry, with what would be expected in the UK (with reference to MIM and MIRSAP)'*.

s.79; page 501;  
para 22

4.15.8 Bill GRIFFITHS is of the firm view that CO POWER could have been more challenging over the position taken on reviews by DCO HARPER. However, Bill GRIFFITHS cites Andre BAKER's failure to challenge the decision not to review as relevant *'CO POWER should not be criticised for accepting the offer of support from HWG, but he appears to have placed too much reliance on the 'expertise' of the team, particularly where it concerned Andre Baker, and may not have been as challenging as he could have been with DCO Harper's position on reviews. Andre Baker should also have challenged this position, as well as be more creative about an alternative command structure, long before his recommendation 68 tabled in June 2008'*.

d.1106; page  
343; para 117

4.15.9 Of the terms of reference agreed by the ACPO Homicide Working Group and States of Jersey Police, the term, referred to as '2c) To quality assure the investigation', became ambiguous. Bill GRIFFITHS comments that the ACPO Homicide Working Group members have all made it clear they were not in a position to conduct a review themselves. *'In the HWG ToR, item 2(c) To quality assure the investigation was agreed between Mr Baker and CO Power, having been amended from its original term of 'review' (Harrison para 5), and all were at pains to point out that a small team of three from HWG were not in a position to conduct a review'*.

d.1106; page  
342; para 110



- 4.15.10 Despite this, there appears to have been confusion over this issue. The ACPO Homicide Working Group terms of reference did not say it would review Operation Rectangle. However, it appears to this Inquiry that there was ambiguity in which the impression was created that they were providing assurances that the investigation was progressing in a professional and expeditious manner. This is 'quality assurance' and is a short step – for the ill-informed – from believing a review is taking place. Not surprisingly, CO POWER emphasised his adherence to the advice that he believed he was receiving from the ACPO Homicide Working Group. x.585; page  
1456-1457
- 4.15.11 CO POWER's statement suggests he took advice from the ACPO Homicide Working Group over the need for a review and was guided by it. *'During the major stages of Rectangle I was aware that it was customary for comparable enquiries to be subject to a review, although I was less sure what was normal in respect of frequency and timing. For this reason I took advice from the HWG. The advice which I was given appears to be well covered in the statement of Andre Baker paragraph 71. I recall much of the discussions around this issue, and my recollections broadly accord with what the statement says. We talked about the need for a review and its timing. We both thought that a review report would be useful in setting the agenda for the new management structure I was in the process of implementing. I asked Andre BAKER to make the necessary arrangements, and he said that he would'.* d.1071; pages  
243-244; para  
161
- 4.15.12 Andre BAKER clearly recalls the same discussion as described by CO POWER, which he indicates took place on 30 June 2008, *'On 30 June 2008, Malcolm BOOTS joined us in Jersey. Graham POWER, Dave WARCUP, Anne HARRISON and I held a meeting. We discussed the case to date and spoke generally about homicide/unexplained death, the historical child abuse case and Coroners hearing. There was a full discussion on the options for succession planning. Graham POWER said that he had recently consulted with others and he has decided that Dave WARCUP was* s.79; pages  
512-513; para  
71

*to have strategic direction and that an SIO was to be seconded from the UK. There was no further discussion on the options as he had made his mind up and was very strong about this. It was agreed that Anne and I would draft the required specifications and milestones for the SIO selection and pass to Graham POWER. I then suggested that a full review team be called in and we discussed various options. I recommended that the Metropolitan Police should provide the review team and this was agreed. I suggested that the ideal time for the review team to undertake their work would be when Lenny HARPER leaves and before the new SIO starts.'*

- 4.15.13 Whilst CO POWER appeared keen to have a review of Operation Rectangle in June 2008, by then damage to the investigation had already been done predicated on false assumptions about the evidence available. This Inquiry believes the review should have taken place in February 2008 when Operation Rectangle was being treated as a homicide investigation. Members of the ACPO Homicide Working Group state they did discuss timing with DCO HARPER during their first visit to Jersey, yet failed to make a 'review' recommendation in the content of their first report. Andre BAKER refers to discussions he had with DCO HARPER during his first visit to Jersey on 29 February 2008, and states they had a conversation about this very topic, *'We met with Graham POWER and Lenny HARPER at HDLG and toured the site. We discussed with them the forming of a Gold Group. Both Graham POWER and Lenny HARPER said that they did not want a Gold Group. We then tried to convince them of the value of an IAG, Graham POWER said he would be happy with an IAG. Lenny did not really want an IAG but as his Chief wanted one, he agreed. It was discussed with Lenny that DCS Chris BORELAND of Devon and Cornwall Police had previously offered them a review team to undertake a full review of the investigation. This was discussed with Lenny HARPER and he said that he didn't want a review.'*

s.79; page 502;  
para 23

- 4.15.14 Bill GRIFFITHS explains how the ACPO Homicide Working Group team, in his opinion, missed the prime opportunity to suggest a review would be proper and helpful to the investigation and should have featured in their first report. In our view, Bill GRIFFITHS makes a telling point about the role of the ACPO Homicide Working Group regarding the issue of the review *'in fact, many of their actions and omissions as cited above may well have provided false assurance'*. This Inquiry suggests that the ACPO Homicide Working Group's role was ambiguous and provided false assurances which exacerbated the failings and lack of knowledge and experience of DCO HARPER and CO POWER. d.1106; page 342; para 112
- 4.15.15 It is to the credit of CO POWER that he agreed to the assistance and guidance offered by the ACPO Homicide Working Group team. However, this Inquiry concludes that their recommendations reflected what CO POWER and DCO HARPER actually wanted to see and hear, rather than what was necessary. For example, it is best practice that a Gold Group is formed in the circumstances presented by Operation Rectangle, yet no recommendation is made for one in the content of the ACPO Homicide Working Group reports, despite discussion between them on the matter. Also, the fundamental requirement for a review of the investigation was not made subject of a written recommendation until CO POWER acceded to the suggestion in June 2008. It is no coincidence that the subsequent review by the Metropolitan Police Service began to lay bare the false premise of murder which had been permitted to permeate public opinion in Jersey and beyond. d.1106; page 343; para 116
- 4.15.16 Whilst no impropriety is suggested, the question arises of a possible conflict of interest for the ACPO Homicide Working Group. Andre BAKER intended to apply for the position of DCO upon the retirement of DCO HARPER. Chief Constable Jon STODDART was aware of the position. *'I have been asked... to explain how I first became involved in Operation Rectangle. To the best of my recollection on or about Saturday 23 February 2008, whilst travelling* s.79; page 497; para 10

*in central Europe on a train I was telephoned by Andre BAKER who explained to me that he had been approached by DCO Lenny HARPER of the States of Jersey Police, asking him whether or not he could provide some advice and support to his investigation. I was aware that Mr BAKER had either applied for or was considering applying for a job with the States of Jersey Police and asked him to clarify that this was known and recognised by States of Jersey. He confirmed that this was appreciated and would not cause any conflict of interest. I therefore said it was a matter for him and his judgement and he said that he would then ask DCO HARPER to formally approach me and ask me to support Mr BAKER. Later that day DCO HARPER rang me and in a short conversation I confirmed that Andre BAKER was a well qualified officer to undertake the role but that he was not a serving police officer and that an approach to SOCA should be made directly'.*

4.15.17 It is unfortunate that even the intimation of a 'conflict of interest' can be raised and it is expected that the ACPO Homicide Working Group will reflect on, and learn lessons from, its engagement in Operation Rectangle.

s.79; page 497;  
para 10

4.15.18 Whilst we consider the advice of the ACPO Homicide Working Group was at times ambiguous and, therefore, potentially misleading, CO POWER is ultimately responsible for ensuring that a proper review of Operation Rectangle took place. That said it is understandable he should rely on the advice of the ACPO Homicide Working Group and that he should accept their 'quality assurance' of the investigation, which he believed was being provided under their term of reference 2c. Bill GRIFFITHS concludes that the absence of a review did not amount to a specific failure of CO POWER. He writes, *'I do not regard this aspect as a failure by CO Power. His lack of experience combined with the relative expertise of the HWG team led him into a false sense of security. Nonetheless, he would benefit from training and advice in this area'.*

d.1106; page  
343; para 118

4.15.19 It is Bill GRIFFITHS' view that the opportunity was missed by the ACPO Homicide Working Group to 'tell it how it should be' with respect to command and control and Gold Groups, in particular.

d.1106; page  
344; para 122

4.15.20 Professional guidance makes it absolutely clear that reviews are a necessary component in major enquiries, yet the SIO was allowed to continue without such a review. It is our view that CO POWER placed too much reliance on the 'expertise' of the ACPO Homicide Working Group team. Equally, the ACPO Homicide Working Group team failed to provide timely, written guidance in this area to CO POWER.

- **Conclusion 13**

4.15.21 **CO POWER should not be criticised for failing to commission a major crime review of Operation Rectangle, but should receive advice and appropriate training.**

- **Recommendation 8**

4.15.22 **The ACPO Homicide Working Group learns lessons from Operation Rectangle in order to improve its support to senior investigating officers in the future. In particular, it should ensure clarity about what is understood by its quality assurance role, documenting all recommendations it considers appropriate to the needs of the investigation (not necessarily of the SIO or Chief Officer) and preventing circumstances which could give rise to any intimation of a possible conflict of interest for advisors and mentors.**



## 5. The supervision of media management in Operation Rectangle by Chief Officer POWER

### 5.1 Introduction

5.1.1 Whether CO Graham POWER'S performance met the ACPO/NPIA standards and guidance for the supervision of the media strategy in respect of Operation Rectangle.

5.1.2 The doctrine considered to be best practice is to be found in the following advice and guidance:

- **ACPO Murder Investigation Manual 2006.**

- Section 3. The Role of Chief Officers in Major Crime Investigations (3.3.6 Media Issues), page 80. Guidance on the role of Chief Officers in relation to media issues.

MOG; d.17

- Section 17. Managing Communication (17.3 Media Strategy, 17.3.1 Developing a Media Strategy, 17.3.2 Implementing a Media Strategy, 17.3.2.1 Holding Statements, 17.3.2.2 Press Conferences, 17.3.2.3 Press Releases, 17.3.2.4 Press Appeals, 17.3.2.5 Witnesses and the Media), pages 224-229. This document includes a complete section (Section 17) on managing communication, developing and implementing both media and internal communications strategies and the channels to use when working with the media. There is also guidance as to the role of chief officers in relation to media issues (Section 3).

MOG; d.17

- **ACPO/NPIA Practice Advice on Critical Incident Management 2007.**

- Section 3. Managing Critical Incidents (3.9.2 Community Engagement Media) Pages 35-36. This includes guidance on

MOG; d.16

appropriate disclosure of information and the need to understand the consequences of this. It also highlights the need for media liaison officers to be part of management teams within serious crime investigations.

- **ACPO Media Advisory Group (MAG) Guidance Notes 2002.**

- The guidance is periodically updated, generally available to police media liaison officers and provides the basis of good practice from which to work effectively with due consideration to legal and operational constraints. The guidance includes advice which can be applied practically to media liaison relating to criminal investigations and general inquiries.

MOG; d.87

- **States of Jersey Police, Major Incident Procedure Manual**

- Section 12. The media and visits by VIP's. This is a local manual which provides advice and guidance in respect of a major incident. As the title suggests, it has not been specifically produced for use in a single-agency, police crime investigation but it does contain principles which are relevant to such an investigation. The relevant section of the manual covers Media Liaison, Media Briefing Points, Media Briefing Centre, Communications and Visits by VIP's.

MOG; d.278

5.1.3 There are a number of witnesses who have made comment on the media supervision in Operation Rectangle. A brief synopsis of their role and experience is as follows:

5.1.4 The Press Officer for the States of Jersey Police is Louise JOURNEAUX (nee NIBBS) who works from Police Headquarters. Under normal circumstances Louise JOURNEAUX works alone handling media inquiries from within a small office. She states that her line manager was DCO HARPER, but she also reported directly to CO Graham POWER, in accordance with her job description. Her principal accountabilities include:

s.43; page  
276; para 1x.375; pages  
764-765

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MOG; d.87

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s.43; page  
276; para 1x.375; pages  
764-765



- Developing corporate PR strategy and marketing the Force perspective, goals and achievements.
- The production of media plans for events and major operations, thereby ensuring the Force is prepared to deal with all media demands before, during and after any operation.
- Representing the Chief Officer and the Force by giving radio and TV interviews, as requested by senior managers.
- In liaison with the Duty Officer and other Police Officers, respond to the daily incidents that require media input including writing up press releases and researching. Briefing staff.
- Assisting the DCO and Staff Officer with the publication of official information in line with appropriate guidelines.
- Monitor the accuracy and angle adopted by the media.
- Respond rapidly and professionally to unforeseen operational events, taking control of the media interface. This includes working on behalf of 'Gold Command' during a major incident.
- Co-ordinate media releases with political representatives and the Honorary Police.

5.1.5 With respect to the media management of Operation Rectangle, this Inquiry believes comment should be made about the ability of Louise JOURNEAUX to perform her role in the face of extraordinary events. In her witness statement she suggests that decisions were made without her knowledge. This section of the report will comment on decisions recorded within the Media Policy Book that Louise JOURNEAUX states she was unaware of until August 2008 many months after the decisions were made and recorded. These and other decisions were crucial to media management, and as the Press Officer she should have been aware of and influential in, their making. It appears to this Inquiry that at times she was out of her

s.43  
s.43b

Appendix 3

s.43; page  
278; para 8

depth and her experience found her wanting. She states *'I have been the States of Jersey Police Press Officer since June 2005, so at the time events at HDLG became news I had been in post for two years and eight months. In that time I have never been involved with an investigation of the size and nature that Operation Rectangle turned out to be. Up to 23rd February 2008, the most involved case I had dealt with was a fatal RTC involving a Police Officer on duty and then, various sudden deaths (not murders) and rapes. Mostly routine press matters'*. She was not well served, and thereby not likely to be effective, if key decisions were not communicated to her.

s.43b; page  
294; paras 2-3

- 5.1.6 Whilst this Inquiry acknowledges her lack of experience, it recognises the responsibility of her supervisor, DCO HARPER to identify this. Louise JOURNEAUX states *'If I was acting outside of good practice I would have expected Mr HARPER to give me or direct me to the appropriate guidance. I did not receive any such guidance'*. It appears to us that the Press Officer's role was one of tactical delivery, as opposed to strategic oversight, of media management. She states *'I would describe my role as a tactical one, not a strategic one'*. This is in direct contrast to the *'Develop, revise and implement a corporate PR Strategy'* as outlined in her principal accountabilities.

s.43b; page  
298; para 20

s.43b; page  
298; para 20

x.375; page  
764

- 5.1.7 Whilst Louise JOURNEAUX should not be criticised for her lack of experience or the lack of supervision she received, she should have raised her concerns about her lack of experience with DCO HARPER or CO POWER. We have no evidence she did so. In fairness, she was provided with assistance from John WOOD, a media officer from Devon & Cornwall Constabulary, but it appears Louise JOURNEAUX was kept away from the important decision-making processes and content of the media releases. She states *'In respect of individual press releases, he [DCO HARPER] was strong willed on what he wanted to say and as explained before would often write the media releases himself'*. It now seems obvious that she disagreed with some of these releases (see Supervision Section, Suspects A) but we are not convinced that she sought to challenge DCO HARPER or to

s.43b; page  
300; para 26

raise matters of concern with CO POWER if she felt DCO HARPER would not listen.

5.1.8 This Inquiry believes that Louise JOURNEAUX was unable to manage the strong-willed DCO and did not escalate her concerns, which now she raises in her witness statement. However, criticism can be levelled at her supervisors for not fully engaging with her and ensuring effective communication existed which drew upon her media skills and professional training.

5.1.9 Matthew TAPP is a communications consultant. He trained as a newspaper journalist and has worked for the Police Service in Warwickshire between 1992–1994 and as a Press Officer and Director of Communication for Cambridge Constabulary between 1994–2001. As a consultant he works for law enforcement agencies in the UK and abroad and states that he has worked on numerous high profile investigations. He was commissioned by DCO WARCUP to assist in the media management of Operation Rectangle following the retirement of DCO HARPER. He produced a written review in relation to Operation Rectangle for the Chief Executive to the Council of Ministers and which was quite proximate to the events.

5.1.10 Jon PARKER is Head of Corporate Communications with Wiltshire Police. He agreed to act as an expert witness on media management in relation to Operation Rectangle. He has worked for Meridian Broadcasting as the News Editor for the south east and is a journalist of 20 years experience. He has worked for Kent Police on a number of high profile murders and as a consultant on other high profile crime enquiries.

5.1.11 This Section should be read in conjunction with the Media Timeline which highlights key events relating to this Section.

d.1137.pages.  
544-556

## 5.2 Strategic control of Operation Rectangle

- 5.2.1 Arguably, no other element of Operation Rectangle had a greater impact on the States of Jersey Police and the Island than the media attention after 23 February 2008. This Inquiry believe that when the Operation was in a covert phase and, following the appeal for victims on 19 November 2007, the media interest was comparable to other investigations of this nature. There can be little argument, however, that following the 'find' of a suspicious item on 23 February 2008, media coverage reached an unprecedented level for the Island of Jersey. The following sections will suggest reasons for the nature of media reporting concluding that had a structured communication strategy and strategic co-ordinating process been established, the media would have been better managed. This Inquiry will conclude that CO POWER's management of the media, directly or indirectly, was sufficiently sub-optimal to merit performance proceedings being taken against him.
- 5.2.2 There was no Gold Group or other strategic co-ordinating group in place throughout the time that DCO HARPER was SIO for Operation Rectangle. For a communication strategy to be effective there needs to be appropriate mechanisms to manage and maintain it. The accepted method for doing so is through a strategic co-ordinating group. Jon PARKER states '*media management and associated communications activity is an intrinsic feature of any police-led strategic coordinating group*'.  
d.1140; page 568; para 6.2.3.1
- 5.2.3 The decision not to form a Gold Group or any other strategic oversight function is commented on within the Critical Incident section of this Report, and to avoid repetition, the reasons for CO POWER's approach will not be discussed here. However, the management of the media sits so firmly within a strategic framework that the benefits should be commented on.
- 5.2.4 Matthew TAPP states in his review that '*without a strategic framework guiding communications activity, major criminal investigations can*

*easily become bedevilled and sometimes side tracked by sensationalist, inaccurate, distorted and unbalanced media reporting, all of which can have a negative impact upon victims and the confidence vested in the enquiry team by the general public'.*

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5.2.5 As this Section of the Report will describe, this Inquiry believes that a Gold Group would have been able to co-ordinate police and stakeholder activity in terms of media management, and avoid some of the problems that unfolded involving the relationships with the Office of the Attorney General, the Island's politicians and the Independent Advisory Group. In particular, problems arising from the criticism of the prosecution lawyers by DCO HARPER following their decision not to prosecute suspects 'A' (see Section 3, paragraph 5.7) and the Attorney General's concerns regarding the effect of media reporting upon the fairness of the proceedings against a number of defendants. Also, the specific concerns of senior politicians about the portrayal of events by the States of Jersey Police, which the Force failed to address and concerns about the balance of reporting damaging the reputation of the Island. The Independent Advisory Group, Jerseys first, was left without focus and direction in its mission to provide representative views and advice to the Force.

5.2.6 The States of Jersey Police Major Incident Procedure Manual refers specifically to the formation of a strategic co-ordination group (Gold Group) and the necessary requirements for media handling. It states (Section 1 paragraph 5.2.7) *'the strategic co-ordinating group should be aware of its wider role which may encompass central government interests, handling requests for advice from individual services and agencies and media demands. The group should ensure a strategy for dealing with the media is in operation, designate a media briefing centre and appoint a media briefing centre manager'*. Jon PARKER believes the Manual contains *'good practice and incorporates guidance by the Home Office from a circular in 1989'*.

MOG: d.278

d.1140; page  
565; para  
5.3.5.5

5.2.7 Bill OGLE, Chief Executive to the Council of Ministers, comments on the protocols the States of Jersey Police implemented when



Operation Rectangle became a homicide investigation *'the government could not avoid becoming involved in attempting to manage the situation due to the enormity of the impact. In fact on Tuesday 26 February 2008, I set up and held the first meeting of an Emergency Coordination Centre (Crisis Management Group) to assist in decisions on how best we could respond to the adverse reaction to the situation. In effect, this was a civilian Gold Group but did not include agencies involved in actual investigation and prosecution e.g. Mr POWER or police representation and lawyers'*. On 27 February 2008, Bill OGLEY e-mailed CO POWER to explain that he had instituted crisis management arrangements and outlined details of his crisis management team. CO POWER responded saying he saw it *'as standard good practice'*.

s.2; page 11;  
para 9

x.16; page 25

- 5.2.8 In his witness statement to this Inquiry, CO POWER makes little reference to the strategic management of the media. Although he comments *'I also needed to be well informed in order that I could discharge my own media role of supporting the enquiry, and to continue to provide strategic level information to the media and government'*, no formal co-ordinating body is referred to. CO POWER comments on the existence and formulation of a Gold Group following the appointment of DCO WARCUP, but there is no explanation in his statement as to what framework was managing or co-ordinating any communication or media strategy before DCO WARCUP's appointment. This Inquiry has found no evidence that such a co-ordinating framework existed.

d.1071; page  
252; para 188

- 5.2.9 Jon PARKER summarises that *'given the conversation between Mr POWER, Mr HARPER and Mr BAKER [Andre] about the formation of a Gold Group and the fact that Mr HARPER has an understanding of Gold Groups and their purpose it is reasonable to assume that Mr POWER was aware of their function of which, as I have said, an intrinsic component is media management and dealing with communications issues'*.

d.1140; page  
572; para  
7.6.4

- 5.2.10 Mick HEALD, the Assistant Chief Executive to the Chief Ministers' Department, compares the position before and after the implementation of the Gold Group. He states *'the difference between the management of the incident in February 2008 and now since the Gold Group has been established is incredible. We have an understanding through the Gold Group of what is likely to take place, we are able to give our point of view and assist the police giving advice where possible and this enables good co-ordination and management of the media and investigation as a whole'*.
- 5.2.11 This Inquiry concludes that CO POWER was responsible for ensuring a strategic co-ordinating body was created for the Operation Rectangle investigation. We can find no evidence that he did so. We conclude he did not consider the implications of failing to form any strategic oversight body in relation to media management. The Critical Incident Section in this Report, details the findings of this Inquiry in relation to the formation of a Gold Group. However, by the time the newly appointed DCO WARCUP recognised the need for and created a Gold Group, it was far too late, and damage, in terms of media speculation, had already been done. There were key moments within Operation Rectangle when strategic oversight of the media policy should have been considered by CO POWER. The declaration of Operation Rectangle as a critical incident, the 'find' on 23 February 2008 and the sensationalist national media reporting following that date, criticism by politicians of the reporting and concerns expressed by the IAG, should all have been recognised as obvious indications of risk by CO POWER.
- 5.2.12 This Inquiry would have expected a Chief Officer of Police to have anticipated the need for co-ordination. Certainly, a Chief Officer should have responded through a strategic forum, one which brought all stakeholders to the co-ordination 'table'.

- Conclusion 14

5.2.13 CO POWER neglected his duty to establish or provide any formal strategic oversight of the States of Jersey Police's media strategy in respect of Operation Rectangle.

### 5.3 Media strategy

5.3.1 Established good practice suggests that both the Historic Child Abuse Enquiry and the post 23 February 2008 homicide enquiry required formulation of considered and well-constructed media strategies that would have facilitated interaction with the media, maintained confidence in the police within the community, ensured confidence within the investigation team and maximised the opportunities for witness and victim identification.

5.3.2 Operation Rectangle commenced as a covert enquiry in September 2007 before becoming an 'open' enquiry in November 2007. There was a distinct absence of a cogent media strategy prior to the events in February 2008. The covert nature of the enquiry at the outset may not have justified the creation of an extensive and comprehensive media strategy, however, that position should have been reviewed in anticipation of the enquiry coming into the public realm. The Media Strategy Policy Book, dated October 2007, Decision 1, states '*a media strategy has been prepared*'. This is contrary to the understanding of the States of Jersey Police Press Officer, Louise JOURNEAUX, who comments in her statement that '*there had been no media strategy prior to the 23<sup>rd</sup> February 2008, but up to then, the enquiry was just a local story*'.

Appendix 3

s.43; page  
285; para 27

5.3.3 When interviewed, ex-DCO HARPER told Peter BRITTON and Detective Superintendent Bryan SWEETING of the Specialist Crime Review Group, Metropolitan Police Service, that a short document was in existence. Operation Haven has found no evidence of a strategy prior to 23 February 2008 and Jon PARKER, who has examined the media related material as an expert witness, has '*seen*

x.549; page  
1431



*no evidence that a media strategy document was physically produced until after the police announcement to journalists on 23rd February 2008 during the forensic search at Haut de la Garenne'.*

d.1140; page  
565; para  
5.3.6.2

5.3.4 Following the recording of this first decision, there are only six further policy decisions prior to February 2008. All of these are reproduced in Appendix 3 of this Report. Of significance is Decision 3 (dated 19 November 2007) *'appoint Press Officer Louise NIBBS [JOURNEAUX] to co-ordinate media for Jersey Police and liaise with appointed media officer'*. She states she was unaware of any policy book entries regarding media and had not been asked to produce a media strategy. According to her evidence, it was not until 8 August 2008 that she saw media policy decisions for the first time when it was an attachment to an e-mail from Detective Inspector Alison FOSSEY to DCO WARCUP.

Appendix 3

s.43; page  
278; para 8

5.3.5 Media Policy Decision 4 (also dated 19 November 2007), written by Detective Inspector Alison FOSSEY, required *'Press Officer to maintain a press cuttings file with copies of all releases given to the media and keep recordings of all press interviews/conferences given'*. The reason cited for this decision was *'for disclosure purposes'*. Louise JOURNEAUX will state that at no time was this brought to her attention, and that she commenced this action of her own volition following the 'find' on 23 February 2008. This evidence if correct, suggests the author, Detective Inspector FOSSEY, was not properly disseminating it.

Appendix 3

s.43; page  
286; para 29

x.386; pages  
940-1041

5.3.6 Although a Policy Book was in existence in relation to media issues, the entries are brief and not a proper substitute for a Media Strategy. Matthew TAPP comments that following the decision to release to the public that an investigation was underway, he *'would also have expected that the DCO would have charged the Press Officer to prepare a detailed communications strategy, not just to manage media interest, but to provide a strategic framework governing all communications activity about the investigation'*. This Inquiry

x.263; page  
677

suggests that DCO HARPER and CO POWER, from their separate perspectives as SIO and SIO supervisor, should each have ensured that a comprehensive media strategy was in place. Had Louise JOURNEAUX developed one, it should have been checked and supervised for its appropriateness by the SIO. Thereafter, for adequate 'breadth' by CO POWER to ensure it would accommodate the range of issues and stakeholders interest in Operation Rectangle. If Louise JOURNEAUX's effort had fallen short, it was the responsibility of the SIO and the Chief Officer to resolve any inadequacies. Ultimately, responsibility for the effectiveness of the media strategy rests with CO POWER.

5.3.7 This strategy would have identified the need to protect the witnesses and victims from media intrusion, a problem that was to occur on a regular basis as the press sought to obtain 'exclusives' from previous residents of Haut de la Garenne. This aspect did not go unnoticed by CO POWER who states *'in my assessment, the main causes of much of the interest were the number of people giving detailed accounts of abuse to the media'*. The strategy should have sought to protect the investigation from prejudicial reporting. The strategy should have identified the need to minimise any media coverage that could prejudice legal proceedings, an issue that was to plague Operation Rectangle in the months to come. It should have considered the needs of key external stakeholders in order to reduce the potential for discord. The evidence of the witnesses Matthew TAPP and Jon PARKER, outline what a media strategy should seek to achieve.

d.1071; page  
284; para 229

5.3.8 Within any media strategy, this Inquiry would expect to see a range of tactics to achieve core aims, including the communication of key messages. The strategy should identify personnel within the States of Jersey Police who would assume responsibility for implementation, reviewing and revising the document. Matthew TAPP states *'the development by Police Forces of such communications strategies in the context of major and critical incidents is, in my experience, standard practice'*.

x.263; page  
677

- 5.3.9 Ex-DCO HARPER claims that he briefed CO POWER almost daily, and this is supported by the evidence of others who witnessed their daily interaction. Andre BAKER of the ACPO Homicide Working Group states *'I had noted that Lenny HARPER was briefing Graham POWER, at least on a daily basis, with regard to the investigation and direction'*. Detective Inspector Alison FOSSEY comments *'I know that there were meetings between Mr HARPER and Mr POWER in relation to updates regarding Op Rectangle but these were not in my presence and I don't know what was discussed'*. Other witnesses to the daily interaction include Superintendent Shaun DU-VAL and Victoria ELLIS. Therefore, the opportunity existed for CO POWER to make enquiries into the media strategy from the outset and, certainly, when the operation was made known to the public in November 2007. Of interest is the advice provided to Chief Executive Bill OGLEY and Chief Minister Frank WALKER by CO POWER prior to the public announcement in November 2007 *'I also advised Bill OGLEY and Frank WALKER that should a major abuse enquiry be launched there would be significant media management demands upon the island's government, and they should consider making appropriate preparations'*.
- 5.3.10 The inevitable conclusion to be drawn is that CO POWER did not follow his own advice and that he failed to ensure that Operation Rectangle was provided with a strategic framework to guide it, or that a well constructed and documented media strategy was in place and followed through. In the opinion of this Inquiry (and supported by the primary witnesses, in particular Jon PARKER and Matthew TAPP), the media strategy needed to be broader than, but inclusive of, the criminal investigation, i.e., a wider responsibility than the SIO's. There was a need for co-ordination by CO POWER and which we find little tangible evidence of.
- 5.3.11 On 13 December 2007, Operation Rectangle was declared a Critical Incident and classed as Category A+. This was recorded within the Major Crime Policy Book, Decision 6 and can be seen at Appendix 3.

s.79; page  
503; para 31

s.49; page  
365; para 45

s.17; page  
118; para 3

s.17; page  
119; para 5

s.46; page  
317; para 4

d.1071; page  
280; para 287

Appendix 3

If there was an absence of a media strategy prior to this date, this declaration should have prompted recognition of the need for one at this point, in line with the advice contained in ACPO/NPIA Practice Advice on Critical Incident Management 2007 and, frankly, as a matter of obvious common sense. The designation of Operation Rectangle as a Critical Incident at that juncture should have been made known to CO POWER, either in a verbal update from DCO HARPER or through CO POWER having a structured approach to providing strategic supervision to the enquiry by, amongst other things, checking the policy files. In the opinion of this Inquiry, CO POWER should have understood the necessity for a media strategy immediately and ensured that one was compiled swiftly and with the necessary expert input.

- **Conclusion 15**

5.3.12 **CO POWER neglected his duty to ensure that a documented and updated media strategy existed between November 2007 and February 2008 during the Historic Child Abuse Enquiry, Operation Rectangle.**

5.3.13 Whilst the complete absence of any media strategy was evident prior to 23 February 2008, in the months following, there existed only a poorly constructed document accompanied by a protocol established at the apparent suggestion of Chief Executive Bill OGLE. This is referred to later in this Report.

5.3.14 On 1 March 2008 a media strategy was created by Louise JOURNEAUX and John WOOD, her assistant from Devon & Cornwall Constabulary. A subsequent version with no changes can be seen to set out the following aim *'Through effective use of the media reassure the community that the investigation will be thorough and professional thereby encouraging public response to appeals and creating confidence in the States of Jersey Police'*.

x.384; page  
934

5.3.15 The document contained 11 objectives as follows:

- *Keeping the investigation in the public eye*
- *Minimising journalistic speculation*
- *Reassuring the community*
- *To manage press interest effectively so as to minimise potential misinformation and interference with scenes, witnesses, victims' relatives and suspects*
- *To provide the public with accurate information about the offence and the police response*
- *To minimise unnecessary community concern over the fear of crime*
- *To demonstrate the professionalism of the States of Jersey Police*
- *Providing information to the public and assist their ability to help in the investigation*
- *Potentially inducing offender response (intense media activity may influence offender's behaviour)*
- *To use the media in the best way possible to acquire information required by the Investigation or meet other investigative objectives*
- *To give due concern to the portrayal of victims, the feelings of victims' relatives*

5.3.16 These are appropriate and adequate aims and this Inquiry does not criticise them. The issue is that they were either not followed through or were followed through to excess. The narrative below comments on each objective;



- *'Keeping the investigation in the public eye'*. This is an example of where the DCO took the objective to extreme lengths. The diet of salacious and uncorrected reports (see Media Coverage later in this section) certainly maintained the high profile of the enquiry, but ultimately proved damaging to the integrity of the criminal investigation.
- *'Minimising journalistic speculation'*. This Inquiry concludes that loose, premature, unsubstantiated and incorrect reportage maximised speculation and created an uncontrolled reporting frenzy.
- *'Reassuring the community'*. The findings in this regard from Echo Research, commissioned by this Inquiry, suggest that the reputation of the Island was damaged as a result of Operation Rectangle rather than enhanced. No witness to this Inquiry, including CO POWER and DCO HARPER, suggest that Operation Rectangle has enhanced the professional reputation of the States of Jersey Police. However, Echo Research concludes that in respect of media reporting during the period of the investigation of Operation Rectangle (September 2007 to November 2008) *'the reputation of the Jersey Police Force was primarily defined by competence/professionalism and transparency/accessibility, and strongly associated with DCO Lenny HARPER. The reputation of Jersey was overwhelmingly negative dominated by a lack of competence/professionalism and a culture of concealment/cover up'*.

d.915; page  
99

5.3.17 We do not find it surprising that these conclusions were reached. Whilst the media spokesperson for the States of Jersey Police (DCO HARPER) denigrated the activities of the States of Jersey authorities, he continued to announce to the public the efforts the States of Jersey Police were making in order to reveal the truth, *'they [victims] were concerned that it had all been a cover up. I had to convince every one that our investigation would be open and*

s.81; page  
550; para 50

*transparent and not affected by those such as the Government and lawyers'.*

- *'To manage press interest effectively so as to minimise potential misinformation and interference with scenes, witnesses, victims, relatives and suspects'.* We comment elsewhere in this Section on the effect of uncontrolled reporting on the confidence of the Island's Attorney General and the 'abuse of process' hearings that had to be contested. Whilst this Inquiry does not have direct evidence of the effect upon victims, defendants and witnesses in these cases, common sense suggests that the speculation and uncertainty cannot have helped some of them to feel wholly confident in the criminal justice system.
- *'To provide the public with accurate information about the offence and the police response'.* As we describe, un-refuted references to the *'partial remains of a child'*, *'shackles'*, *'blood in a bath'* and *'cellars'*, each transpired to be wholly inaccurate and painted an horrific portrayal of crimes which never happened.
- *'To minimise unnecessary community concern over the fear of crime'.* This Inquiry has no independent analysis available as to whether or not this objective was achieved. We think it reasonable to infer, however, that the high incidence of crime-related headlines associated with Operation Rectangle, a proportion of which were wholly inaccurate, were not likely to have minimised community concern over the fear of crime.
- *'To demonstrate the professionalism of the States of Jersey police service'.* The early uncontrolled media releases have led to criticism of the States of Jersey Police from the media, politicians and experts. The suspension of CO POWER and the existence of this Inquiry are testament to the concern that has arisen. The press conference of 12 November 2008 convened by the States of Jersey Police criticised the accuracy of earlier media releases. The fact that such a conference had to occur

undoubtedly questions the professionalism of the States of Jersey Police, albeit CO POWER felt that the conference itself was unnecessary.

- *'Providing information to the public and assist their ability to help in the investigation'*. There was a continuous flow of information delivered to the public, though this Inquiry would contend that the majority of it was a misrepresentation of the facts. Again, we consider DCO HARPER took this objective to extreme lengths, although the public did respond to and assist the investigation. Subsequently, however, damage had been caused to the integrity and standing of Operation Rectangle due to substantial inaccuracies in reporting and the need for rectification.
- *'Potentially inducing offender response. Intense media activity may influence offender's behaviour'*. Although this can be a course of action within a homicide inquiry that can produce results, all of the convicted offenders within Operation Rectangle were brought to justice as previously named offenders. We cannot ascertain if the media releases from the States of Jersey encouraged any response from other suspects. This Inquiry has found no evidence that this objective was actually considered in the production of the media releases produced.
- *'To use the media in the best way possible to acquire information required by the Investigation or meet other investigative objectives'*. Whilst there are a number of requests for information made by the States of Jersey Police, these are limited. One such example was made on 16 April 2008 which stated *'the enquiry team would ask that anyone, resident or staff member, who has any information whatsoever on these two pits contacts us as soon as possible'*. However, it is regrettable that these valuable appeals are overshadowed by the sensationalist content of the rest of the release.

x.377; page  
841



- *'To give due concern to the portrayal of victims, the feelings of victims' relatives'*. This Inquiry has no evidence upon which to assess the success of this objective.

5.3.18 Jon PARKER comments *'Other concerns around the media strategy include not identifying as an objective keeping States of Jersey Police staff informed of the progress of the investigation – yet it is listed as a tactic'*. He continues *'also listed as a tactic, but not reflected in the objectives, was the need to give notice to 'Government Communications and other agencies involved. An objective should have included working with key stakeholders to ensure accurate and verified information would be released in a coordinated and timely way'*. This Inquiry does not consider these are significant criticisms.

d.1140; page  
585; para  
8.3.12

d.1140; page  
585; para  
8.3.13

5.3.19 Following the objectives is a list of tactics that would help to achieve the aims. These are reproduced in full to provide context:

- *'The SIO DCO Lenny HARPER is the nominated media spokesperson.*
- *To counteract continuous requests for interviews from the media – all going over previously reported aspects of the enquiry – consideration will be given to providing the SIO with an exit strategy to rebut such requests until such time that new information is to be released or new appeals made.*
- *Additional press officers have been brought in to assist during the early stages and will be available to return if required later in the investigation.*
- *All information released will be under the approval of the SIO and consideration will be given to any protocol relating to release of material agreed by ACPO/CPS/media.*
- *A copy of each press release or media briefing note will be forwarded to the MIR for their information each time new facts are released. Briefing note sheets are passed to the media via*

x.384; page  
935-937

*e-mail after each press conference. Daily e-mails with 'nothing to report' messages will continue to minimise unnecessary calls to the press office.*

- *Use of the local media to keep them 'on board' – they will be reporting this matter locally long after the national media have left.*
- *Internal communications are extremely important and should be raised at an early juncture to ensure staff are kept informed.*
- *This has been done by informing staff (by way of an All Personnel e-mail) that all media briefings and notes are on a dedicated section on the Force's document library to ensure that they are kept informed about this important inquiry.*
- *Copies of all media briefings/press releases are sent to the States of Jersey Communications Unit based at Cyril Le Marquand House so that 'lines' can be noted. This is done at least at the same time as they are given to the media as per the protocol agreed between the two separate press offices. If anything is particularly newsworthy or sensitive, then the Communications Unit will be given advance warning where at all possible.*
- *Full press conferences may be held or media briefings as appropriate. The media have been assured they [sic] any significant finds will be reported to them — the term 'significant' will be at the discretion of the SIO.*
- *Any significant finds will be reported with stress on the fact they will be subject to further forensic tests.*
- *One to one interviews with SIO and other staff will be considered.*

- *At some stage it may be wise to consider the use of a shadow SIO for media briefings.*
- *Footage or stills from inside the premises may be made available through a pooled resource.*
- *Media facilities may be provided to show search teams etc but the specialist military search teams have expressly asked not to be filmed or photographed. The media were advised of this request and their co-operation sought (see media briefing notes dated 030308).*
- *A pre-sentence briefing will be arranged to provide the media with approved exhibits/photos and talking heads after the trial but before the verdict.*
- *Drip feed appeal and sightings over period of time.*
- *For response' press releases will be prepared when appropriate.*
- *Press releases will be prepared when appropriate and advanced notice should be given to Government Communications and other agencies involved. Internal advanced notice when appropriate.*
- *Ring around media when time is limited. The phone text database will be useful.*
- *Website information for the media and the public – ensure both sites are up to date.*
- *Underworld release – release information aimed at that specific part of the community, or specialist magazine if information may come from those areas such as Yachting World or Football magazines/programmes.*
- *If the media have obtained a photograph or footage of the suspect between arrest and court appearance, they will normally ask the*

*police if identification is an issue. The press will habitually agree not to publish at this point at our request. This is a decision that must be referred to the SIO or investigation team.*

- *Consider a mail shot with pre paid envelopes to an area where you believe witnesses may be.*
- *Consider postcard appeal – leave the postcards in taxis or public transport.*
- *Ensure the local officers are 'On Board' with the media strategy, as reporters are likely to go to them for local flavour, etc.*
- *Local officers may be encouraged to speak to the media, but need to keep within the investigation strategy.*
- *A senior officer should be present at press conferences to provide community reassurance. If possible, video recordings should be timed and dated. Video on [www.youtube.com](http://www.youtube.com).*
- *When considering how to maximise publicity identify which part of the media (local, national, TV, radio or press) is likely to be interested in this particular release.*
- *List any inter agency co-operation needed including the prosecuting agency.*
- *The above considerations are deliberately broad as it is necessary to ensure that the widest possible consideration be given prior to public appeals/information sharing being carried out.*

5.3.20 It is underpinned with the comment *'this strategy will be constantly reviewed and may be amended to take account of changing circumstances'*. We particularly draw attention to the point which stresses that any significant find will be subject to further forensic tests.

x.384; page  
937

5.3.21 Jon PARKER again comments on the major weakness of the media strategy outlined *'the overarching failure of the media strategy was in not anticipating potential risks and outcomes associated with tactical actions – and how these would be addressed. These could include, for example (and this is not an exhaustive list):*

d.1140; page  
585; paras  
8.3.14-8.3.15

- *The potential consequences of releasing inaccurate and unverified information, innocuously or otherwise.*
- *A change in the direction of the inquiry, or additional investigations arising from it (for example a homicide investigation).*
- *The likely consequences of ineffective liaison with other stakeholders and agencies, which could include increased media speculation, media reports playing one agency or individual against another (as they did) and damaged community perceptions of the authorities to conduct their business professionally.*
- *An assessment of how to effectively deal with disclosure of information so as not to prejudice or potentially cause any damage to any future prosecution/s arising or affect the public's confidence in the criminal justice process.*
- *Identifying resilience issues surrounding media and communications activity and human resources in what was clearly a critical incident and a likely long term major criminal investigation.*

5.3.22 This Inquiry suggests that these considerations would have provided the necessary guidance to prevent the problems that the States of Jersey Police would ultimately face. This Inquiry emphasises the need for careful consideration and oversight of the media strategy by CO POWER. We conclude that such consideration and oversight were lacking.



- 5.3.23 The media strategy was written on 1 March 2008 by Louise JOURNEAUX and was then updated 13 March 2008. This was a basic document that did not direct, guide or accord with the actions taken by DCO HARPER and, by the 13 March 2008 a number of significant media releases had been made by the States of Jersey Police principally by him. A total of 17 press releases and two conferences had taken place within this period. s.43; page 285; para 27
- 5.3.24 Jon PARKER describes the completed media strategy as '*cobbled together rapidly and reactively from a generic document*'. This Inquiry has established that the strategy was adapted from a document used by Devon & Cornwall Constabulary. d.1140; page 584; para 8.3.7
- 5.3.25 The strategy was not updated after 13 March 2008, which demonstrates a failure of the commitment to '*constantly review*' the strategy in order to '*take account of changing circumstances*'. x.384; page 937
- 5.3.26 Matthew TAPP refers to the strategy in the following terms '*the absence of a strategic plan, in my judgment, made the management of communications in the context of a high profile major investigation more difficult and created an environment in which media coverage was likely to be unchecked, at times inaccurate and unhelpful to the investigative need. The DCO appears to have been singularly responsible for determining what information was divulged to the media, when and by what mechanisms, and how and when to respond to coverage with which he was unhappy*'. Matthew TAPP's comment seems to this Inquiry to be both fair and accurate and, in turn, an indictment of CO POWER for his failure to intervene to retrieve the media debacle. x.263; page 699
- 5.3.27 Within days of the 23 February 2008 'find' at Haut de la Garenne, the States of Jersey Police became subject of criticism for the content and method of the media releases. At 16:40 hours on 26 February 2008, DCO HARPER contacted Andre BAKER of the ACPO Homicide Working Group. Andre BAKER states in his witness statement '*Lenny phoned me and said that politicians had contacted*' s.79; page 500; para 17

*the Chief as they thought that Lenny was overstating to and over briefing the media. I advised him that he should have a full media strategy with key points and messages'.*

5.3.28 A Communications Protocol was established between the States of Jersey and the States of Jersey Police. This was signed by Chief Executive Bill OGLE Y on 3 March 2008 and by CO POWER on 4 March 2008. Within his statement, Bill OGLE Y includes the following reasons for proposing it:

x.338; pages  
759-760

s.2b; page 24;  
paras 3a-3e

- An atmosphere of distrust created in the media that sought to imply there was a cover up, which was unable to be challenged through fear of being accused of interference.
- Uncertainty in relation to the role the Home Affairs Minister Wendy KINNARD was taking with reference to challenging the Chief Officer of Police.
- The continued disclosure of information by the police when a difficult question was asked of them, thereby causing further media attention.
- Suggestions made by CO POWER towards Bill OGLE Y that he was attempting to interfere with the investigation.

5.3.29 This Protocol established and outlined some principles for media management and communication between the Force and Government. A summary is provided below and the Protocol in entirety can be viewed within the Evidential Bundle accompanying this Report.

x.338; pages  
759-760

- Each organisation must maintain and protect the integrity of its independent role in this Inquiry, but with respect for the authority and accountability of the other.
- All media dealings will be managed through the relevant communications structures in place within each organisation. The interests of the other will be recognised to avoid any unnecessary conflict.

- Each organisation will notify the other of any proactive work to be undertaken.
- Each organisation will avoid comment about the activities of, or issues about, the other, particularly in the context of criticism or implied conflict.
- The States of Jersey Police will direct the release of all information and the management of media issues relating to the inquiry into Historical Child Abuse in Jersey, and any subsequent major crime investigation launched as a consequence of its findings.
- Press conferences will be co-ordinated.
- The States of Jersey will direct the release of all information, and the management of media issues relating to States Government, the responsibilities of its government agencies, allegations of individual/agency failings, and any subsequent issues arising out of ongoing inquiries.
- Where practicable each agency agrees to copy the other into statements/notifications/press releases issued to the media.
- The Chief Executive of States of Jersey, or his nominated deputy(ies), will undertake to liaise with the Chief Constable of the States of Jersey Police, or his nominated deputy(ies), to keep him (her) informed of developments and any key media issues likely to arise.

5.3.30 Louise JOURNEAUX recalls that *'after the child abuse enquiry went public in November 2007 following the police press release, both Mr POWER and Mr HARPER were called to Mr OGLEY's office because the States seemed to have a problem with the term 'victims' being used. I can only imagine that after HDLG became public knowledge, there was a desire that a protocol was put in place'*.

s.43; page  
286; para 28



5.3.31 In light of the political criticism that the States of Jersey Police was attracting in those early weeks in March 2008, together with the advice provided by Andre BAKER and the presence of the Communication Protocol, CO POWER should have recognised the need for a sophisticated media strategy that would guide the States of Jersey Police through the difficult and intense media attention during this most vulnerable period. Ex-DCO HARPER states *'the media strategy was subject of many discussions between Graham POWER and he knew that we were battling in a hostile environment'*. One can reasonably conclude that the subject of a strategy was raised directly with CO POWER and he, therefore, should have ensured the strategy created on 1 March 2008 was fit for purpose.

s.81; page  
553; para 57

5.3.32 The Inquiry finds it telling that the issue of the media strategy did not arise again until 25 June 2008 when it did so very pointedly for CO POWER following a media release by DCO HARPER in relation to the charging of two suspects (see Section on Suspects 'A'), caused the Attorney General, William BAILHACHE, to summon CO POWER and Deputy Home Affairs Minister Andrew LEWIS, to his office. The meeting was also attended by John EDMONDS, the principal legal advisor to the Attorney General. The purpose of the meeting was to inform both Andrew LEWIS and CO POWER of the unacceptable conduct of DCO HARPER. This meeting will be referred to in detail in a later section. One outcome of this meeting was the request made of CO POWER by the Attorney General, to provide him with a written copy of the police media policy.

s.85; page  
746; para 83

5.3.33 On 30 June 2008, e-mail correspondence between Detective Inspector Alison FOSSEY and CO POWER raised the following *'Alison... I think we do need something on media policy. A copy of the A.C.P.O. media policy and items from H.O.L.M.E.S. might do'*. In all the circumstances of Operation Rectangle and the calling into question of the performance of the SIO (the second most senior officer in the States of Jersey Police), this was, in our view, a very basic and lack lustre response from the Chief Officer. The tone is

t.534; page  
129

indicative of a naive detachment from the media issue coupled with an apparent lack of understanding of the dire implications of the developing media situation. This was another opportunity for the Chief Officer to address and 'grip' the important matter of media strategy and to satisfy the Attorney General that appropriate measures were in place – the evidence is that CO POWER did not do so.

- 5.3.34 John EDMONDS observes *'I obtained a copy of the police media policy and went through it and compared it to the guidance provided in 'Guidance on Investigating Child Abuse and Safeguarding Children' document produced by ACPO in 2005 and 'the Investigation of Historic [Institutional] Child Abuse document produced in 2002 and the 'Murder Investigation Manual and wrote a report for the Attorney General dated 8<sup>th</sup> July 2008. I can produce a copy of this report and the relevant sections of the above documents as exhibit JHE6. I had been asked to perform this task by the Attorney General with a view to discussing the media policy with the police. In this document I highlighted the recommendations for a Risk Assessment in relation to the media strategy and the advice to avoid interviews outside the parameters of the agreed press releases. This led me to question whether the principles set out in these documents had been fully embraced and understood by the Operation Rectangle investigation team'*. This Inquiry concludes that those principles were never embraced even if properly understood.

s.8; page 73;  
para 11

- 5.3.35 Between 30 June 2008 and 2 July 2008, a copy of the 1 March 2008 Media Strategy was reviewed by Attorney General William BAILHACHE. He raised concerns about its content, including there being no understanding within it of ensuring the need to deliver justice within a small community; the need to maintain confidence in the criminal justice system generally; and the effect of the media policy on the abuse of process arguments.

s.85; pages  
749-750;  
paras 94-96

- 5.3.36 The Attorney General wrote to CO POWER on 18 July 2008, with the intention of addressing the need to strengthen the working

relationship between them. The letter was a long one, and sought to deal with matters including charging policy, the chain of command, media policy, unused material and about matters pertaining to the Care Leavers Association. He made it plain that, in his view, the existing media policy was in danger of not serving properly the administration of justice and posing serious risk to the criminal process. This was a clear warning to CO POWER of the weakness in the police's management of the media. CO POWER responded in a letter that same day and although he states *'In the meantime please be assured that I take all of your concerns seriously and will be active in seeking solutions which offer an amicable way forward'* the letter suggested that nothing should be done until the retirement of DCO HARPER. *'I suggest that we at least think about the timing of a meeting in the context of imminent key changes to personnel'*.

s.85; page 751;  
para 97

x.695; pages  
1866-1871

x.696; page  
1873

x.696; page  
1872

5.3.37 The criticism attracted by the media strategy throughout the enquiry to this point is in stark contrast to the reception of the subsequent Communications Plan created by DCO WARCUP following the establishment of a Gold Group. Jon PARKER refers to that Communications Plan in the following terms *'[It]...contains a clear statement of objectives, key messages, tactics, audiences and media monitoring and evaluation, as one would expect as a fundamental and key contribution to any investigation of this nature. This document is applied good practice'*.

d.1140; page  
584; para  
8.3.6

5.3.38 The manuals of guidance described at the beginning of this section of the Report, which this Inquiry contends are recognised good practice, make regular reference to the need for a media strategy and involvement of key stakeholders. The Practice Advice on Critical Incident Management manual Section 3.9.2 (Page 36) states *'the strategy should also consider the perspectives of others involved in the response to the incident'*. It comments further in Section 3.9.2 that the *'officer in charge is responsible for initial formation of a media strategy'* (Page 35).

MOG; d.16

5.3.39 Whilst it was the responsibility of the DCO HARPER to formulate a media strategy, the standards set out in the Murder Investigation Manual (3.3.6) make it clear that CO POWER was responsible for ascertaining what media strategy was in place and that it was suitable for the purpose for which it was intended.

MOG; d.17;  
page 80

5.3.40 CO POWER was obviously aware of the need for a media strategy. It was a matter of obvious common sense. Furthermore, it was brought to his attention by Andre BAKER and was continually referred to by the Attorney General. It is striking, however, that it was only following receipt of the media disclosure material in respect of media issues by this Inquiry to CO POWER on 20 May 2009 that he became aware of the strategy created on 1 March 2008. This Inquiry can find no evidence that he was aware of this strategy beforehand. CO POWER comments in his statement *'I have seen a copy of the media strategy. I see nothing exceptional in its contents, and note that it relates to the investigation of offences of historic sexual abuse. It does not refer to the investigation of any other crimes'*. If it is indeed the case that CO POWER had not seen this strategy before its disclosure to him by Operation Haven, this is surely the strongest possible indictment of his failure to manage the media aspect of Operation Rectangle.

d.1071; page  
286; para 307

5.3.41 CO POWER continues in his statement to list advice from the document *The Effective use of the Media in Serious Crime Investigations*, *'Getting information out allowed the investigation to take the lead in press handling at an early stage, while allowing the rest of the investigation to progress. Furthermore, it was argued that early initial communication with the press limits the degree to which they formulate their own accounts of what happened and begin their own 'investigations'... Finding 'unknown witnesses' was the most frequently stated objective for press appeals... The media can be an important mechanism for generating valuable information from the general public'... providing more detailed information to the general public can increase the likelihood of generating additional valuable information'*.

d.1071; page  
286; para 308



5.3.42 In light of the advice in this guidance document which was also served on him by way of disclosure by Operation Haven, and the nature of the media coverage of Operation Rectangle, we find it surprising that CO POWER nevertheless concludes that 'this advice appears to be entirely consistent with the approach taken to media management during Rectangle'. (The underlining is CO POWER's emphasis).

5.3.43 In summary, the events of 23 February 2008 and after were exceptional circumstances for the States of Jersey. The crisis required a formal, well constructed media strategy that could be used to guide media releases with the best interest of victims, witnesses and other stakeholders at heart. It needed to provide a clear framework for keeping the public informed, satisfying the reasonable demands of the media whilst maintaining the professionalism of the Force and avoiding any danger of compromise to the enquiry or the broader criminal justice process. It appears to this Inquiry that CO POWER was the only person in a supervisory capacity who could have ensured that DCO HARPER produced a strategy fit for purpose. We conclude that CO POWER failed in his duty; a failure which amounts to neglect, given the serious implications of his failure.

- **Conclusion 16**

5.3.44 **CO POWER neglected his duty to ensure an appropriate media strategy was in place and being adhered to following the 'find' on 23 February 2008. This strategy should have been regularly reviewed and was not.**

## **5.4 Media issues relating to 23 February 2008**

- **The following sections outline the consequences of the absence of a media strategy for Operation Rectangle.**

5.4.1 Following the discovery of the 'fragment' at Haut de la Garenne at 09:30 hours on Saturday 23 February 2008, DCO HARPER produced Media Policy Decision 8 'to release limited information revealing 'find' of possible human remains'. Please see Appendix 3 of this Report.

- 5.4.2 The written entry in the pocket notebook of CO POWER at 10:45 hours on 23 February 2008 states he received a call from 'LH'. His recollection reported in his statement is that he was told of the 'find' and that it was *'a piece of a child's skull'*. He states that DCO HARPER felt that he had to make an announcement to counter leaks and speculation. Unfortunately, CO POWER does not elaborate in his statement on what was then agreed. d.1125; page 390
- 5.4.3 CO POWER was aware of the intention to release a press statement, though there is less certainty regarding his knowledge of its content or whether he sanctioned the content at that time. This Inquiry suggests that a discussion should have taken place as to detail given that CO POWER was the supervisor of the SIO. If such a discussion did take place and CO POWER agreed the disclosures subsequently made, then he displayed a disturbing lack of competence. If CO POWER did not approve the disclosure then he should have acted upon DCO HARPER's subsequent bodged and irresponsible disclosure. If no discussion took place about the content of a media release, CO POWER failed to supervise at a key point in the investigation.
- 5.4.4 At 11:01 hours, CO POWER sent an e-mail to Home Affairs Minister Wendy KINNARD, Deputy Home Affairs Minister Andrew LEWIS, Chief Executive Bill OGLE and Chief Minister Frank WALKER, which was approximately 45 minutes prior to DCO HARPER constructing his press release. It was regarding probable future publicity in which CO POWER says *'In consultation with the DCO and in the interests of fair relations with the local media an announcement is likely to be made soon. The announcement will confirm that acting on the basis of information gained during the enquiry the investigation team, assisted by experts from the U.K. have been undertaking a forensic search of the former home at H.D.L.G. This search has revealed what appear to be the human remains of a child. The search is continuing'*. He concludes that this is operationally sensitive until the announcement is made. From this we can conclude that x.16; page 18

CO POWER was fully aware of the proposed announcement and, we conclude, had agreed to it.

- 5.4.5 CO POWER'S pocket notebook, after the 10:45 hours entry, indicates that he visited the scene at a time not specified, and conferred with DCO HARPER although he does not refer to the visit in his statement. At 11:45 hours, DCO HARPER wrote a press release which Inspector David BURMINGHAM copied verbatim into his pocket notebook. d.1125; page 390
- 5.4.6 Inspector David BURMINGHAM had been tasked to issue a local and national press release. He returned to Police Headquarters and did so. The press release referred to the finding of '*what appears to be potential remains of a child*'. This was circulated to the media at 13:05 hours and at 13:13 hours, a copy was forwarded to CO POWER. s.1; pages 3-4; paras 17-19
- 5.4.7 CO POWER comments in his statement that later that day (i.e. 23 February 2008) '*Lenny HARPER issued his media release which refers to the 'potential' remains of a child. We had not as far as I can recall discussed the wording which would be used in the release*'. It is surprising that, for a press release of such obvious magnitude, the Chief Officer did not himself explicitly approve the press release. s.1; page 4; para 21
- 5.4.8 Later in the same paragraph CO POWER expresses surprise at the words used by DCO HARPER '*because they were insufficiently precise and capable of wider interpretation*'. In light of these comments, this Inquiry wonders why CO POWER's e-mail sent at 11:01 hours to Messrs WALKER, OGLE, LEWIS and Ms KINNARD also referred to what was found as '*what appear to be the human remains of a child*'. x.3; pages 1-2 & 5 & 7
- 5.4.9 This Inquiry has established that the Cordon Log (also referred to as the visitor log) records CO POWER arriving at Haut de la Garenne at 12:45 hours on 23 February 2008 and that a meeting occurred with DCO HARPER. Any suggestion that CO POWER was not by then x.377; page 789

aware of the content of DCO HARPER's press release, which was circulated whilst he was at Haut de la Garenne, appears unrealistic. Ex-DCO HARPER is unable to assist regarding this issue as he says he has no recollection of telephoning CO POWER or meeting him at Haut de la Garenne. In his witness statement, ex-DCO HARPER expresses his belief that CO POWER was '*off the Island at the time*'. He is plainly wrong in that belief.

s.81; page  
551; para 51

s.81; page  
553; para 53

s.81a; page  
574; para 41

s.81; page  
551; para 51

- 5.4.10 During a telephone conversation between Louise JOURNEAUX and DCO HARPER, she outlines in her statement that she was advised by him that they had found remains of a child at Haut de la Garenne and that a News of the World photographer had been discovered hiding in the grounds. She was informed that DCO HARPER had drafted a press release which had been given to Inspector BURMINGHAM. Following her arrival at Haut de la Garenne between 12:00 and 14:00 hours, she was tasked with releasing the same press release to the London media. Having reflected on the wording of the press release, she considers that the phrase '*potential remains of a child*' is inappropriate as it was bound to conjure up the thought of some sort of substantial body parts, as opposed to a very small, scientifically untested fragment. Whilst that may be the position on reflection now, this Inquiry has no evidence that she sought to challenge the assertion. A subsequent press conference then took place at Haut de la Garenne during the afternoon of 23 February 2008 attended by the local media.

s.43; page  
279; para 9

s.43; page  
279; para 10

s.43; page  
280; para 11

- 5.4.11 Matthew TAPP, in his review, also comments on the inappropriate terminology pointing out that it evokes certain imagery in the mind – of skeletal bones – and does not correspond with the small item that had been unearthed. He comments further on this and also refers to the hastily convened Press Conference which is commented on later.

x.263; page  
681

- 5.4.12 Detective Chief Inspector David MINTY (a trained SIO and member of the Force Senior Management Team) was surprised that details of what had been found and what it was presumed to be, were released

s.48; page  
338; para 21



to the world's press at the very first opportunity, when he would have expected them to have remained confidential until such time as precise verification of the material was secured, and as subsequently proposed in the 'tactics' accompanying the objectives of the States of Jersey Police media strategy for Operation Rectangle.

- 5.4.13 Detective Sergeant Kevin DENLEY, who was seconded onto Operation Rectangle from Devon & Cornwall Constabulary, has a wealth of experience within the field of major investigations as a HOLMES manager. His view is *'I do not think that there would be one SIO in the Country that would have announced to the media that they had discovered child remains without having it fully checked out first. Certainly not without having prepared the internal infrastructure for the amount of enquiries that would generate'*. s.22; page 150; para 24
- 5.4.14 Detective Superintendent Michael GRADWELL who has 30 years experience in the police service, and who has been the SIO on numerous high profile cases concludes *'I feel it highly unlikely any other senior investigating officer or senior officer in the United Kingdom could feel comfortable utilising such a description'*. s.5a; page 61; para 102
- 5.4.15 Detective Superintendent Bryan SWEETING says of the disclosure of 23 February 2008 *'the media release around the disclosure to the press regarding the 'piece of juvenile skull' raised the awareness of the investigation to a National and International level... It is my view that no disclosure should have taken place at that stage. There was insufficient evidence to confirm the identity of the find and the SIO should have been aware of the consequences of releasing that information to the world's media. What should have happened was that they should have waited confirmation of what the find was before public and media release'*. s.65; page 393; para 17
- 5.4.16 Matthew TAPP is of a similar view stating *'it is hard to escape the conclusion that the prominence, tone, and somewhat alarmist and sensational media coverage, and the ensuing controversy and confusion played out in public about the nature of the find made on* x.263; page 684

*February 23<sup>rd</sup>, was the direct result of the language used by the SOJP... In describing it in these ways the Force incited enormous media coverage which at times was somewhat hysterical and sensational and which was, in turn, equally inaccurate and misleading to the public'.*

5.4.17 These are just some of the views expressed regarding that media release. Others, whose statements are contained within the Evidential Bundle, also reflect on the inappropriate release in terms of content and timing, e.g., Deputy Andrew LEWIS, Adrian WEST, Advocate Stephen BAKER and ACO David WARCUP. It is clear to this Inquiry 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.

5.4.18 At 16:05 hours on 23 February 2008, when DCO HARPER telephoned Andre BAKER of the ACPO Homicide Working Group to request mentoring/advice regarding Operation Rectangle, he is alleged (according to Andre BAKER's notes made contemporaneously) to have referred to what had been found as *'half a child's skull'*.

s.79; page 497  
para 9

s.81; page  
538; para 18

s.79; page  
496; para 7

s.79; page  
497; para 9

5.4.19 Whilst CO POWER may now express surprise at the words used by DCO HARPER in that media release, the e-mail correspondence referred to above, between CO POWER, Chief Executive Bill OGLEY, Chief Minister Frank WALKER, Senator Wendy KINNARD and Deputy Andrew LEWIS, suggest he was aware of the tone and possibly the exact content of what DCO HARPER intended to say. In our view, CO POWER should have taken steps carefully to control the handling of the media at this sensitive stage and should, ideally, have prevented any media disclosure; but if he felt that some disclosure was merited then plainly he should have ensured that the language

was temperate and considered. Even if CO POWER is given the benefit of the doubt and it is accepted that he had no knowledge of the content of the release, the question then becomes why he was so unaware. Previous sections have commented on the frequency with which CO POWER and DCO HARPER were said to have met and the regularity of briefings. Ex-DCO HARPER states '*I briefed him each day and never held anything back*'. If this was so, it is hard to see how CO POWER was not made fully aware of what his DCO was about to release, and even harder to understand why the only person in a position to supervise and moderate the DCO's actions did not do so. The 'find' was the single most significant event to occur in the Operation Rectangle investigation. The management and use of this information was crucial to the direction the investigation would take and the public's reception and analysis of the investigation. That much, at least, should have been obvious to an officer of CO POWER's length of service.

s.81; page  
533; para 6

5.4.20 On 26 February 2008, CO POWER sent an e-mail to Bill OGLEBY in which he states '*I do not give political advice but I am experienced in media management in a crisis*'. With this self professed experience, it is hard to understand why CO POWER did not discharge his responsibilities by giving strategic direction to the enquiry in general terms and why he did not specifically moderate the tone of the media release.

t.130

5.4.21 Appendix G of the Investigation of Historic and Institutional Child Abuse provides guidance in the area of media releases. It comments on the need to obtain balance in order to protect the integrity of the investigation and the rights of an individual to a fair trial. The Practice Advice on Critical Incident Management 3.9.2, page 36, specifically relating to media, comments that the type and tone of wording used in media statements must be tactful.

MOG: d.778;  
pages 99-102

MOG: d.16

5.4.22 Section 3 of the Murder Investigation Manual 2006 headed 'The Role of Chief Officers in Major Crime Investigations', states under Media

MOG: d.17

Issues at Page 80 *'the chief officer's strategic role is primarily one of quality assurance'*.

5.4.23 DCO HARPER's releases to the media on 23 February 2008 appear far removed from his own media policy (Decision 8) *'to release limited information revealing find of possible human remains'*.

Appendix 3

5.4.24 When compared against the standards referred to above, it is the view of this Inquiry that the performance of CO POWER falls far short of that reasonably to be expected of a Chief Officer, even more so when it is understood that the Chief Officer was the only person with the authority and ability to supervise the SIO. The media frenzy that ensued following this release is commented on in a later section, but CO POWER should easily have recognised the potential impact of such a statement. He should have ensured the release was measured, accurate and conditional upon the results of a forensic laboratory examination. Instead, CO POWER allowed the SIO to proceed unchecked.

5.4.25 This Inquiry is fully aware that a Forensic Anthropologist, Julie ROBERTS, was at the scene of the 'find' on 23 February 2008 and gave an opinion that the 'find' was human. Nevertheless, and for reasons now obvious, her initial opinion should not have been announced to the world's media at that time. The provenance of Exhibit JAR/6 is dealt with later in this Section of this Report.

## 5.5 Media coverage after 23 February 2008

5.5.1 In our view, if the initial media release of the 23 February 2008 prompted the media to 'descend' upon Jersey, then the subsequent conferences led by DCO HARPER with Haut de la Garenne as the backdrop only encouraged their continued presence and the developing media frenzy.

5.5.2 This period was crucial in the overall management of Operation Rectangle. Whilst the initial release confirming the *'potential remains*

x.377; page  
789

*of a child*' has been subject to much criticism, it was the subsequent speculation in the national media that exacerbated the problem.

5.5.3 There is no doubt, in our view, that the States of Jersey Police was misquoted on a number of occasions. CO POWER and ex-DCO HARPER will contend that they did attempt to correct these mistakes. However, the lack of media strategy or strategic oversight from CO POWER made this task much more difficult. The absence of strategy created the environment in which misquotation was more likely. The total number of media releases made by the States of Jersey Police and the coverage of the national and international press is too large to detail within the body of this Report and is included within the appended Evidential Bundle. However, comment will be made here on a number of significant States of Jersey Police releases that are, in our view, representative in tone and content of those which we say merit criticism of CO POWER's handling of this aspect of Operation Rectangle during this period.

5.5.4 An early press release following the initial announcement on 23 February 2008, changes wording from *'potential'* to *'partial'* with respect to the *'remains of child'*. A press conference led by DCO HARPER later the same day referred to the *'partial remains'*. This was seized upon by the media from the outset; the BBC News on the evening of 23 February 2008 pictured DCO HARPER explaining *'in addition to the 'partial' remains, we found a number of other items of clothing and bits and pieces, nothing major, but, again, which tends to corroborate the fact that there may be a number of items there'*.

d.1104; page  
299; DVD Clip  
1

5.5.5 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. 'Potential' at least left the situation open to review and clarification. Later that day, the BBC website reported that *'parts of a child's body have been found by police in a former children's home in Jersey. Police believe more bodies may be found at Haut de la Garenne'*.

d.1108; page  
352



- 5.5.6 The progression from 'potential' to 'partial' to 'parts' occurred within hours and this distortion continued over the next few days. The News of the World, Sunday, 24 February 2008, reported '*Police have found a child's skull in a secret dig for a group of lost children feared murdered*'. d.1104; page 299  
x.377; page 789  
d.1108; page 352  
x.716; page 1877
- 5.5.7 The Sunday Times referred to '*parts of a child's skeleton*' and the Observer even provided the gender of the skeleton with the quote '*believed to be a girl's remains*'. x.716; page 1878  
x.716; page 1876
- 5.5.8 With the exception of the leap to the assumption they were the remains of a girl, none of the above is an outrageous distortion of the first impression created by the initial announcements of DCO HARPER. However, two days later the States of Jersey Police did attempt to correct the misrepresentation of the facts by stating on their website '*The States of Jersey Police would like to emphasise that all that has 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. x.377; page 790
- 5.5.9 Whilst some effort had been made to reduce the speculation and rein in some of the media coverage, the continued reference to 'partial' did nothing to alleviate the exaggeration of the facts. The presumption of dead children was, by now, firmly embedded in the public's mind. The States of Jersey Police 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.
- 5.5.10 From the outset, CO POWER was asked questions about the releases and what was being reported in the media. An e-mail exchange on 25 February 2008, between Senator Sarah FERGUSON and Senator Wendy KINNARD, outlines the former's concerns. CO POWER responded to Senator KINNARD, describing the differences in the media reporting to that released by the States of Jersey Police: '*Wendy, Trust her to try to start an argument when we are busy doing real work. I suggest you keep it simple and general*'. t.151; page 26

*There are reports that we believe that there are xxx hidden bodies. What we actually say is that there are a number of locations where scientific readings indicate that there is a need to explore further. That is a different thing (to anyone who is actually listening that is)'.*

5.5.11 It is not unreasonable to conclude, even at this early stage, that these enquiries from politicians were an indication of the reaction to what had been released and should have prompted action from CO POWER to set the record straight and to ensure that DCO HARPER was being appropriately supervised to eliminate the risk of matters escalating unreasonably. It appears to this Inquiry, that CO POWER's above e-mail was dismissive and complacent in tone.

5.5.12 On 25 February 2008, the Home Affairs Minister, Senator Wendy KINNARD and Chief Executive Bill OGLEY met with CO POWER to discuss media handling of the enquiry and to advise that there was concern about how announcements to the media were being conducted. It seemed clear to them that the informal style and setting for press conferences was creating an opportunity for sensationalism and it was, therefore, suggested that future press conferences should be in a more controlled, formal setting. Most importantly, they wanted to be assured that in future all announcements and responses to questions would be more circumspect to avoid speculation. It was suggested that CO POWER could take the lead, wearing uniform and working from a conference room.

s.2b; page 24;  
para 3d

5.5.13 At 16:38 hours on that day, CO POWER sent them an e-mail. The tone of the e-mail implies to this Inquiry his support for the way DCO HARPER was handling the press and suggests that it would be most unusual for the Chief of Police to front the media. His reluctance to do so is clearly evident *'if I understand it correctly then there was concern that we were giving away too much, that the tone was wrong and that there could be prejudice to future proceedings. I did respond*

t.265; page 37

by saying that I had seen some of the coverage and thought that it was first class'. He continued 'it was suggested by you that I might do some of the media work. This would be most unusual in a major crime enquiry. The role of the head of the force would be seen as providing reassurance that the right skills and arrangements are in place. It is customary for the senior investigator to talk about the investigation. I do not have a grasp of all the detail, and have not led an investigation for a number of years'. This e-mail does provide further evidence that CO POWER's grip on Jersey's biggest investigation in living memory was inadequate.

5.5.14 Bill OGLELEY states that *'The next day in a telephone call he informed me that he had considered I had attempted to interfere with the investigation and that if asked, he would say so'*. Perhaps unsurprisingly, Bill OGLELEY felt that the whole tone of CO POWER's response was aggressive and threatening. It seems that despite these warnings, CO POWER just did not grasp the consequences of the highly emotive use of language contained in the States of Jersey Police media releases or that the misrepresentation by the national media should have been vigorously challenged from the outset. In the view of this Inquiry, we cannot understand why Mr POWER so readily equated politicians' and States' Officers' concerns about media speculation to political interference with the investigation.

s.2b; page 24;  
para 3d

5.5.15 A further expression that has become the subject of much speculation appeared on the States of Jersey Police website on 27 February 2008 *'we can confirm that this morning, we have gained partial access to the cellar'*.

x.377; page  
791

5.5.16 This phrase was repeated at regular intervals, including a press conference that evening. In the following 24 hours, various references to the cellar were made with a further release on the website on 28 February 2008, in which the cellar was described as *'an underground room with unrendered walls'*.

x.538; L7

x.377; page  
794



- 5.5.17 Released in this manner, these descriptions were inevitably going to lead to sinister interpretations. However, when Detective Superintendent Michael GRADWELL and DCO David WARCUP held their media conference on 12 November 2008, they were readily able to set matters straight by pointing out that the 'cellars' were 'floor voids... they are not dungeons, and they are not cellars'. Matthew TAPP has commented in his review that the reference to cellars was inaccurate and allowed the media to create a false impression in the public mindset. x.658; pages 1711-1724  
x.658; pages 1719-1720  
x.263; page 685
- 5.5.18 When asked to make a statement to Operation Haven, ex-DCO HARPER was asked to comment on the use of such language. He stated that he did end up using that term because victims had been telling them about cellars. He admitted that they were not cellars 'as such', but an area which was no longer used located below what became the ground floor. He stated that he qualified his statements by referring to it as 'the area known as the cellars' or something similar. s.81a; page 562; para 10
- 5.5.19 On 29 February 2008, DCO HARPER continued the theme with an interview on Sky News in which he stated that they had uncovered 'what some of the witnesses have referred to as a trapdoor'. d.1104; page 302
- 5.5.20 The Sun reported on the discovery, referring to it (the trapdoor) as giving access to 'three torture chambers'. The Daily Mirror reported 'It [the trap door] is thought to lead to hidden dungeons where a child's skull and shackles have already been found'. x.716; page 1888  
x.716; page 1884
- 5.5.21 Again, the media had worked on the emotive terms being issued by the States of Jersey Police and there was a lack of any attempt at correction by the Force. In a States of Jersey Police release of 28 February 2008, it declared 'on the whole, we are delighted with the media coverage we have had so far... however, there have been a few totally erroneous suggestions... the vast amount of coverage has been 'absolutely superb'. Once more, this is suggestive of complacency as to the media's coverage. x.377; page 794

5.5.22 This Inquiry well understands the need to maintain a good police relationship with the media. However, the passive acceptance of such emotive language ran the very obvious risk of causing problems in terms of public expectations and in any future court proceedings. On 4 March 2008, a meeting was arranged between CO POWER and Attorney General William BAILHACHE, which raised a range of issues concerning his [William BAILHACHE's] belief that the media reporting to date would result in abuse of process arguments, on the basis that a fair trial for those charged as a result of Operation Rectangle was impossible. The Attorney General expressed concerns at the terminology used and the possibility of compromise to any corroborative effect of witnesses referring to certain items as being relevant to their case, but the details of which had already been made known to the public via the media. William BAILHACHE believes that it was at this meeting, but it may have been a subsequent occasion, that CO POWER told him that DCO HARPER was due to retire in a matter of months and that there was a limit to the amount of practical control which he, CO POWER, could exercise. There is no evidenced reason to disbelieve the Attorney General about this alleged comment.

s.85; pages  
731-733;  
paras 38-46

x.684; pages  
1856-1857

5.5.23 We understand there were actually five months remaining before DCO HARPER was due to retire in August 2008. The reaction to the media releases he initiated was significant and damaging, yet CO POWER, seems to suggest there was nothing he could do but wait for DCO HARPER's retirement. This is plainly unacceptable. This Inquiry believes that CO POWER should have done all within his authority to modify DCO HARPER's media approach and to provide strategic direction as to how Operation Rectangle should progress, especially in the media arena.

5.5.24 Instead, media speculation seemed to gather pace unchecked. On 29 February 2008, The Guardian reported that '*shackles were found yesterday in one of the underground chambers*'. On the same day, the Daily Mail announced '*a pair of shackles were found yesterday in*

x.716; page  
1879

x.716; page  
1880

*the 'Colditz' care home'. Whilst The Sun reported 'Cops hunting for bodies in the care homes underground torture chamber yesterday uncovered a pair of shackles'.*

x.716; page  
1883

5.5.25 This story was repeated throughout the local and national newspapers, having originated from builders who had worked at Haut de la Garenne some years prior to the commencement of Operation Rectangle, and who had found what they termed as 'shackles' when conducting renovation work. This had prompted the States of Jersey Police to further investigate and they had located items amongst some builder's rubble found within the floor voids. Whilst no initial confirmation or denial of the presence of 'shackles' was made by the States of Jersey Police, neither did they seek to address what was being reported. The nature of these items is not clear and the term 'shackles' is one description, but they could also be described as old pieces of wire, probably bed springs. Stephen REGAL comments *'when shown by Mr GRADWELL even a lay person would know that you could not secure anyone with these pieces of wire which had the appearance of old fashioned bed springs'*. Without challenge to what was being reported, the public were entitled to believe that 'shackles' had been found.

s.81; page  
542; paras 28

s.81; page  
546; para 39

s.81a; page  
561; para 8

s.25; page  
177; para 18

5.5.26 Yet on 24 May 2008, a press release by the States of Jersey Police actually confirmed the presence of the shackles *'Mr HARPER never moved to quell suggestions that shackles and a bath had been found in the cellar because quite simply they had been. Furthermore their find corroborated the evidence of a number of victims. The SoJ Police have never confirmed until now that shackles were found. We do now and also for the first time, confirm that a second pair of what appear to be "home made" restraints were also discovered'*.

x.377; page  
861

5.5.27 This 'confirmation' was surprising, given the true state of the items in question and was bound to yet further raise the profile and sensationalist coverage of the investigation. In his statement, ex-DCO HARPER admits that even he was now being driven by the

press and that he confirmed the existence of shackles knowing that to be wrong *'initially I had not confirmed this to the press, but as the months went on and because the press were constantly referring to shackles I also started to use that phrase. Whilst the item could have been something else I took the view that, bearing in mind what the victims had alleged, it was possible it could have been used as such even though they were not shackles per se'*. This is a surprising state of affairs where the SIO accepts and adopts inappropriate language being used by the media.

s.81a; page  
561; para 8

5.5.28 Ex-DCO HARPER states that Forensic Services Manager Victoria COUPLAND showed CO POWER the 'shackles'. If this is correct, it may be assumed that he [CO POWER] either believed somehow they were shackles, or chose to ignore the obvious misrepresentation in the media. When asked by Operation Haven, Victoria COUPLAND cannot recall showing the items to CO POWER. Given that no scientific assessment of the 'shackles' was available and some doubt was plainly entertained by DCO HARPER, this Inquiry would expect any reasonable Chief Officer to resist the use of assumptions and ensure an accurate account is being conveyed to the public. Yet CO POWER appears to have done nothing to correct this false impression as to 'shackles'. Indeed, we can find little evidence that he ever intervened to correct false impressions which were gathering pace in the media.

s.81a; page  
562; para 9

s.24b; para 3

5.5.29 On 7 March 2008, two further matters were released into the public domain by the States of Jersey Police which courted controversy *'the dog indicated to two different spots within the 'bath'. Presumptive tests for 'blood' have given a positive result'*.

x.377; page  
810

5.5.30 The Daily Telegraph reported this on 8 March 2008 in the following terms *'Detectives revealed on Friday that specks of blood had been found in a bath that was in the first 'punishment room'. The News of the World continued the following day with 'On Friday sniffer dogs found spots of blood in a giant concrete bath in the first chamber...*

x.716; page  
1892

x.716; page  
1890



*Some victims say they were kept in underground 'punishment rooms' where they were drugged, raped and flogged by staff.*

5.5.31 This Inquiry can find no evidence that any steps were taken to address this media misreporting. In other words, neither DCO HARPER nor CO POWER appear to have taken any steps to control and diminish the emerging picture of torture and possible homicide. This was yet another example of the release of too much information, too early, before it could be confirmed whether Operation Rectangle had actually found 'blood', or what the significance of the 'bath' was and without any consideration of the impact on the enquiry and the public at large. As is now known, it has since been forensically established that there was no blood found within the 'bath'. During their press conference of 12 November 2008, Detective Superintendent Michael GRADWELL and DCO WARCUP concluded that there is *'nothing suspicious about the bath and no indication this bath has been used in the commission of any offences'*. That correction came far too late.

x.377; page  
923

5.5.32 Matthew TAPP comments within his review that *'having now seen the 'bath' in question, had I been the Press Officer on this enquiry I would have encouraged the SIO to consider whether any mention needed to be made publicly about the discovery of the trough, and that if there was an operational reason for him so doing, to have stuck with his description of the item as a 'trough' and to have stressed its dimensions, so allowing the public to form a more accurate impression in their minds'*.

x.263; page  
687

5.5.33 Seven weeks after the significant media interviews given by DCO HARPER following the 'find' of 23 February 2008, the States of Jersey Police made mention for the first time of the presence of lime pits in a release on 16 April 2008 *'at the bottom of the pit was a large quantity of lime. There was nothing else in the hole. The enquiry team can think of no reason why this pit would have been created nor why it was filled with lime'*.

x.377; page  
841

5.5.34 One must question the reason for this release which caused inevitable subsequent speculation by the media. The Telegraph Online commented that *'Lime or calcium oxide, has traditionally been used in the burial of bodies in open graves to disintegrate bodies and hide the smell of decomposition'*.

x.716; page  
1894

5.5.35 It was inevitable that, with the focus well and truly on Haut de la Garenne following previous media releases, providing details of this exploratory dig would result in yet further conjecture. This Inquiry can see no objective basis as to why these details were released to the media and what was hoped would be achieved. Equally, we cannot see where CO POWER's oversight features.

5.5.36 There were two further examples of language used by the States of Jersey Police during their media releases following the 23 February 2008 announcement which justify specific comment. Between 21 April and 31 July 2008 the States of Jersey Police made 20 separate press releases relating to the discovery of teeth, and a similar number in relation to the finding of bones.

5.5.37 The release on 22 April 2008 stated *'As a result of indications from the dogs working with the enquiry team, forensic archaeologists searched an area of the cellar rooms three and four and have discovered some more bone fragments and two 'milk teeth' from a child or children. We cannot be sure at this stage if the bone is human or animal and it will be forwarded to the UK for tests. The teeth could have come from the same child although further tests will be necessary to try and ascertain if that is the case, and how the teeth might have come to be there'*.

x.377; page  
844

5.5.38 In light of the previous releases, this could only serve to heighten public concern for what they were in effect and by default being led to believe had happened in Haut de la Garenne. The impression was compounded on 23 April 2008 when The Sun reported *'Detectives also believe the five or six bone fragments may belong to the same child, thought to be aged about five'*.

x.716; page  
1900

- 5.5.39 And on the 13 May 2008 *'Cops searching the Jersey horror care home where a child's remains were discovered have unearthed three more milk teeth. Five teeth have now been found in dungeons under Haut de la Garenne, where 160 victims say they were raped and tortured. The teeth are being tested to see if they came from the same child'*. x.716; page 1901
- 5.5.40 On 21 May 2008 Louise JOURNEAUX made notes from the media briefing given by DCO HARPER at Haut de la Garenne on the same day *'as a result of excavating the cellar areas since 17 April and an ongoing sieving operation, around 30 bone fragments have now been found from those areas (cellars 3 and 4). Ten of these bone fragments were found yesterday (in an ashy area of cellar 3) and identified as being human, (Tuesday 20 May) while around 20 were found in the last two weeks. So far from those areas, seven 'children's teeth' have been found, one this morning. Of these teeth, six have been positively identified by one expert as being children's teeth... Regarding the teeth, of the six we have sent to the UK, five of these cannot have come out naturally before death, and only one of the six has signs of decay. The rest have a lot of root attached. We have been told that teeth could come out naturally during the decomposition process'*. x.377; page 857
- 5.5.41 During that press conference on 21 May 2008, DCO HARPER displayed a tooth to the attending journalists. Louise JOURNEAUX reports in her witness statement that she felt the display was 'gratuitous'. It is not clear what, if any, steps she took to challenge DCO HARPER at the time. Matthew TAPP comments in his review *'the decision to display to the media a tooth recovered from Haut de la Garenne was highly unusual. The approach taken by the SoJP to releasing information about the teeth found was unusual, not consistent with normal working practice in the UK and encouraged further media reporting and speculation'*. We accept that this action was agreed beforehand with Andre BAKER of the ACPO Homicide Working Group and, therefore, due account should be taken of this s.43b; page 296; paras 13-14  
x.263; page 699  
s.81; page 543; para 29

fact. This Inquiry feels that DCO HARPER was poorly advised, but the additional 'damage' to media management at that stage by the 'display' was minimal.

5.5.42 It was not until the press conference held by Detective Superintendent GRADWELL and DCO WARCUP on 12 November 2008 that the presence of bones and teeth was put in the following all important perspective *'the context in which the teeth were found is not in itself, suspicious'*.

x.655; page  
1686

5.5.43 Prior to this conference, ACO WARCUP suggests in his witness statement that he gave CO POWER the opportunity to examine the notes that DCO WARCUP had prepared in which he makes it clear that he intended to state that these discoveries were not considered suspicious. Although addenda were made by CO POWER on the notes about other issues to be covered in the conference, this specific statement attracted no comment from, and was not altered, by CO POWER.

s.82; page  
659; paras  
335-336

5.5.44 Matthew TAPP, who is qualified to pass such opinion based on his previous experience and training makes observations *'the DCO [HARPER] appears to have been singularly responsible for determining what information was divulged to the media, when and by what mechanisms, and how and when to respond to coverage with which he was unhappy. The role played by the SoJP Press Officer was tactical, not strategic; she appears to have been used merely as a conduit and distributor for statements determined by the DCO and was not encouraged to provide strategic advice. From the outset, statements released to the media suggested with the language of certainty that crimes had been committed and that there were many victims. For legal reasons, and in order to manage media coverage and public expectation, more temperate and non-judgemental language would have been more appropriate... Statements made in relation to the item recovered on February 23<sup>rd</sup> were not accurate and incited enormous media coverage which at times was hysterical and sensational and was, in turn, equally inaccurate and misleading.*

x.263; pages  
699-700



- 5.5.45 *The description as "cellars" of the voids under the flooring was inaccurate and allowed the media to create a false impression in the public mindset. The description of an item recovered from Haut de la Garenne as 'shackles' was not accurate... The language used to describe the "bath" could have been more accurate. The decision to display to the media a tooth recovered from Haut de la Garenne was highly unusual. The approach taken by SOJP to releasing information about the teeth found was unusual, not consistent with normal working practice in the UK and encouraged further media reporting and speculation.*
- 5.5.46 *Given the lack of evidence collated to prove that a child's remains had been found at Haut de la Garenne, the statements made by the SOJP could have been more accurately phrased and could have generated more measured and less prominent media coverage... The statement made by the SoJP regarding the two pits excavated at Haut de la Garenne was inappropriate... The nature and quantity of much of the media coverage was generated and sustained by the police's deliberate decision to provide a regular diet of information to the media. Some, but by not [sic] means all, the inaccurate media coverage published was challenged by the force'.*
- 5.5.47 In contrast, ex-DCO HARPER comments '*I do not think that we gave too much information in our press releases and when questions were asked on matters which I did not think we could comment, I did not say anything. There was a big difference between what I said and what was reported.*'
- 5.5.48 This Inquiry finds the summary and analysis by Matthew TAPP to be a helpful description of the extent of the accuracy, balance and appropriateness of the Force's handling of key 'finds' post 23 February 2008. From the analysis, we conclude that there were substantial and serious failings which were certainly known to DCO HARPER. The analysis also helps us to form a view of the woeful lack of supervision of this key part of the investigation by CO POWER, a role only he could fulfil.

s.81a; page  
563; para 12

- 5.5.49 Andrew TATTERSALL, a former senior detective with experience of investigating more than 300 murders, assisted Operation Rectangle with advice. He comments on what he had seen in the media by early March 2008 and that the *'amount of information given to the press along with assumptions that were being made'* concerned him. He says *'in the Jersey investigation I had seen clips with the SIO – Mr HARPER on television, he appeared to portray mass murder on the Island along with an ongoing child abuse investigation'*. s.75; page 440; para 11
- 5.5.50 Examples of these clips include: on 27 February 2008, DCO HARPER says to Sky News *'within the last short time we have gained partial access to the cellar'* and *'the reaction that was evident down there was similar to the reaction that we got from the dog when we found the partial human remains, yes'* x.538; L7
- 5.5.51 On 21 May 2008, DCO HARPER says to the BBC cameras after pictures are shown of officers sifting soil and identifying a tooth *'we 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 anybody who wants to denigrate that or try and minimise that, then I would ask them to look at themselves'*. r.4.v; page 13  
d.1104; Clip XX; pages 306 & 317
- 5.5.52 ITV National New on 31 July 2008, showed DCO HARPER reporting *'now you cannot get away from the fact that we know there are the remains, partial remains of a 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.'* d.1104; Clip XXI; pages 311 & 381
- 5.5.53 During a media interview on 28 February 2008, the ITV Channel Television reporter is heard stating *'on Saturday morning they found a fragment of a skull not thought to be much more than a 50p piece'* but then clarified that no bodies have been dragged from the building and then runs a clip of DCO HARPER at the scene saying *'there have been a couple of in instances in the last few days when totally* r.4v; page 11

*erroneous statements have appeared , for instance yesterday there was one channel covering the story that we had dragged two bodies out. This causes an awful lot of work for our enquiry team, it adds pressure onto everybody and it does not help'. We have assumed that DCO HARPER is trying to correct this misleading report.*

5.5.54 Within his statement, CO POWER makes little reference to the tone and language of the States of Jersey Police media releases. He recalls that there was no intention to encourage a media presence at Haut de la Garenne as they had *'hoped to undertake necessary work at HDLG and to leave afterwards, with the minimum media attention'*. CO POWER emphasises that their intention was to be as *'transparent as the circumstances allowed. This was to build confidence in the enquiry and to encourage anyone with evidence to come forward'*.

d.0171; page  
281; paras  
290 & 298

5.5.55 CO POWER maintained that the media lines were *'consistent and well co-ordinated'* and that they went to lengths to explain to the public that *'everything which had been found could have an innocent explanation'*. His statement refers to the monitoring of DCO HARPER's interviews by Sky News and that in their regular meetings the media strategy was discussed. His overall view was *'that the media coverage was opening doors, and bringing in new evidence'*. The following table provides details of the number of victims who made an initial contact with the States of Jersey Police during Operation Rectangle. The table reflects the different phases of the Operation and breaks down the first contacts into the different types of allegation made. Appendix 2 details the results of those allegations.

d.1071; pages  
284-285;  
paras 301 &  
305

1st Contact		Attempted. Indecent Assault	Common Assault	Indecent Assault	Date	Actual Bodily Harm	Grievous Bodily Harm	Rape	Sodomy	Grand Total
Covert Phase	Sept 2007	0	3	7		0	0	0	0	10
	Oct 2007	0	0	1		0	0	0	0	1
Overt Phase	Nov 2007	0	12	18	22 <sup>nd</sup> Nov. Press appeal	3	0	3	4	40
	Dec 2007	0	13	10		0	0	1	0	24
	Jan 2008	0	31	16		6	0	0	4	57
	Feb 2008	2	38	30	23 Feb 08 JAR/6 announced	1	2	2	10	85
Homicide Phase	Mar 2008	0	54	36		6	0	4	11	111
	Apr 2008	0	5	2		0	0	0	1	8
	May 2008	0	9	2		0	0	1	0	12
	Jun 2008	0	2	5		1	0	0	4	12
	Jul 2008	0	7	2		1	0	0	0	10
	Aug 2008	0	1	0		0	0	0	0	1
Exit Phase	Nov 2008	0	1	1		0	0	0	0	2
	Grand Total	2	176	130		18	2	11	34	373

5.5.56 The above table, adapted by Operation Haven, demonstrates that the increased media coverage of Operation Rectangle did encourage witnesses and complainants to come forward. Following the events of 23 February 2008 there was a huge increase in contact from potential victims, but which lessened during April, May and June even when the media releases made by the States of Jersey Police were in a similar vein. This Inquiry believes that credit should be given to Operation Rectangle for the increased contact from would-be victims but this could have been achieved with accurate portrayal of the 'finds' without

resort 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. These consequences will be referred to later.

5.5.57 In conclusion, this Inquiry draws attention to the standard outlined in the Murder Investigation Manual 2006 and quoted earlier *'the chief officer's strategic role is primarily one of quality assurance'*. Although CO POWER will maintain that he discussed the media strategy with DCO HARPER, irresponsible press releases continued to be issued which contained inappropriate language and were inflammatory in nature. CO POWER's statement suggests little criticism of the content of DCO HARPER's media releases and leaves the impression that he either agreed or condoned their release or failed to supervise DCO HARPER's work or perhaps had no real grip on the media 'strategy' at all. The content of the press releases has come under much criticism from media experts, senior police officers and politicians alike. This Inquiry suggests that CO POWER made little, if any, effort at 'quality assurance' and allowed the essence of the releases to remain unchecked, even in light of the furore that surrounded them. CO POWER also failed to 'quality assure' the subsequent coverage from the media as it misrepresented the facts. Minimal challenge or attempts at correction were made and the media at large were left unfettered in their sensationalism and speculation.

MOG; d.17;  
page 80;  
para 3.3.6

- **Conclusion 17**

5.5.58 **CO POWER neglected his duty to supervise the media releases made by the States of Jersey Police to ensure their accuracy and balance or to effectively challenge misrepresentation by the media.**



## 5.6 Operation Rectangle Exhibit JAR/6 'human bone'

5.6.1 Whilst the initial media disclosure of 23 February 2008 and the emotive content of following releases undoubtedly contributed to the media frenzy that ensued, the events surrounding discovery of the fragment Exhibit JAR/6 and the actions of the States of Jersey Police away from the public gaze, are of equal cause for concern. The following chronology is important as it will put the comments at the end of this section into context. Whilst it may appear as simply a long list of events, the correspondence 'trail' generated from the discovery of Exhibit JAR/6 is critical in providing understanding of exactly what happened.

5.6.2 Following the discovery of Exhibit JAR/6 on 23 February 2008 and the initial 'identification' of it by the forensic anthropologist, Julie ROBERTS, it was submitted to a forensic laboratory in Oxford for dating and examination.

5.6.3 At 17:26 hours on 28 March 2008, Fiona BROCK, from the Oxford laboratory, raised concerns with Forensic Services Manager Victoria COUPLAND over the chemical reaction Exhibit JAR/6 had given in certain tests. Doubts were expressed about its identity and questions raised as to the authenticity of the original identification.

d.641; page  
36

x.221; page  
461a

5.6.4 Three days later, Forensic Services Manager COUPLAND was contacted by Dr Thomas HIGHAM, also from the Oxford laboratory, confirming this uncertainty. He stated that he believed Exhibit JAR/6 to be coconut or wood *'On 31<sup>st</sup> March' 08, I spoke to Fiona in the laboratory and then made an examination of the exhibit immediately. I immediately recognised that the sample was NOT bone and stated that to Fiona. I based my conclusions on the lightness of the material, the texture of the material and the porosity of the internal structure of the sample. I then consulted with a colleague, Dr Roger JACOBI of the British Museum, taking the sample with me for him to see. In his opinion, he, after examination, agreed with my conclusions that the sample was not bone, but another material, that is, wood. I made the*

d.129; page  
27

*decision to consult with Fiona and contact Vickie COUPLAND to inform her as to my findings, that same day. I telephoned her that same day'. The sample was then returned to store at Haut de la Garenne on 4 April 2008.*

- 5.6.5 On 1 April 2008, DCO HARPER wrote Media Policy Decision 11 *'to issue regular updates to media through press officer'*. The reason given was *'to maintain profile to reassure victims and witnesses that the enquiry is still active and is not being wound down and to maintain confidence in enquiry team'*. Appendix 3
- 5.6.6 No mention was made of the views recently obtained from the laboratory and no media release was made confirming there was now doubt as to the origin of what had been found. A week later on 8 April 2008, a further press announcement from the States of Jersey Police discussed events from the 25 March 2008, and can be seen as still referring to 'bone' *'this leaves us with no knowledge of how, when, or indeed, where, the person died'*. x.377; page 837
- 5.6.7 The Press Officer, Louise JOURNEAUX, states she was unaware of the opinion of Dr Thomas HIGHAM, but that if she had been, she would have been very uncomfortable with the content of the press release, which had been written by DCO HARPER himself and sent to her by e-mail. s.43; page 282; para 16  
x.380; pages 928-929
- 5.6.8 Following the press release made on 8 April 2008 by the States of Jersey Police, Dr HIGHAM again contacted the States of Jersey Police to urge them to obtain a second opinion. The forensic anthropologist Julie ROBERTS made a cursory re-examination of the fragment, but this was conducted in poor light. She confirmed to Forensic Services Manager COUPLAND that she still thought it looked like human bone. x.221; page 459  
d.642; page 49
- 5.6.9 On 9 April 2008, a second re-examination of Exhibit JAR/6 was made by Julie ROBERTS which caused her to change her original opinion. She was no longer confident that Exhibit JAR/6 was human bone and informed both Forensic Service Manager COUPLAND and d.642; p12

DCO HARPER of that. Further testing was discussed, but DCO HARPER decided this was unwarranted as the temporal context in which Exhibit JAR/6 had been located fell outside the established time parameters for Operation Rectangle thereby ruling it out of the enquiry.

- 5.6.10 CO POWER describes that during his regular meetings with DCO HARPER, he was told by DCO HARPER that the dating of the contextual material in which Exhibit JAR/6 was found had placed it outside the parameters of the enquiry because of its age. However, he is not specific as to when this was said. He will state that at no time did DCO HARPER ever suggest that there was any doubt regarding the identity of what had been discovered. d.1071; page  
288; para  
314
- 5.6.11 On 14 April 2008, Dr HIGHAM received enquiries from the national press regarding the fragment. He contacted DCO HARPER for advice on an appropriate response and was advised to speak in general terms without discussing the exhibit. No details were released about the fragment. Dr HIGHAM subsequently drafted a letter giving a detailed account of the findings to DCO HARPER in order that there were no misunderstandings. This letter was dated 1 May 2008, and we comment further about it later (see paragraph 5.6.18). d.129; page  
28
- 5.6.12 A press announcement was made on 18 April 2008 by the States of Jersey Police *'To clear some confusion which seems to exist, the SoJP would like to clarify the following facts on the fragment of skull found at Haut de la Garenne. We were not able to date the fragment. Therefore we cannot say how old it is or when, or indeed where or how, the person died. We know from the Archaeological context in which it was found that it's placement in the area where we recovered it pre-dates the 1940's. We also know that it was placed there after the building came into use. This means that the person must have died before the 1940's. However, we cannot say if the actual death occurred before it was moved to where we found it. It follows therefore that the bone could date from the period just before 1940, the Victorian* x.377; page  
842



*era, or indeed, even earlier if it was moved here from a previous location. In the light of that, it is unlikely that we will instigate a formal homicide enquiry in relation to this bone alone. Although no formal parameters have been placed on the enquiry, it is unlikely that we would pursue any lead which tended to take us to a period before the end of World War two. However, the site of the home must remain the scene of a possible homicide until such time as all the areas of interest which have been flagged up to us have been excavated and cleared. This work continues with the finding over the last few days of a number of bloodstained items in cellars three and four, although we emphasise that at this stage we do not know if these items have an innocent explanation. As stated however, it is unlikely that a formal homicide enquiry could be justified in circumstances where the suspects are very likely deceased. As well as having huge financial implications such an enquiry would also detract from the serious allegations of criminal abuse in which the victims and suspects are still alive.'*

5.6.13 Despite the findings of the laboratory, DCO HARPER continued to use language suggesting the origin of the 'find' was human – when he surely knew that it was not.

5.6.14 Louise JOURNEAUX will state that she was not aware that Julie ROBERTS had changed her opinion on the fragment before 18 April 2008. Again, had she known, she would also have been very uncomfortable about the content of this press release which she confirms was also prepared by DCO HARPER and sent to her by e-mail.

s.43; page  
282; para 17

x.381; page  
930

5.6.15 On 21 April 2008 Andre BAKER of the ACPO Homicide Working Group, was informed by telephone by DCO HARPER *'that he has planned a press release on the date of the partial skull, that it was pre-1940 to explain that the partial skull was dated pre-1940 and, therefore, he was not treating it as homicide'*. DCO HARPER was advised to do so as soon as possible.

s.79; page  
507; para 46

- 5.6.16 Deputy Sean POWER asked a Parliamentary question of Senator Wendy KINNARD on 29 April 2008 *'given that the States of Jersey Police have confirmed that the fragment of skull found at Haut de la Garenne is possibly over 50 years old, would the Minister now agree that the statement made by the Deputy Chief of Police on 23 February 2008 referring to what appeared to be the partial remains of a child was an inappropriate summary of the situation at the time'*. The full reply is reproduced in an extract from Hansard which includes Senator KINNARD saying *'The statement made about the fragment of skull on 23<sup>rd</sup> February 2008 was accurate. It was and continues to be the partial remains of a child. The police have always maintained that they did not know when, where or how the person died. The fact that it was not proved possible to date the fragment of skull does not change the fact of what it was, nor does it remove the possibility that he or she died of foul play'*. s.53; page 370; para 5
- 5.6.17 On 30 April 2008, Senator James PERCHARD, after being informed by a journalist that the tests conducted on the 'bone' to date had been inconclusive, asked CO POWER (in an e-mail) if he was able to confirm that the formal laboratory tests validate the opinion of the on-site UK archaeologist that it was the remains of a human. CO POWER stated that he believed this to be the case. CO POWER's recollection is that, before responding, he e-mailed DCO HARPER and took his response to be confirmation that nothing had changed. He states that having re-read the e-mail when making his statement to Operation Haven, he considers DCO HARPER to be less specific than he should have been to the point where it appears he was avoiding the question. He states that the response did not alert him to the possibility that the fragment might not be bone. x.484; page 1343
- 5.6.18 The letter (see paragraph 5.6.11) from the Oxford laboratory was prepared on 1 May 2008 addressed to DCO HARPER and states *'This letter summarises the work we have undertaken concerning the analysis of material related to the above enquiry. In March 2008 the Oxford Radiocarbon Accelerator Unit (ORAU) was sent material from* s.72; page 434; para 7

d.1071; page 288; para 315

d.128; pages 22-24

*the States of Jersey Police for AMS radiocarbon dating. The sample was formally identified as bone, probably from the skullcap of an infant, by Dr J ROBERTS, a forensic archaeologist working for the Jersey police. We received the sample from Vicky COUPLAND (Forensic Services Manager, States of Jersey Police).*

- 5.6.19 *The sample was logged into the ORAU system in the usual manner and, as in all cases, a sample of bone powder was drilled from the underside of the specimen using a tungsten carbide drill. The powder weighed 440 mg. The technician performing this procedure noted that the material did not behave as bone ordinarily would and did not have the texture that normal bone exhibits. The technician has a great deal of experience in the sampling of bone (almost 30 years). Because of this uncertainty, and as a precaution, a small amount of the sample was combusted to measure the % nitrogen remaining. % N is a good correlate for protein, which is dominated in bone by collagen, and the measurement of nitrogen offers a simple test concerning whether the sample is dateable or not. Low % N means that the material is essentially un-dateable using radiocarbon.*
- 5.6.20 *Dr Fiona BROCK (ORAU) reported that the Jersey sample only had 0.6 % N. Ordinarily this is too low to yield extractable collagen of any quality. Despite our concerns, Vicky COUPLAND requested that a fuller chemical treatment be undertaken, in an attempt to produce a result, but although some material was extracted it was demonstrably not collagenous based on the analysis of the texture of the material, the C:N atomic ratios and the similarly significant lack of nitrogen, so the sample was formally failed and the States of Jersey Police notified.*
- 5.6.21 *A further analysis of the bone sample later the following week by Dr. T. HIGHAM and Dr R. JACOBI (British Museum faunal specialist and one of our collaborators in work undertaken in the ORAU) concluded that the sample was not in fact bone, but was almost certainly wood. It seemed surprising to us that the material could be so confidently identified by Dr ROBERTS, and particularly that it could*

*be determined to be an infant specimen. We informed Vicky COUPLAND of our concerns shortly afterwards, by phone and e-mail. We stand by our original assessment. We suggest that the curvature of the material may have had something to do with the misidentification. We think it appears to be more like part of a large seed casing, or part of something like a small piece of coconut. Certainly, the density of the material is most unlike bone, it is too light. Our conclusion is that this sample is: a) not bone and b) not human. We are very surprised that the forensic archaeologist could be so confident and differ in her identification. We suggested at the time that a further opinion would be required, but this not considered by Vicky COUPLAND. A further analysis of the bone structure under a suitable microscope would confirm the situation rapidly.*

5.6.22 *If this sample is bone and close to modern in age, then it would be unusual in our experience for it to be so poorly preserved and lacking in collagen. One would expect normally that for a bone coming from the last few decades that at least some collagen would survive. In the absence of collagen, one would conclude that the bone is probably older than this, possibly by several hundred or even several thousands of years. In this light, it is not liable to be of forensic interest. Our assessment is, however, that it is almost certainly not bone and it is for this reason that we have significant doubts over its forensic importance. This probably explains the problems we encountered with the sample and the fact that it is not able to be dated using collagen extraction techniques.*

5.6.23 On 5 May 2008, CO POWER sent an additional e-mail to Senator James PERCHARD referring to Senator PERCHARD's e-mail of 30 April 2008 stating that he (CO POWER) had now checked with DCO HARPER and *'the bone was sent to the UK to be dated. There is no scientific dispute regarding the fact that it is human'*. He confirms that dating the fragment was not possible but on the basis of the surrounding material, it was from some time in the 20<sup>th</sup> century if he remembered correctly. Senator PERCHARD replied that there was a

s.72; page  
434; para 7

x.16; pages  
31-36



rumour in existence that stated the skull was not human and that maybe when the time is right it would be advisable to put the record straight 'publicly' on this. The response from CO POWER was '*I think that it will be possible to do this as part of a general release relating to the scientific results of more recent finds when these are available*'. Whilst this approach sounds reasonable, this Inquiry can find no evidence that the States of Jersey Police did make such a 'general release' prior to the press conference on 12 November 2008. This Inquiry believes that CO POWER may not have been aware of the status of Exhibit JAR/6 as a result of the lack of objective assessment by DCO HARPER.

- 5.6.24 During the second week of May 2008, Dr Thomas HIGHAM was visited by a journalist, David ROSE from the Mail on Sunday. Dr HIGHAM confirmed to him that the Police had been made aware of his findings since 31 March 2008. The same week, David ROSE told Dr HIGHAM that DCO HARPER had not received his letter of 1 May 2008. Dr HIGHAM e-mailed DCO HARPER a copy the same day. There does not appear to be a response to the contrary or indeed any sort of response from Dr HIGHAM when DCO HARPER replies '*so I can definitely enter into our system now that you say this is absolutely not bone*'. If there had been any room for doubt beforehand, there was no longer any, on 17 May 2008 Exhibit JAR/6 was not, according to the scientists, human bone. d.129; page 28
- 5.6.25 The original letter dated 1 May 2008 which ex-DCO HARPER says he did not see, was subsequently found amongst his Personal Assistant's, Vicky ELLIS, paperwork. It cannot be established for certain whether or not DCO HARPER had sight of the contents prior to the copy being sent by Dr HIGHAM. t.72; page 1
- 5.6.26 The Mail on Sunday, 18 May 2008, included an article in which they declared '*human bone at the centre of inquiry is actually a piece of wood or coconut shell*'. s.83; page 705; para 3
- 5.6.26 The Mail on Sunday, 18 May 2008, included an article in which they declared '*human bone at the centre of inquiry is actually a piece of wood or coconut shell*'. x.716; page 1896

- 5.6.27 At 08:47 hours on 18 May 2008, DCO HARPER sent an e-mail to Louise JOURNEAUX containing an attached press release for circulation. x.382; pages  
931-933
- 5.6.28 It summarised the findings of the examination of Exhibit JAR/6 by the laboratory. Whilst the doubt about the fragment examined at the end of March is referred to, he does not mention Dr HIGHAM's assessment on 8 April 2008, or the reversal of previously held opinion by Julie ROBERTS. Within the press release DCO HARPER maintains his position of discounting Exhibit JAR/6 from the enquiry based on its geological context. He claimed the letter of 1 May 2008 was never received. *'Yesterday, (17th May) a letter was e mailed from the Laboratory setting out their opinions. Despite the inference in the article concerned, this was the first that the Enquiry team knew of any letter. Police were informed of that letter yesterday by the media, and requested a copy. As a result of a comment within the letter about the possible age of the bone, the Laboratory staff were asked if they were definitely stating the item was not bone. The reply was that although in their view it was not a bone, if the police wanted to show definitively what it was they would need to have it examined by a further specialist'*. x.382; page  
932
- 5.6.29 DCO HARPER continued to recount in the same press release, details of recent finds – 20 pieces of bone and six children's teeth – which were all found in the cellar area. He spoke of expecting the results of forensic tests to date them in the next week stating *'at that stage we will know more about the possibility that there might have been unexplained deaths of children within Haut de la Garenne'* x.377; pages  
855-856
- 5.6.30 This press release by DCO HARPER prompted various exchanges of e-mail between CO POWER, Senator Wendy KINNARD and Senator James PERCHARD. Senator PERCHARD brought the e-mail of 5 May 2008 (paragraph 3.5.19) to the attention of the Council of Ministers (by e-mail) when CO POWER asserted that *'there is no scientific dispute regarding the fact that it is human'* t.439; page  
82

(paragraph 3.5.19), to the attention of the Council of Ministers (by email). Senator PERCHARD suggested that this should now be the subject of a public statement. At 21:14 hours on 18 May 2008, Senator KINNARD, referring to Senator PERCHARD'S comments, asked CO POWER, by e-mail, to advise on how she should respond. At 08:15 hours on 19 May 2008, he replied by e-mail to the effect that he supported what she proposed to say to the Senator. In essence, this did little more than suggest that many items had been sent for examination. Subsequent e-mails from Senator KINNARD to CO POWER include her observations that she will be asked when exactly DCO HARPER knew the fragment was not bone. According to his pocket notebook, CO POWER left the office at 14.40 hours on 19 May 2008 to travel to an ACPO function that day and then on to the Isle of Man. This may explain the lack of any record of response being found.

t.439; page  
80t.439; page  
80d.1125; page  
401

5.6.31 Senator KINNARD sent CO POWER a copy of her press release on 19 May 2008, which ended *'the police continue to have my full support and must be allowed to continue uninterrupted in their important work. I fully understand the public's concern with the most recent media reporting but would respectfully ask that they await the final outcome of the investigation'*.

t.446; page  
112

5.6.32 On 20 May 2008, CO POWER was in the Isle of Man for a meeting. He states in his witness statement that someone told him that the first 'find' was a piece of coconut and that this came as a total *'bolt from the blue'*. In light of the sequence of events outlined above, this Inquiry is sceptical that CO POWER had no inkling of this, especially bearing in mind the existence of daily meetings between himself and DCO HARPER. Nevertheless, it appears that by 20 May 2008 – at the latest – CO POWER accepts that he was now fully aware doubts existed about the nature of Exhibit JAR/6.

d.1071; page  
288; para  
316

5.6.33 In his statement, CO POWER explains that he had discussions with DCO HARPER and Senator Wendy KINNARD where he sought more

d.1071;

information and advised on 'holding lines' to take with the media. He states that he asked DCO HARPER directly about the doubts over the first 'find'. CO POWER was told by DCO HARPER that there had been confusing messages coming from the Laboratory, and that DCO HARPER would *'take full responsibility'*. He recalls DCO HARPER giving a live media interview and in the words of CO POWER *'As I recall, he said that the scientific evidence was inconclusive, but apart from that, the age of the sample put it outside the parameters of the enquiry'*. When challenged by the media as to why he did not report this earlier, he (DCO HARPER) said that it was to protect victims because he knew that if doubts became public some Jersey Politicians would use the opportunity to attack and undermine the victims and witnesses. If CO POWER's recollection is correct, he had grounds to suspect that Exhibit JAR/6 was not human, yet permitted or failed to correct DCO HARPER's continuing misleading statements about the scientific evidence being 'inconclusive'.

pages 288-  
289; paras  
315-317

d.1071; page  
289; para  
317

5.6.34 In his statement, CO POWER comments on how he addressed this matter with the Chief Executive Bill OGLE and Senator Wendy KINNARD *'I recall that I gave strong advice. I said that we should bring the issue within a formal accountability process, and seek to close down further discussion meanwhile. I pointed out that the Minister had the authority to require a report on any matter of concern, and that she should do this. She should then refuse to give any further comment on the basis that she was awaiting a report, and she would decide on any further measures when this had been studied. Accordingly, I asked Lenny to submit a report on the whole issue. He did this'*. This Inquiry feels this attempt to 'close down further discussions' was unhealthy procrastination. An open and transparent approach would have been to report what was known at that time. CO POWER failed to do so.

d.1071; page  
289; para  
318

5.6.35 The report written by DCO HARPER summarised the examination of Exhibit JAR/6. He continued with the assertion that Exhibit JAR/6 had been discounted from the enquiry and that the messages originating

x.420; page  
1241



from the laboratory were confusing. The report omits the crucial re-examination of Exhibit JAR/6 by the anthropologist Julie ROBERTS and her revised opinion, therefore, providing an overall impression that the identity of Exhibit JAR/6 had still not been clarified. This Inquiry can find no evidence of CO POWER's robust critique of DCO HARPER's 'spin'.

- 5.6.36 Further questions were asked in the States about when the States of Jersey Police were aware of the fact that Exhibit JAR/6 was not bone. On 3 June 2008, Deputy Sean POWER asked a second question of Deputy Andrew LEWIS *'in view of the forensic opinions as to the nature of the alleged fragment of skull found at Haut de la Garenne, does the Assistant Minister still maintain the view that the comments made by the Deputy Chief of Police at a press conference on 23rd February were appropriate?'* The reply from Deputy Andrew LEWIS was *'The Minister has asked the Chief Officer of the States of Jersey Police for a written report which will cover information conveyed to the media. The report has been prepared but as yet not been reviewed and signed-off by the Chief of Police. Once he has done so and I have had the opportunity to consider the report myself and taken any appropriate advice from the Law Officers, I will issue a statement. I acknowledge the need to expedite this matter to report back to the House on or before the next sitting'*. s.53; page 370; para 7  
x.485; page 1346
- 5.6.37 On 8 June 2008, CO POWER sent an e-mail to DCO HARPER asking what the position was regarding the fragment. The reply on the 9 June 2008 from DCO HARPER added his answers to the original e-mail from CO POWER *'What is the position of the fragment now??*. t.483; page 113  
*[Harper, Lenny] It has been ruled out of the enquiry as a result of the evidence from the Archaeologists which puts it there no later than 1940. Consequently it does not come within our parameters... do we have a conclusive finding??... [Harper, Lenny] No. The Anthropologist identified it as human bone. The lab found collagen but then said if it was collagen it was badly degraded. Their position is that they don't think it is bone but if it is it is very old. Are there to be further tests??* t.483; page 114

*[Harper, Lenny] No. There is no point in sending it for DNA as it has been excluded from the enquiry. 2. What is our position in relation to the fragment??... Are we accepting that it is not human or do we see the results as inconclusive?? [Harper, Lenny] We see the results now as inconclusive'.*

t.483; page  
114

5.6.38 This inaccurate view is not challenged by CO POWER who, if he had any doubt, could have sought an independent review. He did not do so and the police and politicians were being misled.

5.6.39 On 17 June 2008, Deputy Andrew LEWIS provided a statement to the States. It said *'I have now reviewed the Chief Officer's report and relevant correspondence and am able to answer the questions raised by Senator Perchard and Deputy Power that were referred at the last sitting. It remains the case that is no definitive scientific finding as to the nature of the fragment found on 23rd February 2008, which might indicate whether or not the statement made subsequently by the Senior Investigating Officer was incorrect. So I trust Members will understand that this is an ongoing investigation and that therefore it is not possible to make any further comment. If deemed necessary, any such matters could form part of a brief for the Committee of Inquiry which has been proposed to proceed upon completion of the investigation'.*

s.12; page  
86; para 8

x.49; page  
127

5.6.40 It is evident that CO POWER made some efforts to clarify the position in relation to Exhibit JAR/6, but the important questions surround the timing of those efforts, the rigour of his critique and what he did with the subsequent knowledge. If, as outlined by CO POWER and ex-DCO HARPER, daily meetings occurred between the two of them, then it may be reasonable to infer that forensic examination of Exhibit JAR/6 would be important to their discussions. The above chronology covers key dates when DCO HARPER was informed of the state of the evidence in relation to the item being 'bone' and although it was incumbent on DCO HARPER to inform CO POWER, this Inquiry would suggest that there was a responsibility of the Chief Officer to ensure

that such an extremely pertinent and contentious issue was thoroughly aired and examined by him.

5.6.41 Exactly when CO POWER discovered the reality of the origins of Exhibit JAR/6 is open to conjecture, but by his own admission he was aware by 20 May 2008. Claims of *'no scientific dispute'* on 5 May 2008 were post Julie ROBERTS re-examination of 9 April 2008 and after the letter was sent from the Oxford laboratory. If CO POWER is given the benefit of the doubt on that occasion it means that he was actively misled by DCO HARPER. If not, then his assertion that on 20 May 2008 the news was like a *'bolt from the blue'* is questionable.

t.439; page  
82

d.1071; page  
288; para  
316

5.6.42 What is clear is that even after 20 May 2008, CO POWER failed to clarify to the States and the public, the status of Exhibit JAR/6. This lack of candour falls seriously below the standard expected of Chief Officers.

5.6.43 The standard outlined in the Murder Investigation Manual 2006 – 'The Role of Chief Officers in Major Crime Investigations' under Media Issues, states; Section 3, page 80 is *'the chief officer's strategic role is primarily one of quality assurance'*.

MOG; d.17

- **Conclusion 18a**

5.6.44 CO POWER neglected his duty to provide strategic oversight of States of Jersey Police media policy following receipt of confirmation that Exhibit JAR/6 was not human bone, as previously portrayed by the States of Jersey Police within its media releases.

- **Conclusion 18b**

5.6.45 CO POWER neglected his duty to correct the content of misleading press releases made by States of Jersey Police following receipt of forensic opinion about the nature of Exhibit JAR/6.

- Conclusion 18c

5.6.46 CO POWER neglected his duty to supervise DCO HARPER in relation to his media releases following receipt of forensic opinion about the nature of Exhibit JAR/6.

## 5.7 The suspects 'A' incident

5.7.1 The details of the events that preceded the suspects 'A' incident have been discussed within the Supervision Section. In summary, this covered the breakdown in relationships between the prosecution legal team and DCO HARPER as SIO, after the advice provided by Barrister Simon THOMAS in respect of suspects 'A', was contrary to that expected by DCO HARPER. At the core of that breakdown is the media release made by DCO HARPER on 24 June 2008.

5.7.2 Following the release from custody of the suspects 'A', a press release was dictated to Press Officer Louise JOURNEAUX by DCO HARPER at 22:00 hours, whilst she was at home. It said *'After consultation with their [sic] lawyer appointed by the Attorney General, two people were arrested today (Tues 24 June) in connection with three grave and criminal assaults by the historical abuse team. At about 5pm today (Tues 24 June) the lawyer revised his advice to the investigating officers. Following discussion, the investigating officers requested a Centenier to attend Police Headquarters to charge the suspects. Despite stating that the evidence was present, the Centenier declined to charge. The States of Jersey Police have no alternative, therefore, but to release the two suspects without charge. Louise JOURNEAUX describes in her statement how she suggested that DCO HARPER should 'sleep' on the decision, she states her advice was ignored.*

s.43; page  
283; para 20

x.377; page  
892

5.7.3 As a result of that press release, Attorney General William BAILHACHE received an e-mail request for comment from the Jersey Evening Post the following day, 25 June 2008. The Attorney General states they were *'seeking a comment on the allegation that I interfered with the advice given by the UK lawyer and instructed him to*

s.85; page  
746; paras  
82 & 83



*advise that no charge should be brought'. The Attorney General summoned CO POWER and Deputy Andrew LEWIS to a meeting, which included John EDMUNDS. A written explanation was requested from the Attorney General as to the reasons the States of Jersey Police had issued the release. He also asked for a commitment that 'this type of attack on the prosecution would not be repeated'.*

5.7.4 The Attorney General specifically told CO POWER that the conduct of the DCO had seriously jeopardised the current prosecutions. He described it as *'irresponsible and damaging to the criminal justice process in Jersey'*.

s.85; page  
747; para 85

5.7.5 Looking back on events, CO POWER comments in some detail on the incident in his statement, saying *'I read it and recognised that it would cause problems... the Attorney General was angry regarding the events surrounding the arrest and release of [suspects 'A'], and I could understand why. At the appropriate time I steered the conversation towards the need for a recovery plan. I emphasised that I was in the process of introducing a new management team to the enquiry and I had spoken that morning to David Warcup and obtained his agreement that the future of the enquiry would be structured around the concept of a 'mixed' team of police officers and lawyers'*.

d.1071; page  
262; para  
222

d.1071;  
pages 262-  
263; para  
223

5.7.6 He continues *'following the meeting with the Attorney General I had a face to face discussion in my office with Lenny HARPER about the media release... I told him that nevertheless his actions had created something of a crisis which I would now have to manage. I instructed him as follows and later confirmed what I had said by e-mail. He should submit a written duty report on the incident; There should be no further arrests without specific written advice from the Law Officers; All relevant press statements will be cleared with the Law Officers before release'*. If correct, this account paints a picture of more positive and intrusive supervision which had been lacking in Operation Rectangle, in our view.

d.1071;  
page 263;  
paras 224-  
225

- 5.7.7 The written report by DCO HARPER, dated 29 June 2008, covers, in detail his relationship with Barrister Simon THOMAS. DCO HARPER's reason for the release is best explained with the following verbatim account *'I issued the press release to explain to the public, but mainly to the victims, why these two suspects had been released. I feel, as do the investigators, that we were badly let down by the legal advice delivered from afar'*. r.3a; page 4
- 5.7.8 Whilst the subject of the relationship between the DCO and the legal team is explained elsewhere, we consider it again here to assess the role of CO POWER. To his credit, it could be argued that CO POWER took action when confronted by the Attorney General. The account provided shows some level of admonishment of DCO HARPER. CO POWER states *'I told Mr HARPER that I would be engaged in further discussions with the Attorney General on the management of the problems arising from this event. I acknowledged that he was approaching the end of his service and was about to take a period of leave, before returning to conclude his role in relation to Rectangle'*. It was unfortunate that it took the forceful intervention of the Attorney General to persuade CO POWER to actually give a directive to this DCO. Even then, the imminent retirement of DCO HARPER was permitted by CO POWER to neuter the opportunity to supervise the DCO more closely. d.1071; page 263; paras 224-225
- 5.7.9 Even so, following the press release, which brought into sharp focus the deteriorating relationship with the lawyers, CO POWER should have ensured DCO HARPER's response provided to the Attorney General, was both conciliatory in nature and intended to improve the future working relationship between the legal team and the States of Jersey Police. Comments such as *'a further example of the poor service given to us'* and *'is another example of the shoddy and unprofessional service we are receiving'* did nothing to enhance this relationship. The report submitted by DCO HARPER was described by the Attorney General as *'inaccurate and unhelpful'*. It is not clear whether CO POWER considered the relationship between d.1071; page 263; para 226
- r.3a; page 4
- s.85; page 750; para 95

DCO HARPER and the lawyers to be unworkable. Certainly we can find no documented evidence of his considerations. It does appear to this Inquiry that he preferred to 'see out' the time before the retirement of his DCO.

- 5.7.10 It appears to this Inquiry that the relationship between DCO HARPER and CO POWER is central to understanding how the catalogue of problems involving DCO HARPER was managed. If one is to believe the regular meetings between the two covered all aspects of Operation Rectangle, including the media releases (as outlined previously), then one should expect that CO POWER would be addressing the cumulative effect of the latter's leadership 'style' on Operation Rectangle, and the criticism being levelled at the enquiry in general and at them specifically. The States of Jersey Police press releases had attracted censure from politicians and the legal profession. Criticism had been made of the release of 23 February 2008, the nature of continued coverage, and the provenance of Exhibit JAR/6. Had CO POWER had firmer control of DCO HARPER, particularly in the area of media management, then it is certainly likely, in the view of this Inquiry, that the entire furore surrounding Operation Rectangle would have been avoided.

- **Conclusion 19**

- 5.7.11 **CO POWER created and/or permitted an environment where his lack of supervision allowed DCO HARPER to proceed without regard to the effect of his actions on Operation Rectangle. Nevertheless, this Inquiry accepts that CO POWER could not have prevented the media release regarding suspects 'A' on 24 June 2008.**

## **5.8 Corrective measures taken after DCO HARPER's retirement**

- 5.8.1 Even following the retirement of DCO HARPER, concerns continued to be raised by senior States members with regard to the media

s.82; page  
601; para 96



management of Operation Rectangle. On 6 August 2008, two days after his appointment, DCO WARCUP met with Assistant Home Affairs Minister Andrew LEWIS, who voiced concern at the media approach being engaged by the Force. Assurances were provided by DCO WARCUP that a different approach to the handling of the enquiry would be adopted.

- 5.8.2 On 11 August 2008, DCO WARCUP advised Detective Inspector Alison FOSSEY that a further press strategy should be developed, which committed to advising key stakeholders of progress and that a consistent approach to media matters would be employed. A key theme throughout was to ensure the enquiry progressed with the minimum of speculation in the media regarding the evidence. s.82; page 606; para 117
- 5.8.3 On 21 August 2008, Chief Executive Bill OGLEY suggested to CO POWER that any outstanding questions in relation to the supposed skull fragments should now be answered. With the appointment of the new DCO and the forthcoming new SIO, Bill OGLEY considered that the time would be appropriate. The response from CO POWER stated *'Bill. My understanding is that there is no conclusive scientific finding one way or the other. This was as you recall reported upon in some detail in the report to Ministers which Wendy requested and which I assume that you are familiar with. I think however that this will be covered in the forensic review which is imminent. I will ask David and get back to you'*. The matter was referred to DCO WARCUP by CO POWER. t.608; pages 185-186  
t.608; page 185
- 5.8.4 With the increasing concerns over the investigation, and the potential for the forthcoming trials to be compromised with abuse of process claims, DCO WARCUP felt it appropriate to engage a police media advisor. On 15 September 2008, proposed terms of reference were provided to Matthew TAPP, who had been approached to fulfil this role. s.82; page 639; para 237
- 5.8.5 In his statement, CO POWER reflects on this period and comments on DCO WARCUP's suggestion to hold a press conference at which it s.82; page 640; para 240

was proposed by DCO WARCUP to 'put the record straight'. CO POWER did not see the necessity to do so '*I was aware of nothing significant which had not already been addressed during the final weeks of Lenny Harper's service*'. He suggested '*If subsequent forensic results were changing the picture, as it could be expected that they would, then my recommended approach was to gradually feed these into the public domain through a series of short statements and interviews, possibly tagged on to other media issues*'. This Inquiry feels that it is unhelpful to speculate on the outcome had CO POWER had his way. However, his proposed approach clearly sits in contrast to the open, honest and transparent approach that was being suggested by DCO WARCUP.

d.1071;page  
293; para  
331

5.8.6 There was additional pressure on CO POWER to act when he received a further update on Operation Rectangle from DCO WARCUP on 2 October 2008. He was informed of the continuing difficulties in relation to the items found at Haut de la Garenne and the need for clarification of information in the public arena. ACO WARCUP suggests that he reiterated his views the following day, that it was essential to put the public record straight.

s.82; pages  
642-643;  
paras 251-  
254

5.8.7 ACO WARCUP reports in his witness statement that discussions with CO POWER continued during which DCO WARCUP's proposals to address the media in order to clarify matters and deal with any misconceptions repeatedly. ACO WARCUP's statement sums up the frustration he was experiencing in attempting to convince the Chief Officer of the need for immediate remedial action '*I then discussed the media proposals which were to be measured, proportionate and would not be aimed at individuals, they would however clarify a number of misconceptions and public concerns which remained and needed clarifying, i.e. the initial finds, cellars, the role of the enquiry. The timing as previously discussed was critical vis a vis the upcoming trials. Mr POWER advised me that he did not feel that it was necessary to do a proactive press release. He told me he was due to go on a radio programme in November to deal with crime statistics and*

s.82; pages  
643-644;  
para 255

*felt that he was bound to get a question re the enquiry at which time he would deal with the issue.'*

5.8.8 ACO WARCUP continued '*I made it clear time and time again that if we did not address the issues then there was a real and distinct possibility that the defence would argue for an abuse of process in relation to the forthcoming trials. Secondly, I made it clear that there was an issue of integrity. The public had been misled and it was therefore important to put the record straight. I also noted at the time, that this was the third conversation in the recent past during which key aspects of the enquiry were discussed and it is apparent that Mr POWER was unaware of key details such as the forensic findings in relation to the 'piece of skull.' As a result I repeatedly offered to provide more detailed information, something which has never been taken up. In view of the lack of progress with the Chief Officer I advised him that I would continue to develop a strategy in relation to the media'.*

s.82; pages  
644-645;  
paras 260-  
262

5.8.9 ACO WARCUP's statement suggests he had genuine concerns in relation to the false impression the public had of the investigation but his efforts to address the problems together with the Chief Officer were not well received. The issue is which, if either view, was more reasonable in the circumstances? On one hand, a proposal to 'drip feed' additional information intending to clarify and stabilise the position over time (CO POWER) or a major, pre-planned conference specifically to address and clarify inaccuracies and misunderstandings (DCO WARCUP). Noting the way in which the media reporting had got out of control over a sustained period, there is only one logical and ethical answer and that is DCO WARCUP's approach. So clear is our conclusion, this Inquiry is left with the concern that CO POWER's approach would have further misled the public.

5.8.10 On 6 October 2008, Matthew TAPP commenced work in Jersey, agreeing to conduct an 'External Communications Review' pertaining to Operation Rectangle. The terms of reference for this review, agreed

x.263; page  
674

s.82; page  
640; para  
240

by DCO WARCUP, were *'an assessment of external communications strategy to date. Written recommendations of how the service should approach the media in relation to the future progress of the investigation with due regard to protecting the development of the investigation, its outcome, the reputation of the States of Jersey Police and of key individuals within the service'*.

5.8.11 After two days, Matthew TAPP came to various conclusions regarding the media strategy employed by the States of Jersey Police in respect of Operation Rectangle to that point. He had also decided on the most appropriate exit strategy for the States of Jersey Police to conclude the Haut de la Garenne aspect of the enquiry as far as public awareness was concerned, and how investigators should approach external communications related to the ongoing Historic Child Abuse Enquiry. He shared these views with DCO WARCUP and Detective Superintendent Michael GRADWELL.

s.31; page  
210; paras 7-  
8

5.8.12 A brief overview of his conclusions was provided at a Gold Group meeting on 7 October 2008. Matthew TAPP was made aware by DCO WARCUP and Detective Superintendent GRADWELL that his recommended approach to drawing a line under the Haut de la Garenne part of the enquiry differed from the views of CO POWER. CO POWER intended issuing a very brief one paragraph statement to the media explaining that there was insufficient evidence to support a murder investigation and nothing more. Matthew TAPP'S view was that this was not the correct strategy. In order to obtain clarity, Matthew TAPP met with CO POWER and informed him that DCO HARPER had misrepresented what had been found at Haut de la Garenne and had misled the public. He commented on the recovery of 'a skull fragment' being described as *'the partial remains of a child'* and the description of under the floor voids as *'cellars'*. In response to the suggestion that the public had been misled, CO POWER is alleged to have replied *'so bloody what'*. There was an acceptance by CO POWER that the representation of one artefact as a *'fragment of skull'* was *'stretching it'*, but in the entire conversation, it is suggested

s.31; pages  
210-211;  
paras 8-14

s.31; page  
211; para 13

s.31; page  
211; para 14



by Matthew TAPP that this was the only point that CO POWER conceded.

5.8.13 Matthew TAPP provides a comprehensive summary of his discussion with CO POWER *'I suggested to him that the strategy employed by the police had led the media to assume and the public to believe that the remains of a number of children had been found at HDLG and that they had probably died through criminal act. I explained that I had now been briefed that the evidence that had indeed been found, could not possibly further any criminal proceedings and that in itself did not warrant the presentation in the media that it received. I recommended to him that the force was duty bound now that the murder investigation had finished, to announce this much publicly and to apologise for what I believed to be the inaccurate description and presentation of 'the finds' recovered from Haut de la Garenne. I explained that I was fully aware that some residents, journalists and opinion formers may regard such statements as a deliberate and further attempt by the police and other authorities to cover up child abuse of the gravest kind and for that reason recommended that all the finds or a selection of them should be put on display to the media. In that way, I explained I believed the public would accept that there was no firm evidence of any child having died at HDLG and that this was not an attempt to cover anything up'*.

s.31; pages  
211-212;  
para 14

5.8.14 Matthew TAPP described CO POWER's response to this considered and clear plan *'the CO's immediate response was that he thought it highly unlikely that the Attorney General's office would condone such a strategy. He added and I paraphrase 'that he would most certainly not be standing up in front of journalists at a press conference holding up a bag of children's teeth, to be photographed'. This struck me as somewhat peculiar given that Lenny HARPER had indeed done exactly that, when teeth were being found in March, during the investigations. He made it abundantly plain, that there would not be a press conference, but his intention was merely to release a very brief press release and, thereafter, to decline any further requests for*

s.31; page  
212; para 14

*information or interviews from the media. He told me that many people living in Jersey, including politicians were corrupt and were paedophiles, that the means of Lenny's investigation fully justified the end and that 'Lenny should be commended for exposing it all'.*

5.8.15 The possible motives behind the alleged comments attributed to CO POWER should be considered. Either CO POWER was afraid of exposing Operation Rectangle as a poorly run operation, or he genuinely but naively believed that DCO HARPER had done a professional job as the SIO and conducted himself well. If either motive is true, the conversation between Matthew TAPP and CO POWER is deeply concerning. This Inquiry has no reason to doubt the accuracy of Matthew TAPP's recollections, as he made notes very soon after this memorable meeting.

5.8.16 As a result of this conversation Matthew TAPP advised DCO WARCUP that his position was now untenable and that his contract had effectively been terminated. DCO WARCUP subsequently informed CO POWER of Matthew TAPP's decision, but he (CO POWER) continued to refuse to accept the need for a revised media strategy. DCO WARCUP outlined the following facts to the Chief Officer *'in an attempt to persuade him to agree a proper open response in dealing with the press:*

s.31; page  
214; para 21

s.82; page  
645; paras  
265-266

s.82; pages  
646-647;  
para 270

- *Lenny HARPER had put information into the public arena which had raised the profile of the enquiry*
- *This information had and has the potential to prejudice trials*
- *There is a strong need to ensure that the two issues, i.e. HDLG and the HA enquiry are separated*
- *The evidence at this time does not support the hypothesis that children were murdered, burned and buried at HDLG*
- *Opportunities to correct inaccuracies and misleading statements were not taken, for example when the press produced sensational headlines this was not challenged*

- *The question of the provenance etc of the alleged piece of skull was potentially irrelevant when one considered the context in which it was found*
- *The fact that we both wanted to clarify issues re HDLG was not in dispute, it was the means by which this will be done that is causing me some difficulty*
- *Mr TAPP had ended his contract and was returning to the UK as his position had become untenable. I was in a position which was difficult in that I could not agree to a decision which would limit my opportunity to be open and honest on a range of matters. There are matters which must be addressed and clarified*
- *People out with the Police are demanding answers to a range of questions*
- *How we do it would have been part of the plan but for this and our previous conversations*
- *Whatever we do we can be assured that it will provoke a widespread reaction*
- *Key partners had expectations and I strongly suggested that he meet with Bill OGLE Y and seek his views'*

5.8.17 If it has been correctly reported, this attempt by DCO WARCUP to have CO POWER see sense failed. ACO WARCUP states '*In conversation Mr POWER informed me there probably "was" murders at Haut de la Garenne "we just can't prove it." I advised him in no uncertain terms that that was not what the evidence showed. He simply referred to deep seated corruption and cover up that exists in Jersey. He also advised me that we need to be mindful of what will keep "him" happy. I said, "who's him" to which he replied Lenny.*

s.82; page  
647; paras  
273-274

5.8.18 This Inquiry regards these attitudes as difficult to understand in light of all the evidence available at that time. It appears that CO POWER



was deliberately ignoring the facts and expressing a blind loyalty to the former DCO. If these assertions are correct, aligned to the intention of CO POWER to 'manage' the process by which the truth emerged, we conclude that CO POWER was in an increasingly intolerable position. Objectivity and a drive for factual accuracy were beginning to supplant the previous subjectivity and unchallenged misrepresentation of aspects of Operation Rectangle. The façade covering some of the 'facts' was becoming increasingly exposed.

- 5.8.19 Such was the concern about the attitude of CO POWER, that Matthew TAPP was immediately engaged under a separate agreement to produce a report for Chief Executive Bill OGLE, but with a single term of reference *'to make an assessment of the external communications activity pertaining to the Haut de la Garenne investigation'*. He completed the report in November 2008. x.263; page  
675
- 5.8.20 CO POWER comments on the meeting with Matthew TAPP in his statement. He describes how he believed Matthew TAPP had a 'sales pitch' in which he *'was talking up a crisis, then presenting himself as the person who could resolve it, no doubt for a large fee'*. He further states *'I agreed that the public had been misled, but pointed out that we had not been responsible, and had in fact done much to put the record straight'*. d.1071; page  
294; para  
334
- 5.8.21 CO POWER cited misleading and sensationalist reports by the media as raising expectations and that work had been done to restore calm. CO POWER says he explained to Matthew TAPP that *'I told Mr TAPP that most of the news he was referring to was already out in the public domain. All that appeared to remain was some adjustment in consequence of recent forensic results, and, in some cases, to draw attention to information which had been released previously but which might not have fully registered. I explained that the police were treading a difficult line in trying to hold together an alliance of opposing factions for the general good of the investigation. We had to maintain a working relationship with the Law Officers and the Jersey'*. d.1071; page  
294; para  
335

*Establishment, while at the same time maintaining the confidence of the wider community, many of whom shared a common perception that there was widespread corruption and cover-ups in relation to child abuse and other issues. It was one thing to say the evidence did not support the view that there were murders. It was quite another to say we did not believe that there had been any murders. Beliefs are a personal matter, and it was probable that many people would believe that murders had occurred, but had accepted the assurances from the force that the evidence did not enable the relevant lines of enquiry to be taken further. This delicate balance had to be treated with care if unnecessary tensions were to be avoided. I repeated the course of action I had urged David WARCUP to support, which was to release incrementally those things which we needed to release, and where possible decline further comment on the basis that prosecutions were now pending. I agreed that the public had been misled, but pointed out that we had not been responsible, and had in fact done much to put the record straight. Misleading and sensationalist media reports had raised expectations and a great deal of hard work had already been done to restore calm and reality. The situation would not be improved by provoking the resurrection of the 'media circus' which had followed the behaviour of politicians, and other events associated with the early forensic work at HDLG. By the end of this conversation I felt that Mr TAPP and I were not going to agree and I wished him a pleasant journey'.*

- 5.8.22 On 9 October 2008, DCO WARCUP met with Deputy Home Affairs Minister Andrew LEWIS who agreed that the media situation needed clarification and that matters should be dealt with once and for all 'Mr LEWIS was in agreement that the information must come into the media/public arena and it would be wrong to stop this. He provided reassurance and support and stated that actions and proposals were being considered perhaps involving the assistance of the Attorney General. Once again, I assumed to mediate an agreement to issue a full press statement. I confirmed that I had informed Mr POWER that

s.82; pages  
649-650;  
paras 284-  
285

*the Attorney General would assist in reaching a resolution on the matter'.*

- 5.8.23 However, a subsequent meeting on 10 October 2008, between Chief Executive Bill OGLE Y and CO POWER appears to have caused the attitude of CO POWER to soften. Bill OGLE Y states *'therefore, my view was that the public deserved to have a full and thorough briefing on the state of the investigation and that anything less would be totally inappropriate. Mr POWER promised me that he would discuss this with the Attorney General in relation to the current prosecutions and that this discussion would have a bearing on his decision. It is my understanding that the discussion with the Attorney General never took place. Mr POWER never returned to me over the matter'.* This Inquiry can find no evidence that CO POWER discussed his proposals with the Attorney General. s.2; page 14;  
para 14
- 5.8.24 ACO WARCUP refers in his statement to the discussion following the meeting of 10 October 2008 *'Mr POWER identified that some progress was being made but that he was concerned in relation to the way in which they approached matters. He explained that this related to the actions which were taken to remove Stuart SYVRET from his post when GP [Graham POWER] was 'thrown out' of a meeting for voicing concerns over the way in which it was being handled... He stated that he had a problem which I and Mick GRADWELL did not have, which was an allegiance to Lenny HARPER... He had supported him right through, had tried to keep him 'in check' and had to manage the fact that not many people on the Island supported him... He knew that certain aspects were not right but had to manage him, particularly [sic] the last six weeks'.* s.82; pages  
650-651;  
paras 290-  
293
- 5.8.25 CO POWER reportedly told DCO WARCUP *'that he felt a little more comfortable with having a look at something (in relation to previous releases) but needed to be sure that the Attorney General and Bill OGLE Y'S office were happy with it'.* DCO WARCUP agreed that he should *'get on with it'.* s.82; page  
651; paras  
295-296

- 5.8.26 During September and October 2008, DCO WARCUP had continued dialogue with key stakeholders and kept CO POWER fully apprised. However he remained concerned *'that key issues were not being addressed, such as the fundamental failure to manage the enquiry effectively and that there remained a serious potential that unless matters are clarified for the benefit of the public I and others will be seen to be part of either a 'continued cover up' (press assertion) or that we have acted unprofessionally'*. s.82; page 651; paras 297-298
- 5.8.27 ACO WARCUP also comments that *'at no time did the Chief Officer question the fact that I was talking to key stakeholders, nor indeed did he ask for any updates or briefings in relation to any of these meetings or briefings. Nevertheless, I continued to keep him apprised of progress and the fact that much of discussion with key stakeholders concerned our approach to the media and the stance which was being taken. To repeat myself, I regularly urged the Chief Officer to talk directly to other key stakeholders in order to gain an understanding of the importance of what we were trying to do'*. If ACO WARCUP's evidence is correct, a pattern of disengagement by CO POWER is apparent, noting CO POWER's previous approach to the management of DCO HARPER. s.82; page 652; para 302
- 5.8.28 On 16 October 2008, DCO WARCUP met Attorney General William BAILHACHE and Bill OGLEY and discussed the lack of progress in 'securing' an agreement with the Chief Officer in relation to the media release. The Attorney General highlighted the impending indictments at court in relation to the defendants charged. He identified that it would be difficult to depart from these dates. It was evident to all three of them that unless the correct facts were put into the public arena then there would be a strong argument in relation to abuse of process. s.82; page 653; paras 307-308  
s.82; page 654; para 312
- 5.8.29 Five days later, on 21 October 2008, DCO WARCUP attended a meeting at the Attorney General's office together with Detective Superintendent Michael GRADWELL, Principal Legal Adviser John EDMONDS, Crown Advocate Stephen BAKER, Attorney General s.82; pages 654-655; paras 314-315



William BAILHACHE and Solicitor General Timothy LE COCQ. The purpose of the meeting was to discuss the future court proceedings of 24 October 2008 in relation to charged suspects in Operation Rectangle, and what statements could be made to the media and to the court. The 'profile' of attendees at this meeting suggested that serious consideration was being given to the abuse argument. CO POWER was absent.

5.8.30 ACO WARCUP states that the meeting disagreed with CO POWER's proposition relating to media handling. The meeting concluded that inaccuracies in previous reporting needed to be addressed and an assessment of the evidence in relation to the 'finds' indicated that there had been no homicides at Haut de la Garenne.

s.82; page  
654; para  
311

5.8.31 ACO WARCUP comments *'it should be noted that at this stage the position adopted by the Chief Officer, Mr POWER, had created a totally untenable position whereby the States of Jersey Police could not address the factual inaccuracies, which were clear from the evidence. The failure to address these factual inaccuracies with the public placed the prosecution in the invidious position of having a duty to respond to the court based on the evidence which they had presented before them, which severely contradicted the views of the States of Jersey Police'*.

s.82; page  
656; para  
318

5.8.32 By now, there had been numerous attempts to try to address the issue of correcting the information that was in the public arena. DCO WARCUP felt the integrity of the States of Jersey Police was at stake and future court trials were being put at risk. He comments in his statement that on 22 October 2008 he discussed the meeting of Tuesday 21 October 2008 with CO POWER *'I noted at the time that this was the first substantive discussion with Mr POWER since Friday 10 October 2008 concerning these matters. It was clear that any mention or reference to the issues concerning the enquiry failed to provoke any discussion or comment or indeed any questions. It had been quite apparent that Mr POWER was finding it difficult to talk*

s.82; page  
656; para  
322

*about this, whilst in relation to other matters it is effectively business as usual'.*

- 5.8.33 ACO WARCUP comments on a response from the Chief Officer *'Mr POWER asked if the shutters would not just be 'pulled down' and commented to the effect that 'we'll see who's got the stamina to see this through... If it does not provoke a press reaction on Friday the matter will probably go away'.* s.82; page 657; para 325
- 5.8.34 This Inquiry suggests that, if true, this is not the professional response expected of a Chief Officer. DCO WARCUP reiterated his previous arguments and requested CO POWER discuss the matter with the Attorney General. This was refused and an agreement was made for DCO WARCUP to continue to prepare the media position. s.82; page 657; paras 326-329
- 5.8.35 The draft press briefing was provided to CO POWER prior to his period of annual leave taken between 6 and 17 November 2008. ACO WARCUP states he was aware of CO POWER's intention to be out of the Island until 13 November 2008. CO POWER returned the document with some added comments written alongside the script. (Full details can be located within the Evidential Bundle accompanying this Report.) However, ACO WARCUP's statement suggests that there remained a lack of willingness by CO POWER to accept the facts *'next to paragraph 16 [previous reports in the media] is the following comment: 'some of the original views of the evidential picture can no longer be sustained' against the section marked the skull fragment a comment is appended: LH's report of 2/6/2008 gives details of alleged lab confirmation of it being 'bone' – so has this been addressed?'* x.655; pages 1679-1700  
d.1071; page 295; para 337  
s.82; page 659; para 336  
s.82; page 660; para 341
- 5.8.36 *'In relation to a comment concerning 'human remains' being referred to namely 'the teeth and bones nothing else, but this was misconstrued by the media' the comment is appended 'do we need this?'* s.82; page 660; para 342
- 5.8.37 *At the section entitled shackles the comment is appended 'has no further relevance to the enquiry'.* s.82; page 661; para 350

- 5.8.38 *At the section entitled 'Bath' the comments in relation to the location of the bath are appended the comment 'I have provided a historical account which relates to a communal bath at the house. Has this been taken into account?'* s.82; page 661; para 351
- 5.8.39 Further comments on this page include *'we might wish to summarise this in some way 'while some of the forensic issues have been resolved there remain significant areas of uncertainty'.* s.82; page 662; para 335
- 5.8.40 This Inquiry concludes that even at this stage, CO POWER disagreed with the intentions of the proposed media briefing and his reluctance to accept clear forensic opinion suggests that he remained opposed to correcting the sensationalist, misleading and inaccurate reports that were in the public arena.
- 5.8.41 DCO WARCUP continued with the preparations for the press conference. On 7 November 2009, he made contact with the Chief Officer via his mobile phone, whom he understood to be in the North of England. CO POWER was advised that the press conference was going to go ahead on Wednesday 12 November 2008 and that a final draft press statement had been prepared. DCO WARCUP asked him directly if he wanted to have any involvement in the press conference or other matters relating to the press conference, as he had indicated that he would be back in the Island on the Tuesday 11 November 2008. It is suggested by ACO WARCUP that CO POWER said that he did not. s.82; page 663; paras 360-364
- 5.8.42 ACO WARCUP states *'once again, this was a one sided conversation in that I was the one raising the issues and seeking comments. Despite having raised with the Chief Officer what were clearly fundamental issues, he did not challenge or question the action I proposed to take, nor do I believe that he appeared to recognise the potential consequences in relation to the likely media response'.* s.82; page 663; para 365
- 5.8.43 On Friday 7 November 2008, DCO WARCUP met with Chief Executive Bill OGLE to discuss the proposed media conference briefing which s.82; page



was planned for Wednesday 12 November 2008. During the meeting they discussed the fact that the Chief Officer would not be involved. Following this meeting, and in light of the report received from the Metropolitan Police Specialist Crime Review Group, DCO WARCUP prepared a letter dated 10 November 2008 to Bill OGLE. This letter has been referred to within the basic chronology at the beginning of this Report relating to the suspension of CO POWER. This Inquiry bears in mind the motives that could be attributed to DCO WARCUP in writing such a letter.

663; para  
366

x.657; pages  
1701-1710

5.8.44 The press conference was held on 12 November 2008. The full transcript can be found in the attached Evidential Bundle.

x.659; pages  
1725-1743

5.8.45 In his later statement, CO POWER comments that it was evident that by various means DCO WARCUP had *'built up a broad alliance in favour of the major media conference event'* and that this included the Attorney General. CO POWER's last working day before leave was 5 November 2008, and he felt that the opportunity would be taken then to press ahead with the conference, regardless of his wishes, and was supported by the Attorney General and ministers. Being conscious of the fact that DCO WARCUP had been appointed to take strategic lead, CO POWER told DCO WARCUP that he would not stand in the way of the conference, but wanted a chance to influence the content.

d.1071; page  
295; para  
336

5.8.46 CO POWER comments that, despite repeated requests, he did not receive the draft until 5 November 2008, a few hours prior to his leave. Whilst he considered it was poorly thought through, he was encouraged to note that it made the point that it had never been suggested by the States of Jersey Police that child murder took place at Haut de la Garenne and that the police were not behind the story regarding the 'shackles'. It also emphasised that the media had seen the 'cellars' and, therefore, by implication nobody had been misled regarding their size and nature. He states *'in the very limited time available to me I made some hurried notes in the margins of the draft'*.

d.1071;  
pages 295-  
296; paras  
337-339

- 5.8.47 CO POWER states 'In particular he said nothing of his intention to provide a briefing to Ministers and others the evening before the media conference. This was clearly a matter which affected my interests. At no time was it mentioned to me by David WARCUP or anyone else until after it had happened. Even after the passage of time, and the opportunity to reflect on whatever motives may have influenced the actions of Mr WARCUP and others, I can only regard the failure to inform the Chief Officer of the Force of the briefing to Ministers on the evening of 11th November 2008 as a deliberate act of deceit (the underlining is CO POWER's emphasis). d.1071; page 296; para 340
- 5.8.48 In contrast ACO WARCUP comments 'At every stage of development of the enquiry I kept the Chief Officer apprised and more importantly advised him that I was in discussions with a wide range of people including officers from the Law Officers' Department, the Attorney General, the Solicitor General, the Chief Ministers Department, the Communications Section, and Health and Social Services'. s.82b; page 698; para 7
- 5.8.49 It is evident that there was recognition by politicians, senior police officers and media consultant Matthew TAPP, that the content of the media releases within the public domain required correction. Following his appointment, DCO WARCUP was charged with rectifying the inaccurate impression that the public had of the enquiry. DCO WARCUP suggests that he almost immediately sought the support of CO POWER and attempted to involve him at every opportunity, but that every effort at seeking a resolution was not received well. Various hypotheses have been suggested in the preceding paragraphs as to the possible reasons for CO POWER's reluctance to engage with DCO WARCUP. Ultimately, it is not possible for this Inquiry to come to a clear conclusion, assuming what is reported by the witnesses is correct.
- 5.8.50 It is clear, however, that CO POWER declined from the outset to involve himself in the proposed press conference, regardless of his leave commitment. His stated intention was to restore 'balance' to the s.82; page 663; para 364

reportage through a series of additional comments attached to future media releases. This Inquiry feels that CO POWER's approach would have lacked the clarity and transparency initiated by the conference of 12 November 2008. As stated, we feel CO POWER was reluctant to accept the forensic opinion that had cast doubt on the 'human' provenance of Exhibit JAR/6. Also, through loyalty to his former DCO, CO POWER seemed determined to avoid any criticism of the previous press releases made. Whatever his reasons, pressure from DCO WARCUP, politicians and legal authorities should have prompted him to accept some responsibility for the overall conduct of the enquiry. This Inquiry feels that if ever there was an opportunity for CO POWER to have shown personal responsibility and leadership, the planned conference was it. CO POWER did not take responsibility for leading his Force on the day when severe public reaction to the previously over inflated claims about Operation Rectangle was to be expected.

5.8.51 Sir Christopher PITCHERS (a judge sitting in the Royal Court of Jersey) delivered his judgement on the application for a stay of proceedings, in the case of [Suspects B, C and D] on 26 February 2009. He was critical of DCO HARPER's media policy, but nevertheless rejected this part of the application on a number of grounds, including the appointment of the new SIO and DCO who held a press conference in November 2008 to correct the errors. Sir Christopher said *'in my judgment this press conference went a long way to repair the damage that had been done by earlier press publicity'*. The other grounds for the rejection of the application included; the presence of a clear divide between the reporting of the torture dungeon and the general part of the inquiry which was into historic child sex abuse; the fact that none of the lurid stories connected any named individuals to what was being described; and the ability of the jury to understand the principle of fairness. Were it not for the actions of DCO WARCUP and Detective Superintendent GRADWELL, the few prosecutions that have resulted

d.991; pages  
140-144;  
paras 14-19

d.991; page  
142; para  
18(i)

from the investigation may never have come to trial. CO POWER failed to grasp the seriousness and potential consequences of not addressing misrepresentation in the media.

## 5.9 Conclusions

5.9.1 The supervisory failings by CO POWER with regard to the media undoubtedly affected the reputation and standing of the States of Jersey.

5.9.2 One consequence of the deficiencies in the overall media policy is the abuse of process arguments that accompanied the investigation. The Attorney General states *'I made a point of telling the Chief Officer that the conduct of the Deputy Chief had in my view seriously jeopardised the current prosecutions and worse still might have seriously jeopardised any prosecution arising out of the historic child abuse enquiry. The conduct was irresponsible and damaging to the criminal justice process in Jersey'*.

s.85; page  
747; para 85

5.9.3 Advocate Stephen BAKER reflects that *'a very substantial amount of time has been spent in seeking to meet an abuse of process application made by the defence in the cases of [Suspect 'B'], [Suspect 'C'] and [Suspect 'D']*. That abuse of process application centred upon Mr HARPER's conduct of the investigation in particular his dealings with the press. The Judge has rejected the abuse of process application but this was an application we should never have had to meet. Mr HARPER's conduct in respect of the media caused very substantial difficulties in this case. There was a time when the type of reporting which occurred following the announcement to the press that the 'partial remains of a child' had been found may have resulted in a Judge refusing to allow the cases to be tried. The courts these days are much more robust on media reporting and tend to trust juries to reach verdicts on the evidence they hear in Court and not be influenced by the press'.

s.77; page  
482; para 55

5.9.4 In response to the question of the abuse of process, CO POWER states *'I have been told that after hearing the evidence the Court ruled*

d.1071; page  
286; para  
309



*that no abuse of process had occurred. Accordingly I see no need to comment on this issue'. In the opinion of this Inquiry, this is a short sighted attitude at best. The additional expense and time incurred by the States of Jersey in preparing for and defending the abuse application and the uncertainty caused to the victims must be considered.*

5.9.5 It must be pointed out that the 'transparent' approach by DCO HARPER and CO POWER did encourage victims to contact the States of Jersey Police. However, it is hard to escape the conclusion that this was as result of the quantity of media coverage rather than the accuracy of it. The flagrant misreporting fuelled by inaccuracy and speculation put prosecution cases in some jeopardy, and were it not for the actions of DCO WARCUP and Detective Superintendent GRADWELL in their November 2008 press conference, the chances of the Operation Rectangle prosecutions collapsing were real, as reported by the Judge at the abuse of process hearing.

5.9.6 This Inquiry commissioned ECHO Research, an independent company, to evaluate the reputation of the States of Jersey Police within the media, with particular reference to the investigation into the alleged child abuse at Haut de la Garenne. The analysis spanned the 15 months prior and 15 months post September 2007. Both UK and French citizens' opinions were examined. 'Blog' analysis was also considered.

5.9.7 Echo Research concludes that Operation Rectangle prompted a ten-fold increase in media coverage within the time parameters established. Overall, the police emerged in a favourable light from the Haut de la Garenne investigation *'positioned as competent and professional and determined to uncover possible concealment of abuse by the Jersey authorities. DCO Lenny HARPER was strongly associated with the investigation and the openness of the police towards the traditional media'*.

d.915; page  
100

- 5.9.8 The reputation of Jersey, however, was *'overwhelmingly negative, dominated by a lack of competence/professionalism, and a culture of concealment/cover up'*. d.915; page 99
- 5.9.9 These outcomes were inevitable whilst DCO HARPER was driving his own agenda, publicly criticising the States of Jersey for their secrecy and camouflage, whilst extolling the virtues of the States of Jersey Police with its 'transparent' approach.
- 5.9.10 Echo Research finds that the discrediting of the investigation by DCO WARCUP and Detective Superintendent GRADWELL led to highly critical headlines which dented the States of Jersey Police's media profile, although the overall rating remained positive. However, the damage done to the reputation of the Island of Jersey is obvious with a 16-fold increase in negative publicity over the examined time frame. One can conclude that the image of the States of Jersey has been damaged and that the press releases of the States of Jersey Police, did little to support the States in their efforts to assist the States of Jersey Police in their investigation. d.915; page 100
- 5.9.11 This Inquiry is clear that CO POWER should have had firm control on the overall media management of Operation Rectangle. Advocate BAKER statement constrains an insightful narrative with which we concur *'Mr HARPER's relationship with the media was extraordinary. I would have expected a commanding officer particularly in a small force watching events unfold on the news channels to have taken a close personal involvement in media policy. By that I mean that he would have explored fully what the facts were, have challenged in depth those reporting to him and to have formed his own carefully reasoned opinion as to how the media should be handled'*. With the exception of the e-mail directive by CO POWER to DCO HARPER in respect of the suspects 'A' incident (see Paragraph 5.7.6), we can find no compelling evidence that CO POWER adopted such a position. Rather, we find that he abrogated his responsibility and neglected his duty in this critical area of his command responsibilities. s.77; page 482; para 55

5.9.12 This Inquiry concludes that the initial failure of CO POWER to establish any strategic oversight of Operation Rectangle, deprived him of the means to detect the absence of an effective media strategy which precipitated hastily constructed and inaccurate press releases. These in turn provoked press coverage that was sensationalist, emotive and damaging and which went largely untouched. When challenged, CO POWER appears to have considered the media stance being taken by DCO HARPER. He was simply too removed from the activities of DCO HARPER to control him even though they met regularly. CO POWER's supervision was inadequate and characterised both by a lack of decisive action and the rigour of any form of documented approach. CO POWER fell far below the standard expected by the public.



## 6. The witness statement of CO POWER and lines of enquiry arising from it.

### 6.1 Preparing for a taped interview

- 6.1.1 In common with most discipline investigations, Operation Haven intended to conduct a taped interview of CO POWER in order to secure and test his account. Perfectly and properly following legal advice, CO POWER declined to be interviewed as is his right under Jersey Law and offered instead to provide a written statement. This is contained in the Evidential Bundle accompanying this Report. d.1071; pages  
202-298
- 6.1.2 In preparation for the intended interview, an interview plan was written which can also be found within the Evidential Bundle. This is a lengthy document which details all aspects of CO POWER's relevant experience and includes the 'headline' questions we intended to ask CO POWER under the terms of reference for Operation Haven. We suggest this document indicates the depth to which the interviewing officers wished to explore CO POWER's role in Operation Rectangle. d.1021; pages  
152-191
- 6.1.3 When it was apparent that CO POWER was not available for interview, the prospective interviewing officers from Operation Haven produced a separate document detailing a number of issues which they invited him to address when preparing his statement to the Inquiry. CO POWER agreed to do so. d.1031; pages  
192-201
- 6.1.4 Throughout this Report, regular reference to the content of CO POWER's statement has been made. The following topics were raised with CO POWER and which this Inquiry considers to be of relevance. They are commented upon in the following Sections of this Report.
- Succession plans – (see Supervision Section 3.2 of this Report).
  - The standards the States of Jersey Police work to – (see Background and Context Section 1.8 of this Report).

- The involvement of the ACPO Homicide Working Group – (commented on throughout all Sections of this Report).
- The role of DCO HARPER as the SIO – (see Supervision Section 3.2 of this Report).
- Strategic parameters for Operation Rectangle – (see Supervision Section 3.7 of this Report).
- Meetings between the SIO and CO POWER – (see Supervision Section 3.8 of this Report).
- The relationship between the Office of the Attorney General and Operation Rectangle – (see Supervision section 3.9 of this Report)
- The search of Haut de la Garenne – (see Supervision Section 3.10 of this Report).
- Operation Rectangle as a critical incident/Gold Group/IAG – (see Critical Incident Section 4 of this Report).
- Financial management – further report to be submitted.
- Media Management – (see Media Section 5 of this Report).
- 'Putting the record straight' – (see Media Section 5.8 of this Report).

## **6.2 CO POWER's statement generating further lines of enquiry**

6.2.1 Upon receipt of CO POWER's witness statement, a number of additional actions were generated to explore potential further lines of inquiry raised by CO POWER. The majority of matters raised by CO POWER were considered not to provide further opportunity to gather evidence relevant to the terms of reference. However, there are a number of issues raised that are worthy of comment and that do not appear in the aforementioned interview/statement structure.

6.2.2 Within his statement, CO POWER makes regular reference to Senator Wendy KINNARD in her role as Home Affairs Minister, and their interaction with respect to Operation Rectangle. CO POWER considers her views to be significant, especially in relation to the

d.1071; page  
213; para 40

performance of DCO HARPER. He comments '*she appeared at all times, to be strongly supportive*'. Operation Haven has made repeated attempts to obtain a statement from the ex-Home Affairs Minister, but to date, this has not been secured. Efforts continue to obtain Ms KINNARD's statement, although it does not seem likely it will be obtained prior to submission of this Report to the Deputy Chief Executive to the Council of Ministers. It will be forwarded as soon as it is available.

6.2.3 CO POWER has made regular reference to political interference and a possible 'cover up' within the establishment, including the States of Jersey Police. In his statement, he makes reference to an external enquiry conducted by South Yorkshire Police into the actions of members of the States of Jersey Police. Subsequent enquiries made with Chief Superintendent VAREY of South Yorkshire Police confirm that following the enquiry they found insufficient evidence to bring a criminal prosecution against any person, although there was a case to answer with respect to disciplinary matters. In addition, the South Yorkshire Police enquiry found no evidence of a 'cover up' or 'political interference'. Operation Haven acknowledges that the South Yorkshire enquiry was not a comprehensive investigation into possible corruption in Jersey, but more simply an investigation into the corrupt activities of some States of Jersey Police members. However, the issue of corruption was raised by CO POWER who considered it to bring a '*new dimension*' to Operation Rectangle and was duly investigated. Operation Haven recognizes CO POWER's honestly held belief.

s.87; page  
774; paras 6-7

d.1071; page  
238; paras  
140-141

6.2.4 Frequent reference is also made throughout the statement to the actions and opinions of Senator Stuart SYVRET. CO POWER describes him as '*a person who victims and witnesses would trust*' and that his social and professional contacts and activities created an informal '*Gold Network*'. Operation Haven has made repeated efforts throughout the investigation to obtain a statement from Senator SYVRET, but this has been refused on each occasion. As a result of

d.1071; page  
269; para 250

d.1071; page  
269; para 251

the receipt of the statement of CO POWER, a further attempt was made. This was initially refused, though the Senator did intimate that he may wish to comment in the future, with the caveat that the subject matter to be commented on would be his decision. This tended to cover aspects of corruption, other political issues and the actions of senior figures. Whilst a statement from Senator SYVRET is not available, should Operation Haven obtain a written account from him, it will be forwarded when available.

6.2.5 A specific action that was raised as a result of the statement from CO POWER was to cross reference the events described within the body of his written statement with his pocket notebook entries following the indication provided by the Chief Officer in his statement that he had made a record of relevant events. A spreadsheet correlating pocket notebook entries to the statement can be found within the Evidential Bundle accompanying this Report. This Inquiry has concluded that although mention of events is made within CO POWER's pocket notebook, the details are scant and often of few words. The accuracy of the account of the events described within the statement cannot be readily supported by reference to the pocket notebooks alone. However, there are some more detailed entries from which inference can be drawn about the accuracy of the recollection described in the statement.

d.1109; pages  
354-370

6.2.6 One example of the latter can be found within his statement when the Chief Officer refers to '*notebook 07/58 where they commence on pages 20 and 24*'. This refers to briefings made to key figures that CO POWER wished to '*put on a more formal footing*'. The notebook entry about those 'briefings' is enclosed within the Evidential Bundle accompanying this Report and in the spreadsheet. However, it is clear that not all events within CO POWER's statement have a corresponding entry in his pocket notebook. Therefore, this Inquiry concludes that sometimes the Chief Officer made notes and these may support the facts alluded to in his statement, whilst on other occasions there is no corresponding pocket notebook entry to support

d.1071; page  
280; para  
288

d.1125; page  
375



the version of events he describes in his written statement. In others, the minimal notes he did make offers little to support the evidence within the statement.

- 6.2.7 Operation Haven has, where possible, followed-up lines of enquiry raised by CO POWER. In respect of the issue of 'timely warnings' being delivered to key figures, this Inquiry has subsequently pursued this with Chief Executive Bill OGLEY. Chief Executive OGLEY has commented in a further witness statement that *'I can say that I did not receive timely warnings from Graham POWER regarding significant media demands associated with the enquiry. I do recall him briefing me on the need to secure access to files relating to children who were in the care of the States and who were alleged victims. I recall him asking for my assistance in seeking cooperation for obtaining those files and I agreed to do so. But I was not put on notice that the enquiry was about to "take off" and when I learnt of the initial discovery of the fragment at HDLG, nothing had been done by Graham POWER to put me, or as far as I know, anyone in the States on notice'*. The contradiction between the two accounts is obvious; however verification of either is not possible until enquiries can be made with Wendy KINNARD who was the only other person at the meeting. The value of ascertaining the 'truth' in this matter may not be great. Briefing the key figures in the States of Jersey of the impending increase in profile of Operation Rectangle demonstrates a prescience and supervisory level expected of a Chief Officer. Nevertheless, this Inquiry can see some value in pursuing this action and it will be completed, if possible.

d.1071; page  
280; para 288

s.2c; page 32;  
para 4

- 6.2.8 Throughout CO POWER's statement, he directs criticism at ACO WARCUP on a number of issues. He states *'One of Mr WARCUP's problems is that he would not listen to my advice'* and *'I tried to encourage Mr Warcup to concentrate on moving matters forward rather than focusing on the past'*. In contrast, when this view was put to ACO WARCUP, he states in a further witness statement *'Mr. Power asserts in his statement that on a number of occasions he*

d.1071; page  
229; para 107

d.1071; page  
293 para 330

s.82b; page  
701; para 21

*was positive helpful and supportive to me offering what he considered to be support and perhaps painting a picture of an individual who is engaged and interested in what was happening. The relationship was nothing more than functional; indeed on his part it was often patronising and frequently focused on very low level matters. Whenever more serious matters required discussion they were simply passed for my attention without much discussion. It was clear that we were unlikely to have a close relationship particularly having received feedback from conversations which took place between the Chief and others outside the force which suggested that I was unsettled and would be unlikely to stay with the States of Jersey Police'*

6.2.9 These narratives indicate the difference in positions between CO POWER and ACO WARCUP and will be relevant to those charged with assessing their relative credibility as witnesses. CO POWER states in relation to a press conference proposed by DCO WARCUP, *'At some stage during this period David Warcup floated the idea of a press conference to 'put the record straight' regarding the enquiry. I definitely saw this as a bad idea'*. At variance with this are the comments of ACO WARCUP who states on numerous occasions that *'it was essential to put the public record straight'*. Opposing views of this nature abound throughout both statements.

d.1071; page  
293; para 331

s.82; page  
643; para 254

6.2.10 This Inquiry has commented on the possible motives that ACO WARCUP may have had in raising concerns over the management of Operation Rectangle (see the Supervision Section 3.3.10 of this Report) and has reported our conclusions.

## 7. List of conclusions

### 7.1 Supervision

- Conclusion 1

7.1.1 CO POWER's appointment of DCO HARPER as SIO was inappropriate when Operation Rectangle was solely an historical child abuse enquiry. This became a failure in performance of his duty to appoint an SIO of adequate qualification and experience after 23 February 2008 when Operation Rectangle became a homicide investigation.

- Conclusion 2

7.1.2 CO POWER failed in the performance of his duty to ensure adequate terms of reference were created for Operation Rectangle which were agreed with and adhered to by the SIO.

- Conclusion 3

7.1.3 CO POWER failed in the performance of his duty to maintain adequate records of his supervision of DCO HARPER during Operation Rectangle.

- Conclusion 4

7.1.4 CO POWER made inappropriate use of the Force e-mail system.

- Conclusion 5

7.1.5 CO POWER failed in the performance of his duty to ensure that DCO HARPER maintained an effective working relationship between the prosecution legal team and the police investigation team for Operation Rectangle.

- Conclusion 6

7.1.6 CO POWER failed in the performance of his duty to prepare for the impact that the searches at Haut de la Garenne would have on public opinion.

- Conclusion 7

7.1.7 The operational performance of the States of Jersey Police was not demonstrably adversely affected during Operation Rectangle.



## 7.2 Critical Incident

- Conclusion 8

7.2.1 CO POWER failed in the performance of his duty to ensure a Gold Group was created following the declaration of the investigation as a critical incident on 13 December 2007 and also following the 'find' at Haut de la Garenne on 23 February 2008.

- Conclusion 9

7.2.2 Whilst this Inquiry accepts that a Community Impact Assessment was prepared commendably by junior officers, CO POWER failed in the performance of his duty to ensure that a CIA appropriate for Operation Rectangle was properly implemented and pursued by the States of Jersey Police.

- Conclusion 10

7.2.3 CO POWER failed in the performance of his duty to establish a relevant, supported IAG with clear terms of reference.

- Conclusion 11

7.2.4 CO POWER should not be held to account for failing to take timely and effective action to resolve concerns raised by the IAG. The evidence suggest he did take action.

- Conclusion 12

7.2.5 CO POWER failed in the performance of his duty to ensure that Operation Rectangle was managed as a multi-agency investigation in accordance with accepted guidance.

- Conclusion 13

7.2.6 CO POWER should not be criticised for failing to commission a major crime review of Operation Rectangle, but should receive advice and appropriate training.

## 7.3 MEDIA

- Conclusion 14

7.3.1 CO POWER neglected his duty to establish or provide any formal strategic oversight of the States of Jersey Police's media strategy in respect of Operation Rectangle.

- Conclusion 15

7.3.2 CO POWER neglected his duty to ensure that a documented and updated media strategy existed between November 2007 and February 2008 during the Historic Child Abuse Enquiry, Operation Rectangle.

- Conclusion 16

7.3.3 CO POWER neglected his duty to ensure an appropriate media strategy was in place and being adhered to following the 'find' on 23 February 2008. This strategy should have been regularly reviewed and was not.

- Conclusion 17

7.3.4 CO POWER neglected his duty to supervise the media releases made by the States of Jersey Police to ensure their accuracy and balance or to effectively challenge misrepresentation by the media.

- Conclusion 18a

7.3.5 CO POWER neglected his duty to provide strategic oversight of States of Jersey Police media policy following receipt of confirmation that Exhibit JAR/6 was not human bone, as previously portrayed by the States of Jersey Police within its media releases.

- Conclusion 18b

7.3.6 CO POWER neglected his duty to correct the content of misleading press releases made by States of Jersey Police following receipt of forensic opinion about the nature of Exhibit JAR/6.

- Conclusion 18c

7.3.7 CO POWER neglected his duty to supervise DCO HARPER in relation to his media releases following receipt of forensic opinion about the nature of Exhibit JAR/6.

- Conclusion 19

7.3.8 CO POWER created and/or permitted an environment where lack of supervision allowed DCO HARPER to proceed without regard to the effect of his actions on Operation Rectangle. Nevertheless, this Inquiry accepts that CO POWER could not have prevented the media release regarding suspects 'A' on 24 June 2008.

## 8. List of recommendations

- Recommendation 1

8.1 The States of Jersey Police considers secondments of trained SIO's to UK forces to ensure that they maintain and enhance their skills level, with a view to obtaining Professionalising Investigations Programme 3 accreditation.

- Recommendation 2

8.2 The States of Jersey Police ensures that all operations are included within the National Intelligence Model process as outlined by the 'Practice Advice on Tasking and Co-ordinating 2006'.

- Recommendation 3

8.3 The States of Jersey Police reviews the design of policy books to provide for examination by supervisors and should implement policy requiring such supervision to occur.

- Recommendation 4

8.4 The States of Jersey Police gives serious consideration to adopting the ACPO/NPIA Practice Advice on Critical Incident Management 2007 as Force policy, provide training and ensure the policy is well understood at all levels of the Force.

- Recommendation 5

8.5 The States of Jersey Police reviews policy and procedure in respect of the completion of policy books, giving particular consideration as to when they should be used and what should be recorded in them, in line with NPIA Guidance. Training should be given to current and prospective SIO's.

- Recommendation 6

8.6 The States of Jersey Police reviews policies and procedures in respect of Community Impact Assessments to ensure policy and procedure are fit for purpose.

- Recommendation 7

8.7 The States of Jersey Police takes the opportunity to establish an IAG in Jersey, based on the UK model and guidance, so that the IAG is able to

participate productively in future incidents as they arise and that the States of Jersey Police develop policy and procedure which properly trains and supports IAG members.

- Recommendation 8

- 8.8 The ACPO Homicide Working Group learns lessons from Operation Rectangle in order to improve its support to senior investigating officers in the future. In particular, it should ensure clarity about what is understood by its quality assurance role, documenting all recommendations it considers appropriate to the needs of the investigation (not necessarily of the SIO or Chief Officer) and preventing circumstances which could give rise to any intimation of a possible conflict of interest for advisors and mentors.

## 9. Legal advice in respect of suggested charges

### 9.1 Suggested charge

9.1.2 As Chief Officer of Police for the States of Jersey Police ("SoJP") you failed, between about September 2007 and November 2008 effectively and efficiently to manage and supervise the Operation Rectangle investigation ("the investigation") into alleged child abuse at Haut de la Garenne ("HDLG") and as a consequence thereof you

- i. failed to perform your duties to a satisfactory standard;
- ii. behaved in a manner likely to bring discredit to the States of Jersey Police.

### 9.2 Particulars

9.2.1 1.a) The HDLG investigation was a critical incident that required strategic management by the Chief Officer of Police, for the following reasons:

9.2.2 b) It was the biggest policing operation in Jersey in living memory.

9.2.3 c) All allegations of institutional child abuse carry a legitimate and intense public interest and necessarily require effective and efficient management.

9.2.4 d) In a small and island community like the States of Jersey (SoJ), such an investigation requires sensitive and intelligent planning and management.

9.2.5 e) You knew or ought reasonably to have known of the inevitable political sensitivity of such an investigation because of its potentially negative implications for the reputation of the States of Jersey Police, the SoJ and the people of Jersey.

- 9.2.6 2. Despite the propositions in (1) above, you failed to appreciate the significance of the investigation from the outset and you failed strategically to manage the investigation, adequately or at all.
- 9.2.7 3. You failed to establish an appropriate strategic steering group for the investigation (whether "Gold Group" or other appropriate local variant) which group ought to have set appropriate strategic parameters, including strategies for:
- 9.2.8 a) Ensuring the investigation was conducted to a high standard;
- 9.2.9 b) Media management;
- 9.2.10 c) Community impact and confidence.
- 9.2.11 4. In relation to the investigation of Operation Rectangle you failed as follows:
- 9.2.12 a) To appoint a suitably qualified Senior Investigating Officer.
- 9.2.13 b) Properly or at all to supervise the SIO, DCO Lenny HARPER.
- 9.2.14 c) To set or review written terms of reference or any other appropriate parameters for the investigation to cover issues such as forensic strategy, media strategy, investigative strategy and witness management
- 9.2.15 d) To ensure terms of reference were agreed and adhered to by the SIO, DCO HARPER.
- 9.2.16 e) To keep a policy file on the case; alternatively you did not intrusively monitor that kept by HARPER and failed to maintain adequate records of your own supervision of him.
- 9.2.17 f) To ensure proper and effective liaison with the Attorney General's team of lawyers.
- 9.2.18 g) To ensure the investigation was managed as a multi agency investigation in accordance with accepted guidance



- 9.2.19 5. In relation to media management you failed as follows:
- 9.2.20 a) To institute or document or regularly review any or any proper strategy for protecting:
- 9.2.21 i. the investigation from prejudicial reporting or inappropriate journalistic activity;
- 9.2.22 ii. potential witnesses and complainants from media intrusion;
- 9.2.23 iii. the reputation of the SoJP and SoJ from inappropriate media coverage;
- 9.2.24 b) By permitting excessive disclosures to the media you ran the dual risks of prompting abuse of process arguments by prospective criminal defendants and undermining the evidential weight to be attached to complainants' allegations.
- 9.2.25 c) To ensure that press statements from Operation Rectangle distinguished between allegation and proven fact, thereby causing or permitting sensationalist and inaccurate media coverage.
- 9.2.26 d) To monitor and thus exercise any or any proper control over DCO Harper's briefings to the media, thereby causing or permitting the media to publish sensationalist and inaccurate stories in relation to, *inter alia*, "the partial remains of child", "a skull fragment", "cellars", "shackles", and "blood in a bath".
- 9.2.27 e) To attempt to correct in a timely manner false or sensationalist media reporting, including in relation to the so-called "child's skull" which was not in fact human remains at all, as you knew or ought to have known by June 2008.
- 9.2.28 f) To ensure that an appropriate media strategy was in place and being adhered to following the 'find' on 23 February 2008.
- 9.2.29 g) To provide strategic oversight of the SoJP media policy, following receipt of forensic opinion that Exhibit JAR/6 was not human bone, as previously portrayed.

- 9.2.30 h) To ensure that earlier SOJP press releases were corrected following receipt of forensic opinion that Exhibit JAR/6 was not human bone.
- 9.2.31 i) To supervise the SIO, DCO HARPER in relation the content of his media releases following receipt of forensic opinion that Exhibit JAR/6 was not human bone.
- 9.2.32 6. In relation to community impact and confidence you failed as follows:
- 9.2.33 a) To ensure that the community impact assessment or risk assessment of likely community reaction was properly implemented, performed in a timely fashion and periodically reviewed by you. This failure contributed significantly to the undermining of public confidence in the investigation.
- 9.2.34 b) To appoint an Independent Advisory Group ('IAG'), until advised by the ACPO Homicide Working Group to do so.
- 9.2.35 c) To ensure that the IAG was properly constituted, briefed, given appropriate Terms of Reference, advised, guided and utilised by Operation Rectangle.
- 9.2.36 d) To ensure that the investigation was made part of a multi-agency approach thereby maximising public confidence in the investigation.
- 9.2.37 7. By reason of the matters aforesaid you presided over but did not manage, supervise or control an investigation which ran out of control, and damaged the reputation of the SoJ.

### 9.3 Additional suggested charge

- 9.3.38 8. As Chief Officer of Police for the States of Jersey Police ("SoJP") during the currency of the high profile Operation Rectangle you sent emails on 23<sup>rd</sup> February and 29<sup>th</sup> February 2008 which emails you knew or ought reasonably to have known were offensive and/or likely to bring discredit upon the SoJP.

### 9.3 Particulars

- 9.3.1 1. At 22.12 hours on 23<sup>rd</sup> February 2008 you sent an email to DCO HARPER, Supt DU-VAL and Louise NIBBS which was, particularly having regard to its political context, inappropriate, sarcastic and unprofessional.
- 9.3.2 2. At 1511 hours on 29<sup>th</sup> February 2009 you sent an email to "W" which was deeply inappropriate in that it contained the following "joke": *"What is the difference between a Jersey royal and a Jersey orphan? Answer: A Jersey Royal gets to be dug up after three months"*.

	Conclusions (Brief Summary)	Relevant paragraph within draft Working Charges
Conclusion 1	Failure in performance of duty to appoint an SIO of adequate qualification and experience.	See paragraph 4 (a)
Conclusion 2	Failure in performance to ensure adequate terms of reference were created and agreed with and adhered to by the SIO.	See paragraph 4 (c) in relation to setting or reviewing terms of reference  See paragraph 4 (d) ensuring that SIO agreed and adhered to Operation Rectangle's terms of reference
Conclusion 3	Performance of duty to maintain adequate records of this supervision of the SIO.	See paragraphs 4 (b) & 4 (e)
Conclusion 4	Failure in performance inappropriate use of the Force email system.	See paragraph 9.3
Conclusion 5	Failure in the performance of duty to ensure SIO maintained effective working relationship between the prosecution legal team and the police investigation team for Operation Rectangle.	See paragraph 4 (f)
Conclusion 6	Failure in performance to prepare for the impact the searches at Haut de la Garenne would have on public opinion.	See paragraph 7
Conclusion 7	No finding of failure in performance.	Not reflected in the draft working charge
Conclusion 8	Failure in performance to ensure a Gold Group was created either post 13 December	See paragraph 3

	<b>Conclusions (Brief Summary)</b>	<b>Relevant paragraph within draft Working Charges</b>
	2007 and/or 23 February 2008.	
Conclusion 9	Failure in performance to ensure that a CIA appropriate for Operation Rectangle was properly and pursued by States of Jersey and reviewed periodically by you.	See paragraph 6 (a)
Conclusion 10	Failure in performance to establish a relevant, supportive IAG with clear terms of reference.	See paragraph 6
Conclusion 11	No finding of failure in performance to support IAG post notification of concerns to GP	Not reflected in the draft working charge
Conclusion 12	Failure in performance to ensure the Operation Rectangle was managed as a multi-agency investigation in accordance with accepted guidance.	See paragraph 4 (g)
Conclusion 13	No charge. Only advice and appropriate training.	Not reflected in the draft Working Charge
Conclusion 14	Neglect of duty to provide any formal strategic oversight of the States of Jersey Police media strategy.	See paragraph 5
Conclusion 15	Neglect of duty to ensure that a documented and updated media strategy existed between November 2007-February 2008.	See paragraph 5(a)
Conclusion 16	Neglect of duty to ensure an appropriate media strategy was in place and being adhered to following 23 February 2008.	See paragraph 5(f)
Conclusion 17	Neglect of duty to supervise media releases by States of Jersey Police to ensure accuracy and balance and to challenge misrepresentation by the media.	See paragraphs 5(e) and (f)
Conclusion 18	Neglect of the duty to (i) provide strategic oversight of media policy post discovery that Exhibit JAR/6 was not human bone; (ii) failing to correct misleading press releases made by States of Jersey Police post that forensic opinion about the nature of Exhibit JAR/6; (iii) failure to supervise SIO in relation to his media releases post his discovery as to the nature of Exhibit JAR/6.	See paragraphs 5(g-i)
Conclusion 19	No charge.	Not reflected in the draft Working Charge

## Appendix 1 – Chronology of Operation Rectangle from 1 September 2007 to 12 November 2008

September 2007	Commencement of Operation Rectangle	Haven Reference
1 October 2007	Within DCO HARPER's finance policy file Decision 1 sets out the need to monitor all expenditure and only spend what is operationally necessary.	Appendix 3
1 October 2007	Within the main lines of enquiry policy file, Detective Inspector Alison FOSSEY records Decision 1 as ' <i>Operation Rectangle is a single agency led investigation into historical child sexual abuse involving a number of institutions in Jersey</i> '.	Appendix 3
8 October 2007	Within the media strategy policy file under Decision 1, Detective Inspector Alison FOSSEY records that a media strategy has been prepared.	Appendix 3
19 November 2007	Within the media strategy policy file Decision 3, Detective Inspector Alison FOSSEY records the resolution to appoint Press Officer Louise NIBBS [JOURNEAUX] to co-ordinate the media for States of Jersey Police.	Appendix 3
22 November 2007	The first public statement regarding the investigation is released. This statement sets the investigation into its historic context and states that the police have already made contact with witnesses and victims.	x.377; pages 774-775
28 November 2007	A statement is released by the States of Jersey Police announcing that they have made contact with around 60 victims and witnesses.	x.377; page 777
1 December 2007	Within DCO HARPER's finance policy file he records under Decision 3 that all expenditure up to	Appendix 3



£1,000 is to be authorised by Detective Inspector Alison FOSSEY, and anything over that amount should be authorised by him.

13 December 2007

Within the main lines of enquiry policy file, Detective Inspector Alison FOSSEY states in Decision 6 that the investigation can be categorised as '*Category A+ and a critical incident*'.

Appendix 3

28 December 2007

Within the main lines of enquiry policy file, DCO HARPER records Decision 8 as '*not to produce a community impact assessment or establish a gold group in terms of the manual*'. In explaining the reasoning for this decision, DCO HARPER records '*although technically a critical incident and Cat A investigation, this is solely because of the context of the island and the size of the force*'.

Appendix 3

Within the main lines of enquiry policy file, DCO HARPER records Decision 9 '*not to instigate external review of investigation unless it becomes a murder/homicide inquiry*'.

Appendix 3

31 December 2007

By the end of 2007, the expenditure for Operation Rectangle was £44,076.

s.33 page 231;  
para 8

10 January 2008

Karl HARRISON from LGC Forensics sends a report to the States of Jersey Police detailing a search strategy, highlighting areas where the search should be prioritised based on a number of considerations including topography, vegetation and geology – all areas indicated were outside the building.

d.642; page 40

12 January 2008

Within the main lines of enquiry policy file, DCO HARPER records Decision 11 as '*to discontinue lines of enquiry relating to bones by the*

Appendix 3

*kitchen of HDLG under concrete. However, efforts to continue to clarify claims of human remains in grounds'.*

- |                  |   |   |
|------------------|---|---|
| 18 January 2008  | In a document from CO POWER to Steven AUSTIN-VAUTIER, he [POWER] states that he accepts that the Force should follow good practice in financial management.                             | x.238; pages 498-499                    |
| 5 February 2008  | An initial planning meeting takes place at LGC Forensics. The search strategy is discussed and agreed upon, with a start date of 19 February 2008 being confirmed.                      | d.642; page 40                          |
| 11 February 2008 | In an e-mail from DCO HARPER to Victoria COUPLAND, he [HARPER] declares his decision not to search the interior of the home.  | x.425; page 1246                        |
| 12 February 2008 | In an e-mail from DCO HARPER to Victoria COUPLAND, he declares there is no intelligence or evidence to suggest anything untoward took place in any of the rooms at Haut de la Garenne.  | x.425; page 1247                        |
| 19 February 2008 | Work commences in the grounds of Haut de la Garenne.  | x.207; page 456                         |
| 20 February 2008 | Information is received that bones found in 2003 were associated with cloth and a shoe. Concern is subsequently raised about the identification made at the time by local pathologists. | x.207; page 456                         |
|                  | The decision is made to deploy the Enhanced Victim Recovery Dog and also utilise ground penetrating radar.  | x.207; page 456<br>x.178; pages 413-414 |
| 21 February 2008 | Following ground penetrating radar assessment of the stairwell area, excavation of the concrete floor commences – 3 areas are targeted initially.                                       | x.207; page 456                         |



23 February 2008

0910hrs – Item found by anthropologist Julie ROBERTS and identified on scene as being part of a child's skull. This item is then exhibited as JAR/6.

x.207; page 456  
d.127; page 16

0930hrs – Exhibit JAR/6 is presented to the Enhanced Victim Recovery Dog which gave an indication suggestive of human remains.

x.207p age 456  
s.78 pages 488-489; para 15

1025hrs – Within the media strategy policy file, DCO HARPER records Decision 8 as '*to release limited information revealing find of possible human remains*'.

Appendix 3

1045hrs – CO POWER receives a call from DCO HARPER telling him about the first 'find'.

d.1125; page 390  
d.1071; page 281

1045hrs – A freelance journalist is found in the back field of Haut de la Garenne.

x.489; page 1373

1045hrs – DCO HARPER makes the decision to release information to the press about the 'find'.

d.23; page 12

1101hrs – CO POWER e-mails Wendy KINNARD, Andrew LEWIS, Bill OGLE, Frank WALKER (cc DCO HARPER) regarding abuse enquiry publicity, stating '*all, this is to let you know that we have had a well informed media enquiry from the UK in relation to the above. In consultation with the DCO and in the interests of fair relations with the local media an announcement is likely to be made soon. The announcement will confirm that acting on the basis of information gained during the enquiry the investigation team, assisted by experts from the UK, have been undertaking a forensic examination of the former home at HDLG. This search has revealed what appear to be the human remains of a child. The search is continuing*'.

t.104; page 6

1145hrs – DCO HARPER writes out what he wants the press release to contain. This is copied verbatim by David BURMINGHAM and reads as follows *'on Tuesday 19 February as a result of information received during the Historic Abuse Enquiry, States of Jersey Police commenced an exploratory search of the former care home at Haut de la Garenne... At 09:30 hrs today, what appears to be potential remains of a child have been recovered. The investigation continues. A press conference is to be arranged in due course and you will receive notification accordingly'*.

s.1 page 4; para 19  
x.377 page 789

1245hrs – CO POWER arrives on site at Haut de la Garenne.

x.489; page 1374

1305hrs – David BURMINGHAM begins to circulate press release to local media.

s.1 page 4; para 21  
x.3; page 1

1336hrs – CO POWER leaves Haut de la Garenne.

x.489; page 1374

1400hrs – A press conference takes place on site, during which Exhibit JAR/6 is disclosed as being the potential remains of a child.

d.23; page 12  
x.94; page 323

1500hrs – Within the media strategy policy file DCO HARPER records Decision 9, to update the media on a daily basis, either by release through Press Officer or by briefing.

Appendix 3

1605hrs – Andre BAKER receives a phone call from DCO HARPER at Haut de la Garenne asking for mentoring advice

s.79 page 497;  
para 9

26 February 2008

A statement is made by the Chief Minister to the States, Terry LE-SUEUR committing to provide necessary and efficient resources to the investigation.

s.2 page 12; para  
10

	Mary LE-HEGARAT is asked by Mark COXSHALL to start preparing a CIA in relation to Operation Rectangle. Mark COXSHALL suggests that Mary LE HEGARAT look at the Murder Investigation Manual, which contains a section on CIAs.	s.15 page 109; para 10
	The States of Jersey Police release a press statement placing specific emphasis on the fact that all that has been recovered so far are the partial remains of what is believed to have been a child.	x.377; page 790
	Within the finance strategy policy file, DCO HARPER records Decision 8 as ' <i>all expenditure incurred forthwith to be done so in accordance with attached document</i> '.	Appendix 3
27 February 2008	The States of Jersey Police issue a press release stating ' <i>we can confirm that this morning, we have gained partial access to the cellar</i> '.	x.377; page 791
	In response to an earlier e-mail from Mark COXSHALL regarding necessity for a CIA, DCO HARPER replies ' <i>not at this time</i> '.	s.47; page 326; para 24
28 February 2008	Andre BAKER advises DCO HARPER on words to use when speaking to the media.	s.79; page 500; para 19
	The Council of Ministers make a further statement declaring that they will do everything necessary to support and work with the investigating team.	x.231; page 494
29 February 2008	CO POWER and Andre BAKER sign terms of reference in regard the ACPO Homicide Working Group mentoring/advice team to support Operation Rectangle.	x.585; pages 759- 760
1 March 2008	The media strategy for Operation Rectangle is created.	s.43 page 285; para 27

3 March 2008	Bill OGLEBY signs a communications protocol in respect of the Haut de la Garenne child abuse enquiry.	x.338; page 759-760
	A media briefing held at Haut de la Garenne. It is at this briefing that the terminology 'skull fragment' is used as opposed to ' <i>partial remains of a child</i> ' as previously favoured.	x.377; page 800
	The States of Jersey Police issue a press release stating ' <i>bones recovered from the south side field have been confirmed as animal bones but a small number are yet to be confirmed as such</i> '.	x.377; page 800
4 March 2008	CO POWER signs a communications protocol in respect of the Haut de la Garenne child abuse enquiry.	x.338; pages 759-760
	The ACPO Homicide Working Group team deliver their first report to the States of Jersey Police.	x.467; page 1294; para 2
5 March 2008	A press release by the States of Jersey Police discloses that DCO HARPER is to become full time SIO and so relinquish the other duties of DCO.	x.377; page 805
6 March 2008	The Council of Ministers re-affirms its full and unqualified support for the police inquiry and its resolve to ensure that police receive all resources necessary to complete a full and thorough investigation.	x.525; page 1378
	Exhibit JAR/6 is collected by Kim NEWTH for transportation to Oxford.	x.207; page 456
7 March 2008	A States of Jersey Police press release details the positive presumptive testing for 'blood' in the 'cellar' and the presence of a 'bath'.	x.377; page 810
9 March 2008	A rally takes place in St Helier highlighting public concerns about the way claims of abuse at Haut de	d.1129; pages 525-526

la Garenne have been handled by the Jersey authorities

11 March 2008 A second piece of possible skull is found in trench 003, later exhibited as SJL/1. x.207; page 456

In an e-mail from CO POWER to Wendy KINNARD; cc Bill OGLE, regarding Exhibit SJL/1, CO POWER states *'you will be aware that our current media line on the search and finds at HDLG is that we continue to recover bone fragments many of which appear to be animal and some which require further testing. We will seek to hold to this line for the time being. However, you may wish to be aware that we have a strong, as yet unconfirmed, scientific opinion that one item is very likely to be a further part of a child's skull which may or may not be related to the first find. The AG is being made aware. At present we are holding our earlier line in the hope that this will avoid a return of the "circus". However, if asked the right questions then we will feel bound to give truthful answers. Although that has not happened yet. You may wish to think about 'lines'. It might be that the best thing to say is that you are aware of recent developments and that it is appropriate that the enquiry continues to take its course'*. t.109; page 7

12 March 2008 Inspector Mark HOUZE is tasked by DCO HARPER to prepare a CIA s.44; page 304; para 6

1435hrs – Call from Julie ROBERTS. From photos sent to her and Gaille MacKINNON, they believe that SJL/1 is human skull. However, this is recognised as being a preliminary identification only. x.207; page 456

13 March 2008	<p>Inaugural meeting of the Independent Advisory Group, which is observed by Andre BAKER and John MOONEY from ACPO Homicide Working Group.</p> <p>The media strategy is updated.</p>	<p>x.467; page 1294; para 5</p> <p>S43 para 27</p>
14 March 2008	<p>1710hrs – In an update from LGC Forensics, it is stated that nitrogen levels in the skull fragment indicate insufficient collagen in the bone to date.</p> <p>1805hrs – A further update is received from LGC Forensics, stating a very low likelihood of extracting collagen from sample. This update further comments that the bone is poorly preserved and therefore likely to be old or in a bad location for preservation.</p>	<p>x.207; page 457</p> <p>x207; page 457</p>
17 March 2008	<p>In e-mail correspondence between Mark HOUZE and Mary LE-HEGARAT, it is agreed that the ACPO format for CIA should be used.</p>	<p>s.44; page 305; para 19</p>
18 March 2008	<p>Draft CIA Version 1 submitted via e-mail to Detective Chief Inspector David MINTY.</p>	<p>s.44; page 305; para 19</p>
19 March 2008	<p>CIA Version 2 completed – this was forwarded via Detective Chief Inspector David MINTY to DCO HARPER.</p> <p>1232hrs – An e-mail is sent from Andre BAKER to DCO HARPER which details the history of IAG formation and also explains that <i>'they are not a watchdog and they are only scrutinising the investigation from a community perspective... They are there purely to advise Gold, the SIO and the police'</i>.</p>	<p>s.44; page 306; para 23</p> <p>t.163; pages 31-32</p>
20 March 2008	<p>1600hrs – Gaille MacKINNON is on site at Haut de la Garenne and after examination of SJL/1 she confirms that it is not skull.</p>	<p>x.207; page 457</p>



	Call from LGC Forensics. The collagen level in Exhibit JAR/6 is better than originally thought and therefore they have enough material to date.	x.207; page 457
25 March 2008	Andre BAKER, Anne HARRISON and John MOONEY go to Jersey to consider the progress since the first ACPO Homicide Working Group report.	s.79; page 506; para 41
26 March 2008	Second ACPO Homicide Working Group report is delivered to CO POWER and DCO HARPER.	x.467; pages 1294-1307
	The first recorded private meeting of the IAG takes place, convened as the members wished to discuss the issues themselves and establish what they wished to ask.	s.25; page 173; para 9 s.36; page 265; para 4 s.20; page 137; para 12
	Andre BAKER, John MOONEY and Anne HARRISON attend an IAG meeting.	x.223; page 468
	A report written by Kevin PINGLAUX projects the cost for Operation Rectangle up to 30 June 2008 as £1.2 million. This report was e-mailed to the Senior Management Team for Police, including CO POWER.	l.317; pages 46-48
27 March 2008	Detective Chief Inspector David MINTY advises Inspector Mark HOUZE that the CIA is now a standing item on FMB agenda.	s.44; page 307; para 31
29 March 2008	A report on carbon dating received from LGC Forensics explains that despite low nitrogen level they would continued with pre-treatment. It further covers that the sample [Exhibit JAR/6] behaved oddly and that the material is either not collagen or very badly degraded.	d.127; pages 18-19
29 March 2008	Within the persons of interest policy file, DCO HARPER records Decision 8 as not to adopt a scoring matrix.	Appendix 3



31 March 2008	0920hrs – Dr Thomas HIGHAM from the LGC Forensics tells the States of Jersey Police that he believes Exhibit JAR/6 is not bone. This view is also shared by Dr Roger JACOBI of the British Museum.	x.207; page 457
	0930hrs – Fiona BROCK from the LGC Forensics re-iterates Thomas HIGHAM/Roger JACOBI thoughts. However, she can be seen as still commenting that it could be badly preserved.	x.207; page 457
1 April 2008	Within the media strategy policy file DCO HARPER records under Decision 11 the need to issue regular updates to the media through the Press Officer.	Appendix 3
7 April 2008	Julie ROBERTS returns to Haut de la Garenne and is briefed on the results from the LGC Forensics. Following this briefing she is still confident about her initial identification.	x.207; page 457
8 April 2008	Karl HARRISON concludes that Exhibit JAR/6 belongs to a Victorian context.	d.642; page 50
	Julie ROBERTS undertakes a re-examination of Exhibit JAR/6 and confirms to Victoria COUPLAND that she still thinks it looks like human bone.	d.642; page 50
	1015hrs – The States of Jersey Police issue a press release referring to Exhibit JAR/6 as a skull fragment and also other bone fragments including some which have been charred.	x.377; page 537
	1413hrs – Thomas HIGHAM e-mails the States of Jersey Police asking whether they have a different opinion than what he had told them.	x.221; page 459
9 April 2008	Julie ROBERTS undertakes a second re-examination of Exhibit JAR/6 and informs Victoria COUPLAND and DCO HARPER that she is no longer confident that it [Exhibit JAR/6] is human	d.642; page 50

bone. Although a number of options are discussed regarding further testing, DCO HARPER decides it is not necessary to conduct any more tests as Exhibit JAR/6 falls outside the parameters of the enquiry.

18 April 2008

The States of Jersey Police issue a press release stating *'To clear some confusion which seems to exist, the SoJP would like to clarify the following facts on the fragment of skull found at Haut de la Garenne. We were not able to date the fragment. Therefore we cannot say how old it is or indeed where and how, the person died... We cannot say if the actual death occurred before it was moved to where we found it. It follows therefore that the bone could date from the period just before 1940, the Victorian era, or indeed even earlier if it was moved here from a previous location. In the light of that, it is unlikely that we will instigate a formal homicide enquiry in relation to this bone alone... However, the site of the home must remain the scene of a possible homicide until such time as all of the areas of interest which have been flagged up to us have been excavated and cleared'*.

x.377; page 842

Victoria COUPLAND records in her Major Incident Management log *'From Julie ROBERTS – milk tooth (canine, human) found in sievings from cellar 3'*.

x.187; page 424

DCO HARPER e-mails CO POWER giving him an update on finds from the cellars, stating *'Graham: Just an update on the latest finds from the Cellars. Two rocks with bloodstains found by dog. Bandage with bloodstains found by dog. Child's milk tooth. Fragment of what could be skull bone, but Julie not certain. Dog has reacted to it but we will send it to*

L351; page 53

*Scotland to have it identified quickly'.*

21 April 2008

DCO HARPER phones Andre BAKER voicing his concerns that the Attorney General wanted to embed a lawyer in the Major Incident Room.

s.79; page 507;  
para 46

22 April 2008

A States of Jersey Police press release announced that *'forensic archaeologists searched an area of the cellar rooms three and four and have discovered some more bone fragments and two 'milk teeth' from a child or children... the teeth could have come from the same child although further tests will be necessary to try and ascertain if that is the case, and how the teeth might have come to be there'.*

x.377; page 844

29 April 2008

Sean POWER asked Wendy KINNARD in The States if the remains found were of a child - she replied stating *'the statement made about the fragment of skull on 23rd February 2008 was accurate. It was and continues to be the partial remains of a child. The police have always maintained that they did not know when, where or how the person died. The fact that it was not proved possible to date the fragment of skull does not change the fact of what it was, nor does it remove the possibility that he or she died of foul play... it will remain premature to judge the content of police media statements until the investigation is concluded' – further elaborating 'I am reassured that the correct approach is being adopted... The fact remains that the piece of skull was found in suspicious circumstances in a building where a number of other objects have been found to corroborate extremely serious allegations'.*

x.484; pages 1343-1345

1 May 2008

During correspondence between Steven AUSTIN-VAUTIER and CO POWER, CO POWER highlights

s.35; page 252;  
para 5

	the fact that the police were incurring non-budgeted expenditure and would continue to do so until the proposition was passed by the States to provide additional funding.	
	In an e-mail to Detective Chief Inspector David MINTY and others, CO POWER states ' <i>my understanding of the rules is that we should not commit to non budgeted expenditure until the proposition is passed by the States</i> '.	x.302; page 706
	Thomas HIGHAM completes his report in respect of Exhibit JAR/6. In it he states that the sample was not bone and not human, appearing instead to be more like part of a large seed casing or part of something like a small piece of coconut.	d.129; page 28 d.622; page 32
5 May 2008	Victoria COUPLAND records in her Major Incident Management log that DCO HARPER tells her of a second site of potential interest, that of Victoria Towers/Bunkers.	x.188; page 443
	0925hrs – In an e-mail from CO POWER to James PERCHARD, he [POWER] states there is no scientific dispute regarding the fact that Exhibit JAR/6 is human.	x.16; page 33
	1353hrs – DCO HARPER e-mails CO POWER regarding intelligence on the bunker at Victoria Tower.	t.392; page 73-75
6 May 2008	CO POWER is present at an IAG meeting.	s.34; page 242; para 8
10 May 2008	During e-mail correspondence between CO POWER and DCO HARPER the expense of Martin GRIME and his perceived amount of downtime is discussed.	t.428; pages 76
12 May 2008	The States of Jersey Police issue a press statement	x.377; page 852

announcing that five teeth have now been found.

14 May 2008

In an e-mail from DCO HARPER to Detective Chief Inspector David MINTY and others, he [HARPER] accepts that no expenditure is incurred unless operationally necessary, that governance is exactly the same as in other homicide/major enquiry funding and that all expenditure is monitored.

x.302; page 704

17 May 2008

DCO HARPER is informed by journalist David ROSE that the LGC Forensics state they sent a letter to DCO HARPER covering their concerns about the nature of Exhibit JAR/6. This was apparently not received by the States of Jersey Police.

x.207; page 458

1052hrs – Confirmation is given by the LGC Forensics that they had sent letter to DCO HARPER. They then agree to e-mail the letter to Victoria COUPLAND.

d.127; page 20  
x.221; page 465

1522hrs – An e-mail is sent from DCO HARPER to Thomas HIGHAM asking specifically if HIGHAM is comfortable for DCO HARPER to state publicly that Exhibit JAR/6 is not bone to which HIGHAM replies affirmatively.

x.221; page 465

18 May 2008

Mail on Sunday article is published entitled '*Human Bone at centre of Jersey Children's Home Inquiry is actually a piece of wood or coconut shell*'.

x.716; pages 1896-1899

0847hrs – DCO HARPER e-mails Louise JOURNEAUX with a detailed final draft of the press release in rebuttal to the Mail on Sunday article.

x.382; page 931-933

The States of Jersey Police release a three page statement in response to the Mail on Sunday article.

x.377; pages 854-856

20 May 2008

Dr Lynne BELL states that of the bones sent to her, she cannot identify the fragments as definitely human, but cannot rule out the possibility that they are human. She elaborates to say that human osteonal size and microstructure share characteristics with mid sized mammals such as sheep and goats.

x.427; pages 1270-1271

0920hrs – Victoria COUPLAND records in her Major Incident Management log that of the bone fragments sent to Gordon COOK, he states they are pre-1950's.

x.190; page 452

21 May 2008

A States of Jersey Police press release states that *'of the six [teeth] we have sent to the UK, five of these cannot have come out naturally before death, and only one of those six has signs of decay. The rest have a lot of root attached. We have been told that teeth could come out naturally during the decomposition process'*.

x.377; page 857

The statement goes on to further announce that *'ten of these bone fragments were found yesterday (in an ashy area of cellar 3) and identified as being human while around 20 were found in the last two weeks. The bone fragments have been identified as being human'*. The statement then explains the need to date the bones and that this could prove *'pivotal to the direction of the enquiry'*. It then adds *'some of the bones exhibit signs of burning, and some show signs of being cut. This means that we could have the possibility of an unexplained death – and evidence of a dead child or children in the cellar. There was a fireplace in the cellar. It does not mean that yet, we are launching a homicide enquiry. That depends on the dates which we*

x.377; page 857  
x.377; page 858



*receive back on all the bones... What we do not know yet regarding the bone fragments and teeth, is who that person is or how they died'.*

- |             |   |                        |
|-------------|---|------------------------|
| 22 May 2008 | The Council of Ministers reaffirm the statement made on 26 February 2008 committing to provide all necessary and efficient resources to the investigation.  | s.2; page 12; para 10  |
| 23 May 2008 | Third ACPO Homicide Working Group report is delivered to the States of Jersey Police.   | x.468; pages 1308-1325 |
| 24 May 2008 | The States of Jersey Police issue a press release confirming the 'shackles' were found alongside a second pair of what appear to be home made restraints.   | x.377; page 861        |
|             | Within a States of Jersey Police press release, DCO HARPER expresses his opinion regarding Exhibit JAR/6 that although the opinion is now less conclusive, they have not had a definitive contradiction to the original belief. | x.377; page 860        |
| 27 May 2008 | Steven AUSTIN-VAUTIER writes to CO POWER asking him to confirm that expenditure being incurred was being controlled within the Finance Directions.  | x.307; page 711        |
| 28 May 2008 | The States of Jersey Police release a nine page statement setting out the history and progress of the investigation to date.  | x.377; page 865-873    |
| 29 May 2008 | Andrew LEWIS takes over responsibility regarding the ongoing Child Abuse Investigation from Wendy KINNARD.  | x.377; page 875        |
|             | A copy of minutes from the Council of Ministers states that ultimate operational responsibility for the investigation remained with the Chief Officer, States of Jersey Police.   | x.532; page 1379       |



## Appendix 1

## Highly Confidential – Personal Information

2 June 2008	Inspector Mark HOUZE informs Acting Deputy Chief Officer Shaun DU VAL that DCO HARPER had said that the CIA was not required at present. DU VAL then tells HOUZE to put the CIA on hold.	s.44; page 311; para 61
3 June 2008	A proposition for additional funds is lodged for £6 million.	s.2; page 12; para 10
6 June 2008	Stephen REGAL, on behalf of the IAG, e-mails DCO HARPER expressing concerns, in particular with media wording.	s.25; page 176 para 14 x.227; page 484
8 June 2008	In an e-mail to DCO HARPER, CO POWER enquires about the status of Exhibit JAR/6.	t.483; page 113
9 June 2008	In an e-mail to CO POWER, DCO HARPER states that Exhibit JAR/6 was outside the specified time parameters and that they were interpreting the scientific results as inconclusive.  CO POWER replies to Steven AUSTIN-VAUTIER accepting his responsibilities as Chief Officer and suggesting the establishment of a financial oversight board.	t.483; page 114  x.307; page 710
12 June 2008	In a letter to the Chief Minister, Wendy KINNARD confirms that <i>'in respect of value for money and governance, there are strict levels of authority for all expenditure by the inquiry team and the Senior Investigating Officer has confirmed that all expenditure has been necessary to further the operational aims of the inquiry'</i> .	x.317; page 715 t.667; page 198
16 June 2008	At the IAG meeting, DCO HARPER states that he was still treating Haut de la Garenne as a homicide scene but not as a homicide investigation.	
17 June 2008	CO POWER replies to Steven AUSTIN-VAUTIER stating that he was assured by those in direct control that the appropriate arrangements were in place, but would provide a strong reassurance once	x.307; page 708 s.35; page 254; para 9

	the oversight board had met.	
	Andrew LEWIS makes a statement in the States saying that it remains the case that there is no definitive scientific finding regarding Exhibit JAR/6.	s.12; page 85-86; para 8
	DCO HARPER informs CO POWER that they plan to start work on Site two on 5 July 2008.	x.49; pages 127-130 t.509; page 115
	Details about how the community can contact the IAG are detailing in a press release issued to the media by Louise JOURNEAUX.	s.43; page 287; para 30 x.377; page 888
29 June 2008	A report by DCO HARPER is submitted to CO POWER explaining why he [HARPER] released the press statement after the arrest and subsequent release of suspects 'A'	r.3A; pages 1-5
30 June 2008	Fourth ACPO Homicide Working Group report delivered to the States of Jersey Police.	x.469; page 1326-1340
1 July 2008	The IAG write to DCO HARPER to express their concerns.	x.224; pages 477-480 x.416; page 1207 t.532; pages 127-128
7 July 2008	Work at Haut de la Garenne concludes and the effort was moved to site two at Victoria Tower.	s.4; page 41; para 29
9 July 2008	Entry to the Victoria Tower site is gained and work commences.	x.598; page 1487
	0820hrs – The States of Jersey Police issue a press release detailing the imminent retirement of DCO HARPER and informing the press of the plans to fill his role of SIO.	x.377; page 893
21 July 2008	Stephen REGAL sends an e-mail to DCO HARPER trying to seek clarification of what was expected of the IAG.	s.25; page 175; para 13 x.225; pages 481-482
23 July 2008	A Financial Oversight Meeting is held between DCO HARPER, CO POWER, Steven AUSTIN-VAUTIER and Elizabeth MIDDLETON	s.35; page 255; para 12

31 July 2008	Steven AUSTIN-VAUTIER writes to Ian BLACK confirming that he had been provided with assurances from CO POWER that appropriate financial controls were in place with regards to the historic abuse enquiry and that the SIO confirms that all expenditure has been necessary to further the operational aims of the investigation.	x.310; pages 712-713
1 August 2008	CO POWER e-mails Louise JOURNEAUX with a suggested statement concerning SIO continuity, stating <i>'in order to establish a long term and resilient command structure for the enquiry and the force the leadership of the enquiry will be re-structured to reflect the distinction between the strategic and policy role, and that of day to day operations'</i> .	t.588; pages 178-179
2 August 2008	Conclusion of work at Victoria Tower	
4 August 2008	David WARCUP takes up DCO position with the States of Jersey Police.	s.12; page 88; para 12 s.82; page 579; para 1
	1305hrs – Stephen REGAL [on behalf of the IAG] e-mails CO POWER, via Victoria ELLIS, asking for direction and leadership.	s.25; page 176; para 14 x.226; page 483
	1842hrs – CO POWER replies to Stephen REGAL, suggesting a meeting with himself, DCO David WARCUP and Detective Inspector Alison FOSSEY to <i>'clear the air and get things back on track'</i> .	t.577; page 175
11 August 2008	DCO David WARCUP takes responsibility for Operation Rectangle.	s.82; page 601; para 95
13 August 2008	An amended proposition for funding is lodged, the requested sum being increased to £7.5 million.	s.2; page 12; para 10
	DCO WARCUP tells Andre BAKER that he is going to initiate a Gold Group. Andre BAKER replies	s.79; page 515; para 83

saying that it was recommended earlier on in the enquiry, but that CO POWER and DCO HARPER said they were not going to have one.

- |                  |  |  |
|------------------|--|--|
| 15 August 2008   | DCO David WARCUP directs that the States of Jersey Police would use NPIA guidance wherever possible as the standards to be applied to the investigation.   | s.82page 61b; para 159                         |
| 19 August 2008   | CO POWER attends an IAG meeting.   | x.415; page 1164<br>s.34; page 244;<br>para 14 |
| 21 August 2008   | CO POWER e-mails Bill OGLEBY stating that with regards Exhibit JAR/6 <i>'My [POWER] understanding is that there is no conclusive scientific finding one way or the other'</i> .  | x.16; page 93                                  |
| 27 August 2008   | An announcement is made by the States of Jersey Police detailing the appointment of Detective Superintendent Michael GRADWELL as the new SIO.  | x.377; page 914                                |
|                  | A meeting takes place between DCO WARCUP, the Attorney General, John EDMONDS, Stephen BAKER, Simon THOMAS and Deputy SIO Alison FOSSEY. This led to the decision being taken to establish a Gold Group for Operation Rectangle.  | s.8; page 75; para 16                          |
| 1 September 2008 | The inaugural States of Jersey Police Gold Command meeting was held – present were DCO David WARCUP, Acting DCO Shaun DU VAL, Detective Inspector Alison FOSSEY, Chief Inspector Andre BONJOUR, Acting Detective Chief Inspector Christopher BEECHEY, Louise JOURNEAUX and Victoria ELLIS. | s.5a; page 66; para 132<br>x.252; page 508     |
| 8 September 2008 | The States of Jersey agree to the amended funding proposition of £7.5 million.   | x.108; page 383                                |

	Detective Superintendent Michael GRADWELL starts work as SIO for Operation Rectangle with the States of Jersey Police.	s.82 page 638; para 229 s.5a; page 49; para 31
9 September 2008	Gold Group Meeting.	s.5a; page 66; para 134
16 September 2008	Gold Group Meeting.	s.5a; page 66; para 134
19 September 2008	An e-mail is sent from DCO WARCUP to Detective Chief Inspector David MINTY asking to reactivate the CIA if it has been deferred.	x.118; page 389
23 September 2008	Gold Group Meeting.	s.5a; page 66; para 134
30 September 2008	Gold Group Meeting.	s.5a; page 66; para 134
2 October 2008	DCO WARCUP speaks to CO POWER regarding e-mails concerning ex-DCO HARPER and updates him in relation to the progress of Operation Rectangle including <i>'the continuing difficulties in relation to the findings at Haut de la Garenne, the fact that the information available was not always correctly reported and not corrected when other evidence emerged... how and when we present findings... the description of issues such as cellars, shackles, the fact that certain lines were suspended and not pursued to conclusion'</i> .	s.82; page 642; para 251
3 October 2008	Detective Superintendent Michael GRADWELL raises concerns about the misrepresentation of evidence.	s.5a; page 60; para 93
	A Financial Oversight Meeting is held, attended by CO POWER, Steven AUSTIN-VAUTIER, Elizabeth MIDDLETON and Detective Superintendent Michael GRADWELL.	s.5a; page 51; para 45
7 October 2008	Gold Group Meeting.	s.5a; page 66; para 134

8 October 2008	1045hrs – Matthew TAPP meets with CO POWER.  1210hrs – Matthew TAPP meets with Detective Superintendent Michael GRADWELL telling him his [TAPP's] position had become untenable.	s.5a; page 61; para 104  s.5a; page 61; para 104
9 October 2008	Andre BAKER calls DCO WARCUP stating that the ACPO Homicide Working Group advised CO POWER and DCO HARPER to have a Gold Group, but they refused.	s.79; page 517; para 90
14 October 2008	Gold Group Meeting.	s.5a; page 66; para 134
21 October 2008	Resignation of Home Affairs Minister Wendy KINNARD.	x.523; page 1377
21 October 2008	Gold Group Meeting.	s.5a; page 66; para 134
24 October 2008	Audit titled 'Limited Review of Historic Child Abuse Enquiry Financial Controls Home Affairs Department'.	s.35; page 256; para 13
28 October 2008	Gold Group Meeting.	s.5a; page 66; para 134
10 November 2008	Gold Group Meeting.	s.5a; page 66 para 134
12 November 2008	DCO WARCUP and SIO Michael GRADWELL conduct a press briefing providing details of finds and describing inaccurate information disclosed.  1110hrs – A meeting is held between Andrew LEWIS, Bill OGLE and CO POWER where CO POWER is informed of the decision to implement the discipline process against him.	s.5a; page 52; para 54  s.2; page 15; para 16



## Appendix 2 – Summary of Operation Rectangle cases

1. Operation Rectangle commenced in September 2007. The operation was established to investigate allegations of historical child sexual abuse amid growing concerns that abuse had been prevalent in certain institutions in Jersey; primarily the former Haut de la Garenne Children's Home and the Jersey Sea Cadets Corps. The terms of reference were to investigate serious indictable offences. Below are some headline outcomes:

- To date, Operation Rectangle has recorded that a total of 210 victims have come forward and made allegations of 429 offences ranging from Common Assault to Rape. The offence dates range from 1947 to 2004.
- Of the 429 allegations, 47 have an element of corroboration. 73 of the total allegations would fall into the category of serious indictable offences and 17 of those have an element of corroboration.
- Of the 429 offences alleged, 214 were indecent acts, of which 53 would be classed as serious indictable offences.
- The remaining 215 offences alleged were physical assaults, of which, 195 were common assaults and would not be classed as serious indictable offences. The remaining 20 allegations were of Actual Bodily Harm (18) and Grievous Bodily harm (2) and were treated as serious indictable offences.
- The 429 allegations were made against 180 different individuals, 23 of whom are deceased. A further 26 individuals have not been identified.
- Of the 73 allegations of serious indictable offences, 30 are alleged to have been committed by persons unknown and 11 offences by persons who are deceased.
- In respect of the remaining 32 allegations, which relate to 35 suspects/persons of interest, investigation files have been submitted for charging advice.



2. The current position regarding these files is as follows:
- Crown Advocates have recommended that 21 files failed to meet the evidential test.
  - 10 files still await charging advice.
  - Four persons have been charged with offences connected to Haut de la Garenne.

### **Persons charged with offences committed at Haut de la Garenne**

3. Person 'V' was a worker at Haut de la Garenne between 1970 and 1974. He was charged with 22 offences of indecent assault and common assault on a number of child residents at the home and stood trial at the Jersey Royal Court in August 2009. He was found guilty of 8 counts of indecent assault on females and 1 count of common assault on a male. On 21 September 2009, he was sentenced to a total of 2 years imprisonment.
4. Person 'W' was a child resident at Haut de la Garenne in 1973, having been in care since 1964. On 12 May 2009, he pleaded guilty to two counts of gross indecency and two counts of indecent assault on male residents in the home. On 22 June 2009, he was sentenced to two years probation.
5. Person 'X' was a foster parent to a young boy who was a resident at Haut de la Garenne. He has been charged with committing an act of gross indecency on the child and is currently on bail awaiting trial at the Jersey Royal Court.
6. Person 'Y' has been charged with 27 offences of Rape and indecent assault against two young girls between 1975 and 1986. One of the offences relates to a girl who was resident at Haut de la Garenne and the remainder to her friend who was not a resident. He is currently remanded in custody awaiting trial at the Jersey Royal Court.

**Person charged (unconnected to Haut de la Garenne)**

7. Person 'Z' was investigated by Operation Rectangle as part of the wider Child Abuse enquiry. Neither he nor his victims were connected with Haut de la Garenne. He was charged in June 2008 with numerous offences of child sexual abuse committed in Jersey between 1968 and 1982. In two separate trials at Jersey Royal Court, he was found guilty of a total of 5 counts of rape, 13 counts of indecent assault and 1 count of procuring an act of gross indecency. On 21 August 2009, he was sentenced to a total of 15 years imprisonment. This case does not form part of the statistical information previously referred to in this Section of the Report.
  
8. In addition to those persons charged, a number of referrals have been made as follows:
  - A total of 41 referrals have been made to the Public Protection Unit, States of Jersey Police.
  - Two complaints against a female suspect have been referred to Dorset Police.
  - One complaint of abuse at a Children's home in Warminster was referred to Wiltshire Police.
  - One individual is under investigation by Leicestershire Constabulary.
  - One report has been referred to West Yorkshire Police.
  - One report has been referred to Guernsey Police.

## Appendix 3 – Policy Book Entries

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X76	Main Lines of Enquiry - Book 1	1	01 October 2007 10:00:00	FOSSEY	Operation Rectangle is a single agency led investigation into historical child sexual abuse involving a number of institutions in Jersey. This will include but not be restricted to Haut de la Garenne children's home and the Jersey Sea Cadets organisation. The case for investigation in respect of these two institutions/organisations has already been subject of a report approved by the Deputy Chief Officer and has taken into account issues of proportionality and necessity to conduct the investigation.	None given
X76	Main Lines of Enquiry - Book 1	2	01 October 2007 10:15:00	FOSSEY	Operation Rectangle is an intelligence led investigation which will adopt a NIM intelligence/evidence based approach to ensure all reasonable lines of enquiry are pursued. It will be a search for the truth which will take account of the victims rights under ECHR not to suffer any inhuman or degrading treatment and their right to family life. It will also take into account any suspect's right to a fair trial and recognise the duty for an investigation to pursue all reasonable	None given

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					<p>lines of enquiry, whether these point towards or away from a suspect.</p> <p>Although initially the focus of the investigation will be historic it must be acknowledged that those who sexually abuse children invariably do not stop offending. The enquiry will therefore consider three time parameters; 1) What a suspect was doing at the time of historic offence, 2) What they are doing now, 3) What they were doing in the intervening period. The investigation will thus have a reactive and proactive element. The reactive element will look at the specific allegations in the first time parameter listed above whilst the proactive element will consider the second two time parameters. The offences being investigated will be serious, indictable offences committed against some of the most vulnerable members of society and all appropriate proactive policing methods will be considered and subject to subsequent policies.</p>	
X76	Main Lines of Enquiry - Book 1	3	01 October 2007 11:00:00	FOSSEY	Operation Rectangle will be run on a card index, manual incident room basis.	No HOLMES capability within the States of Jersey Police. This will be a long term enquiry for which it is not

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						practicable to bring in mutual aid in the form of HOLMES trained officers.
X76	Main Lines of Enquiry - Book 1	4	01 October 2007 11:15:00	FOSSEY	Initial resources include DI FOSSEY, DS BRAY, PC HART, DC LANG and CO Brian CARTER.	There is an even gender balance and a wide range of investigative skills and ability. DI FOSSEY is a trained SIO and experienced in CID and child protection enquiries. DS BRAY is a highly experienced detective sergeant who has worked on similar complex enquiries and CO Brian CARTER has many years experience within child protection. DC LANG and CO Brian CARTER are both ABE interview trained. PC HART is a SOLO officer but will primarily be utilised within MIR.
X76	Main Lines of Enquiry - Book 1	5	01 October 2007 11:45:00	FOSSEY	Throughout the enquiry the following systems will be operated as it is	None given

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					<p>recognised that the welfare of staff involved in such a complex and long running enquiry is vitally important. 1) DS BRAY will be responsible for monitoring and reviewing the welfare of enquiry staff, 2) DS BRAY will have a monthly support meeting with the welfare officer, 3) Any concerns re welfare of staff to be brought to attention of Deputy SIO - DI FOSSEY, 4) All staff to be advised of their personal responsibility for their health and safety and responsibility to their colleagues, 5) Every 3 months the welfare officer will conduct a defusing/debriefing session with all staff.</p>	
X76	Main Lines of Enquiry - Book 1	6	13 December 2007 17:00:00	FOSSEY	<p>To review the resourcing of the investigation which can be categorised as Category A+ and a critical incident and consider the need to move to HOLMES.</p>	<p>Category A+ applies to major investigations where public concern and the associated response to media intervention is such that normal staffing levels are not adequate. A critical incident is where the effectiveness of police response is likely to have a significant impact on</p>

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						confidence of victim and the community. The current enquiry clearly falls within these boundaries.
X76	Main Lines of Enquiry - Book 1	7	16 December 2007 14:00:00	HARPER	To move the enquiry to HOLMES.	The enquiry has now moved to the stage where the complexity and number of lines of enquiry are such that the efficient retrieval etc of information can only be properly facilitated by moving to HOLMES. However, in view of the fact that D&C will have to be approached the actual date for this is likely to be in the New Year.
X76	Main Lines of Enquiry - Book 1	8	28 December 2007 16:00:00	HARPER	Not to produce a community impact assessment or establish a gold group in terms of the manual.	Although technically a critical incident and cat 'A' investigation this is solely because of the context of the Island and the size of the force. There is no likelihood of community tensions leading to



Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						damage to comm relations. In respect of the gold group it is not appropriate because of the involvement of other agencies in the allegations and the additional possibility of crown advocates being appointed imminently.
X76	Main Lines of Enquiry - Book 1	9	28 December 2007 14:30:00	HARPER	Not to instigate external review of investigation unless it becomes a murder/homicide enquiry.	At this time the enquiry is dealing with 'detected' matters, ranging from assault to rape. All suspects are named, known or deceased. Should there be human remains found or other developments emerge which change the likely status of the investigation, I will reconsider.
X76	Main Lines of Enquiry - Book 1	10	07 January 2008 11:00:00	HARPER	To increase the strength of the enquiry team by fire officers of the States of Jersey Police.	To enable timeous allocation and completion of actions and to prepare for the next phase of enquiry.

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X76	Main Lines of Enquiry - Book 1	11	12 January 2008 11:30:00	HARPER	To discontinue lines of enquiry relating to bones by the kitchen of HDLG under concrete. However, efforts to continue to clarify claims of human remains in grounds.	Knowledge of bones found and examined by pathologist - found out to be animal bones.
X76	Main Lines of Enquiry - Book 1	12	14 January 2008 14:55:00	HARPER	Now with the increase in size of team, to allocate each pair of officers specific suspects and all actions associated with those suspects.	To give ownership and ensure better quality of investigation.
X76	Main Lines of Enquiry - Book 1	13	22 January 2008 14:30:00	HARPER	To invite forensic archaeology team to Island to commence preliminary search of grounds of HDLG using ground penetrating radar in initial search for human remains.	Information from two witnesses, although not site specific raises a possibility which should be investigated.
X76	Main Lines of Enquiry - Book 1	14	19 February 2008 16:00:00	HARPER	Following indications of dog and GPR to make further enquiries re interior. In particular to seek further advice from person in charge of excavation in 2003 and his staff	Info from people working there in 2003 casts doubt on whether some of the bones found there were animal. Documentation surrounding the find is scant - particularly the pathologists report. There are suggestions that first pathologist thought some of them human. All persons involved to be re-interviewed and

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						resources directed to this aspect of enquiry.
X76	Main Lines of Enquiry - Book 1	15	23 February 2008 10:00:00	HARPER	To contact ACPO Homicide Working Group to see if they can provide a review team and mentors for enquiry and key members.	To ensure clarity of purpose, audit and advise, and to provide means of ensuring proper governance of enquiry to date.
X76	Main Lines of Enquiry - Book 1	16	23 February 2008 18:00:00	HARPER	To treat HDLG as potential homicide scene with all necessary investigative procedures in place.	Necessity to ensure that no evidence is lost should the bone fragment be found to be within time parameters of enquiry
X77	Main Lines of Enquiry - Book 2	17	25 March 2008 12:00:00	HARPER	All animal bones positively identified as animal to be destroyed (id by anthropologist)	Keep scene manageable and prevent clogging of system
X77	Main Lines of Enquiry - Book 2	18	16 April 2008 13:00:00	None given	Not to instigate a formal homicide enquiry in relation to the skull fragment first found at HDLG. However, HDLG to remain scene of potential homicide	Carbon dating of fragment not possible. However, archaeological evidence is that it was placed at locus no later than 1940. Person may have died at any time before that. Suspects, if any, likely

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						deceased. However, until intelligence and evidence of possible human remains are explained then scene must remain as potential homicide
X77	Main Lines of Enquiry - Book 2	19	05 May 2008 18:00:00	HARPER	To treat bunkers at the Victoria Tower as new scene in enquiry	Intel from a number of witnesses/sources most with HDLG connections, which describe either finding human remains/child's body and also make allegations of serious sexual abuse by HDLG staff. Further info of possible occult connection
X77	Main Lines of Enquiry - Book 2	20	05 May 2008 18:00:00	HARPER	To have scene at Victoria Tower secured to commence research into locus but to take no other action at all until we exit HDLG. Keep locus confidential until then	To protect scene and to manage resources
X77	Main Lines of Enquiry - Book 2	21	16 May 2008 17:00:00	HARPER	To NFA further enquires and to close current lines of enquiry into existing allegations in respect of the Jersey Sea Cadets	Lack of corroboration and passage of time make successful prosecution unlikely

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X77	Main Lines of Enquiry - Book 2	22	12 August 2008 10:00:00	FOSSEY	To decline to release any victim's statement for civil proceeding until the criminal proceedings are complete	To release any statement prior to the conclusion of criminal proceedings could have an adverse effect on the administration of justice
X77	Main Lines of Enquiry - Book 2	23	08 September 2008 09:52:00	GRADWELL	D/Supt GRADWELL to be appointed as Senior Investigating Officer of Operation Rectangle	1) DCO HARPER retired, 2) D/Supt GRADWELL PIP3 qualified officer, 3) Selected for role
X77	Main Lines of Enquiry - Book 2	24	08 September 2008 16:10:00	GRADWELL	To request return of [named suspect] file from Attorney General's office	Main outstanding line of enquiry is interview of [named suspect] plus SIO wishes to review file
X77	Main Lines of Enquiry - Book 2	25	10 September 2008 09:00:00	GRADWELL	To hold investigation management team meeting 11:00 each Wednesday	Good practice
X77	Main Lines of Enquiry - Book 2	26	11 September 2008 09:00:00	GRADWELL	To use one policy file only	SIO is used to this practice
X77	Main Lines of Enquiry - Book 2	27	11 September 2008 10:30:00	GRADWELL	Main line of enquiry and position statements. Not to amend enquiry direction or make major decisions about the management of the enquiry or strategies	1) To pursue and id outstanding victims via press appeal and consider use of intermediaries in a last effort to do this – no trawling, 2) Whilst SIO

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						assimilates knowledge and awaits MET review and forensic review. Whilst SIO has identified an unusual approach to this investigation it would be ineffective to start changes until the 2 outstanding reviews have been considered
X77	Main Lines of Enquiry - Book 2	28	12 September 2008 15:30:00	GRADWELL	To arrest [named suspect] for x3 rape on [named victim] OP arranged for Tues 16/09/08	Evidence outlined by DS HILL action reasonable necessary and proportionate
X77	Main Lines of Enquiry - Book 2	29	15 September 2008 11:00:00	GRADWELL	To release victims statements to solicitor making civil claims	On receipt of agreed undertaking regarding confidentiality and written authority of clients - this follows from legal advice by Steve BAKER
X77	Main Lines of Enquiry - Book 2	30	17 September 2008 12:30:00	GRADWELL	To review actions relating to [named suspects] and prioritise	All these cases are in legal process - these actions must be completed asap
X77	Main Lines of Enquiry - Book 2	31	17 September 2008 12:30:00	GRADWELL	To increase victim/witness management team to four officers	For reasons of resilience it is top



Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						priority we provide a high standard and quality service to victims
X77	Main Lines of Enquiry - Book 2	32	18 September 2008 15:00:00	GRADWELL	To utilise Mr Adrian WEST as advisor re approach to victims who have not come forwards	Renowned psychologist whose advice is appropriate in this case
X77	Main Lines of Enquiry - Book 2	33	18 September 2008 15:00:00	GRADWELL	To utilise Mr Steve RANSON (MET) as advice for development of investigation strategy	Recommended by MET review team officer has considerable experience in investigation of Historic Child Abuse Enquiry
X77	Main Lines of Enquiry - Book 2	34	19 September 2008 08:50:00	GRADWELL	Forensic Review Document – Mrs Vicki COUPLAND to liaise with authors of report to provide feedback and new amended review document to be produced	The review was conducted without consultation with Mrs COUPLAND - it is therefore incomplete and required amendment. This can be done promptly and then can be used to provide the way forward
X79	Victim/Witness Policy - Book 1	1	02 October 2007 15:35:00	HARPER	During Operation Rectangle officers will be contacting people whom it is believed can help with enquiries into	None given



Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					<p>Historic Institutional Child Abuse. All information obtained from all individuals will be provided on a purely voluntary basis. The witness will not be 'coached' or 'prompted' to say anything that they do not wish to say. However, the officers will at times put questions to the witness which relate to the enquiry. It is the intention of The States of Jersey Police throughout this enquiry to get to the truth of the matter and thereby remain open minded about any outcome. At all times interviewing officers will remain fair and just concerning this enquiry and will ensure the individuals rights are not breached. And that all related policies and procedures are adhered to.</p>	
X79	Victim/Witness Policy - Book 1	2	02 October 2007 15:48:00	HARPER	<p>Prior to approaching any potential witness or victim involved in this investigation all officers allocated an action will undertake full research of the individual, including a risk assessment and determine from the outset whether social services involvement or any other special needs are necessary prior to contact being made. This is necessary in the interests of all parties, victims, witnesses and police officers in identifying and thereby allaying any</p>	None given

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					risks or other concerns the officers have about contacting the witness	
X79	Victim/Witness Policy - Book 1	3	02 October 2007 15:54:00	HARPER	Whenever officers from Operation Rectangle make initial personal contact with a witness in this enquiry there will be two police officers conducting the visit - unless the victim/witness is a child or vulnerable person and it has been decided that a joint police/social worker visit is necessary	This is intended to protect the rights of the individual and maintain a transparency and integrity throughout the investigation and establishing the truth of the matter
X79	Victim/Witness Policy - Book 1	4	03 October 2007 08:52:00	HARPER	When a victim is identified the officer will commenced a victim (VLO) family (FLO) liaison log (Jersey Version) and this record will be maintained throughout the duration of police involvement with that complainant. The log will ensure that integrity, continuity and ongoing assessment are maintained	None given
X79	Victim/Witness Policy - Book 1	5	03 October 2007 08:56:00	HARPER	Officers are to ensure that victims or witnesses receive appropriate aftercare when and where necessary. Officers will research what services are available and with the permission of the victim or witness will make the necessary referral on their behalf. During initial and subsequent visits consideration should be given to the individual needs of the person whom	None given

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					the officer is interviewing and will include any religious, or cultural implications, mental health or learning difficulties, appropriate adult needs and physical disabilities in order that individuals human rights are not breached	
X79	Victim/Witness Policy - Book 1	6	03 October 2007 09:07:00	HARPER	Liaison officer (dedicated to the victim) should consider preparing an exit strategy at an early stage for when the investigation comes to a close. And at that time will also address the issue of ongoing support - post investigation	None given
X79	Victim/Witness Policy - Book 1	7	03 October 2007 09:13:00	HARPER	For the purposes of this investigation a significant or key witness is a person who: 1) Has been, or claims to have been a first hand witness to the immediate event or events directly associated with it, or 2) has or claims to have witnessed a confession or a threat or 3) stands in a particular relationship to the victim or to some other person who appears to be of importance to the enquiry This criteria will help to identify important witnesses efficiently and assist in prioritisation of actions	None given
X79	Victim/Witness Policy - Book 1	7	03 October 2007 09:26:00	HARPER	When a significant or key witness is identified the interviewing officer will follow this protocol – 1) The initial	This process will negate allegations of coaching or prompting

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					interview shall be either video or audio tape recorded, 2) The interviewing officer will prepare a statement based on the initial interview, 3) The officer will then record the significant witness statement, 4) The officer will go through the statement with the witness, 5) This process will also be recorded on video or audio tape, 6) The witness will be invited to make changes if appropriate, 7) Any subsequent contact with the significant or key witness will be recorded in the FLO/VLO log	and will also be fundamental in the protection of the individuals rights and a gathering of the truth
X79	Victim/Witness Policy - Book 1	8	03 October 2007 13:37:00	HARPER	Throughout this investigation, where a victim or witness is either under the age of 17 years or is in need of Special protection in that he/she is an witness to an offence involving sex or violence or is deemed to be a vulnerable person in that they are suffering from a mental disorder, impairment of intelligence and social functioning or physical disability or disorder, they will be interviewed by officers familiar to and trained in the application of 'The Guidance in Achieving Best Evidence' unless the witness objects, or there are insurmountable difficulties	None given

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X79	Victim/Witness Policy - Book 1	9	03 October 2007 14:27:00	HARPER	Throughout this investigation use will be made of the NSPCC (national society for the prevention of cruelty to children) for the aftercare and continued support of victims and significant key witnesses. This decision sits alongside decision 5 adding further support and resilience to the ability of the officers to provide the necessary support and aftercare to any person who requires it	None given
X79	Victim/Witness Policy - Book 1	10	04 October 2007 09:18:00	HARPER	Any individual identified as a survivor of historic child abuse (victim) shall be subject to a risk assessment regarding the issues surrounding their situation and confronting the investigation. This in order to identify aspects of the case which may create problems so as to undermine the investigation. It is the intention of The States of Jersey Police to seek the truth and remain open minded considering all possibilities. Therefore, officers will always consider the following prior to interviewing a victim: How the first account of the allegation came about, the motivation of the complainant, the motivation of any third party having influence over the complainant. In the case of multi complainants, whether there has been an collusion in their accounts, if there	None given

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					<p>has been collusion, then why, when and where as there may be good reason for the collusion. Whether the complainant has been solicited from different complaints by the same party. This decision continued page 12. The similarity between complaints and anything undermining corroboration. This decision sits alongside decision 2 as a general guideline to the research required by police prior to contacting a witness. This policy is intended to strengthen the integrity of the enquiry throughout when dealing specifically with victims of historic child abuse in order prove the veracity of any complaint and thereby arrive at the truth</p>	
X79	Victim/Witness Policy - Book 1	11	08 October 2007 08:44:00	HARPER	<p>The Operation Rectangle Enquiry Team will as far as is possible attempt to identify all survivors of Historic abuse by evidential gathering and intelligence gathering means. This will help negate any suggestion that the team has been 'fishing' or trawling for victims. In line with other policies, i.e., Main lines of enquiry decision 12 - the enquiry team will always adopt a NIM based approached and seek the truth – that will take into account the victim's rights under ECHR not to suffer any inhuman</p>	None given



Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					<p>or degrading treatment and a right to family life and privacy. Albeit the above to good practice this does not prevent the enquiry team from using all reasonable means available to get to the truth of the matter that will entail at some stage making enquiries with victims who have not been identified by the described means</p>	
X79	Victim/Witness Policy - Book 1	12	08 October 2007 09:00:00	HARPER	<p>The States of Jersey Police recognises the importance of passing victim information to the appropriate victim support agency and during Operation Rectangle this agency will be the National Society for the protection of cruelty to children (NSPCC). However, as this enquiry will involve the investigation of serious sexual offences permission will always be sought from the victim to refer them to the nominated agency, or to disclose any information about them to that or any other agency. Referral of an individual to the NSPCC will allow that agency to carry out their work of supporting victims both through the criminal justice system and for those whose cases do not reach the courts. However, 'survivors of child abuse' must have a genuine opportunity to say if they do not</p>	None given



Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					want their details passed to the NSPCC. This decision will be recorded.	
X79	Victim/Witness Policy - Book 1	12	09 October 2008 No time given	HARPER	If a survivor of child abuse or a witness does not wish to be referred to or require NSPCC involvement the police will record the fact either in a pocket notebook, a computerised system or in a form created for the purpose.	This is in order to rebut any allegation that a referral to the NSPCC was not offered
X79	Victim/Witness Policy - Book 1	13	15 November 2007 17:00:00	FOSSEY	Service agreement entered into with NSPCC re operation (copy attached). Brief provided to NSPCC (copy attached)	Helpline to be used to offer support, counselling, advice to callers, to refer details re operation rectangle to the enquiry team. The enquiry team will be responsible for providing information to victims/witnesses re helpline
X79	Victim/Witness Policy - Book 1	14	05 December 2007 11:30:00	FOSSEY	Ongoing support for children and young persons (<25yrs) will be provided by NSPCC using counsellors from Guernsey	With regard to adult victims ongoing counselling/support will be provided from Jersey agencies unless there is good reason as to why this should not happen. Otherwise alternative support will be sourced from

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						Guernsey or United Kingdom
X79	Victim/Witness Policy - Book 1	15	21 February 2008 13:15:00	HARPER	Re: Decision 10. This will apply only to those victims who become witnesses	To align workload with resources and necessity
X79	Victim/Witness Policy - Book 1	16	21 February 2008 14:00:00	HARPER	Evidence to be obtained from victims by Art. 9 statements except in cases where they are particularly vulnerable or have learning difficulties	To produce best evidence in most acceptable form
X80	Victim/Witness Policy - Book 2	17	06 March 2008 11:00:00	HARPER	Following further consideration we will not interview all residents but restrict it to those identified as victims/witnesses	Intel led interviews will prevent accusations of 'trawling' and ensure enquiry is kept manageable. Sufficient media coverage has been available to bring most victims forward who are willing to do so
X80	Victim/Witness Policy - Book 2	18	15 May 2008 17:30:00	HARPER	To adopt a family liaison strategy incorporating one full time FLO and one NSPCC carer in accordance with strategy and as outlined in attached document	To provide a service which will prevent loss of confidence in enquiry whilst remaining commensurate with resources available to the States of Jersey Police and the enquiry

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X80	Victim/Witness Policy - Book 2	19	23 May 2008 18:00:00	HARPER	Deputy SIO to discuss with individual officers who have been on enquiry for six months and every six months subsequently, facility for consultation with welfare advisor and offer same	To ensure adequate welfare facilities are available as required
X80	Victim/Witness Policy - Book 2	19	26 May 2008 10:00:00	HARPER	Newly installed VLO's to review service to victims to ensure that the ongoing enquiry is sensitive to their needs	To ensure duty of care to victims is fulfilled to gain maximum benefit to the enquiry
X80	Victim/Witness Policy - Book 2	20	11 August 2008 15:00:00	FOSSEY	To reassure victims of the continuing momentum of the investigation and the determination of investigation team to continue in a thorough and professional manner during this handover period and whilst awaiting a new SIO. Victim liaison officers to contact all victims and pass this message of reassurance as well as update them as to the progress of their particular investigation. In addition they will attend care leavers meeting on 13/8 and personally reassure all attending of the continuance of the enquiry	Victim support and reassurance
X80	Victim/Witness Policy - Book 2	21	19 August 2008 16:00:00	FOSSEY	Procedure following decision not to prosecute by Attorney General – 1) OIC, DS and Deputy SIO or SIO to meet with Attorney General or member of legal team to discuss case, in particular agree the facts, analysis of	This procedure will be followed to ensure that no evidence is overlooked and no investigative opportunity is missed.

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					evidence and bring to his attention any new evidence or matters for his consideration that he may not be aware of, 2) any matters which are not resolved at this stage are to be referred to DCO Mr WARCUP for further discussion with Attorney General, 3) Once Attorney General has given his final decision not to prosecute to officers a strategy will be agreed around communicating that decision to the victims in that particular case. This will take into consideration amongst other matters the question of personal visit/telephone call/letter to communicate the decision and ensuring proper support structures are in place for the needs of the victims concerned, 4) in accordance with the Attorney General's wishes the victims concerned will be offered the opportunity to meet with a member of the legal team to discuss the rationale behind the decision should they so wish	It will also ensure that victim care is a priority and we continue to provide a service that maintains confidence, and integrity in the investigation
X81	Persons of Interest/Suspect Policy	None given	26 November 2007 15:35:00	HARPER	To prioritise risk assessment of current positions held by suspects to ascertain if in positions of responsibility. NB resources unavailable at moment. Attempts being made to obtain staff. To start on Monday 3rd Dec but list to be	Whilst there is no evidence that any of our suspects are currently holding positions which might allow them access to

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					prioritised immediately	children/vulnerable persons there is a need to confirm that and assess any risk
X81	Persons of Interest/Suspect Policy	None given	No date given 15:50:00	HARPER	To task JIB to carry out action as at 1. We will prepare prioritised list of suspects and pass it on so that current location of those suspects can be ascertained	To deal with any potential risk current to children/vulnerable persons
X81	Persons of Interest/Suspect Policy	3	29 November 2007 11:33:00	FOSSEY	To consider the following risk factors when researching suspects and use them to prioritise actions/possible arrests	1) previous convictions, incl full MO, 2) previous allegations, 3) access to children - employment, hobbies and interests, 4) like minded associates, 5) family history, 6) intelligence, 7) computer access, mobile phone details
X81	Persons of Interest/Suspect Policy	4	06 December 2007 11:00:00	HARPER	No suspect to be arrests, except in unavoidable circumstances, until a file containing all the evidence is presented to SIO, Deputy SIO	For consideration in conjunction with FLA Bridget SHAW. To ensure full legal advice is obtained before arrest and other policy decisions be made as to timing of arrests etc

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X81	Persons of Interest/Suspect Policy	5	19 March 2008 15:30:00	HARPER	To introduce 'investigation logs' which will make the enquiry more 'suspect' focussed and make it easier for SIO and Dep SIO to supervise work on suspects by team	Allows for work on each suspect to be all recorded in an easy to check log - one log per suspect. Investigation/enquiry becomes more 'suspect focussed' and allows SIO and Dep SIO to more easily check ongoing progress
X81	Persons of Interest/Suspect Policy	6	19 March 2008 16:00:00	HARPER	To arrest suspects only when SIO satisfied that evidence collation is complete and case is as strong as possible	To enable law officers to reach decision on prosecutions on the basis of full extent of knowledge
X81	Persons of Interest/Suspect Policy	7	10 April 2008 11:00:00	HARPER	Whenever possible to get preliminary file to Barrister THOMAS before arrest so that charges can be flagged up pre-arrest	To avoid having to release suspects from custody w/o charge and to I/D potential evidential problems early
X81	Persons of Interest/Suspect Policy	8	29 March 2008 09:00:00	HARPER	Not to adopt a scoring matrix to manage and prioritise the arrest of suspects	Not suitable in this context. Not the huge variety of offences/nor bulk to justify. Also not flexible enough to allow the necessary



Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						discretion in the circumstances of this enquiry
X81	Persons of Interest/Suspect Policy	9	01 May 2008 09:00:00	HARPER	To further prioritise suspects and to direct resources to those. Also to examine all suspect reports and NFA where necessary	To prioritise and therefore to enhance possibility of prosecution in cases likely to result in conviction
X82	Finance Policy File	1	01 October 2007 09:00:00	HARPER	All expenditure to be monitored to ensure maximum Operation effectiveness and financial accountability. All O/T to be approved by DS in advance	In light of the different arrangements for Police budgets to UK, emphasis has to be on limiting spending to that which is operationally necessary to attain objectives of the enquiry
X82	Finance Policy File	2	25 November 2007 10:00:00	HARPER	With UK officers/specialist investigators now being employed necessary accommodation costs will be incurred. Such costs to be approved by me. Home-Jersey fares approved by DS/DI	To control costs of necessary expenditure and to ensure effective and accountable enquiry
X82	Finance Policy File	3	01 December 2007 10:00:00	HARPER	All expenditure to £1000 (excl accom) to be authorised by DI. Over that to me	Ensure accountability and maximum effectiveness
X82	Finance Policy	4	16 December	HARPER	In light of decision re HDLG and employment of UK specialist forensic	To ensure accountability and



Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
	File		2007 12:00:00		anthropologists and archaeologists, numbers and deployment to be decided by scene co-ordinator in consultation with SIO	effective management to obtain successful outcome
X82	Finance Policy File	5	26 February 2008 15:00:00	HARPER	In light of the extension of staffing, developments in enquiry and likely future demands, all expenditure incurred forthwith to be done so in accordance with attached document	To ensure sound financial management whilst not interfering with operational necessity
X82	Finance Policy File	6	30 March 2008 10:00:00	HARPER	To move enquiry and HOLMES teams to new purpose built MIR in Broadcasting House which will require to be fitted and furnished	Current accommodation not sufficient and lacks security. Enquiry teams remote from team leaders and MIR team. Not enough work stations for enquiry team and they are having to 'hot desk'. This causing delays and inefficiency. The solution above will resolve these problems incl security. Also return of MIR to operational use will provide the resilience for the force should another major

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						enquiry/homicide occur
X83	Media Strategy Policy File	1	08 October 2007 08:15:00	HARPER	<p>A media strategy has been prepared. However the investigation that is Operation Rectangle has not been made known to the public yet. A covert operation is being considered initially in the hope that evidence retained by sex offenders or persons of interest will not be destroyed or moved as a result of their learning of the enquiry. It is known that even after lengthy periods of time paedophiles will retain as trophies certain memorabilia or paraphernalia. Until the potential of a covert approach to the enquiry has been fully explored States of Jersey Police will not go public. Officers from The Metropolitan Police skilled in those areas will visit the States of Jersey Police to assist in formulating a covert plan and this is anticipated to take place sometime between 22nd to 24 October 2007. Once this is completed the precise timing of the press release will be reconsidered. Balancing this decision with the public risk it is not believed at this time that persons of interest are still working directly with children. Should such a dynamic become known then further consideration will be made to</p>	None given

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					negate such public risk. Furthermore, by not releasing the news to the public prematurely the enquiry team hopes to secure files and records from both Haut de la Garenne and Jersey Sea Cadet Corps ahead of and possible removal or destruction of the same.	
X83	Media Strategy Policy File	2	19 November 2007 09:00:00	FOSSEY	To issue press release to appeal for victims/witnesses and provide information to the public re enquiry on 22/11	1) To assist in establishing evidence discovering new witnesses, identifying suspects and eliminating people from the investigation, 2) Information received from Senator SYVRET that he has a team of BBC documentary makers coming to the Island to interview witnesses/victims. Possibility of evidence being contaminated
X83	Media Strategy Policy File	3	19 November 2007 09:30:00	FOSSEY	Appoint Press Officer Louise NIBBS [JOURNEAUX] to co-ordinate media for Jersey police and liaise with appointed media officer	For NSPCC and Jersey sea cadets
X83	Media Strategy	4	19 November	FOSSEY	Press Officer to maintain a press cuttings file with copies of all releases	For disclosure

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
	Policy File		2007 09:45:00		given to the media and keep recordings of all press interviews/conferences given	purposes
X83	Media Strategy Policy File	5	08 January 2008 14:30:00	HARPER	Initial need for proactive press conferences and releases has now abated and the enquiry will revert to answering media questions and regular updates. To be revised as developments move on	1) To reduce danger of media influencing CJS, 2) To avoid public 'fatigue', 3) To continue to enhance public confidence
X83	Media Strategy Policy File	6	02 February 2008 15:00:00	HARPER	Prepare 'if asked' in relation to search of HDLG. Release not to confirm exact nature of what we are looking for	To prepare media response and at same time to discourage over reaction by media
X83	Media Strategy Policy File	7	21 February 2008 10:45:00	HARPER	To amend 'if asked' so as to accommodate possibility of a find	Facilitate press interest and to permit enquiry to continue unhindered
X83	Media Strategy Policy File	8	23 February 2008 10:25:00	HARPER	To release limited information revealing find of possible human remains	Encourage perception of openness with media in order to encourage positive reporting and leading to increased confidence by public in police enquiry. This should encourage further victims and witnesses to come forward

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X83	Media Strategy Policy File	9	23 February 2008 15:00:00	HARPER	To update media on a daily basis either by release through Press Officer or by briefing	To facilitate further awareness by public through co-operative media and therefore encourage victims and witnesses to come forward and provide further evidence
X83	Media Strategy Policy File	10	28 February 2008 15:20:00	HARPER	To utilise forensic manager, anthropologist, and head of CID at press briefs and to allow 'pool' media material within site	To give public a wider appreciation of the nature of the evidence gathering process and to prevent criticism or loss of confidence through the apparently slow search of various scenes. Awareness of process will increase confidence in the investigation and its effectiveness
X83	Media Strategy Policy File	11	01 April 2008 09:00:00	HARPER	To issue regular updates to media through Press Officer	To maintain profile to reassure victims and witnesses that enquiry is still active and is not being wound down. To maintain confidence in enquiry team

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X83	Media Strategy Policy File	12	09 May 2008 16:00:00	HARPER	In light of possible results of examination of bones and teeth from cellars 3 + 4 to plan and facilitate full press briefings over 2 days at PHQ including specialists and sanitised search document	To highlight enquiry with increase of confidence in victims and witnesses and to reassure community that search has been intelligence led and not speculative
X83	Media Strategy Policy File	13	09 May 2008 16:00:00	HARPER	To invite a member of the IAG to each planned press brief	Independent observation and reassurance of community as to information given to media
X83	Media Strategy Policy File	14	18 August 2008 16:00:00	FOSSEY	All media releases to be copied to incident room and put on HOLMES	For disclosure purposes at forthcoming trials
X84	Search Policy - Book 1	1	No time or date given	HARPER	To enter by way of a search warrant the buildings of The Jersey Sea Cadet Corps at TS Jersey, Fort Regent, St Helier, JE2 4UX and any associated building at Pier Road with the intention of seizing any documentation including but not limited to written form, microfilm, magnetic tape, computer, computer disc, CD-Rom or any other form of mechanical or electronic data storage or retrieval mechanism. This will also include local and UK child protection	None given



Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					policies and procedures and any other documentation that could be of assistance to the investigation team regarding child abuse within JSCC or any article suspected to have been used in connection with the abuse of children or pertinent to this investigation. This will be conducted in accordance with the attached operational order.	
X84	Search Policy - Book 1	2	No time or date given	HARPER	No further application for warrant as law seems not to allow for same	Request for warrant decline 3 times. Need to consider alternative approaches
X84	Search Policy - Book 1	3	30 October 2007 None time given	HARPER	Due to the fact that the Deputy Bailiff Mr Michael BIRT declined the request to issue a search warrant for the Jersey Sea Cadet Corps a change in tactic has been made. DCO HARPER will communicate directly with the Sea Cadets executive of Child Protection Unit at their HQ in London to garner support regarding the Jersey SCC cooperating with the investigation. Therefore a warrant will not be used to seize material	None given
X84	Search Policy - Book 1	4	08 November 2007 10:00:00	HARPER	To disclose to CDR BUSHELL RN HMS Nelson during visit (to assist with	CDR BUSHELL has responsibility for the JSC and is the best



Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					search)	placed to assist with our attempt to take possession of files. I will therefore visit him and seek his assistance
X84	Search Policy - Book 1	5	09 November 2007 15:00:00	HARPER	To enter JSC offices with CDR BUSHELL who is there on visit re remembrance Sunday and to take possession of files required	To obtain evidence - CDR B will be able to instruct staff to assist
X84	Search Policy - Book 1	6	15 November 2007 10:00:00	HARPER	To visit Chief Officer of Health and SS Dept and to persuade him to authorise handing over of all files from Haut de la Garenne	Previous indications of difficulty with children's service and the fact that some staff are suspects
X84	Search Policy - Book 1	7	26 November 2007 15:30:00	HARPER	To approach CO of health to obtain files and records relating to [X] at the time he was allegedly detained in solitary for 2 months. To do 27/11	To secure evidence either of the solitary confinement re any attempt to hide H
X84	Search Policy - Book 1	8	24 January 2008 15:00:00	HARPER	Clarify position in respect of the bones found and which are thought to be animal. Trace pathologist and evidence	To enable decision to be taken on areas to be searched within grounds
X84	Search Policy - Book 1	9	01 February 2008 13:00:00	HARPER	To prioritise area of search to outside of grounds	Intelligence re inside whilst accurate did flag up that bones were probably animal. This was confirmed by

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						pathology lab (although report poor in detail). Intelligence re outside still to be tested - will have to be done by exploratory search
X84	Search Policy - Book 1	10	05 February 2008 16:00:00	HARPER	To commence exploratory search of external grounds of HDLG on 19/2/08 and to include specialist dogs, forensic archaeologists and NPIA staff	To recover any evidence there
X84	Search Policy - Book 1	11	11 February 2008 09:00:00	HARPER	To disclose to Chief Exec details of search and to obtain keys for property from him	To ensure security
X84	Search Policy - Book 1	12	20 February 2008 12:00:00	HARPER	To put specialist dog into HDLG interior and to approach area where bones were found from elsewhere to gauge its potential as site. If positive to follow up with GPR and rest of site.	Intelligence received from [X] which casts doubt on assertion that bones were animal. He recalls cloth material and 2 child's shoes found with bones. Also told us that first pathologist said they were human. Additionally path report lacking in detail and anthropologist Julie ROBERTS states pathologist not qualified and should have

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						handed on
X84	Search Policy - Book 1	13	21 February 2008 13:05:00	HARPER	To dig under concrete floor in area of stairs and have it forensically examined	GPR confirms anomalies under floor. This and the other intel/info makes it necessary to do so to obtain any evidence there. Other intel into includes dog indications
X84	Search Policy - Book 1	14	23 February 2008 10:30:00	HARPER	To release limited information revealing find of possible human (partial) remains and to at same time widen search and use of technical aids to widen area including courtyard	(see decision re media release at decision 8). Partial remains of child's skull found. Other indications from GPR and dog indicate possibility of further remains. This is corroborated by unspecific anecdotal evidence from victims/former residents. Search must now be widened even if necessary to disrupt fabric
X84	Search Policy - Book 1	15	24 February 2008 10:10:00	HARPER	To excavate/search all areas inside and out where indications of dog are corroborated by or corroborate other	To ensure that all evidence is recovered and that suggestions of

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					intel/evidence such as GPR, expert advice or info/intel from public	human remains at location are confirmed or negated
X84	Search Policy - Book 1	16	12 March 2008 12:00:00	HARPER	Not to excavate total area of courtyard but instead to concentrate on defined area at top (NW) corner of the yard and have it examined in detail by specialist staff	Intelligence does not justify action on whole area. Dog reacted only in the area where it is intended to excavate. Area of tank can be inspected by divers. Should initial action reveal significant evidence then decision to be reviewed
X84	Search Policy - Book 1	17	12 March 2008 12:00:00	HARPER	Only to investigate suspended floors where intelligence exists to raise questions about presence of evidence. This will be mainly in area of cellars	To produce realistic parameters and to maintain intelligence led approach to search
X84	Search Policy - Book 1	18	25 March 2008 13:00:00	HARPER	To freeze and seal rooms 3 + 4 in cellar until after rooms 1 + 2 are complete including drains leading from bath	To preserve integrity of scene in all areas
X84	Search Policy - Book 1	19	25 March 2008 15:00:00	HARPER	To confine excavation of suspended floor areas to the east wing	No evidence, anecdotal info or intelligence to justify further excavation of areas in west wing
X84	Search Policy -	20	25 March 2008	HARPER	To retain exhibits found at HDLG at that location until FSM can complete one	To enable more efficient handling of

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
	Book 2		15:05:00		statement detailing all	exhibits forensically
X84	Search Policy - Book 2	21	25 March 2008 16:00:00	HARPER	Dog and GPR to be utilised in cellar areas 3 + 4. If positive then we will excavate. Drain in 1 + 2 to be left until after that work. Forensic sieving to be undertaken	Retrieve evidence and to minimise possible destruction of same
X84	Search Policy - Book 2	22	29 May 2008 13:10:00	HARPER	To request a forensic review through NPIA	To audit processes and ensure enquiry is dealing with forensic evidence appropriately
X86	Site 2 policy book	1	03 July 2008 11:00:00	FOSSEY	Further to decision 19 + 20 in main lines of enquiry book 2 – search strategy – Victoria tower bunker site - with the assistance of national trust clear the site of undergrowth – conduct a search by police search team of relevant areas around the bunker perimeter under a search scenario of buried victim (police search team to be assisted in this task by victim recover dog) – POLSA in conjunction with dog handler will task the victim recover dog to search other relevant areas if deemed necessary following initial survey – search strategy – consideration to be given to the deployment of police search team to search any voids within the bunkers - all search activity is to be agreed in advance with forensic science manager	None given



Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					– Vicky COUPLAND	
X86	Site 2 policy book	2	03 July 2008 15:00:00	FOSSEY	Forensic Strategy - to gain access to the bunkers considered to be of interest and carry out a forensic search	To determine where possible the following: - identity of person(s) trying to gain entry in 2008 – evidence of physical assault – evidence of sexual assault - evidence of clandestine disposal of human remains (remains and supporting evidence to be recovered with approp experts) – to submit evidence where appropriate for further testing. Forensic examination to include the following – visual examination – complete photography of site – search for items of evidential value – UV light search – quasar search if appropriate – blood screen – recording of scene using laser scanning if deemed

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						appropriate – deployment of EVRD
X87	Sensitive Policy Book	1	25 October 2007 14:30:00	FOSSEY	To obtain subscriber details, billing and text messages for persons of interest in <b>sea cadets</b> , including [named persons]	To ascertain any relationship between the subjects and capture any contact which may assist in implicating or eliminating them from involvement in any offences
X87	Sensitive Policy Book	2	01 October 2007 No time given	HARPER	There will be two digital/computer based intelligence logs 1) for Haut de la Garenne (HDLG), 2) For Jersey Sea Cadet Corps (JSCC) Any intelligence gathered during the course of this investigation shall be recorded onto these logs. The relative intelligence will be kept separate from the other log, i.e., HDGL intel to HDLG log and ditto for JSCC. This in order to add resilience against cross contamination of intel and provide a sterile barrier between the two different institutions. This policy does not replace or undermine the existing victim/witness policy but adds resilience and support to it	None given
X87	Sensitive Policy	3	01 October 2007	HARPER	All intelligence gathered from a source by either written correspondence (e-	Provides for transparency but is



Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
	Book		No time given		mail, letter) telephone or personally shall be recorded in the 1st instance in a 'cold calling intelligence book' prior to going directly onto the computerised intelligence log. This book will be exhibited as 'sensitive' and 'non discloseable' and be an original document. Each entry shall be signed by the maker and timed and dated. This can be completed in hand	complimentary to the requirements of data protection, human rights and supports the need to get to the truth of the matter
X87	Sensitive Policy Book	4	01 October 2007 No time given	HARPER	There will exist a system of gathering information, intelligence and evidence within the office of Operation Rectangle (see attached flow chart and explanation). To maintain the highest integrity and transparency throughout the enquiry and provide a professional and efficient system of information gathering which is compliant with data protection rules, human rights and PPACE 2003 and any other relative legislation and internal policy	None given
X87	Sensitive Policy Book	5	10 October 2007 No time given	HARPER	A computerised intelligence will be completed and signed off at the end of each month and a new log will commence. This will not replace the previous log but will be an addition to it	To add cohesion and accessibility to the auditing system and prevent a log from running on infinitely. This adds transparency and ease of recording

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning and reference
X87	Sensitive Policy Book	6	10 October 2007 No time given	HARPER	A second cold call intelligence book will be maintained and comprise intelligence that is non discloseable eg police on police etc	To prevent sensitive issues being recorded alongside non sensitive and thereby making P11 applications difficult to process
X87	Sensitive Policy Book	7	07 December 2007 10:30:00	FOSSEY	To use a stand alone, sterile laptop computer for intelligence analysis purposes	Security of intelligence, prevent unauthorised access (this has not proven possible from an IT perspective – await outcome of RA – A FOSSEY 12/12/07)
X87	Sensitive Policy Book	8	12 December 2007 16:00:00	FOSSEY	To undertake a risk assessment of the operation	To ensure appropriate control measures are put in place with regard to the following potential areas of impact – physical, legal, assets, information management, compromise, environment
X87	Sensitive Policy Book	9	14 December 2007 10:45:00	FOSSEY	Further to decision 1 to consider obtaining billing and text messages for suspects if appropriate and in order of	As per decision 1

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					priority as dictated by decision 3 – persons of interest/suspect policy	
X87	Sensitive Policy Book	10	04 January 2008 14:00:00	FOSSEY	Further to 7 December and in light of decision to move enquiry to HOLMES and the risk assessment conducted, the intelligence cell is to move to the inner sanctum of MIR to enhance the security of the intelligence. In addition the laptop has now been fitted with encryption and will link direct into HOLMES which has its own enhanced security measures	None given
X87	Sensitive Policy Book	11	20 February 2008 09:00:00	HARPER	Not to keep Dep PRYKE updated or informed of any discovery despite request and advice to do so by Chief Minister	Security and need to know

## Appendix 4 – Witness list

Name	Position
BAILHACHE, William	HM Attorney General – States of Jersey
BAKER, Andre	Deputy Director – Serious & Organised Crime Agency, member of ACPO Homicide Working Group
BAKER, Stephen	Crown Advocate (Operation Rectangle Prosecution team)
BONJOUR, Andre Paolo	Chief Inspector – States of Jersey Police
BOOTS, Malcolm	National Policing Improvement Agency, Forensic Specialist Advisor
BRAY, Christopher Keith	Retired Detective Sergeant – States of Jersey Police (Operation Rectangle)
BRITTON, Peter Terrence	Review Officer, Metropolitan Police – Serious Crime Review Group
BURMINGHAM, David	Inspector, Staff Officer to Chief Officer – States of Jersey Police
CANAVAN, Carole	Member of Independent Advisory Group (Operation Rectangle)
COUPLAND, Victoria	Forensic Services Manager – States of Jersey Police
COXSHALL, Mark	Detective Inspector – States of Jersey Police
DENLEY, Kevin John	Office Manager (Operation Rectangle) – States of Jersey Police
DU-VAL, Shaun	Acting Deputy Chief Officer – States of Jersey

Name	Position
EDMONDS, John Henry	Police Principal Legal Advisor to HM Attorney General – States of Jersey
ELLIS, Victoria	Personal Assistant to former Deputy Chief Officer Lenny HARPER
FOSSEY, Alison	Detective Inspector – States of Jersey Police (Deputy SIO Operation Rectangle)
GRADWELL, Michael	Detective Superintendent – SIO Operation Rectangle from 8 September 2008 (seconded from Lancashire Constabulary)
GRIFFITHS, Bill	Retired Deputy Assistant Commissioner Metropolitan Police – Critical Incident Expert
GRIME, Martin	Canine specialist search advisor – Operation Rectangle
HARPER, Robert Leonard (Lenny)	Retired Deputy Chief Officer – States of Jersey Police and former SIO Operation Rectangle
HARRISON, Anne	Head of Specialist Operational Support NPIA – member of ACPO Homicide Working Group
HIGHAM, Thomas	Scientist – Oxford Radiocarbon dating laboratory
HILL, David	Detective Sergeant (Operation Rectangle) – States of Jersey Police
HOUZE, Mark Phillip	Inspector – States of Jersey Police
JOURNEAUX (nee NIBBS), Louise Victoria	Press Officer – States of Jersey Police
KEEN, Kevin	Member of Independent Advisory Group

Name	Position
	(Operation Rectangle)
KINNARD, Wendy	Former Home Affairs Minister – States of Jersey
LE-HEGARAT, Mary	Inspector – States of Jersey Police
LEWIS, Andrew David	Former Home Affairs Minister – States of Jersey
MARSHALL, Dave	Detective Chief Inspector – Metropolitan Police (advisor on Historic Child Abuse)
MARTINS, Emma	Member of Independent Advisory Group (Operation Rectangle)
MIDDLETON, Elizabeth (Liz)	Finance Director Home Affairs – States of Jersey
MILLAR, David	Independent Advisory Group expert
MINTY, David Angus	Detective Chief Inspector – States of Jersey Police
MOONEY, John	Detective Superintendent, National Policing Improvement Agency – member of ACPO Homicide Working Group
OGLEY, William (Bill) David	Chief Executive to the Council of Ministers and Head of Public Services – States of Jersey
PARKER, Jon	Media expert – Wiltshire Police
PERCHARD, James	Senator and former Minister of Health and Social Services – States of Jersey
POWER, Graham	Chief Officer – States of Jersey Police
REGAL, Stephen	Member of Independent Advisory Group (Operation Rectangle)
ROBERTS, Julie	Forensic Anthropologist – Operation Rectangle

Name	Position
ROSE, David	Mail on Sunday journalist
SCULTHORP, John	Chief Inspector – States of Jersey Police
SHENTON, Ben Edward	Senator – States of Jersey
STODDART, Thomas Jonathan	Chief Constable Durham Constabulary – Chairman of ACPO Homicide Working Group
SWEETING, Bryan	Detective Superintendent Metropolitan Police Serious Crime Review Group
TAPP, Matthew	Communications Consultant (Operation Rectangle)
TATTERSALL, Andrew	Greater Manchester Police – Support Staff SIO (advisor on historic child abuse investigations)
THOMAS, Simon	Barrister – Operation Rectangle Prosecution team
WALKER, Frank	Former Chief Minister – States of Jersey
WARCUP, David Charles	Acting Chief Officer – States of Jersey Police
WEBSTER, Elizabeth	Senior Human Resources Manager Home Affairs – States of Jersey
WHELAN, Cyril	Crown Advocate (Operation Rectangle Prosecution team)
WILLIAMS, Ken	Her Majesty's Inspectorate of Constabulary
WOOD, John	Press Officer – Devon & Cornwall Constabulary



## Appendix 5 – Glossary of terms

Acronym	In Full
ACO	Acting Chief Officer
ACPO	Association of Chief Police Officers
ACPOS	Association of Chief Police Officers Scotland
ADCO	Acting Deputy Chief Officer
AG	Attorney General
CC	Chief Constable
CI	Chief Inspector
CIA	Community Impact Assessment
CID	Criminal Investigation Department
CO	Chief Officer
COM	Council of Ministers
CPS	Crown Prosecution Service
CSB	Community Safety Branch
CSM	Crime Scene Manager
DC	Detective Constable
DCI	Detective Chief Inspector
DCO	Deputy Chief Officer
DI	Detective Inspector
DNA	Deoxyribonucleic Acid

Acronym	In Full
DS	Detective Sergeant
DSIO	Deputy Senior Investigating Officer
ECHR	European Court of Human Rights
ESG	Executive Strategy Group
FAB	Finance Advisory Board
FLO	Family Liaison Officer
FMB	Force Management Board
FOB	Financial Oversight Board
HAD	Home Affairs Department
HAM	Home Affairs Minister
HAT	Historic Abuse Team
HCAE	Historic Child Abuse Enquiry
HDLG	Haut de la Garenne
HMIC	Her Majesty's Inspectorate of Constabulary
HOLMES	Home Office Large and Major Enquiry System
HR	Human Resources
HWG	Homicide Working Group
IAG	Independent Advisory Group
IT	Information Technology
JIB	Jersey Intelligence Bureau
JFCU	Joint Financial Crime Unit

Acronym	In Full
JSCC	Jersey Sea Cadet Corps
LGC	Laboratory of the Government Chemist
MIM	Murder Investigation Manual
MIR	Major Incident Room
MIRSAP	Major Incident Room Standard Administrative Procedures
MISML	Major Incident Scene Management Log
MOFM	Monthly Operational Finance Meeting
NIM	National Intelligence Model
NPIA	National Policing Improvement Agency
NSPCC	National Society for the Prevention of Cruelty to Children
PA	Personal Assistant
PC	Police Constable
PIP	Professionalising the Investigative Process
PNICC	Police National Information and Coordination Centre
POLSA	Police Search Adviser
PPU	Public Protection Unit
PRA	Performance Review and Appraisal
PS	Police Sergeant
PSD	Professional Standards Department
SB	Special Branch
SCG	Strategic Coordinating Group

Acronym	In Full
SCRG	Serious Crime Review Group
SIO	Senior Investigating Officer
SMT	Senior Management Team
SOCA	Serious and Organised Crime Agency
SOCO	Scenes of Crime Officer
SoJP	States of Jersey Police
TCG	Tasking and Coordinating Group
TOR	Terms of Reference

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP13

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# STATES OF JERSEY



## **SUSPENSION OF CHIEF OFFICER OF THE STATES OF JERSEY POLICE ON 12TH NOVEMBER 2008: REPORT BY BRIAN NAPIER Q.C.**

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Presented to the States on 15th November 2010  
by the Chief Minister

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*Suspension of Mr. Graham Power, Chief Officer of the States of Jersey Police  
on 12 November 2008*

*Report to the Chief Minister of the States of Jersey by Brian Napier QC*

1. On 25 March 2010 I was commissioned by the Chief Minister of the States of Jersey to produce a report into the suspension of the then Chief Officer of Police, Mr Graham Power, in November 2008. The terms of reference given to me required me to look into the sequence of events leading up to the decision by the then Minister of Home Affairs to suspend Mr Power and the conduct of the principal officers involved in that decision. The full terms are as follows:

*Terms of Reference*

*The purpose of the Review is to:-*

- a) *Examine the procedure employed by the Chief Minister's Department and the Home Affairs Minister in the period leading up to the suspension of the Chief Officer of Police on 12 November 2008.*
- b) *Review the manner in which senior officers managed the assembly of key information used in the decision making process that ultimately led to the suspension of the Chief Officer of Police.*
- c) *Investigate whether the procedure for dealing with the suspension was correctly followed at all times including:-*
  - i. *The reason for the immediate suspension of the Chief Officer of Police*

ii. *Whether there were any procedural errors in managing the suspension process.*

d) *The Report should highlight any areas where in the opinion of the Commissioner sufficient evidence exists that would support, in the interests of open government a full Committee of Inquiry into the manner in which the Chief Officer of Police was suspended on 12 November 2008.*

2. I was asked, in compiling my report, to distinguish between issues which were suitable for general publication and those which required confidentiality in the light of the disciplinary proceedings which, at the time when the inquiry began, were a possibility. The position has now changed, and the possibility of disciplinary proceedings being brought against Mr Power has now disappeared. On that basis I have not sought to make any distinction between parts of the report which are appropriate for general publication and parts which need to be kept confidential until the completion of the disciplinary procedure.
3. Between April and July 2010 I made four visits to Jersey. I had access to a wide range of official documents and I conducted recorded interviews (which were subsequently transcribed and are kept on file) with most of the main protagonists involved in the decision to suspend Mr Power. I also conducted an interview with Mr Power himself who travelled to speak to me in Edinburgh, and this too was recorded. All the official documents I requested to see were made available to me.
4. I regret the delay in producing this report. The delay is unfortunate but was unavoidable, largely due to the unavailability of witnesses at critical times and to conflicting commitments. An interim and provisional version of this report was provided to the Deputy Chief Executive, on request, in mid-July 2010.

5. Having regard to the Terms of Reference I have structured the report as follows:
  - Outline chronology
  - General background Information
  - Use of disciplinary procedure
  - The act of suspension on 12 November 2008 and related issues
  
6. In the light of my views on the above, I give my conclusions on whether there is, having regard to the interests of open government, a need for further investigation into the suspension by a committee of inquiry.
  
7. I should also make it clear, in view of the release of the findings of the Wiltshire Inquiry into how Operation Rectangle was conducted and the criticisms which are made in that report of Mr Power, that I am not concerned at all in this report with whether or not Mr Power's conduct in relation to the historic abuse investigation warranted the bringing of disciplinary charges, far less whether his conduct was in fact culpable. Nothing that is said here should be taken as expressing a view on the substantive complaints made against him. This report is concerned solely with the events and procedures in the period up to and including his suspension. I should add that I have not seen the full report of the *Wiltshire Police Investigation into the management and supervision of the Historic Child Abuse Enquiry by the Chief Officer of Police – Mr G. Power*. Given the absence of overlap between the procedural issues which formed the subject matter of my investigation and the substantive issues considered by the Wiltshire Report, I am content with that arrangement.
  
8. In accordance with normal practice in investigations of this nature, a draft version of this report was made available to persons whose conduct was or might be seen as the subject of criticism. Comments and observations were made, and the final version of the report takes these replies into account. Separately, a copy of the draft final version was made available to the Law

Officers for checking on grounds of accuracy, in relation to matters of which the current Law Officers had direct knowledge.

9. In the course of my investigation, I held recorded meetings with Mr Andrew Lewis, Mr Bill Ogley, Mr Ian Crich, Mr David Warcup, Mr Graham Power and Mr Frank Walker. Where I have ascribed views or opinions to others, I have done so only on the basis of information that was provided to me in interview or in documentation I have read. It is no part of my remit to make findings about whether such views were in fact held, and I do not do so. Nothing in the report should be read as indicating otherwise.
10. On a few occasions I found it impossible to reconcile different versions of events given to me from different sources. Where that has occurred, and the matter is of importance, I have sought to make this clear in the text. Where appropriate I have given an indication of my own view, but given the limited extent to which I have been able to test what I have been told, the conclusions I have expressed in these circumstances should be treated with caution.

### Sequence of key events

#### *Identification of key actors*

11. The following abbreviations are used:

GP.....Mr. Graham Power (Chief Officer, States of Jersey Police)  
DW.....Mr. David Warcup (Deputy Chief Officer, States of Jersey Police)  
BO.....Mr. Bill Ogley (Chief Executive, States of Jersey)  
IC.....Mr. Ian Crich (Director of Human Resources, States of Jersey)

AL.....Mr. Andrew Lewis (Minister of Home Affairs October – December 2008; Assistant Minister 2006 – October 2008)  
 FW.....Mr. Frank Walker (Chief Minister, States of Jersey)  
 SG.....Solicitor General (Tim Le Cocq QC)  
 LH.....Mr. Lenny Harper (Deputy Chief Police Officer, States of Jersey Police, retired July 2008)  
 AG.....Attorney General (Mr William Baillache QC)  
 WK.....Senator Wendy Kinnard, Minister of Home Affairs (resigned 20 October 2008)

**Outline Chronology**

2008 (before 22 May)	Meeting FW, BO, WK, GP - At which attempts are made to get GP to take more public role in Operation Rectangle – i.e. instead of LH. GP says his views based on what he had been told by LH.
June	WK delegates oversight of the investigation to her Deputy Minister, AL.
6 Aug	DW has first briefing meeting with AL (then Assistant Home Affairs Minister)
11 Aug	DW takes over formal responsibility for Operation Rectangle
27 Aug	Report from Metropolitan Police is commissioned by DW, with agreement of GP and following Associated Chief Police Officers recommendation.
4 Sep	DW meets BO
24 Sep	DW meets FW

24 Sep	BO asks SG about procedure for disciplining Chief Officer of Police
6 Oct	DW talks to AL. AL asks when will there be a media release.
8 Oct	BO meets (twice) media consultant.  Meeting BO, media consultant, and FW.
8 Oct	AG phones DW to ask what progress with GP. DW tells him of his concerns.
8 Oct	DW gets call from BO regarding development of media strategy.
8 Oct	DW assures BO he could not agree with the stance GP was taking with regard to developing a media strategy and tells him he has shared that view with GP himself.
9 Oct	DW speaks to AL about need to sort out media issues.
10 Oct	BO sends memo to States Employment Board re concerns about views attributed to GP
10 Oct	DW speaks to Brian Sweeting (of Met Police) re his email to Mick Gradwell (Senior Investigating Officer) concerning command and control parts of investigation.
13 Oct	Email from SG to BO stating he has had "the chance to consider whether or not the Home Affairs Minister can delegate any disciplinary matters relating to the Chief Officer of Police and arising out of the Historic Abuse Investigation to the Assistant Minister and, if so, how that delegation might be made."
16 Oct	Meeting DW, AG, BO. Discussion of need to get agreement with GP re media release.
17 Oct	BO passes responsibility for HR aspects of any disciplinary process to

	IC.
20 Oct	WK resigns as Home Affairs Minister; AL takes over, w.e.f. 22 Oct
23 Oct	Withdrawal of request to Met Police to extend terms of inquiry.
28 Oct	Email IC to Mike Pinel (Human Resources), detailing scenario for "Possible disciplinary proceedings against the Chief of Police".
29 Oct	DW speaks to Sweeting and Brittan, officers carrying out the Metropolitan Police inquiry, and gets account of their meeting with GP.
31 Oct	Meeting IC and SG (and others).  Agreement that Disciplinary code should be followed. Procedure should be para. 2.3 re "serious breaches of discipline".
3 Nov	Meeting BO, FW, IC. Issue of possible suspension when individual concerned is on holiday is one of the topics discussed.
3 Nov	IC sends email to SG
6 Nov	Advice SG to IC. In response to "whether or not it would be possible, should the circumstances merit it, for the Minister for Home Affairs to suspend the CPO whilst the CPO is absent from the island." Mentions that anticipated Met report "might raise matters that would in the view of the Minister be of such gravity as would lead him to suspend the CPO"
7 Nov	First day of leave of GP (left overnight on ferry on night of 6/7)
7 Nov	DW phones GP to ask if he wanted to be involved in press conference.
7 Nov	DW meets BO re press conference. Absence of GP from conference discussed.



8 Nov	<p>Suspension letters typed (first draft version) by IC.</p> <p>Letter from AL to GP notifying him that he had been suspended from duty (08.48)</p> <p>Letter from AL to GP notifying him that disciplinary process had been commenced. (08.44)</p> <p>Draft R &amp; P to the States prepared. States "the outcome of the [Metropolitan Police] investigation confirms that the inquiry was very badly mismanaged by the local Force. This raises serious questions about the role of the Chief Police Officer..."</p>
10 Nov	<p>Interim Report from Metropolitan Police received. Para. 1.1 makes the point that review enquiries are still on-going and certain individuals (including LH) are still to be interviewed. "Hence any observations in this report may be subject to amendment."</p>
10 Nov (13.12)	<p>Email IC to Office of SG. "My only concern is that such a challenge [by GP to the procedure being followed] should not prevent the Minister suspending if that's what he decides to do."</p>
11 Nov	<p>DW provides BO with letter containing his report written at the request of BO and referring to Interim Report received from the Metropolitan Police. Letter refers to DW immediately on taking up post conducting strategic review "as a result of which it quickly became apparent that there were a number of failings in respect of the command, control and conduct of the enquiry."</p> <p>DW says in letter "The interim findings of the review by the Met Police fully support my previous comments and the opinions which I have expressed therein."</p>
11 Nov	<p>Email IC to Mick Pinel, enclosing final version of amended</p>

	disciplinary code.
11 Nov (14.00)	First draft of Letter from AL to BO, notifying BO of AL's decision to invoke disciplinary code and asking for preliminary investigation
11 Nov (13.05)	Email Office of Solicitor General to IC, with unreviewed Memo from SG, giving further advice on suspension. Contains advice on content and structure of final version of letters to CPO.
11 Nov (16.31)	Email IC to SG. With amended drafts of letters re suspension. "I have a meeting this evening to review these letters with the Minister and Chief Executive."
11 Nov (21.15)	Email IC to SG. Post meeting with Chief Minister, BO, AL and AG. Revised draft of letters
11 Nov	Pre-press briefing – briefing for Ministers
12 Nov	Meeting (GP, BO, AL) at which GP suspended
12 Nov	Press briefing (p.m.)
12 Dec	Final report from Metropolitan Police submitted.

### General background information

12. Mr Power was appointed Chief Police Officer in 2000. Under Article 9(3) of the Police Force (Jersey) Law 1974, he was accountable initially to the Home Affairs Committee; subsequent to the change to ministerial government in 2006 he became accountable to the Minister for Home Affairs. In the period 2006 to 20 October 2008 this was Senator Wendy Kinnard. When he was appointed he was referred to a disciplinary code which was unique to his office; that code continued to apply to him (with certain modifications to reflect the change to ministerial government which took place in 2006) until his suspension in November 2008.

13. Mr Power came to Jersey after a long and distinguished career in four police forces within the United Kingdom. As of the date of his suspension, he had 42 years of police service to his credit. Immediately prior to his appointment to Jersey he was Deputy to H.M. Chief Inspector of Constabulary for Scotland. He is the holder of the Queen's Police Medal. During his time as Chief Police Officer of the States of Jersey, the force was inspected by HMIC and received favourable reviews. His record as a senior police chief was unblemished, until the events culminating in his suspension in November 2008. In 2007 his appointment had been extended, following an assessment of his performance in post.

14. Prior to the events leading to his suspension, he enjoyed a good professional relationship with his senior colleagues in the police and with politicians and administrators. He served as a member of the Corporate Management Board, a group of senior officers representative of different agencies involved in the provision of public services. The former Chief Minister (Mr Frank Walker) spoke of him, referring to the period before the historic abuse enquiry, as a good Chief Officer of Police and a good professional. Before the transition to ministerial government in 2006 he was answerable to the Home Affairs Committee.

15. In the affidavit prepared by Mr Power for proceedings in connection with an application for judicial review, Mr Power refers to a meeting in July 2007 of the Corporate Management Board at which he was encouraged to participate in a "vote of no confidence" against the then Minister of Health. He declined to do so, and refers to this as being his "first noteworthy experience of the formation of an 'inner circle' of politicised senior civil servants loyal to the Chief Minister." Amongst that group he numbered the Chief Executive, Mr Bill Ogley and the head of Human Resources, Mr Ian Crich. Mr Power also makes an allegation that the Chief Executive spoke, in a meeting held on 24 October 2008, in a way that he interpreted as "a further indication of the 'in crowd' closing ranks against the 'threat' of the abuse enquiry." Mr Crich's recollection of that meeting does not accord with that of Mr Power.

16. Mr Power also refers to a meeting he attended around May 2008, together with Senator Kinnard, the Chief Minister (Mr Frank Walker) and the Chief Executive (Mr Bill Ogley). He narrates how, at that meeting, there was a strong difference of views between the Chief Minister and Senator Kinnard with regard to the conduct of the ongoing Historic Abuse Enquiry. Mr Power's recollection of that meeting was that the then Chief Minister berated the enquiry and complained of the damage it was causing because of the bad publicity it was generating. Senator Kinnard defended the enquiry but was, according to Mr Power, subjected to verbal bullying by the Chief Minister who stated that he was "under pressure to suspend both the Chief and the Deputy Chief." In recounting this event in the course of being interviewed, Mr Power made no secret of his dislike of Mr Walker, nor what he saw as his bullying tendencies.

17. The recollections which both the Chief Minister and the Chief Executive have of these meetings are quite different, both with regard to the content of the meetings and how they were carried out.<sup>1</sup> Neither accepts that there was any improper conduct on their part. I am not in a position, having heard the competing accounts, to decide which version of events is accurate, or even which versions are more accurate than others. I mention these matters simply to draw attention to the existence of differences between Mr Power and two senior colleagues within the political and administrative spheres public sector of the States of Jersey (Chief Minister Walker and Chief Executive Ogley). This is important by way of providing a backdrop to the events in the autumn of 2008 which directly led to Mr Power's suspension from his post in November 2008. Mr Power's position, as set out in an affidavit sworn by him is that there was a tension between those conducting the enquiry and a number of people who were viewed as possible "suspects" (as perpetrators of child abuse) in the early stages of Operation Rectangle and who held senior positions within public services. This militated against the idea of a "joint

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<sup>1</sup> Mr Ogley confirms in an email sent to Mr Frank Walker and others dated 13 November 2008, that his recollection of the meeting here referred to is very different from that of Mr Power.

partnership” way of working and, in Mr Power’s opinion, made it more difficult for the independence of the police operations to be maintained.

18. According to Mr Andrew Lewis, who worked with him as Deputy Minister from 2006 and then Minister of Home Affairs after the resignation of Senator Kinnard in October 2008, Graham Power was respected as a professional policeman who conducted himself in an appropriate way in his job. He described him as someone who kept his distance socially, but in a way that reflected the need for someone holding the office he held to be independent. Mr Power’s own way of putting much the same point, in his affidavit of 5 January 2009, was to say that “[i]n an environment in which Ministers and others are accustomed to a more direct control over public services, I have sometimes found it necessary to make the point that the police are not a department of government, and to assert the independence of the force from direct political control.” He regretted the absence of formal structures to give effect to these points of principle.
19. When the historic abuse investigation (Operation Rectangle) began in October 2007, it was placed under the control of Deputy Chief Officer Lenny Harper as Senior Investigating Officer. It is now a matter of record that Mr Power remained distant from operational control of the investigation. This was, by his decision, left to DCO Harper, while Mr Power dealt with the political side of the investigation.
20. Mr Lewis’ statement made to Wiltshire Police as part of their inquiry, to the effect that he had no reason to believe before reading the letter sent by Mr David Warcup (the Deputy Chief Officer of Police) to Mr Ogle (the Chief Executive) that the police were not managing the investigation well was not wholly accurate. His position in interview was that the interim report from the Metropolitan Police was important objective confirmation of concerns that he had in the light of information he had received from Mr Warcup, who had shared with him his concerns about the management of the investigation under Mr Power. Although Mr Lewis was emphatic that Mr Warcup, in giving him

information in the briefing sessions he had had with him, had not been criticising Mr Power directly, he accepted that by implication the criticisms made of the investigation impacted upon Mr Power, as the Chief Officer. As Mr Lewis said, "the buck stops with the Chief Officer." Mr Lewis also said that he knew from discussions he had with Mr Warcup that Mr Warcup felt that Mr Power did not seem to want to listen to his (Mr Warcup's) concerns about how the enquiry had gone, and this attitude on the part of Mr Power was something that also troubled Mr Warcup. Mr Warcup's position on this, which I accept, was that he kept Mr Power aware of the meetings he was having with persons outside the Police Force and at no time sought to conceal what he was doing from Mr Power.

21. In the course of being interviewed, Mr Power did not deny that he had not taken a prominent role in relation to the Metropolitan Police inquiry into the investigation and the setting right of mistakes made. He said this was partly because he thought it appropriate to take a low-key approach to the whole issue, described as "evolutionary and non-sensationalist," and partly because he thought that it was really Mr Warcup's responsibility, in view of the fact that he would be taking over from him (Mr Power) as CPO in due course.
  
22. In interview Mr Lewis mentioned that immediately prior to the suspension he was coming under a lot of pressure from fellow politicians about how the historic abuse enquiry had been handled, and, in particular, about how the media strategy had been handled. That was also a concern of the Chief Executive, Mr Ogley, and this went back to before the time of Mr Ogley's first meeting with Mr Warcup, on 4 September 2008. Mr Ogley confirmed in interview that he was aware of many people who were unhappy about how the investigation had gone, and in particular had concerns over the reports emanating from the Police about the searches at Haut de la Garenne. There were also widespread concerns about the level of expenditure and lack of financial controls on the investigation. These concerns, which were already being expressed prior to the appointment of Mr Warcup, were strengthened by the briefings which Mr Lewis was getting from Mr Warcup in the autumn of 2008. As already noted, that covered not only Mr Warcup's belief that the



investigation had not been properly managed more or less from the beginning, but also his concerns that Mr Power did not appear to be properly or fully engaging with resolving the problems which the handling of the operation under Mr Harper had occasioned, and which, in the view of Mr Warcup and the Attorney General, posed a threat to pending criminal prosecutions.

23. In criminal proceedings related to the inquiry, it has been observed by the Royal Court (Sir Christopher Pitcher, Commissioner) that "...Mr Harper, by constant and dramatic press conferences and informal briefings, whipped up a frenzied interest in the inquiry...in respect of what had turned out to be completely unfounded suggestions of multiple murder and torture in secret cellars under the building."<sup>2</sup>
24. Mr Warcup took the view that the approach of openness with the media and the public (advocated by DCO Harper in order to encourage people with information about historic abuse to come forward) was not one which he personally thought was correct, and he took up his appointment in August 2008 with the intention of taking a very different approach.
25. The reluctance of Mr Power to engage with the concerns expressed by his deputy was a cause of growing concern and frustration to Mr Warcup, over the first months of Mr Warcup's appointment. He emphasised to me how his sense of frustration grew as a result of numerous meetings with Mr Power at which he raised concerns about the conduct of the enquiry, but to no effect. Mr Warcup did not share the view (which he attributed to Mr Power) that there was serious bias in the criminal justice system and the prosecution of offenders. On his arrival, Mr Warcup quickly became aware of the poor relationship between the police and the prosecuting authorities and had set about attempting to improve relations between the police and prosecuting authorities. He freely acknowledged that in this exercise he encountered no opposition from Mr Power. While Mr Warcup accepted that a view held by some was that the prosecuting system was corrupt, his own position, expressed

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<sup>2</sup> Att. Gen v Aubin, Donnelly and Waterbridge [2009] JR 340 at para. 15.



to me in interview, was that he had seen no evidence to support such a serious criticism.

26. Mr Power's view of events was very different. While he accepted that he took a backseat in relation to reviewing the way in which the historic abuse inquiry had been managed, this he said was because he anticipated the inquiry would soon be the responsibility of Mr Warcup, when he replaced him. Mr Power stated in interview that in the autumn of 2008 he was actively considering the possibility of standing down as Chief Police Officer in early 2009, when a new administration would come into office. This would lead to Mr Warcup taking over as CPO rather earlier than had been planned, but Mr Power was quite happy that this should be the outcome.

27. The overall picture which emerges is that, even before Mr Warcup was appointed and began to voice his own concerns and criticisms about the historic abuse enquiry, there was a fairly widespread feeling of dissatisfaction amongst many politicians and senior administrators that Operation Rectangle had been mismanaged by the police. In particular there was a questioning of how media relations had been handled by Mr Harper. The concerns voiced in due course by Mr Warcup about the handling of the historic abuse inquiry under Mr Harper and Mr Power's subsequent reluctance to take a leading part in the press announcements judged necessary to put right the mistakes that had been made, tended to add force to a critical view of Mr Power that was already prevalent in many quarters.

28. A measure of the concerns about Mr Power which would appear to have predated any adverse comments made by Mr Warcup in his briefings to Ministers is the approach made by the Chief Executive to the Solicitor General by phone on 24 September 2008. A file note made by the SG's office and an email sent in reply suggests that the original inquiry from Mr Ogley was being made as to the power to dismiss the Chief Officer of Police, though Mr Ogley is insistent that his concerns at this point in time did not go beyond the issue of initiating a disciplinary process.

29. The concerns of Mr Warcup were, however, independent of the concerns of others within the administration. Mr Ogley confirmed in interview that the decision to commission a report from the Metropolitan Police was a decision implemented by Mr Warcup, without input from government. The inquiry worked to a cut-off date of 8 September 2008, which is important since it meant that it had no remit to consider the conduct of Mr Power in arguably failing to deal satisfactorily with media arrangements and the proposed press conference that eventually took place on 12 November 2008. The Metropolitan Police Inquiry was thus solely concerned with the handling of Operation Rectangle as it had progressed, not with the attempts made to rectify the consequences of the policies of DCO Harper after his departure in August 2008.

30. The concerns which Mr Ogley had over the management of the historic abuse inquiry were taken a stage further in early October 2008. A public relations specialist who had extensive experience in working with the police was brought to Jersey by Mr Warcup to advise on the development of the public announcement that in his (Mr Warcup's) view had to be made by the police to counteract the risk of abuse of process arguments derailing pending criminal prosecutions. This was a reference to the possible prejudice to accused persons that might arise because of previous announcements made by the police when the historic abuse inquiry was under the operational direction of DCO Lenny Harper. In that context, the consultant had an unsuccessful conversation with Mr Power on 8 October, the gist of which he communicated to Mr Ogley. According to Mr Ogley, the consultant had indicated Mr Power was resistant to explaining publicly the nature and status of the investigation and he had also expressed two thoughts which Mr Ogley found very troubling. First, the view that the public had no right to know the facts, and, secondly, the view that Jersey society was corrupt and the corruption had to be dealt with by whatever means were required.

31. Mr Power confirmed in interview that he saw Jersey society as characterised by a lack of integrity and a dislike for openness in government. He described Jersey culture as being one where things are kept secret unless someone can

force you to tell it, and where there was little support for what he termed “proactive enthusiasm” on the part of the police. That view of the status quo fits with the reports which the consultant took away after his meeting with him, and which were then relayed to Mr Ogley via Mr Warcup.

32. Mr Ogley was so troubled by the reported views of Mr Power that he arranged for the consultant to come to meet him and to present his views to a meeting attended by the then Chief Minister, Mr Walker, as well as himself. The incident served to reinforce serious concerns which Mr Ogley had as to Mr Power’s conduct, following from the reports he (Mr Ogley) was getting from meetings of the “Gold Group”, a strategic and planning committee that had been set up by Mr Warcup to advise on the progress of the enquiry. Reports from that group (on which Mr Ogley had his own representative) tended to indicate that there had been serious failings in the investigation carried out under the direction of DCO Harper. Thus by 10 October Mr Ogley had a sound basis for a concern that, when the shortcomings of the police handling of the enquiry became public, there would be calls for Mr Power to be disciplined. He anticipated (and I accept had good reason to anticipate) that the authority and judgement of the Chief Police Officer would be called into question.

33. Subsequently, he (Mr Ogley) sent a memo to the States Employment Board on 10 October 2008, expressing his concerns about Mr Power. Mr Ogley went to the S.E.B. because he was unsure to what extent the ministerial powers to take disciplinary action resided in Mr Lewis, or Senator Kinnard. He had received advice to the effect that while the Minister (Senator Kinnard) had the power, she would not exercise it because of her personal circumstances and she had delegated her powers to her deputy, Mr Andrew Lewis. In his letter to the Board, Mr Ogley referred to his belief “there may be a significant problem with the leadership and management of the force.” Mr Ogley has confirmed that this, by implication, also was the message contained in the criticisms he was hearing from Mr Warcup around this time which related to the management of the historic abuse investigation. But the criticisms linked to the report made by the consultant of his meeting with Mr Power related not to

how Operation Rectangle had been managed, but rather to Mr Power's views on what should be done to put matters right. Mr Ogley went on to indicate his intention to collate information and present his concerns to the Home Affairs Minister (who at this stage was Senator Kinnard), but he did not go directly to Senator Kinnard because of her conflicted status. (She had removed herself from involvement with any matters relating to the historic abuse inquiry). In not approaching Senator Kinnard himself, Mr Ogley was acting in accordance with advice from the S.E.B., who advised him that an approach to the Minister would be made by the Chief Minister, in accordance with the rules for ministerial conduct.

34. According to Mr Ogley, he had spoken to Mr Power around this time about media handling, but he had not had any success in persuading him that there was a need to be open and transparent in how the press was brought up to date with the progress of the investigation, or in convincing him that more was needed than a short one-paragraph announcement. Mr Ogley said he was aware that the intention was that, at the media announcement that was going to take place, Mr Warcup would have in his possession the report for the Metropolitan Police that he had commissioned. But Mr Warcup was also asked by Mr Ogley to produce a report setting out his evaluation of Mr Power's approach to supervision and quality control. This is referred to by Mr Ogley in his letter to Deputy Lewis of 11 November 2008, which makes mention of Mr Warcup's report having been received by Mr Ogley on that day. Mr Warcup has no recollection of being asked to produce a report and is adamant that his letter of 10 November was written on his own initiative, prompted by a breakdown in his relations with Mr Power on or about 7 November, when he was told by Mr Power that he (Mr Power) had no intention of attending the press conference that was scheduled to take place a few days later.

35. Mr Warcup said in interview that he wanted a report from the Metropolitan Police in order to give substance to the media announcement that was to be made on 12 November 2008. Mr Ogley said that the media briefing was delayed to allow for the production of the Metropolitan Police report, but that

the final date for the media briefing was fixed by reference to the demands of the Crown prosecution lawyers, who were concerned that prosecutions about to go before the courts might fail because of “abuse of process” arguments. As it turned out the full version of the Metropolitan Police report was not made available for the press conference held on the 12 November; only an interim report was provided, and this came in very late in the day, arriving on Mr Warcup’s desk on 10 November.

36. The letter from Mr Ogley to Deputy Lewis dated 11 November refers to the report from Mr Warcup as something which “draws heavily from and reflects the Metropolitan Police report into the investigation” and states that “He [i.e. Mr Warcup] is taking advice from the Attorney General as to whether it is appropriate to release the full Metropolitan Police report to either me or you.” That might be read as suggesting that the full report was in the possession of Mr Warcup, but of course that was not the case. All that Mr Warcup had been sent on 10 November was an interim report, qualified as previously noted.
37. In the letter Mr Ogley observes “The previous Deputy Chief Officer was made the Senior Investigating Officer and it should therefore have been the responsibility of the Chief of Police to ensure that appropriate arrangements were in place. As Gold Commander he should not only have ensured that effective command structures were in place, but he should also have used them to ensure that the investigations was thorough, professional and met the required best practice standards. There appears to be no evidence that he has fulfilled that role.”
38. Mr Ogley was convinced that, in seeking to obtain the Metropolitan Police report in advance of the press briefing that was to take place, Mr Warcup’s only motivation was to ensure he was in the strongest possible position to prevent the prospective derailment of the coming criminal prosecutions by reference to “abuse of process” arguments. That was Mr Warcup’s position too. Mr Warcup denied that he wanted the Metropolitan Police report for the purpose of undermining Mr Power’s position, and I have no reason to

disbelieve him. As I make clear elsewhere, I accept that Mr Warcup was acting in good faith, even though I do not agree with all the decisions he took.

39. The resignation of Senator Kinnard from her position of Minister for Home Affairs took place on 20 October 2008, and her replacement was Deputy Andrew Lewis. That was a significant development, as Senator Kinnard had been resolute in her defence not only of the police generally, but in particular in her endorsement of the actions of DCO Harper in conducting the investigation. Mr Lewis, who took over, was a man of different views. He was not inclined, in the absence of hard evidence to the contrary, to accept that there was a conspiracy against justice in high places within Jersey. Mr Lewis had moreover been in receipt of constant briefing from Mr Warcup during the latter's time on the island. As previously mentioned, these briefings had contained not only criticisms of how the inquiry had been managed when DCO Harper had been in operational charge of it, but also criticisms of Mr Power's failure to engage with the attempts that were being made (by Mr Warcup) to put right mistakes that had been made.
40. The briefings provided by Mr Warcup continued when Mr Lewis took over as Minister for Home Affairs from Senator Kinnard. Mr Warcup confirmed in interview that he did not accept, as Mr Power had done, the view that Jersey society was marked by an "old boys' network" and "deep-seated corruption." He (Mr Warcup) had seen no evidence to support such a view. And Mr Lewis, for his part, was also disinclined to accept such criticism, in contrast (as I understand from what I was told) to his predecessor in office. Mr Warcup's views, reflected in the briefings he gave, took account of the negative views being expressed by the SIO appointed by him, Mr Mike Gradwell (the officer who had been appointed by Mr Warcup as the new Senior Investigating Officer), as to how the Historic Abuse enquiry had been run. While DS Gradwell was principally critical of the role of DCO Harper in running the enquiry, he also made reference to "lack of involvement or discussion" on the part of Mr Power, in the context of written observations given to Mr Warcup on 6 October 2008.



41. According to Mr Ogley, it was only when he received Mr Warcup's letter of 10 November 2008, with his report on feedback from the Metropolitan Police investigation and listened to the briefing for Ministers provided by Mr Warcup on the evening of 11 November 2008, that he decided he should advise the Home Affairs Minister to pursue the disciplinary route. Prior to receipt of the report, disciplinary action existed only as a possibility, albeit one for which preparations had to be (and were) made. For him, the existence of the interim report was important. Without it, in his view, the decision to suspend Mr Power would have been far harder to take. His position expressed to me, however, was that apart from the interim report he was in receipt of reports emanating from the meetings of the Gold Group (on which he had an official from his department) which were indicative of significant failings in the management of the enquiry, and of course these by implication placed blame on Mr Power.

42. The meeting to give advice to the Minister was, according to Mr Ogley, requested by the Minister himself, at the end of the press briefing delivered to Ministers by Mr Warcup and Mr Mike Gradwell. It is clear, however, that the preparations for possible disciplinary action against Mr Power had been in place for some time, though Mr Crich was at pains to emphasise that, as far as he was concerned, it was not the inevitable outcome. As mentioned earlier, Mr Ogley had asked for advice from the Solicitor General about the powers of the States of Jersey to discipline the Chief Officer of Police as early as 24 September 2008, and he had been in receipt of reports from the Gold Group meetings since that body started to meet in early October 2008. . That was some time before Mr Power had been seen by the officers carrying out the Metropolitan Police inquiry – an event which, from remarks made by Mr Warcup in interview, appears to have taken place a month later, on 29<sup>th</sup> October 2008.

43. An important stage in the run-up to the decision to pursue disciplinary action was the decision taken by Mr Warcup as to the format of the pre-press conference briefing for Ministers scheduled for 11 November, the day before the press conference itself was to take place. It was, according to Mr Ogley,



Mr Warcup's decision to make that a detailed briefing. As such, it was bound to have important implications for the position of Mr Power, and that was appreciated by Mr Warcup and, in my view, also by other senior figures. The date of that decision as to the format of the meeting is not known. Mr Power's position was that he was unaware that there was to be any Ministerial briefing in advance of the press conference/media announcement that he knew was to take place on 12 November.

44. There was a meeting on 3 November, attended by Mr Ogley, Mr Walker and Mr Crich. At that meeting there was discussion of the possibility of suspension [of Mr Power] when he was on holiday. Subsequently that same day Mr Crich wrote to the Solicitor General asking advice as to the legality of so proceeding, i.e. carrying out suspension when the individual was not present in person. A reply was given on 6 November which noted that no decision to suspend the CPO had been taken and that the Minister would only consider such a course of action once he "has had a chance to consider the [Metropolitan Police] Report." The Solicitor General went on to give his advice on the assumption that "the contents of the Report will cause such concern that the Minister would be minded to suspend the CPO."

45. Further advice from the Solicitor General to Mr Crich on 11 November emphasised the need for there to be objective evidence to support any act of suspension in advance of receipt of the full report from the Metropolitan Police. A file note made in the Solicitor General's office records Mr Crich as saying, in the course of a telephone call that day, that Mr Ogley had said there would be a précis of the headlines of the [Metropolitan Police] report available on Tuesday and that Mr Warcup had also prepared his own review which would inform the decision making process. The note taker records a conversation in the following terms: "I said [to IC] that there must not be any provisos or caveats to the Metropolitan Police's conclusions otherwise it would be potentially inappropriate to act [ask]" and that "I had advised that there must be strong and cogent reasons to justify action at this stage against the Chief Police Officer."

46. If that note accurately reflects what Mr Crich said and what he was told by Mr Ogley, it would be consistent with a situation where Mr Ogley expected that on the day before the press conference he would have in his possession the report which he had asked Mr Warcup to prepare, and that this report would contain, in addition to Mr Warcup's own views on how the inquiry had been managed, information about the main findings which would in due course be in the Metropolitan Police report, as and when this was completed and sent to Mr Warcup.

### Use of Disciplinary Code

47. When Mr Power was appointed in 2000, he was provided with a Disciplinary Code that related to him in his position of Chief Police Officer. I have no doubt that he was entitled to see this Code as part of the terms of his engagement – whether or not his employment was that of someone employed under a contract of service, or some other legal model more appropriate to his special status. This Code was never amended in substance, though it was changed by operation of law<sup>3</sup> immediately prior to his suspension in order to reflect the change to ministerial government which had taken place in 2006.

48. The terms of that Disciplinary Code made reference to the disciplinary procedures which were to be followed in the event of issues concerning the “performance, conduct, capability etc.” of the Chief Officer, and set out a procedure to be followed. Provision was made for suspension in defined circumstances, pending the outcome of the procedures set out in the Code.

49. Before considering the different stages envisaged by section 2 of the Code, dealing with “Discipline Procedure” it is appropriate to note the existence of section 4, which is headed “Breakdown of Normal Relationships”. That

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<sup>3</sup> i.e. States of Jersey (Transfer of Functions from Committees to Ministers)(Jersey) Regulations 2005.

section makes provision for the Minister for Home Affairs (formerly the Home Affairs Committee) taking action in circumstances “In the event of [the Minister] feeling that the relationship with [the] Chief Officer is breaking down.” It is provided that if this happens the Minister should bring it (meaning, I take it, the perceived breaking down of the relationship) to the “early notice” of the Chief Officer and the Chief Executive, Policy and Resources Committee, so that steps to improve the relationship can occur, or alternative action be taken.”

50. Only if the procedure set out above “fails to resolve the problem to the satisfaction of the Chief Officer” will the Disciplinary Procedure, set out in section 2.3 and relevant to where there is a “continued or serious breach of discipline/poor performance/capability”, be invoked.
51. What is clearly envisaged here is that before any formal steps are taken in a situation where there is a perception on the part of the Home Affairs Minister that the relationship between Chief Officer and Home Affairs Minister is breaking down, there should be an approach made by the Minister to the Chief Officer in order to allow steps to be taken to improve the relationship. That structure and content survives in the modifications made to the Disciplinary Code by Mr Crich (finalised on 10 November 2008) to take account of the move to ministerial government. It is an important part of the disciplinary document, since it clearly envisages a mechanism whereby action may be taken to retrieve a deteriorating situation, before it is necessary to have recourse to the more formal procedures set out in section 2.3.
52. It is also the case that section 1 of the Disciplinary Code makes provision for the Home Affairs Minister attempting to raise and resolve issues arising “which concern the performance, conduct, capability etc. of the Chief Officer on a personal basis.” That provision is qualified by the rider “In the normal course of events” and the letter that was written by Mr Lewis to Mr Power dated 12 November 2008 headed “Disciplinary Code” expressly states that he (AL) had decided that the procedure contained in section 1.1 was not applicable, since “the issues in the [Metropolitan Police interim] report relate

to alleged serious matters of performance and capability, which cannot be treated as something occurring 'in the normal course of events' as set out in that paragraph."

53. Thus the procedure envisaged by section 1 was considered and specifically rejected. But I am not aware that any such approaches as are envisaged by section 4 of the Disciplinary Code were ever made by the Minister in advance of the triggering of the disciplinary procedure on 12 November 2008. I was told, however, that the possible use of s.4 was the subject of full discussion with legal advisers, with the view eventually being taken that its use in the particular circumstance of this matter would be inappropriate. I find that somewhat surprising since it had been evident, several weeks before that date, that there were thought to be significant problems with the way in which the Chief Officer was responding to legitimate criticisms of his handling of the historic child abuse enquiry. The indications from my investigations are that Mr Warcup was briefing Mr Lewis both before and after Mr Lewis took over ministerial responsibility from Senator Kinnard on 22 October of the difficulties he was experiencing in working with Mr Power, and that Mr Lewis shared the sense of frustration that was being expressed by Mr Warcup about the Chief Officer's attitude. Even if Senator Kinnard, as Minister, did not have any understanding of a deteriorating relationship with her Chief Officer, that situation changed once Mr Lewis took over on 22 October. As has already been noted, he had his own concerns over aspects of the investigation, especially the media handling strategy, which predated the arrival of Mr Warcup.

54. These concerns were augmented by the criticisms expressed to him in the briefings provided from Mr Warcup. As early as 28 October there was in existence a document created by Mr Crich setting out a possible scenario for "Possible disciplinary proceedings against the Chief of Police". By this time Mr Lewis had taken over as Minister from Senator Kinnard. Yet no steps were taken Mr Lewis to try to resolve the differences that were seen as emerging, not only by him but by his senior advisers. Mr Lewis' position was that he did question the need to proceed by way of possible suspension with

both Mr Crich and Mr Ogley at around this time, but was told that preliminary discussions about conduct with Mr Power would not, in all the circumstances, be appropriate. Certainly, by this stage senior officials were well aware that things were going wrong. Even before Mr Lewis took up his responsibility as minister on 22 October, Mr Ogley was aware of the difficulties which Mr Warcup was having with the Chief Officer, in particular over how media relations should be handled and Mr Ogley had his own concerns about Mr Power's opinions, as expressed in his memo to the States Employment Board on 10 October 2008.

55. My view is that an opportunity to attempt to resolve the issues relating to competence and capability that eventually lead to Mr Power's suspension on 12 November 2008 was missed when Deputy Lewis took over from Senator Kinnard. Prior to that changeover I accept that the Minister (Senator Kinnard) did not share the growing misgivings of officials about Mr Power's competency, and that made it unlikely she would be prepared to get involved in anything that might be seen as a challenge to his handling of affairs. Whilst the Disciplinary Code has been widely criticised by officials as a document that was inadequate and badly drafted, it did at least contain within its terms two mechanisms designed to head off a breakdown of relations between the Chief Officer and the Home Affairs Minister, such as eventually occurred. The confrontation with Mr Power was seen coming by officials weeks in advance of 12 November, and I do not know why the opportunity to head it off (or at least attempt to do so) was not taken. I am inclined to think that the answer is that there was, at the highest level of the administration, a belief that the suspension and the taking of disciplinary action against the Chief Officer was not only what was likely to occur (by reason of the decision of the Minister, after the changeover from Senator Kinnard to Mr Lewis), but also what should happen. Efforts were accordingly concentrated on preparing for that scenario, to the exclusion of other possible mechanisms for resolving perceived failures in performance.

56. I do not say that Mr Lewis shared that view. He has confirmed to me that he was not at any stage planning with others to bring down the Chief Officer and I have no reason to doubt the accuracy of that statement.

57. In the case of Mr Ogley, there was a conscious decision not to raise disciplinary issues with Mr Power until there was an evidenced basis for so doing. His particular concern was that, if the matter had been raised at an earlier stage, Mr Power might have responded in a way that put at risk the media announcement that was seen as essential in allowing the criminal prosecutions to go forward in the courts. That was an outcome which Mr Ogley saw as wholly unacceptable. Accordingly, he saw as justified the decision not tackle Mr Power informally about the issues which were to lead to his suspension.

58. The Disciplinary Code (as amended by the updating carried out by Mr Crich) makes provision for how disciplinary issues not suited for being dealt with under the informal procedure set out in Section 1 are to be progressed. As I read the Code, the sequence of events is that (a) there should be a preliminary investigation carried out by the Chief Executive to the Council of Ministers "to establish the relevant facts." Such an investigation will not, however, invariably take place. Provision is also made (section 2.1.1) for the matter to be dealt with at a meeting of the Minister and the Chief Officer, if that is seen as appropriate by the Chief Executive. The outcome of such a meeting may be a decision by the Minister that the complaint be not pursued.

59. If the complaint is pursued, the Chief Executive will go on to carry out a preliminary investigation. The results of that investigation will be discussed by the Minister, the Chief Officer and the Chief Executive.

60. At that stage, a decision will be taken (implicitly by the Minister, after the discussion mentioned in the previous paragraph has taken place) as to whether the matter is to be heard under the section (s.2.2.1) concerned with "Minor breaches of discipline or poor performance/capability" or the section (s.2.3) that is concerned with "Continued or serious breach of discipline/poor



performance/capability.” Both alternatives have the matter being dealt with by the Minister, but, in relation to s.2.3 matters, the procedure is appropriately formal. It is of course the case that the disciplinary charges against Mr Power never reached the hearing stage, and have now been wholly abandoned in the light of Mr Power’s resignation from the Force.

61. Under s.2.3.3 it is stated that “In more serious circumstances the Chief Officer may be suspended from duty on full pay, pending the outcome of this procedure.” The reference to “this procedure” I take as being to the procedure being followed *after* the preliminary inquiry by the Chief Executive, and *after* the decision has been taken (by the Minister) that this is a matter properly falling under s.2.3, as it relates to a “continued or serious breach of discipline/poor performance/capability.” In other words, the Code envisages that suspension should take place only in the context of “more serious circumstances” which fall within the wider category of “continued or serious breach of discipline/poor performance/capability.” That in my view is the reading which fits best with the structure of the Code and the location of the provision regarding suspension.

62. I have been told that the interpretation I have advanced of the Code was considered but rejected after advice had been taken from the Law Officers. I accept that there are different interpretations possible, and also that it would have been difficult for officials to go against the advice they were receiving from their most senior lawyers.

63. I would also accept that, although this is not spelled out in the Disciplinary Code, there must be provision for the immediate suspension of the Chief Officer in extraordinary circumstances – e.g. where he was apparently discovered committing or about to commit a serious criminal offence. I do not, however, see that the matters of present concern, given the state of knowledge (as opposed to belief or suspicion) of the Minister and his advisers that existed around 12 November 2008, fall within that narrowly-defined category. Prior to the media announcement the circumstances were admittedly special. No risk could be taken of the press conference not going ahead, since



that would prejudice criminal trials that were about to take place. But once that event had taken place, the need to take action against the Chief Police Officer could have been handled in ways that did not require immediate suspension. Of course he could not be expected to carry on as normal after what had taken place and what Mr Warcup had said and done, but there might have been ways of avoiding suspension, with all its connotations. As I have said earlier, Mr Power might, for example, have agreed to take immediate leave of absence, pending the holding of a preliminary inquiry, but that was never an option that was discussed with him and I do not know if anything like that was ever considered. (Whether it would in fact have been acceptable to Mr Power is, of course, another matter).

64. In the "Suspension" letter that was given to Mr Power on 12 November 2008 it is stated that "[the Minister's] view is that the issues raised in the report [i.e. the interim report of the Metropolitan Police] fall into the category of 'serious circumstances' as set out in Paragraph 2.3.3. It therefore confines the basis for the suspension to the failures relating to the management of Operation Rectangle when DCO Harper was in operational charge; it does not seek to justify the suspension by reference to any failure on the part of Mr Power properly to engage with the planning of the media announcement that was to take place on the same day, i.e. 12 November. It continues to inform Mr Power that "I [the Minister] have decided, in accordance with the terms of your Disciplinary Code and the provisions of the Police Force (Jersey) Law 1974, to suspend you from duty, on full pay, pending the outcome of the investigation and any subsequent hearings." Thus the Minister went immediately to suspension, without waiting for the results of a preliminary investigation into the facts in order to allow him to decide whether the matter was of the more serious kind or not.

65. In my view, that action did not give proper effect to the provisions of the Disciplinary Code, although I accept a contrary view was taken by the Law Officers, who were consulted in this matter and were throughout giving advice to the HR Director and Mr Ogley. The Code recognises the serious nature of any suspension by making provision for it to take place only after a

preliminary investigation into the facts. It also recognises the seriousness of suspension by making provision for "it" (i.e. the fact of suspension) to be "referred to the States of Jersey", although it is not clear what exactly such referral will involve. In my view, the Minister should have, before proceeding to suspension, asked the Chief Executive to carry out the preliminary investigation envisaged under s.2.1.2. That need not have taken long to complete, given the work that had already been done by way of preparation for the meeting of 12 November, but it would have given the Chief Officer the chance at least to put forward his version of events in response to the criticisms emanating from the Interim Report. Save in the most serious of cases (of which this was not one) the step of suspension should only have been undertaken after there had been a preliminary investigation carried out by the Chief Executive, and the Minister had been apprised of the result by way of report from the Chief Executive, and there had been a meeting between the Minister, Chief Executive and Chief Officer, as described in para. 48 above.

66. I would also, in this context, draw attention to the question whether suspension was in all the circumstances merited at the time. While suspension is of itself a "neutral" act, in terms of not imputing guilt of any putative offence, it was appreciated by all concerned that, in the context of Mr Power and the office he held, it was a step of considerable significance. One senior official involved in the process (Mr Crich) described it to me as a "huge event". It was seen as impacting upon the chances of the Chief Officer ever returning to his post, a concern which subsequent facts have shown was well-founded. I do not seek to suggest, in making this observation, that those involved in making the decision to suspend were not aware of the significance of what they were doing; Mr Lewis clearly was, as he had raised with a responsible third party (HMIC) the question whether suspension would be justified, and had been told that it would be, in all the circumstances.

67. A measure of the concern about the use of suspension is to be found in the advice (previously referred to) which was given by the Solicitor General's office by email to Mr Crich. On 6 November the advice recommended that if the CPO were not to be absent from the island at the appropriate time, it would

be more appropriate for him to be shown the Met Report which, it was assumed, would be a cause of serious concern for the Minister. This would afford the chance for the CPO to offer some explanation and for the Minister, before taking any decision to suspend, to have fuller information. Further advice was sought of the Solicitor General and given on 11 November 2008. It is stated in that advice "I reiterate my advice that if this action [suspension] is being considered in advance of the full report [of the Metropolitan Police], there must be sufficient objective evidence available to justify what is proposed. I would urge that particular caution be exercised to check that there are no provisos or caveats to any of the conclusions reached upon which reliance is to be placed and that the reasons for actions are robust." I would agree entirely with this view and also with the following passage, which states "...it is usually argued that suspension is a neutral act, but this is arguable, especially given the position of the CPO."

68. There can be no doubt, in my view, that in giving this advice the Solicitor General was well aware of the potential which the act of suspension would have for the future employment of the CPO, and was appropriately cautious in outlining the circumstances in which such suspension might properly take place.

69. It is a matter of record that the contents of the Interim Report from the Metropolitan Police were pivotal to the taking of the decision to suspend by Mr Lewis. The letter informing Mr Power that he was being suspended with immediate effect, handed to him in the meeting he had with Mr Lewis and Mr Ogleby on 12 November 2008, makes reference to the Interim Report and contains excerpts from its contents. Mr Ogleby, in interview, said that it would have been much harder for him to recommend (as he did) suspension in the absence of the Interim Report. Yet that report was in heavily qualified terms. The report, in para. 1.1, draws the attention of the reader to the interim nature of the report, to the fact that it is concerned "to highlight initial findings and areas of concern" and that key individuals have yet to be interviewed. It expressly states that "any observations in this report may be subject to amendment." It also makes it clear that "the cut-off date" for the review was 8

September 2008, thus excluding any conduct on the part of Mr Power after that date, and specifically anything concerned with the making of preparations for the press conference that took place on 12 November.

70. No reference to the above qualifications and reservations which are contained in the Interim Report are to be found in the letter sent by Mr Warcup to Mr Ogley on 11 November. Further, it is apparent to me that, quite apart from the interim report itself, the decision to suspend was informed by opinions expressed about Mr Power and his competencies by a number of responsible officials (including the new SIO, DS Mike Gradwell). Yet no reference is made to this in the letter.
71. The letter of suspension suggests, by its first paragraph, that the letter from the Deputy Chief Officer of Police (Mr Warcup) was written because of the interim report. In point of fact, however, it would appear that Mr Warcup produced his letter dated 10 November 2008 only after he had been asked to produce a report by Mr Ogley. Explicit confirmation that Mr Warcup had been asked by Mr Ogley to produce a report recording his evaluation on the approach to supervision is found in a letter from Mr Ogley to Mr Lewis on 11 November 2008. Both Mr Ogley and Mr Warcup are, however, clear in their recollections that the main letter of 10 November was written by Mr Warcup on his own initiative, and not in response to any request from Mr Ogley. The letter sent by Mr Warcup to Mr Ogley does not itself record that it had been written at the behest of Mr Ogley; the opening sentence simply states "I am writing further to our previous meetings and my previous briefings to the Home Affairs Minister Mr Andrew Lewis." The precise circumstances which led to the writing of the letter remain somewhat unclear.
72. I cannot see that a report as qualified in its contents as was the Interim Report meets the stringent tests which were identified as appropriate (rightly, in my own opinion) in the advice from the Solicitor General's office on 11 November 2008 before any act of suspension should take place. In my view the concerns quite properly flagged up by the Solicitor General with regard to the act of suspension in his advice of 6 and 11 November were not given

sufficient weight in the taking of the decision to suspend, either by the Minister or by those advising him (a group which did not include, in this respect, Mr Warcup).

73. Mr Power, in his version of events, goes further. His interpretation of events sees the decision to suspend being in effect taken by Mr Walker. He believes Mr Walker was not well-disposed towards him, because of the distress and embarrassment caused by the historic abuse inquiry for which he held Mr Power responsible. Mr Power believes that Mr Walker then coerced Mr Lewis into taking the decision to suspend him. But I have to say that there is no independent evidence of such a conspiracy, and the existence of it, or anything like it, has been expressly denied by both Mr Walker and Mr Ogley. Mr Lewis for his part was insistent that the decision to suspend was his, albeit one which was supported by advice given by his advisors. He does not accept that he was bullied or coerced into making that decision by Mr Walker and/or Mr Ogley. It is clear to me, in the light of the investigations I have carried out, that the criticisms of Mr Power, made by implication in the Interim Report and, separately, in the report of Mr Warcup, found a receptive audience when they came to the attention of Mr Walker and Mr Ogley. That is, however, a very different matter from accepting that they (with or without the knowing participation of Mr Warcup) were plotting to find a way to have Mr Power removed from office, and were using suspension as the first stage in achieving their objective. I have seen no evidence that gives credence to such a radical suggestion and I reject it, together with any suggestion that Mr Lewis was party to such a plan.

**The act of suspension and the documentation relating to it**

74. It has become clear that the documentation which was used in the course of the suspension of Mr Power on 12 November 2008 had its origins in a drafting exercise that began at least four days previously. The letters of suspension and the letter advising Mr Power that the disciplinary procedure (as amended) would be invoked were first drafted on the morning of 8 November. They



were drafted by Mr Crich, acting on instructions from Mr Ogley. That timescale is consistent with a view that, in the meeting that took place on 3 November between Mr Walker, Mr Ogley and Mr Crich, a decision in principle to prepare all documentation needed for the suspension on or about the time of the pending press conference was taken.

75. At that meeting of 3 November involving Mr Walker, Mr Ogley and Mr Crich there was discussion of the question of suspension when the individual concerned was on holiday. As it is put in an email sent by Mr Crich to the Solicitor General later on that same day, "It may be that, at the time one might want to suspend, the individual concerned may be on holiday." Although Mr Power is not directly mentioned in that email, there is no doubt that it was his potential suspension that was being considered.

76. In an email dated 17 October, sent by Mr Ogley to the Solicitor General, it is said by Mr Ogley that he has "asked Ian Crich to map out in detail the stages and processes to be followed should we need to" and the context makes it clear that what is being envisaged here is possible suspension in the context of disciplinary procedures.

77. This ties in with the approach made by Mr Ogley to the Solicitor General's office on 24 September, when he had requested information (according to the email reply to the inquiry sent by the Solicitor General) "for information concerning the power of the States to dismiss the Chief Officer of the Police." Mr Ogley's firm recollection at interview was that what he had meant was information about the disciplinary process, but the wording used in the Solicitor General's reply is that the request was looking beyond inquiry to outcomes. As already mentioned, at this point in time there was no objective basis for thinking that disciplinary action might be justified, other than the comments that were being made by Mr Warcup in his briefings to Mr Lewis, which were, according to Mr Warcup and Mr Lewis, directed not to the conduct of Mr Power personally but rather to how the historic abuse enquiry itself had not been properly conducted. As earlier noted, there was by this time a widely held view that the inquiry had been mismanaged, and that was

independent of any representations made by Mr Warcup. But that view, though strongly held in some if not many quarters, was no more than popular opinion, and had no basis in any objective scrutiny.

78. On 13 October 2008 the Solicitor General, in a reply to an inquiry coming from Mr Ogley, makes reference to a “decision to suspend” in the context of commenting on the extent of the delegation of powers which has taken place from the then Minister (Senator Kinnard) to her then Assistant Minister (Deputy Lewis).
79. Having regard to the documentary evidence I have seen, and also to what was said to me in the interviews conducted for the purposes of this inquiry, my conclusion is that by the end of September (at the latest) a view at the highest level of the administration had formed that the conduct of Mr Power in his management of the historic abuse inquiry was such as to render him potentially liable to disciplinary action, with suspension from office being seen as a possible part of any such proceedings. That view, however, was not shared by the then Minister (Senator Kinnard) who was supportive of the police operation and how it had been carried out. And she, as Minister, was the only one who could order suspension under the Disciplinary Code. Suspension pending any disciplinary inquiry was nevertheless seen by Mr Ogley as a real possibility for which preparation had to be made, and for which preparation was duly made. It is difficult to say with any degree of precision when such a view was first formed. Preparatory work to provide support for such an eventuality was certainly underway by mid-October, by which time it had been decided that a press briefing to rectify misinformation that had been put out about the enquiry and its findings would have to take place with a view to allowing criminal proceedings to carry on. There were by then doubts about the competency of Mr Power, and these were being reinforced because of information that was coming out in the meetings of the Gold Group which was looking at what had and had not been done. Mr Ogley confirmed that as from 10 October he was making preparation for the possible suspension of the Chief Officer, but it seems likely that the possibility of suspension had at least been actively considered by him even before then, by



24 September at the latest, in the context of looking at the options for possible disciplinary action against the Chief Officer.

80. It has been represented to me that there was nothing wrong in the administration preparing for possible outcomes, and I accept that is so as a matter of principle. But nevertheless there was little objective basis for planning such precautionary measures as at 10 October. And as at 26 September there was even less to warrant disciplinary proceedings being contemplated. There was, apart from a general public dissatisfaction about how things (particularly media policy) had been handled, only Mr Warcup's criticisms of the management of the inquiry contained in his briefings to Mr Lewis. While it is true that DS Gladwell was expressing to Mr Warcup criticisms of how the enquiry had been handled, the main thrust of his comments was directed at DCO Harper, and only by implication at Mr Power. The Gold Group meetings were producing material that could certainly be read as critical of the running of the enquiry but again there was little directly that pointed to what had been done, or not done personally by Mr Power, as opposed to Mr Harper. Mr Warcup himself was expressing his views that things had not been properly done in briefings to Mr Lewis, but if these criticisms were, as Mr Warcup and others maintained, carefully expressed so as not to amount to personal criticisms of Mr Power, then equally they were not a proper basis for taking action which was directly related to alleged lack of competence on the part of Mr Power himself, especially when they any disciplinary action or act of suspension was bound to have serious consequences. Mr Warcup was adamant that the criticisms he had expressed to Mr Lewis never went beyond what he saw as professionally proper, and that he never directly attacked the Chief Officer himself. That version of events was supported by what Mr Lewis himself said. Only by implication were Mr Warcup's comments critical of Mr Power. Mr Warcup's primary concern, he insisted, was to rectify the operational mistakes that had, in his view, been made and which posed a danger for the prosecutions that were about to begin in the court. His position was that he was not seeking to undermine his superior officer in the briefings he was giving, and I accept that was his intention.

81. What remains unclear to me is exactly when Mr Warcup was in receipt of feedback from the Metropolitan Police inquiry which tended to corroborate the views he personally held about failings in how the historic abuse investigation had been managed. If the inquiry officers only saw Mr Power on 29 October, as Mr Warcup said was the case, then the feedback on that meeting must have come to Mr Warcup after that date. The views attributed to the Metropolitan Police tended to give support to the popular view that there had been, at the least, a lack of competence and professionalism on the part of Mr Power. But it was in my view wrong to place so much importance on what was being said as the inquiry proceeded. As I have stated above, on 10 November (when the Interim Report was received) its conclusions and findings were heavily qualified. It is reasonable to assume that the earlier any feedback on the Met Report's findings had been transmitted to Mr Warcup, the less reliable it was in providing an objective basis for taking the important step of suspending Mr Power.

82. Mr Warcup was, by his own version of events, well aware that others might draw inferences adverse to the Chief Officer from the information and views he was passing on to Mr Lewis in the autumn of 2008. The same point was appreciated by Mr Ogley who accepted that by implication the criticisms made of how the historic abuse inquiry had been managed were directed against Mr Power. Mr Warcup in his description of events was insistent in interview that he had never sought to criticise Mr Power – only the (lack of) management of the investigation. That was for him a crucial distinction, allowing him to distinguish between criticisms of the process (which he saw as acceptable and proper) and criticisms of the individual, in the person of Mr Power, which he saw as unacceptable, and which he denied making. Mr Warcup's account is supported by what Mr Lewis told me. He said that in the briefings he had received, Mr Warcup had been concerned (until just before 12 November) with criticising only how the investigation had been handled and not Mr Power personally. My impression, based on what I have been told by those involved in the process at the time is that while Mr Warcup was certainly aware that a consequence of the briefings he was giving (both to Mr Lewis and

Mr Ogley) was likely to lead to an undermining of confidence in Mr Power, he did not initially make his criticisms with that end in mind. I accept that was his point of departure. That had changed, however, by the time he came to write the letter of 10 November. By then he was prepared to make a direct criticism of the Chief Officer. He has confirmed to me that, for him, the turning point (and the factor which caused him to commit his views to paper in his letter of 10 November) was the telephone conversation he had with Mr Power around 7 November, when Mr Power confirmed he would not be attending the press conference that was scheduled to take place. Mr Warcup's letter of 10 November contains the following: "the purpose of this letter was to set out details of what I consider to be failings of command within the States of Jersey Police with regard to the ongoing Historic Child Abuse enquiry. I believe that these failings have the potential to undermine the integrity and reputation of the force and to seriously affect public confidence in policing in Jersey." By the time he came to write these words, Mr Warcup was unambiguously expressing criticism of Mr Power. He acknowledged that he knew that by doing so his position as Deputy Chief Officer of Police would have been untenable, were Mr Power to have remained in post and to have had knowledge of what his deputy had said about him.

83. Mr Warcup was keenly aware that he stood in a difficult position by speaking out, directly or indirectly, against Mr Power. If he openly criticised Mr Power, his superior officer, he risked being thought disloyal. On the other hand, if he said nothing, he was behaving in a way which conflicted with his understanding of his professional obligations. He emphasised in interview his appreciation of the need in the run up to the press conference to set the record straight and, in particular, to prevent what he saw as mistakes that had been made in the past by the police from jeopardising the criminal prosecutions that he knew were pending. These of course were matters which did not directly relate to how Mr Power had performed as Chief Officer, save that, on one view, had he been more competent the mistakes might not have been allowed to happen. I have no reason to doubt that in explaining the basis of his concerns that the criminal proceedings should not be blocked by mistakes that had been made by the police Mr Warcup was speaking genuinely. Further

confirmation of the care taken by Mr Warcup not to overstep the boundaries of what was proper and professional comes from what Mr Walker said. Mr Warcup met Mr Walker on 24 September (their only meeting, according to Mr Warcup) and Mr Walker has confirmed that he (David Warcup) was saying only that the investigation had not been properly managed.

84. When Mr Power left on leave on 6 November he was, he said, shown a draft script by Mr Warcup for the press conference which turned out to be very different from that which was eventually used. He found it odd and suspicious that the script changed between he saw it and the time when it was actually used on 12 November. Mr Power also maintained that, when he went on leave, he knew only about the press conference scheduled for 12 November. He had no knowledge of the briefing for Ministers that took place on 11 November. Neither did he know of the meeting involving Mr Lewis, Mr Walker, Mr Ogley, the Attorney General and Mr Crich which took place after that briefing session. Mr Warcup's version of events was that he told Mr Power that the version of the script for the press briefing which he (Mr Power) had seen was inaccurate, but he (Mr Power) never asked to see the corrected version. Again, I find it very difficult to know where the truth lies as between the conflicting versions of events. But I can say that the Attorney General has confirmed that he can corroborate precisely what Mr Warcup said to me, as he was given by him the same version of events at the time.

85. The criticisms Mr Warcup made of the handling of the investigation did not stand alone, as has already been mentioned. Mr Lewis spoke of the fairly widespread concerns of politicians and others who were dismayed at how the investigation appeared to have been allowed to proceed, but who of course did so without any detailed knowledge of what had and had not been done by the Chief Police Officer. Mr Ogley confirmed that by the summer of 2008 there was a general view held by many politicians and others that the investigation when under DCO Harper had, to say the least, not gone well.

86. The conduct of Mr Power himself at this time certainly contributed to these growing concerns as to his competence. In particular it seems clear that his

statements made to the public relations expert, who had an unsuccessful meeting with him on 8 October, when transmitted to Mr Ogley caused the latter serious concerns. Two days after meeting with the consultant, Mr Ogley sent to the States Employment Board a memo recording his concerns about the views which, according to the consultant, Mr Power had expressed to him. The attitude of Mr Power to the prospective media announcement is of course something that is separate from his handling of Operation Rectangle, but there can be no doubt that what was seen as a negative attitude towards the making of any media announcement contributed to the growing worries of senior administrators and politicians. Mr Power's own interpretation of his position at this time was that he accepted he had a distinct lack of enthusiasm for what the consultant had to offer, and did not agree with format for the media announcement he (the consultant) thought was appropriate, but this was for a good reason. He (Mr Power) favoured a more low-key and "evolutionary" approach towards the media announcement. He did not support the high profile approach which he associated not only with the consultant but also with a coalition of views that included the Attorney General, Mr Ogley, Mr Walker and Mr Warcup. The view of the Attorney General was that a disclosure made without any media event by the Police would not have been sufficient to meet the prosecuting authorities' duty of disclosure.

87. Shortly after the sending of the memo to the States Employment Board (on 13 October) there is email traffic between the Solicitor General and Mr Ogley which records discussion of possible disciplinary action being against the Chief Police Officer. But still, the basis for any informed criticism of Mr Power's competency in handling the historic abuse investigation (as opposed to his attitude towards accepting that mistakes had been made in the course of that investigation and needed to be rectified) was insubstantial. There is no indication that the Minister (Senator Kinnard) had any loss of confidence in Mr Power up until her resignation from office on 20 October.

88. It is the view of some observers that the gravamen of the growing list of complaints about Mr Power was not because of any belief that he had been incompetent in his handling of Operation Rectangle, but rather that he was



displaying a willingness to challenge the status quo by his allegations of partiality and corruption within the political system, and the administration of justice in particular. In other words, the suggestion is he was being targeted (and was eventually suspended) not primarily because of what he did or did not do in connection with the historic abuse enquiry but because he was challenging the way politics and public life operated within Jersey. It is impossible to prove that this was not a concern of Mr Ogley and/or Mr Walker, but, equally, neither can it be proved that it was. Mr Ogley was clearly troubled by what he saw as ill-judged criticism of the island's politicians, but that was on the basis that, so far as Mr Ogley was concerned there was no evidence for this, and such attacks showed, at the very least, a worrying lack of judgement on the part of Mr Power.

89. My own view, having considered the available evidence and interviewed the main protagonists in the affair, is that there were, in the period leading up to the decision to impose suspension on 12 November, serious doubts as to Mr Power's professional competence on the part of Mr Ogley and Mr Lewis, based on a belief that he had not properly managed the historic abuse enquiry and had, in particular, failed to exercise proper control over DCO Harper. These doubts were not without foundation. Both Mr Ogley and Mr Lewis were in possession of information emanating not only from Mr Warcup but also from the meetings of the Gold Group which indicated that serious mistakes had been made. There were indications that Mr Power had not done his job well. But that is as far as it goes. There was no conspiracy to act against Mr Power because he was seen as a threat to the political status quo and to the vested interests of people of influence within Jersey. Neither is there any evidence that Mr Ogley or Mr Walker sought to exercise improper influence on Mr Lewis who, as the new Minister, alone had the power to order suspension and the commencement of disciplinary proceedings. Mr Lewis himself, in my opinion, took his responsibilities seriously, and did his best to explore alternatives to suspension in the run-up to the meeting of 12 November.

90. Against the background of growing concerns about Mr Power's conduct, the awaited report from the Metropolitan Police became more and more important. It was something that had the potential to provide the objective evidence of incompetence which was lacking in the run up to 12 November, and which the Solicitor General had expressly said (in his notes of advice to Mr Crich of 6 and 11 November) should be present before any suspension took place. Yet it would appear that the administration was actively preparing for suspension some time before the Interim Report was sent to Mr Warcup on 10 November and that those responsible for making preparations for suspension, should the Minister so decide, were making significant assumptions about what the Metropolitan Police report would contain. The first draft of the suspension letter from Deputy Lewis to the Chief Officer and the letter informing the Chief Officer that the Disciplinary Code was to be invoked was the work of Mr Crich on the morning of 8 November. This documentation was sent, with other draft documentation, to the Solicitor General for comment and advice. The draft letters to the Chief Officer in the version of 8 November refer to the "outcome" of the Metropolitan Police investigation, yet the covering memo to the Solicitor General from Mr Crich makes it clear that this had not yet arrived. The memo also says that this could be "as early as Tuesday 11 November" but it is not clear from the context whether what is being referred to is the arrival of the report of the investigation or the act of suspension itself. Be that as it may, what is clear is that the first version of the draft letters to be used in the event of a decision to suspend were written on the basis that both suspension and the invoking of the disciplinary code were warranted by reference to the content of a report which, at the time of writing, had not yet arrived.

91. The explanation for this apparent incongruity has to be, in my view, that the content of the Metropolitan Police report was anticipated because of information that had been provided by Mr Warcup. It was he to whom the officers carrying out the investigation were reporting as they carried out their duties. And it is reasonable to assume that he was passing on to Mr Lewis and others what he had been told the investigators had found and would in due course report. Indeed, this is verified by Mr Lewis, who was insistent that his



decision to suspend on 12 November was not taken solely of the information contained in the Metropolitan Police's Interim Report, but also on the basis of the information he had been receiving from Mr Warcup in the briefing meetings he had had with him. In relation to the small-group meeting that took place after the briefing of Ministers on 11 November, Mr Crich in interview said "we were ostensibly there talking about what Warcup had already told the Minister verbally." In other words, the contents of the Metropolitan Police interim report coincided with the verbal accounts which Mr Warcup had already passed on to Mr Lewis.

92. It is also my view that a version of the Report that Mr Ogley had requested Mr Warcup to provide (and which eventually became the letter dated 10 November from Mr Warcup to Mr Ogley) had been seen by Mr Crich when he sent to the Solicitor General, at 16.31 on 11 November, a draft version of the documentation that was to be used the following day. I do not believe Mr Crich had in his possession, when producing these drafts, the Report from Mr Warcup in its final form. If he had then I would have expected the draft letters he authored to have made reference to the Interim Report from the Metropolitan Police. As best as I can judge, Mr Crich probably became aware of the existence of the Interim Report only when that document (or at least a version of Mr Warcup's report referring to it) was brought to the small group meeting that followed the pre-press briefing to Ministers on the evening of 11 November.

93. In the light of the arrival and contents of the Interim Report, one interpretation of the facts is that an earlier draft of the Report of Mr Warcup was changed. Support for such an hypothesis can be seen in the further revision of the letters that were sent by Mr Crich at 21.15 on 11 November to the Solicitor General's office, which are said in the email to have been "amended in the light of this evening's conversation." The version of the letter headed "Suspension from Duty" now states "On the 11<sup>th</sup> November 2008 I received a letter from the Chief Executive to the Council of Ministers enclosing a copy of a letter he had received from the Deputy Chief Officer of Police concerning an interim report he (the DCO) had received from the Metropolitan Police into the conduct of

the historic child abuse enquiry in Jersey.” I must record, however, Mr Warcup’s assertion (which I have no reason to doubt) that his letter to Mr Ogleby was not amended by him.

94. It would appear that, at the small group meeting, a decision was also taken that the meeting with Mr Power would take place before, and not after the press conference. The two letters headed “Disciplinary Code” and sent by Mr Lewis to Mr Power and Mr Ogleby contained, in their 16.31 draft, the sentence: “I have carefully considered that report [i.e. from the DCO] and also the fact that following the press conference today the overall management of the HDLG enquiry has so publicly been called into question.” In the 21.15 draft this becomes “I have carefully considered that letter [i.e. from the DCO] and also the fact that, following the pre press briefing meeting held yesterday evening, the overall management of the HDLG enquiry will be so publicly called into question.”

95. The most likely explanation of these changes is that the late arrival of a document in the form of an Interim Report caused a revision in the plans that had already been made, should suspension be the decision of the Minister. It was decided by those at the small group meeting on the evening of 11 November that suspension would take place *before* and not *after* the detailed briefing to the Press by Mr Warcup which would draw attention to the mistakes that had been made. There were in fact two press conferences on 12 November; a Police force conference at 09.30 and a separate press conference which took place at 2 pm on 12 November, some two hours after Mr Power had been suspended.

96. Whether the decision to suspend would have been taken had the Interim Report not reached the hands of Mr Warcup on 10 November is impossible to know, but the overwhelming indications are that the advice to the Minister to suspend would have been the same. That advice would have been based on what was in Mr Warcup’s report and the content of the press briefing. I cannot see that the decision of Mr Lewis would have been different, but of course that is a matter only he can speak to.

97. Another late amendment to the letter of suspension was in relation to the way in which the meeting was to be structured. The letter of suspension as finally drafted as at 10.10 on 12 November and as given to Mr Power, makes reference to a "meeting earlier today". Yet in fact there turned out to be only one meeting involving Mr Power on 12 November, at 11.10 a.m. The phrasing would suggest that it had been the intention to allow a period of time to elapse between the meeting at which Mr Power was told that suspension was being considered, and the meeting at which he was told that he was being suspended. The draft version of the same letter that was sent at 21.15 on 11 November by Mr Crich to the SG (following the meeting between Mr Walker, Mr Ogley, Mr Lewis and Mr Crich) contains amendments to the version produced earlier that day, but there is no reference there to there being a "meeting earlier today." It would thus appear that the change to incorporate this reference came on the morning of 12 November and may have been done to accommodate advice given by the Solicitor General. The reason for the late change is not explained, but it would be wholly consistent with the advice given by the Solicitor General if the explanation for it was a perceived need to be seen to be acting fairly towards Mr Power before proceeding to the act of suspension. The revised format allowed for Mr Power being given the opportunity to consider his position and make representations to the Minister, before being given the notice of suspension from duty. As a matter of fact that did not happen, but that was because Mr Power chose not to take advantage of the pause in proceedings that was offered.

98. In this context I note that the version of the Interim Report which was in Mr Power's possession, and which he showed to me, was provided to him as part of the Wiltshire Inquiry. It is the same document in content, but the title page on his version is different. It purports to be an "Officer's Report" from an individual named Peter Britton, and bears the date 10/11/2008. Mr Warcup confirmed to me that he wanted the Interim Report in advance of the scheduled press conference on the 12 November, but was unsure of the date when he received it. The version of the Interim Report which was shown me

by Mr Warcup has a different title page, and clearly indicates it is an official Metropolitan Police document.

99. Mr Warcup, I should add, was adamant that he wanted the Interim Report to assist him in dealing with the issues being discussed at the press conference. He wanted it to help him clear a way through the mistakes that had been made by DCO Harper and which threatened to derail the criminal trials that were about to start. He insisted that he wanted it only for that reason and none other. He was not looking to the Interim Report as providing a reason for the taking of disciplinary action against Mr Power. I have no reason to think that is not an honest representation of his views at the time, although it is clear that as it turned out the Report was used for much wider purposes by the Minister and his advisors. In my view the prospect of the report being used for the taking of disciplinary measures against Mr Power is something that was probably known to Mr Warcup when he delivered his letter dated 10 November to Mr Ogley.

100. That letter makes express reference to him (Mr Warcup) receiving an "interim report" from the Metropolitan Police on 10 November. It does not, however, refer to the qualifications which were an important part of that report. I am surprised that, in circumstances where Mr Warcup did not disclose the primary document to either Mr Ogley or Mr Lewis, he did not see fit to mention the qualifications that were, on any view, of some importance. By not doing so, he gave the document an importance and status which, in my view, it did not merit. When Mr Ogley then wrote to Deputy Lewis on 11 November, Mr Ogley referred to the report which Mr Warcup (at his request) had provided, and said "I am assured [the report] draws heavily from and reflects the Metropolitan Police report into the investigation." That assurance could only have come from Mr Warcup himself.

101. As previously has been noted, neither Mr Lewis nor Mr Ogley saw the Interim Report. Neither did they seek to see it. The reason given was the nature of the information that was contained therein. It was, said Mr Ogley, a police document and it was inappropriate that he (or anyone else) should have

access to it. Mr Ogley says that he was told both by the Attorney General and Mr Warcup that he should not look at the interim report and neither he nor Mr Lewis did so. I have seen no record of any advice given, but I have not explored all sources. The Attorney General does not recollect giving such advice and believes he never saw the Interim Report documents itself. It must therefore remain uncertain exactly what legal advice (if any) was provided, and, if advice was provided at what stage in the proceedings this took place. I have to say I am not convinced that operational confidentiality was a sufficient reason for not looking at what the Interim Report had to say about the management of the enquiry. Criticisms of Mr Power's leadership and management skills are matters which have no obvious connection with pending criminal prosecutions. It would have been possible for Mr Warcup to have redacted it, so as to exclude any material that it was not appropriate for anyone outside the Police to see, but retaining the parts which expressed criticism of the handling of the historic abuse enquiry. Yet, so far as I am aware, no such approach was made to Mr Warcup. And neither did Mr Warcup himself suggest such a course of action.

102. The process of suspension that took place on the 12 November was unremarkable, save in its brevity. It was over in about half an hour. The meeting was conducted by the Minister, Deputy Lewis, with the Chief Executive, Mr Ogley in attendance, taking handwritten notes. Mr Power had part of the letter headed "Disciplinary Code" read to him and was shown the letter. He was then offered, but declined, an opportunity of one hour to "consider his position".
103. Mr Crich, in conversation, confirmed it was his strong belief that suspension was not a fixed outcome of the meeting. In other words, there was, in his view, the possibility that when faced with the prospect of suspension, Mr Power might have said something which, in his words, would have caused the Minister to "take a step back." I have no reason to doubt that Mr Crich was honestly representing his belief, but I have to say I find it hard to imagine what Mr Power could have said that would have caused Mr Lewis to change his mind. It was, however, also the view of the Minister (Mr Lewis) that

suspension might not have taken place. I accept Mr Lewis' assertion that he would have been prepared not to suspend had Mr Power come forward with points of substance in answer to the complaints levelled against him at the meeting.

104. Since the Interim Report provided by the Metropolitan Police was not seen by either the Minister or the Chief Executive, reliance was placed on the summary of its contents contained in the letter sent by Mr Warcup to Mr Ogley on 10 November. Mr Warcup's letter states that "[t]he interim findings of the review by the Metropolitan Police fully support my previous comments [i.e. with regard to failings of command within the States of Jersey police with regard to the ongoing Historic Child Abuse enquiry] and the opinions which I have expressed therein." The letter does not, however, make reference to the important qualifications contained in para. 1.1 of the Interim Report, previously referred to above.

105. In circumstances where the report was used as a mainstay in establishing the grounds for the immediate suspension of Mr Power, no one in authority had access to anything more than a partial summary of its contents, provided by Mr Warcup. I do not regard that as a satisfactory basis on which to take a decision of such importance.

106. Subsequent to the meeting, the handwritten notes of the meeting taken by Mr Ogley were destroyed. That, I was told by Mr Crich, was in accordance with normal practice. I have to say that, in all the circumstances, it is my view that it would have been wiser to have retained all that was available by way of record of that crucial meeting. But I accept Mr Ogley's account - that he transcribed the notes immediately after the meeting and that they were subsequently typed up for the parties to sign.

### Conclusions



107. I have identified several failings of a procedural nature in the handling of the suspension of Mr Power, and I will not repeat here the details of matters set out in the above paragraphs. Whatever view may now be taken of the substantive criticisms that have been made of Mr Power's conduct of the historic abuse inquiry, the basis on which he was suspended on 12 November 2008 was in my view inadequate. There was at the time a lack of hard evidence against him showing lack of competence in relation to the running of the historic abuse enquiry. Too much reliance was placed on information coming from one source, Mr David Warcup. The contents of the letter dated 10 November 2008 from Mr Warcup to Mr Ogley were much less clear than they could have been. No reference is made in that letter to the fact that there had been a request from Mr Ogley to put his concerns about Mr Power on paper. The letter from Mr Ogley to Mr Lewis dated 11 November 2008 informing him of Mr Warcup's letter does not make clear that the report received by Mr Warcup from the Metropolitan Police was only an interim one, and that its author had heavily qualified its contents. While there was additional material (coming in from Mr Gradwell and from the reports of the Gold Group) that was indicative of failings on the part of Mr Power, no effort was made to collate this in a systemised way or to make reference to this material in the documentation provided to Mr Power at the time he was suspended. Mr Ogley had not been told by Mr Warcup about the Metropolitan Police report being expressly qualified, and he had given advice on the appropriateness of suspension without having had sight of even a redacted version of the Metropolitan Police interim report. He could and in my view should have asked for more before giving the advice he did. The Disciplinary Code applicable to Mr Power could and should have been read differently, and there should have been something in the nature of a preliminary investigation carried out before the step of suspension was invoked. Too much reliance was placed on the interim report provided by the Metropolitan Police and the existence of evidence from other sources was not acknowledged. There should have been a more sustained effort made by Mr Lewis and Mr Ogley to get access to the contents of the report itself (even if only in redacted form) in order to evaluate the criticisms of Mr Power which Mr Warcup referred to in his letter to Mr Ogley of 10 November 2008. Mr



Ogley and Mr Lewis should not have relied upon a summary provided by Mr Warcup (whose negative views of Mr Power were already well known) in a matter of such importance. The Interim Report could and should have been redacted by Mr Warcup for the purposes of removing any operationally-sensitive material that it would not have been appropriate for persons outside the Police to see.

108. In making these findings I do not underestimate the need for decisive action at the time to minimise the risks of abuse of process arguments undermining the criminal proceedings that were pending. I also recognise that it is easy to be wise after the event in criticising decisions that were certainly enormously difficult to take at the time. Nevertheless, it seems to me that the balance between safeguarding the public interest and ensuring that Mr Power's rights as an individual and senior office holder within the Police Force could have been better struck. Further, once the press conference had taken place, the need to find a way of removing Mr Power from operational control of the Force while a preliminary investigation was undertaken might have been achieved otherwise than by act of suspension. He might, as previously indicated, have been offered the opportunity of immediate special leave, with suspension only being used as back-up if that option had been declined. Whether Mr Power would have been prepared to accept any such arrangement I do not know – but no attempt to explore a voluntary standing down was, so far as I am aware, ever explored with him.

109. That said, the facts, as my investigation has led me to believe them to be, do not in my view warrant a further inquiry “in the interests of open government”. It is not at all surprising that there were serious concerns on the part of Mr Ogley (and others) about Mr Power's role in the management and oversight of the historic abuse enquiry in the light of information that was becoming available in the autumn of 2008. In my view, however, these legitimate and reasonable concerns about Mr Power's performance led to the making of decisions which were, from a procedural point of view, unfair to Mr Power.

110. Because of the criticisms I have made of Mr Warcup's behaviour in the drafting of his letter of 10 November, it is right that I should separately acknowledge that he found himself in an extraordinarily difficult situation. He had to choose between acting in accordance with his personal integrity and his understanding of his professional standards, and his duties of allegiance and loyalty to his commanding officer. I have expressed disagreement with some of the decisions he made, but I do not wish thereby to question his motivation or integrity. In my view he was genuinely concerned to do the right thing throughout the process leading up to Mr Power's suspension, and only stepped outside the normal limits of allegiance to his superior when convinced it was his professional duty to do so.

111. I do not see a need to investigate these matters further. As I have already said, I have found no evidence of a "conspiracy" to oust Mr Power for some improper reason. The background to the decision to suspend taken by Mr Lewis was a situation where there was a widespread feeling that the historic abuse enquiry, for which Mr Power, as Chief Police Officer, was ultimately responsible, had gone badly wrong. Key decision makers and advisers were, long before the events of 12 November, inclined to be critical of Mr Power. Perhaps because of that, officials were too ready to accept relatively weak evidence as sufficient to warrant the Minister taking the drastic step of imposing suspension on 12 November 2008. The enormity of that decision for Mr Power's career was not, perhaps, sufficiently appreciated, save in the advice that came from the Solicitor General. But while there were in my view some mistakes made in the way the whole matter was handled, I have seen no evidence to support the claims (which, if substantiated, would certainly point to a need for further investigation) that these were part of some plot or conspiracy within the public service to frustrate police investigation in Jersey.

Brian Napier QC  
10 September 2010

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP14

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Wednesday, 12 November 2014

## Open Letter to Former Home Affairs Minister Andrew Lewis. (Unhappy Anniversary 6)



On November the 12th 2008 during the biggest Child Abuse Investigation (Operation rectangle) Jersey has ever seen the Chief Police Officer Graham Power QPM was (illegally?) suspended from duty under extremely dubious circumstances.

Team Voice has, over those six years, exposed the facts, and evidence, behind the suspension and have revealed that the "official" version of events does NOT stand up to scrutiny and a number of deliberate lies look to have been told by those involved in the suspension.

Bloggers (Jersey's only independent media) have been leaked, and published, official documents, to include sworn AFFIDAVITS from the former Chief Police Officer Graham Power QPM. The letter from disgraced former Acting Chief Police Officer DAVID WARCUP which inevitably resulted in Mr. Power's suspension.

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## About Me



voiceforchildren

United Kingdom

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We have been leaked, and published the Hansard of a SECRET PARLIAMENTARY DEBATE where it appears deliberate lies could have been told concerning the "official" version of events surrounding Mr. Power's suspension. The former Chief Police Officer has given his most IN-DEPTH INTERVIEW to this Blog exposing, among much more, how he was treated worse than a terrorist by the discredited Wiltshire Constabulary. We exposed how disgraced former Senior Investigating Officer Mick Gradwell leaked CONFIDENTIAL POLICE INFORMATION during the live Child Abuse Investigation (Operation Rectangle) to a national "journalist" with a history of supporting convicted paedophiles and trashing Child Abuse Investigations.

In one Blog Posting alone we have BLOWN THE LID OFF the nonsense fed to us by the local State Media and the "official" version of events surrounding Operation Rectangle and related matters.



In stark contrast the local State Media has been kicking Abuse Victims IN THE TEETH. Winning awards for publishing PROPAGANDA and misrepresenting THE FACTS.

The local State Media has BURIED VITAL DOCUMENTS concerning the suspension of Mr. Power. It has buried public interest and VITAL NEWS STORIES (published by Bloggers) that expose the Jersey

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We understand that former Chief Officer, Mr. Power, has been interviewed in-depth by lawyers representing the Child Abuse Committee of Inquiry and it is anticipated that he will be giving evidence in a public hearing at a later date. Now that he is no longer a serving police officer and free from the constraints imposed by the terms and conditions of his (illegal?) suspension he might have significantly more to say on the question of child "protection" in Jersey than was possible previously.

Mr. Power has told us;

***"My interest in the subject is as keen as ever and everyone can rest assured that I will be doing all that I can to enable the Inquiry to get to the truth and achieve some justice for the victims."***

It is believed that the Child Abuse Committee of Inquiry will be looking at the (illegal?) suspension of Mr. Power and with the former Home Affairs Minister Andrew Lewis (who suspended the Chief Officer) now back in the Island's Parliament after recently being elected in St Helier District 3/4 we have sent him an open letter (e-mail) in the hope he can clear up some of the mess he created and explain some of the anomalies in his contradictory statements.

### **E-MAIL TO Deputy Andrew Lewis.**

Deputy Lewis.



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(operation regarding) the sound has ever seen.

In an in-camera States debate (2008) <http://ricosorda.blogspot.com/2012/07/the-transcript-of-in-camera-debate.html> in explaining your decision to suspend the Chief Police Officer you told the Assembly;

***"If the preliminary report is that damning, Lord knows what the main report will reveal. So my successor will have an interesting time. The report that I was shown gave me no doubt at all."***

Further during the in-camera debate in answer to a question from former Deputy Paul Le Claire you told the States Assembly;

***"I have read an alarming report from the Metropolitan Police which led me to this decision in the first place."***

You were referring to the alleged MET Interim Report .So it is clear by these statements that you had read the MET interim Report. But in the Napier Report (paragraph 101) it states;

***"As previously has been noted, neither Mr Lewis nor Mr Ogley saw the Interim Report. Neither did they seek to see it. The reason given was the nature of the information that was contained therein. It was, said Mr Ogley, a police document and it was inappropriate that he (or anyone else) should have access to it. Mr Ogley says that he was told both by the Attorney General and Mr Warcup that he should not look at the interim report and neither he nor Mr Lewis did so."***

Furthermore, according to the former Chief Police Officer Mr. Power your testimony to the discredited Wiltshire Constabulary's Investigation stated;

***"Until I received the letter from David WARCUP, (on 11th November 2008 - the day before the suspension) I had no reason to believe that they were not managing the investigation well." (Paragraph 3.)***

In February 2010 you issued a statement <http://voiceforchildren.blogspot.com/2010/09/napier-report-imminent.html> in response to the former Chief Police Officer's Affidavit <http://voiceforchildren.blogspot.com/2010/02/copy-of-affidavit-of-chief-police.html> where you wrote;

***"I am not at liberty to disclose the contents of the Met Report as I am bound by the disciplinary code."***

So it would appear that you have given two different accounts concerning your sight (or not) of the MET Interim Report.

**Question 1.** Could you please tell me which account is correct? The



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...extensive investigation and the proper return...

To address this part of your statement to the in-camera debate;

***"If the preliminary report is that damning, Lord knows what the main report will reveal."***

You might be aware of a complaint made by the former Deputy Chief Police Officer, and Senior Investigating Officer of Operation Rectangle, Mr. Lenny Harper to the Independent Police Complaints Commission (Operation Tuma)? <http://ricosorda.blogspot.com/2012/01/matt-tapp-files-7-operation-tuma.html>

Mr. Harper complained that he, and others, were criticised in the MET Interim Report after your statement. Operation Tuma was unequivocal in this regard, and found against Mr. Harper, where it states;

***"In the Heads of Complaint made by Mr Harper he states that the review criticised a number of areas of the investigation. The review does not criticise the investigation. The Review does not criticise any individual involved in Operation Rectangle." (para 4.36)***

**Question 2.** Could you please tell me (if you did see the MET Interim Report) do you stand by your words ***"If the preliminary report is that damning, Lord knows what the main report will reveal?"***

Either yourself, or the Independent Police Complaints Commission, are being dishonest.

**Question 3.** Could you please tell me who is being dishonest here, is it you or the IPCC?

I'm sure you can appreciate the seriousness of these questions/contradictions as a Chief Police Officer with a 42-year career was suspended on what looks to be spurious, if not illegal grounds, and answers are needed in order to clear your own name in this debacle.

It has been reported that Mr. Power is in the process of giving a comprehensive statement to the lawyers of the on-going Child Abuse Committee of Inquiry (COI) and he will be called to give evidence at a public hearing. It is also believed that his suspension is being looked at by the COI and you clearly have questions to answer in this regard.

Question 4. Have you been asked, or have you offered to, submit evidence to the ongoing Jersey Child Abuse Inquiry Chaired by Francis Oldham QC, if not, why not?

As mentioned in the first paragraph of this e-mail, now that you are once more a States Member, you will be voting on my behalf in the Island's Parliament and I, as a constituent, need to know that you are an honest, and trustworthy representative.

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP15

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# RICO SORDA

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"The Chief Minister and Minister for Home Affairs have emerged from this saga with no disciplinary case, no Chief Officer, a pending report from a QC likely to be critical of the Island's Government, and a bill for over a million pounds. They are not well placed to criticise the actions of others" Deputy Bob Hill..... Trevor Pitmans Blog.....BALDTRUTH"

SUNDAY, JULY 22, 2012

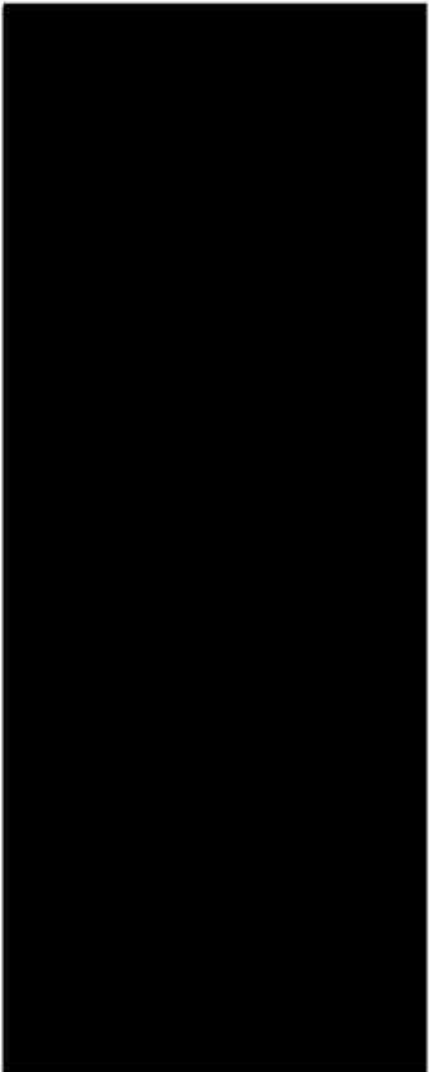
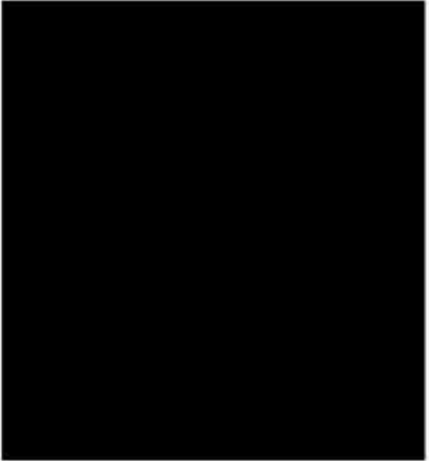
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## THE TRANSCRIPT OF THE "IN CAMERA" DEBATE



Former Chief Minister Frank Walker and Former Home Affairs Minister Andrew Lewis after suspending Graham Power from duty.

"For anyone looking for a deep drill into Jersey's ongoing political imbroglios, two outstanding citizen bloggers have been working slavishly for years to lift the curtain: Neil McMurray at Voice for Children and Rico Sorda. On an island where the established media serve as the de facto mouthpiece of those in power, these self-taught journalists, who work for free under grave pressure in thankless conditions, are the only independent press around.)" Leah Mcgrath Goodman



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It is largely due to two tenacious bloggers, Rico Sorda (ricosorda.blogspot.com) and Neil McMurray (Voiceforchildren.blogspot.com) that Power's suspension has remained so high on the political agenda. Both complain that the JEP has failed to investigate what they see as the injustice of Power's treatment." The Guardian

"The Rico Sorda blog is quite extraordinary. Rico is not an abuse victim or politician. He is a Jersey pipe fitter with a happy upbringing, who was so outraged by the treatment of abused children he began conducting his own investigative journalism. Don't let Rico's feral punctuation throw you; he has almost single-handedly forced a States of Jersey Scrutiny Panel to investigate and take action over the corruption of abuse related "independent official reports" commissioned by the Jersey government. I would not hesitate to call him Jersey's best investigative journalist." - Faithful Reader

#### THE FULL TRANSCRIPT OF THE "IN CAMERA" DEBATE

**FORMER DEPUTY OF ST JOHN - ANDREW LEWIS - WAS HOME AFFAIRS MINISTER AT THE TAIL END OF 2008**

**AND I QUOTE HIM:**

*"I HAVE READ AN ALARMING REPORT FROM THE METROPOLITAN POLICE which led me to this decision in the first place. I can do no more(Approbation- Foot Stamping)"*

**WE NOW KNOW THAT THIS TRANSCRIPT WASN'T**

**GIVEN TO BRIAN NAPIER QC "WHY?"**  
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Having spent the last couple of weeks in Egypt, I decided to travel up to Cairo to see the ancient Egyptian sights and antiquities and also to pay a visit to Tahrir Square. I was blessed with having a fantastic guide who was highly educated and was an expert in Egyptology and religion. It was not surprising how quickly the conversation turned to politics as I enquired about the Muslim Brotherhood and the implications of their recent election for Egypt. The pharaohs were quickly forgotten as it turned out that my guide was an active member in the revolution of 25 January 2011 and that was where we instantly found common ground. Although I was left speechless as I crawled through the tight passages toward the burial chamber of the great pyramid, it was not the ancient pyramids that connected us but the power of the internet. She described how the Egyptian people used the internet, bypassing their state media and galvanising the social networking outlets available to them, such as Twitter, Facebook and Youtube.

I took the opportunity to explain the Jersey situation and how a small band of bloggers have used the same tools to fight a battle for truth, honesty and integrity. We talked about how the state run media's style of reporting is one of repetition not of investigation. Just like my previous trip to Auschwitz Birkenau, it has been a trip of learning. Learning about what happens when people do nothing. Learning about what happens when people would rather look the other way.

The past two weeks have allowed me to step back and gain a more rounded view of the challenges we face in Jersey. We have the very same inactions with the previous three councils of ministers. For me this inaction is no different than the Hungarian government sending their Jews down the tracks to the gas chamber in WWII. As I have said before, people in power are in a position to do something by virtue of their holding such office and affect change for the better; however they do nothing.

It is now time for the people of Jersey and readers of this blog to ask themselves why. Why has the Chief Minister not brought a committee of enquire to the States of Jersey before the summer recess. Who is the Jersey Schindler that sits on the Council of Minister and is prepared to say: "Enough is Enough!".

It is only when you stand in Birkenau that you really appreciate how the extremes of human nature can lead to the suffering of the innocent, because it is about the innocent.

How many members of the Council of Ministers, Jersey Law Office, Bailiff's Chamber, States of Jersey at different points in the year attend the laying of the wreaths on Holocaust day, Slave labour day, Liberation Day and Remembrance Day, yet these hippocrates are prepared to turn a blind eye to the suffering of innocent children who

were abused in the care of the States of Jersey. For me there are no different to the people who have historically turned a blind eye to the persecution of Jews, Gypsies and the innocent.

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It saddens and angers me.

**JUST LOOK AT THIS QUOTE:**

**Former Deputy P.N Troy of St Brelade**

*"Can the Minister confirm that the suspension is only in relation to the management of the Haut De La Garenne Inquiry and that there are no other reasons for the suspension? The Minister said that they were very serious allegations, but can he just confirm there were no other reasons? Can I ask why it is that Mr Harper, who probably did untold damage to the reputation to the island, was not suspended prior to his retirement? Why was he not put through the disciplinary process?"*

**NO - MR TROY - AND OTHERS LIKE YOU.**

**IT WAS THE ABUSERS THAT CAUSED UNTOLD DAMAGE..**

The above quote has been used by many who should know better. It is simply disgusting.

What the transcripts below do is blow the crazy idea that David Warcup, the Acting Police Chief, has any kind of integrity.

Warcup knew that the Met Report was a review. He is a very high ranking Policeman

Why then, when he saw what happened to Graham Power, did he remain silent?

Rico Sorda

Part Time Investigative Journalist

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 1. Questions on Statement by the Minister for Home Affairs regarding the suspension of the Chief Officer of the States of Jersey Police:

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The Bailiff: (Sir Philip Bailhache)

1.1 Deputy Roy Le Hérisier of St Saviour:

I wonder if the Minister could confirm that, in considering this matter, this house will act as the body which makes the final decision as to the fate that will befall the Chief Officer. Could he please confirm our precise role in this process?

The Deputy of St John ( The Minister for Home Affairs):  
 Andrew Lewis

I assume the Deputy is talking about the possible further disciplinary process. If indeed the decision was made to dismiss the Chief Of Police, then that matter would be referred to this assembly.

1.2 Deputy G.P Southern of St Helier

My question concerns the process that was undertaken during the suspension, leading to the suspension of the Chief Officer. In a statement circulated by the Chief Officer, he states:

"Paragraph 2.1 of the code requires that in the event the Minister having disciplinary concerns he will write to the Chief Executive."

It then goes on to say:

"Two days after my suspension as provided with what was said to be a copy of that letter. It is dated 12th November 2008 and in it the Chief Executive is instructed to conduct a preliminary investigation under paragraph 2 of the code. Part 2 sets out the actions which the Chief Executive is required to take. These included the obtaining of statements from available witness and from the Chief Officer."

Those statements were never sought nor made. Why then was the officer concerned suspended?

The Deputy of St John:





This is exactly what the process is about. That investigation is now under way and that is why the Chief of Police is being temporarily suspended. This site uses cookies from Google to deliver its services, to personalise ads and to analyse traffic. Information about your use of this site is shared with Google. By using this site, you agree to its use of cookies.

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### 1.3 Deputy F J Hill of St Martin:

Yes, could I just follow up on that answer surely that should have been carried out before the suspension. Why was it not carried out?

The Deputy of St John:

Members will be aware that an investigation has been carried out by the Metropolitan Police and I was presented with a preliminary report on the basis of that investigation. So as far as I'm concerned that is the preliminary investigation. I acted on the information that was contained in that and in order to pursue a disciplinary investigation it was necessary to suspend the police officer.

### 1.4 Deputy J. Gallichan of St Mary:

Will the Minister advise the Assembly whether, in the time since the suspension took effect, he has received any correspondence from the body which would represent the Chief Constable's interests in the UK and if so, can he elaborate further on it.

The Deputy of St John:

Yes I have, and No, I cannot elaborate further on it otherwise that would interfere with the process of the Chief Officer of Police defending himself.

### 1.5 Senator S.Syvret

Will the Minister inform the Assembly of which Ministers took part in the earlier discussion on the Tuesday evening concerning the issue and will he also, in particular, inform the assembly whether he is aware of the fact, given the involvement of the Chief Executive to the Council of Ministers and the Head of the Civil Service, that particular individual is one of the potential suspects in the perversion of the course of justice investigations being undertaken by the police force of which Mr Power was the head?

The Deputy of St John:

I am not aware of any such investigation but I can assure Members that the investigation will be undertaken by an independent body and in this case the Chief Constable of Wiltshire will be investigating this. He is a policing expert. He has been asked by the Chief Executive of the States of Jersey to investigate these allegations.

#### 1.6 Senator Syvret:

Is the Minister, or does he think his successors will be, prepared to explain to the national media and to the Royal Court of Justice in London just why it is that the Government of Jersey chose to mount this coup against the Chief Constable of its police force being engaged in and participated in by the people who are potential suspects in the investigation?

The Deputy of St John:

They only appear to be potential suspects in the eyes of the Senator. As far as I am concerned this investigation is being conducted in a thorough and professional manner and I would not have it any other way. (Foot Stamping -Approbation) I find it quite disingenuous that the Senator in the past has called for accountability for the people in the public sector, senior officers in particular, we have brought the Chief Officer to account and I would expect him to have every opportunity to defend his position. That is what the process is all about.

#### 1.7 Deputy P.V.F. Le Claire:

This whole process regarding this statement and questions on it, given the statement, strikes me as somewhat bizarre. In his statement, the Minister says: "At some stage at the end of the process, my successor, whoever it will be, will need to make a decision about the substantive matters and he or she should not be influenced in any way by any views expressed by Members of the Assembly". How is it possible that the successor to the Home Affairs Ministry is going to be somehow isolated from anything that is being said in here this morning, from Members that are taking part in this? Surely, if there is a process that requires independent and isolated adjudication, then this statement and these questions should not be occurring today. It should have been parked and left over for his successor, otherwise what are we doing is we are contaminating the membership and that Minister will have an Assistant Minister who will have heard these things going on.

The Deputy of St John:

This Deputy is absolutely right. That is why I would urge Members to resist from questioning me on the subject in this Chamber. Although we are in camera, there are Members here that may well become involved with the Home Affairs in the near future, so I would urge Members to keep their questions to the bare minimum. If it is about the process, I am happy to answer them. If it is about the investigation I am not.

#### 1.8 The Connétable of St Helier:

I want to look at the procedure followed by the Minister and ask him, he has already confirmed to me that the correct procedure has been followed and yet he has just said now that the preliminary investigation was carried out by the police after which the suspension was carried out. According to the Disciplinary Code which we have, some of us, had supplied to us, bizarrely it was considered to be secret: it says quite clearly:

" A complaint will be followed by a letter to the person concerned and then there will be an investigation and then the person concerned will have the chance to comment with the presence of a companion."

Now will the Minister not agree that this process has not happened? That no companion was offered to Mr Power when he was brought into the office and that the investigation in fact was not proceeded by a letter to the officer who was on holiday at the time?

Deputy of St John:

The Constable refers to item 2.2 of the code which refers to minor breaches of discipline or poor performance. Im sorry, but I do not regard this as a minor infraction of the code. This is a serious infraction of the Disciplinary Code and therefore he is not afforded that process.

The Connétable of St Helier

Sorry the Minister is not reading the code properly. It is quite clear that section 2 on the procedure, as it must and as we all expect in our own departments, offer any person who is accused of disciplinary matter to have the chance to be accompanied to a meeting. It is outrageous that he has carried this out in his high handed way and not given the person the opportunity to be represented. I did a disciplinary myself this morning before the States and the person had a companion with them. It is simply wrong the

way this is carried out and I do believe the Minister should present the cookies from Google to deliver its services, to personalise ads and to analyse traffic. Information about your use of this site is shared with Google. By using this site, you agree to its use of cookies.

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Deputy of St John:

No. I do not accept that. My interpretation of the code is that I had every right to take the action I did. Furthermore, under the law, I also have that right too, outside of the code. So I believe it to be in the interests of the police force, the interests of Jersey and the interests of justice for the Chief Officer of Police to take this action.

Deputy A Breckon:

I would like to ask the Minister what experience, if any, he has in handling employment grievance and disciplinary procedures?

1.10 Deputy of St John:

As it happens, I happen to have a great deal. But in this instance I took advice, was all Ministers should. I took advice from the the Chief Officer of Human Resources, I took advice from the Chief Executive and I took advice from the Solicitor General. I would not have expected to act in this way without taking thorough and proper advice, even though I have some experience of dealing with these matters.

Sir, if I could just..... If I may, I did urge Members in my statement not to prolong this question time as attractive as it may be, because this does run the potential of muddying the waters and affecting the process and not protecting the Chief Officer of Police which is what the code is intended to do. So I would urge Members to bear that in mind, if you prolong this questioning to any great extent, it could have a major impaction the investigation should this information leak out to people that would use it at a later date. So would urge Members to be very careful with their questioning and I will say to members now, I will refuse to answer certain questions and I will say to members now that I will refuse to answer certain questions that I feel would impinge on that investigation

1.12 Deputy P.V.Le Claire

This is a remarkable second statement by the Minister after I had asked him in regard to this whole process this morning how bizarre it is that we are here doing this..

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This is a question? A question arising out of a statement  
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#### 1.12 Deputy P.V.Le Claire

This is a question. When the Chief Officer had his contract renewed by the States of Jersey recently, to somewhat surprise by Members of the public and the States of Jersey thinking that he was retiring, was that contract renewed after said infractions or before said infractions were known?

#### 1.10 Deputy of St John:

It was well before and not only that, it was renewed by the Appointments Board, nothing to do with me at the time and a proper process was followed. These allegations were not in place at the time.

#### 1.13 Connétable D.J Murphy of Grouville:

I assume from the Deputy's statement that the Chief Constable of Wiltshire who is going to carry out this investigation is a member of the Association of Police Chief Officers (ACPO). I also assumed that our Police Chief here is a member of ACPO. Does he think it is right and proper that 2 members of the same organisation should sit in judgement of each other?

#### Deputy of St John:

Yes, this is the way it is done both in the UK and we would expect to be done here in that it has to be investigated by obviously a policing expert. Not only that, somebody of substantive rank, i.e. somebody the same rank or higher than our Chief of Police. So that is the process that is adopted elsewhere and would be the process we would adopt here. But these are unusual circumstances, it has not occurred before as far as I am aware, but it is very important that somebody of that rank investigates this because they have got full understanding of the obligations of a Chief Officer of Police.

#### 1.14 Senator F H Walker:

The Minister has referred to the advice he has taken, could he confirm whether or not Her Majesty's Inspector of Police has been consulted on the process and if so, to what effect?

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The Deputy of St John:

Yes, I took it upon myself to consult with Her Majesty's Inspectorate as I felt that they were a useful arbitrator in such matters and the question I posed was did they feel that the action that we have taken was proportionate and appropriate and I was told by Senior officer of that organisation that it was wholly appropriate in the circumstances to suspend an officer to instigate a proper and thorough investigation.

1.15 The Connetable M.K. Jackson of St Brelade:

I note that in the disciplinary code for the Chief Officer of Police there is an appeals procedure, paragraph 3. Would the minister confirm whether the Chief Officer has in fact invoked that appeal procedure and has the Minister in fact been in contact with A.C.A.S (Advisory, Concilliation, and Arbitration Service) in the UK as laid out in that paragraph?

The Deputy of St John:

The Chief Officer will have every right to do that. This process has just begun and he will have the right to appeal. The Constable of St Brelade is quite correct, but the process has just begun and he will have every right to defend himself and if he chooses to take advantage of such organisations including his own organisations, then I would obviously encourage anybody in that position to do that and seek advice and assistance. The Chief Officer will have every opportunity to do that.

1.16 The Connetable of St Helier: (Simon Crowcroft)

I take the Minister back to the disciplinary code, the first paragraph of which states and I quote:

" In the normal course of events, the home Affairs Minister will raise and attempt to resolve issues arising which concern the performance, conduct, capability, et cetera of the Chief Officer on a personal basis. The procedure described in the code will be used only where such efforts to resolve problems arising have failed "

Will the Minister tell us how he complied with that first paragraph of the code before moving further on with the procedure?

The Deputy of St John:



When I took over as having Ministerial oversight of the investigation in question, I had to ask a number of questions and it would seem right and proper to appoint another force to investigate such matters which the Chief of Police agreed to. The result of that is some fairly damning evidence about the command, control and supervision of that investigation. So, Yes, the process was adopted and the outcome was a report that was presented to me that gave me absolutely no choice other than to suspend the Chief Officer of Police in order to investigate the allegations of gross misconduct in terms of management, supervision and control of quite considerable sums of money and quite considerable resource. That is a matter that I know Members here are most concerned about in other areas I saw an absolute necessity in order to investigate these things thoroughly to suspend the Chief of Police so that we can have an uncontaminated investigation with him having the full right of appeal and process so he can defend himself.

The Connetable of St Helier: (Simon Crowcroft)

Sorry, it is quite clear from the Minister's comments that he has now jumped into part 2 of the disciplinary procedure and that he did not attempt, on a personal basis which means in discussion with the officer concerned, attempt to elucidate the problem.

The Deputy of St John:

I would dispute that. The Chief Officer of Police was requested to come to a meeting with myself and we attempted to discuss the matter with him and he refused to discuss it. He wished to leave very soon after we had the discussion. I gave him an opportunity to retire and to..... to retire to another room rather..... I would add he was never given the option to retire, he was never given the option to resign either, that is complete fabrication on his part. I do not know where that came from. But he was given the opportunity to consider the suspension and that is what he was offered  
 . He chose not to take that opportunity so the suspension was immediate.

1.17 Senator S Syvret

The Minister has made great reference with great store on the preliminary or interim review by the Metropolitan Police. But, having taken action he has done, that review remains incomplete, it is not yet finalised. No final review document by the Metropolitan Police has been produced. Does he not recognise the fact .... the Chief Minister is no. I know because I have been in contact with Mr Sweeting of the Met and I know that he has still got a great number of people yet to interview, germaine witnesses. So does the Minister



not accept that his actions have been pre-emptory and  
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 of course, the Minister needs to think very carefully about his answer to  
 this: The Chief Constable of the States of Jersey Police  
 Force, along with another one of his senior officers who is  
 still employed by the force, he is - they both are - witnesses  
 to the conspiracy to pervert the course of justice as they  
 were present at meetings when this conspiracy was taking  
 place, which they noted and duly recorded in evidence.  
 Does he not accept that, given that the conspiracy did  
 involve the Chief Executive to the Council of Ministers that  
 this action is totally unacceptable and will only do Jersey  
 colossal damage.?

The Deputy of St John:

The Senator's conspiracy theories continue to astound me. I was not part of the Council of Ministers until but a few weeks ago. I am not conspiring in any way at all. The Senator consistently conspires in his own mind to work out conspiracies. This is nothing about that. This is a matter of great interest to me as the Minister for Home Affairs, as a resident of Jersey, as a custodian of the public purse. I am bringing a Chief Officer to account. I am giving him every opportunity to defend himself. As far as the accusation you raise about the Metropolitan Police, when I saw the preliminary report I was astounded. So much so that my actions, I believe, are fully justified. If the preliminary report is that damning, Lord knows what the main report will reveal. So my successor will have an interesting time. The report that I was shown gave me no doubt at all.

The Bailiff:

Minister, do not go down this road please.

The Deputy of St John

the actions that I took are justified and we will wait the outcome of the investigation as to whether it was.

1.18 Senator S Syvret:

Will the report be published when it is completed

The Deputy of St John

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Senator T.J Le Main:

Can I have some advice from the chair please? In view that this is being held in camera what is the repercussions of a Member putting out information gained in this Chamber in camera this Morning on a blog site or internet which is currently being done by an arrogant Member in this Assembly? What is the legal implications of standing in camera this morning and that information being put on the internet?

The Bailiff:

When the Assembly agrees to meet in camera in order to discuss matters which should not be made public, there is an inevitable consequence that Members are not expected to reveal anything which took place during an in camera discussion. So far as... if a member were to do that I would need notice, Senator, having regard to the specific facts involved, but I am inclined to think that it would be a gross breach of the privilege of the Assembly and could be dealt with by the Assembly accordingly

Deputy DGP Southern:

In answer to the Constable of St Helier's question referring to Article 1 of the code, if the Minister, by suggesting that the meeting which lasted 35 minutes, that the Chief of Police was called to meeting on Thursday, 12th, was his interpretation of trying to resolve the issue on a personal level, he is deliberately, I believe, misinterpreting Article 1. It cannot be interpreted that way surely. Does he not admit that he has failed to meet the terms of Article 1 before proceeding to Article 2?

Deputy of St John:

I took advice. Im satisfied with the advice and I acted on that advice and I stand by my decision(foot stamping -Approbation)

1.20 The Deputy of St Martin:

The Minister, no doubt, will have received a copy which has been circulated to him by the Chief Officer of the State of Jersey police and in paragraph 6 it said: "I had been given no notice that this was to be either a disciplinary meeting or a suspension meeting. I had been offered no time to prepare, no opportunity to make any report and not offered any representation. I was handed the letter and disciplinary code and the Minister spoke briefly regarding its concepts. He then told me that he was minded to invoke the disciplinary code, but that I would be allowed up to one hour to consider my position."

Will the Minister accept that this is a true statement from the Chief Officer? If it was, why did he offer the Chief Officer to consider his position?

The Deputy of St John:

I never used the word "position". I used the word "consider the correspondence" that was laid out before him and he was given every opportunity to do that. He chose not to so the code was invoked and he was suspended.

Deputy R.G. Le Hérissier

I come back to my original question and perhaps the Solicitor General might be able to offer us some timely words of advice. I do not see how a political body of 53 people is going to transform itself. Were we to reach this stage, without presupposing, I do not see how it can transform itself into some kind of independent employment tribunal, utterly impartial and objective when the body is totally split on political grounds. Is there any way, having got into this cleft stick because of the phrasing of the law, which the situation can be avoided and meet, for example, the rights of a person under the European Court of Human Rights and their right to a fair trial?

The Bailiff:

Deputy, I am sorry, but that question is not in order. It is a hypothetical situation.

Deputy R.G Le Herissier:

But, Sir, we are considering, in a lot of questions that have come up, has due process thus far been followed? Obviously when the final decision is looked at the whole issue of correctness or otherwise of the process surely will be key and we will be asked to make a judgement and we, as politicians, should not be doing that.

<http://ricosorda.blogspot.co.uk/2012/07/the-transcript-of-in-camera-debate.html>

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No, the Minister for Home Affairs has followed strictly the provisions of the law. He has informed Members of the suspension of the Chief Officer of Police and he has done so by means of a statement which enables members to question him on that statement. He did not have to deal with matters in that way. He has done it in a that way in order to enable Members to question him on that process which is what Members have quite properly done. Moving further down the line is hypothetical and I am not prepared to allow that question.

#### 1.22 The Connetable of St Helier:

The Minister said that part of his action has been motivated by concern for Mr Power. Does he, therefore think it is satisfactory that Mr Power's daughter learned of his suspension on the public radio and does this not indicate that the process that has been followed was an accelerated one? My second question, and it is an effort to be helpful and it is a question I have already asked the Minister and the Chief Minister, is will he not go away with the code and with his legal advisers, and with an HR (Human Resources) professional -preferably one that has not resigned from the States, but one who is going to be here to serve the Island - and check that he has fully compiled with the code? If he ahas not, not only is he putting Mr Power and his family through unnecessary grief, but he will put the Island through an extraordinary embarrassment and repetitional damage? I really do think it would be more courageous to admit that we have got the process wrong. It often happens in HR; goodness knows I have done it myself. The process has to be correct or we will be in trouble and I would urge the Minister to go away and at least agree to look again at the decision making process.

#### The Deputy of St John:

I will deal with the first matter and that is a matter of the media. As we are in camera I am happy to state this. On leaving the with myself and the Chief Executive to the States, the Chief Officer went immediately to the BBC; he was there within 5 mins of leaving that office. That is why it became World News - not of my making; not of the Communications Unit's making. Secondly, as far as the process is concerned , I have taken advice. I have taken advice from other HR professionals within the States of Jersey HR department. I am perfectly satisfied that the code has been followed appropriately. I have taken advice from Her Majesty's Inspectorate of Constabulary, they feel that such action is wholly appropriate in the circumstance. I HAVE READ AN ALARMING REPORT FROM THE METROPOLITAN POLICE which led me to this decision in the first place. I can do no more(Approbation- Foot Stamping)

#### 1.21 Senator S Syvret:

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Will the Minister state whether legal advice has been given at any stage of the process to the Attorney General (William Bailhache) and Solicitor General (T. Le Cocq. rs)?

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The Deputy of St John:

I have taken advice from the Law Officers and that does include the Solicitor General.

Senator S Syvret:

Does it include the Attorney General?

Deputy St John:

No

Deputy P.V. Le Claire:

The Minister has made reference to the Metropolitan Police Report which, as an interim report, he has described as alarming. As an interim report he has said that has swayed and made his decision, something he has relied upon. The full report, which is due to be tabled and considered by the next Minister, was put in a question by Senator Syvret whether or not it would become public available. The answer was it formed part of the Crown Prosecution case it would not become a public document. How does that square with the full disclosure in an appeals process where defendant and the prosecution are entitled to see all the documents and evidence laid before a court?

The Deputy of St John

I think that is precisely the reason for my answer and from a technical point of view I think that question should be directed at the Solicitor General, if he is prepared to add to that.

The Bailiff:

I'm not sure that I understood the question, Deputy. You are speaking about the right of the Chief Officer to appeal against his suspension, are you?

Deputy P.V.F Le Claire

Yes, Sir, and surely under any normal process - maybe we don't disclose it. I would understand the full disclosure to personalise ads and to analyse traffic. Information on a person that is being sent down to charge. By using this site, you agree to its use of cookies.

to all the evidence that is being put against him and that would include the Metropolitan Police Report.

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The Bailiff:

Mr Solicitor, can you assist on that?

Mr T.J.LE Cocq., Her Majesty's Solicitor General:

I'm not sure what the report from the Metropolitan Police will contain. I anticipate that it will contain factual matters and that some of these factual matters we be germane to prosecutions, which may take place in the future, outside the ambit of this particular matter. But it is right that in the event that the contents of a document form the basis of complaint against an individual on which a judicial decision is made then in almost all circumstances, other than with the leave of the court, that individual must see that full document. It may be under conditions of secrecy, it may be under conditions of privacy in one form or another to whoever is going to be dealt with on the strength of why it may or may not say.

Deputy P.V.F Le Claire

Thank you very much, Solicitor General. Could I just add one small query on that because that is very informative and helpful? I just have a question mark over the "available in one form or another". Surely the full interim report should be available because the full interim report has been given to the Minister of Home Affairs and it has been that interim report that has given him this position.

The Bailiff:

I do not think the matter can really be advanced any further, Deputy, at this stage.

Deputy P.N Troy of St Brelade

Can the Minister confirm that the suspension is only in relation to the management of the Haut De La Garenne Inquiry and that there are no other reasons for the suspension? The Minister said that they were very serious allegations, but can he just confirm there were no other reasons? Can I ask why it is that Mr Harper, who probably did untold damage to the reputation to the island, was not suspended prior to his retirement? Why was he not put through the disciplinary process?



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The Deputy of St John:

No there are not. I am purely acting on information ~~contained in a report that was about an investigation into an operation that was code-named Rectangle and that is what the report was about and that is where my concerns were.~~ GOT IT  
No other concerns have I currently got, other than those of a serious nature.

Deputy Troy

Are there any other reasons for the suspension

The Deputy of St John

No, there are not. I am purely acting on information contained in a report that was about an investigation into an operation which is code-named Rectangle and that is what the report was about and that is where my concerns were. No other concerns have I currently got, other than those, of a serious nature.

Senator J.L Perchard:

As a Minister rightly said the suspension is a Neutral act I am sure there is one subject we would all agree on, that this neutral act comes to a speedy conclusion. Would the Minister give some indication as to how long he estimates the suspension will stand before it is dealt with finally one way or another?

Deputy of St John:

Unfortunately, I cannot. Such investigations can take time and so they should if they are going to be done thoroughly and I want the Chief Officer to have every opportunity to defend himself. To gather evidence on his side and, of course, on the side of the employer will take some time. I could not put a timescale on that, but it should be given sufficient time in order to present good cases on both sides.

2. Senator Syvret will ask of the Minister of Home Affairs regarding the non-disclosure the States Assembly of the disciplinary code applicable to the Chief Officer of Police:

Will the Minister explain why he refuses to supply Members with a copy of the code under which Authority he suspended the Chief of Police, how he considers the Assembly to be competent to question him on the subject in



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 of course. Assembly that all procedural and legal requirements of the  
 code have been observed.

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The Deputy of St John:

The authority to suspend the Chief of Police is contained in Article 9 of the Police Force Jersey law of 1974. I have, however, refused to provide copies of the the disciplinary code applicable to the Chief Officer of Police because that is confidential to the parties while proceedings under it are being progressed. The parties are expressed in the code as been parties involved in the operation of this code, which means primarily the Minister and the Chief Officer of Police. I am charged under the law with Ministerial responsibility in this matter and I intend to follow the express terms of the code. U under the law it is exclusively my decision whether or not to suspend the Chief Officer of Police. My obligation is to refer the decision to do so to the assembly and this I have done. I am satisfied that my actions have been accordance with both the law and the code and that procedural and legal requirements have been observed. I note that the Chief Officer of police, through his lawyers, has elected to share the code with Members of this Assembly. That is a matter for him and other than reserving my position and that of my successor I'm not prepared to comment on this matter any further.

Senator S Syvret:

The Minister has not properly answered my question. I asked how he considers the Assembly to be remotely competent to question him on this matter in the absence of the code.

Deputy of St John;

I think the code explains that. You are not in a position to question it and that is why I have resisted strongly that we should extend what has turned out to be a debate after my statement. You are not in a position to question it.

Senator Syvret:


We are not here questioning the code, we are here questioning the Minister. the Minister is being held to account by the legislature, by this Chamber. That is in entirely appropriate and I cannot see how the Assembly can be remotely expected to be competent to question this Minister or any other Minister without access to the key relevant documentation.


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If the Senator feels that then I would suggest we recommend the code is changed. At the moment that is the code. That is the advice I have received.

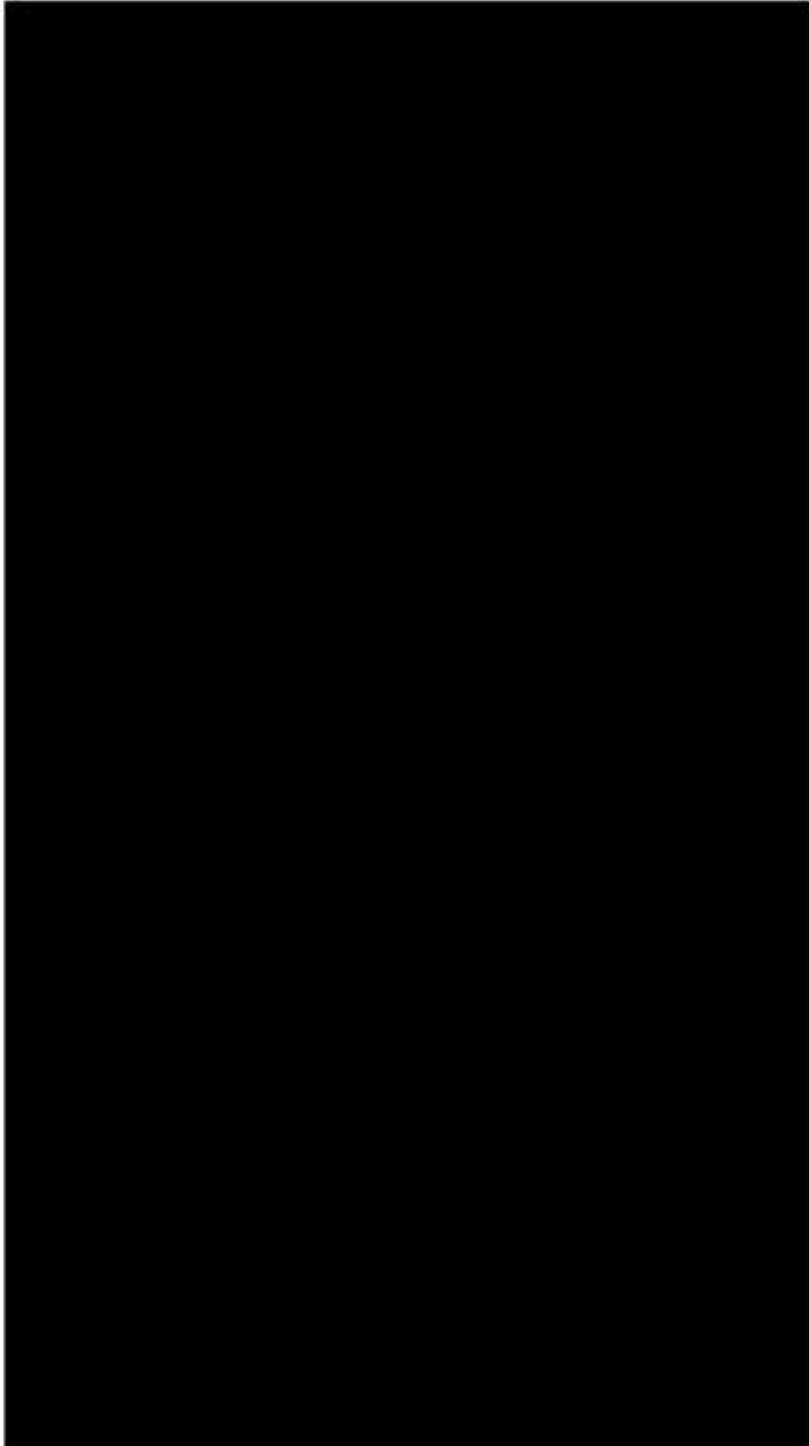
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Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP16

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- NEXT ONE BY GUN?
- OUR JUSTICE SYSTEM
- OUR FINANCE INDUSTRY
- OUR WEALTH CREATORS
- YOUR BIG MOUTH
- SHUT UP



Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP17

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States of Jersey  
States Assembly



États de Jersey  
Assemblée des États

# **Education and Home Affairs Scrutiny Panel**



## **Issues surrounding the review of financial management of Operation Rectangle**

Presented to the States on 9th November 2011

S.R.16/2011





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## CHAIRMAN'S FOREWORD

It is unfortunate that I find myself feeling no option but to use this foreword to outline some of the concerns the sub-panel has experienced in carrying out our review rather than discussing the findings themselves in depth. Fortunately, however, I believe the following report speaks for itself: its findings being based as all Scrutiny must be on hard, evidenced facts.

To say that the process of undertaking this Scrutiny review has been an eye-opening experience would, I believe, be a huge understatement. I feel that I also speak for my colleagues when I state that it has also raised concerns that have been deeply troubling to us with regard to how some involved with the implementation of the original review and the underlying subject matter appear to view any attempts to question – let alone criticise – any actions taken or conclusions reached.

This defensive and at times obstructive attitude became evident right from the start of our review. I further believe that this cannot bode well for the future of Scrutiny itself if left unchallenged. It can also undoubtedly only give further fuel to those who – rightly or wrongly - view the continuing blanket criticism of those originally charged with overseeing the whole Historic Abuse Inquiry as highly questionable.

It is often voiced in politics that not only must natural justice be done but that it must be *seen* to be done. In accordance with this it must also surely be expected that Scrutiny will at times be both uncomfortable and challenging for those under the spotlight. Yet it has appeared to the sub-panel that the attitude from within BDO Alto Limited has been that the very undertaking of the Scrutiny review has in itself been seen as an attack on the very integrity of the company.

That Members be left in no doubt it must be reiterated here that nothing could be further from the truth. The decision to review arose from concerns first raised by a member of the public active within the 'Citizen's Media' fraternity. Furthermore, whilst our decision to undertake the review has been fully vindicated by the findings outlined not all of the initial concerns have been borne out upon investigation.

Indeed, some of the evidence that has unfolded before the sub-panel has, in some instances, undoubtedly also resulted in more additional questions being raised rather than providing clear cut answers.

Certain evidence, given the review's comparatively limited Terms of Reference, we can only recommend most strongly be examined by a future investigation. The sub-panel has striven at all times to remain within the framework of our Terms of Reference. However, given the highly complex nature of the Historic Abuse Inquiry we also recognised right from the start that there would be times when we would have to be prepared to acknowledge wider matters.

In making this point clear for Members I would give as an example allegations made by both senior police officers, and, indeed, ex-Senator Syvret regarding assertions of inappropriate political interference within the investigation itself and relating to the removal of the former Senator from his position as Health Minister.

Clearly this was beyond the scope of the sub-panel's review. I nevertheless feel that given the serious nature of these allegations they certainly should be examined by the forthcoming Independent Committee of Inquiry into the Historic Abuse saga.

Readers of this Scrutiny report will further see that in circumstances of quite staggeringly different explanations from witnesses under questioning the sub-panel cannot hope to ascertain – beyond doubt – who is telling the truth on occasion when no paperwork exists to back this up. We do not see this as a failing. It is a simple statement of fact.

As well as accepting that there would be occasions when we would have to stray slightly beyond our framework in order to try and ascertain the bigger, underlying picture that had informed the issues being examined by BDO Alto; so we also came to conclude that we would consequently need to include some observations on how the subject matter had been reported in the local media.

It is obviously very important to make clear here that BDO Alto Limited can in no way be held responsible for the imbalanced way that Jersey's media and, indeed, the Home Affairs Minister subsequently chose to publicise the review's findings to portray a consistently negative picture. BDO Alto Limited can also hardly be blamed for the original setting of Terms of Reference that were far too narrow.

From the very onset of the review the attitude of the Home Affairs Minister, Senator Ian Le Marquand, has in my view been deeply troubling in his attempts to undermine the credibility of both myself and other members of the sub-panel: even to the point of seeking my and others removal. In reality I believe simply because we had expressed differing views to his on the issue of the suspension process relating to the former Chief of Police. I strongly contend that such attempts to interfere and manipulate the Scrutiny process by members of the Executive simply cannot be acceptable if Scrutiny is to be the strong an independent check and balance that was intended back in 2005.

Neither I would suggest as being acceptable was the attitude displayed by one Member of the Chairmen's Committee in suggesting that Scrutiny should not be undertaking the review: effectively because the original concerns were raised not by an expert but by (and I quote) 'a pipe fitter'.

Indeed, when one considers this can there really be any surprise that so many in the community are deeply suspicious of possible ulterior motives in how the whole Historic Abuse saga has been portrayed by some senior political figures; let alone our media? That all of the above has been largely echoed by BDO Alto Limited themselves can only further add to this perception.

I also feel that I must comment upon the company's unprecedented attempt (as far as I am aware) to bill Scrutiny for its participation in the review to the sum of approximately £14000 (discounted from £26000!). That included in this huge sum was a charge for attending a meeting set up by Scrutiny as a courtesy to the company to try and talk through and alleviate their initial concerns about the review only further compounds this feeling of disbelief.

Scrutiny and its Select Committee counterparts the world over, to the best of our knowledge, do not pay witnesses for giving evidence that in reality any individual or company could ultimately be subpoenaed to give. Nor should they do so for bills of such staggering quantity would spell the death knell of Scrutiny being more than the entire cost of a number of reviews. Indeed, the issuing and threat of such bills could, I believe, interpreted as an attempt to intimidate and curtail an investigation.

As I have indicated the sub-panel is of the view that the findings of the report fully justify its undertaking. That it is of such detail and substance demands that I also give full recognition to all involved. Not just my colleagues Deputies Le Herissier, Wimberley and Tadler; but also to our Scrutiny Officer, Mr. Mike Haden who has worked so diligently on this for many months. Without him it is no exaggeration to report that we would likely still be ploughing through the wealth of material today!

As I and the sub-panel have been at lengths to stress: we bear no allegiance to either Mr. Power or Mr. Harper as the central figures at the heart of the Historic Abuse Inquiry that underlies this Scrutiny review. Yet perhaps the most striking and uncomfortable question that arises from all of this has been as to just how and why the Island's media and some senior political figures have seen fit to report the unfolding of the Inquiry in such uniformly critical terms.

Not least within the consistently and wholly inaccurate impression given to the public that not only was a sum of approximately £7.5 million of taxpayers money wholly wasted on a 'bungled' and unnecessary investigation; but that all of this sum was attributable to Power and Harper.

Let this falsehood be ended here.

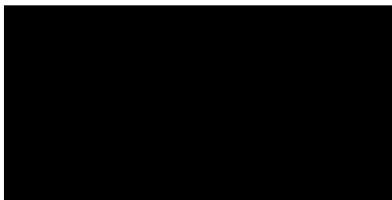
In reality the budget for expenditure by the States of Jersey Police was £4.5 million. The other £3 million was accounted for by other States Departments. This £7.5 million figure was also never all down to decisions taken by Mr. Power and Mr. Harper. Half of the spending on the inquiry was committed after their time leading the investigation. That such easily researchable facts have consistently been ignored within both the BDO Alto Limited review and local media reporting surely demands the question as to why?

With regard to Mr. Power and Mr. Harper whilst upon interview both men make no attempts to shy away from shortcomings in a number of areas relating to their personal control I further believe that two fundamental questions also have to be asked? That the public have every right to expect their hard-earned taxes to be both well spent and accounted for – both politically and at officer level - is obvious.

However, can it really be credible that within a case of unprecedented scale and complexity only two individuals 'got it all wrong' and deserve to be scrutinized – many would likely use the term 'trashed' – within the public eye again and again whilst those at Home Affairs and the senior politicians of the day who also bear significant – if not equal – responsibility attract no such condemnation whatsoever? The sub-panel believes the answer to this first question is no.

Secondly, and perhaps of even more fundamental concern for us if we are the caring and civilised society that we like to believe: when and how did purely financial matters, no matter how undoubtedly serious, become more important than turning our focus and attention to discovering how our most vulnerable children - instead of being protected and cared for by the States - could actually be systematically assaulted and abused over a period of decades?

If this review leads to nothing else other than a re-focussing by government, media and society on to this final question then all of the obstruction and sniping that we as a Scrutiny team have been subjected to these past months will have been well worth it.



Deputy Trevor Pitman - Chairman

## INTRODUCTION

### **What is the significance of the BDO Alto report?**

1. BDO Alto Limited was commissioned by the Home Affairs department to conduct a review of the efficient and effective use of resources in Operation Rectangle, the States of Jersey Police investigation into the Historic Child Abuse (HCA) in Jersey. Their report was published in July 2010 along with two reports from the Chief Constable of Wiltshire which had investigated the responsibility of the Police Chief, Graham Power, for any failures in the management of the Haut de la Garenne Enquiry.
2. By that stage the Wiltshire disciplinary investigation had been discontinued due to lack of time before Mr. Power's retirement.
3. The BDO Alto report identified a number of concerns regarding the manner in which resources were utilised and managed during the course of Operation Rectangle, particularly in the period post the decision to undertake a search and excavation at Haut de La Garenne.
4. The media response to the publication of the report was to highlight alleged extravagant spending during the enquiry on the part of Mr. Harper, the senior Investigating Officer. The Jersey Evening Post headlines on 15th July 2010 stated; 'Celebrity Lifestyle of Lenny Harper and his officers: meals in top-class restaurants and first class travel at expense of taxpayers'. Other details were given regarding alleged breaches of rules for expenses claims and the use of purchase cards, 'lavish' hospitality at expensive hotels, unnecessary business trips to London and an overtime 'bonanza' for junior States police officers.
5. The Historic Child Abuse investigation remained ongoing when the Wiltshire and BDO Alto reports were published. It has been alleged that the way in which the conclusions of both Wiltshire and the BDO Alto review were reported in the media has had a seriously detrimental impact on public confidence in the police conduct of the HCA investigation.

### **What were the specific concerns about the BDO Alto report which initiated the Scrutiny review?**

6. Despite the fact that he was the Senior Investigating Officer (SIO) and subject of significant criticism in the report, Mr. Harper was not interviewed by BDO Alto as part of their review nor given the opportunity to respond to the findings in the report. In his evidence to the Sub-Panel, Mr. Harper, as the person responsible for taking the key financial decisions which BDO Alto was commissioned to review, claimed that there was a substantial body of evidence which BDO Alto had failed to consider. This has raised questions regarding the objectivity and independence of the report.

7. Mr. Harper was also concerned that reference was made in the BDO Alto report to confidential statements he had made to the Wiltshire enquiry.
8. Thirdly, sections of a 'leaked report by financial auditors' were quoted by a reporter of the Mail on Sunday (4th October 2009) eight months before the BDO Alto report was submitted to the Minister and was used in a highly critical article on the conduct of the Haut de la Garenne inquiry. It was also noted that apparent references to findings of the BDO Alto review were included in a Channel Television interview in September 2009 with Mr. Gradwell, Mr. Harper's successor as Senior Investigating Officer.

#### **What was the scope of the Scrutiny review?**

9. On 14th June 2011 the Education and Home Affairs Panel agreed that these matters should be investigated and established a Sub-Panel led by Deputy Trevor Pitman for this purpose.
10. Members agreed at the outset that it was important that its review of these matters should remain tightly focussed on the issues arising from the above concerns and should not re-investigate the substance of the findings in the BDO Alto report.
11. Nevertheless, our review has pointed to the importance of understanding the context in which the BDO Alto review took place. We have found it essential to understand the broader issues around the governance of the States of Jersey Police and in particular the concept of the Accounting Officer as it existed at the time of Operation Rectangle. It has been acknowledged by the Minister for Home Affairs and the Comptroller and Auditor General that the system whereby the Chief Officer for Home Affairs is Accounting Officer for the States of Jersey Police and responsible for oversight of the Police budget is seriously flawed. This is not a peripheral issue. It left both the Chief Officer, Home Affairs, and the Chief Officer of Police in a vulnerable position with regard to monitoring police expenditure.
12. This situation gives a different perspective to the issues examined by BDO Alto and we have tried to set this out in our report. We acknowledge that the terms of reference given to BDO Alto required them to focus on the details regarding the use of resources but in our view the Minister should have ensured that the review he had commissioned looked beyond these matters. We have concluded that a review of an issue as highly sensitive as the Police handling of Operation Rectangle should not have been commissioned by the States department which had responsibility for overseeing the Police budget. The review should have been assigned to a completely independent body, such as the Comptroller and Auditor General.
13. At a late stage in our review we were offered access to Mr. Power's confidential statement to the Wiltshire disciplinary enquiry and for this reason we requested a further interview with this witness. We found this to give important insights into the constraints and pressures under which the senior management of the States of Jersey Police were operating during Operation Rectangle. BDO Alto was unable to take account of Mr. Power's perspective due to the ongoing disciplinary enquiry.



We believe that ultimately this had important consequences for the overall balance of their report.

14. Conscious of the terms of reference for our current review we were able to deal with only a limited number of areas of Mr. Power's statement. We have not been able to make this statement available as evidence as there are sensitive issues which require redaction. This has been subject to an unacceptably long delay in publishing the document and we have urged the Minister on a number of occasions to resolve the matter.
15. Our two discussions with Mr. Power have led us into issues which are beyond the remit of the current review. His statement gives important insights into how the States of Jersey Police initiated and conducted a complex investigation into historical child abuse in the Island, and the difficulties they faced in pursuing such a high profile investigation. Mr. Power expressed his frustration that the focus on police expenditure and procedures has tended to divert public attention from key issues about failures in public administration for the care of children revealed by the investigation. Mr. Power said that critical comment had become focussed on himself and Mr. Harper whereas he believed that there were much broader questions to be resolved:

*If there was a failure here, people have said that it was not handled well and that there was a failure in management. Jersey failed to manage it well. It is just simply not credible to say that the police did not manage it well but everybody else did. Jersey failed to manage it well. Jersey's Government failed to manage it well. The Law Officers, as I think they have admitted, did not handle it well and you could certainly look back on the police operation and say there are things that we might have done differently. As previously mentioned about it, if the abuse inquiry was a police investigation carried out under my command which was absolutely perfect then it is the first one ever because that does not happen. You spend minutes, sometimes seconds, taking decisions that people are going to pick over for years afterwards and it is always possible to look back and say: "Well, you could have done it better." So, no, there is no claim on my part that the police operation was a perfect one. The failure to manage effectively was right across the spectre of Government and also the failure to come from ... the bigger question is: "Excuse me, but what is it about Jersey and the way it is run that has allowed all this abuse to go on for all these years and somehow it never got dealt with. It was not confronted, it was not addressed, it was quietly swept under the carpet" and I think that they are focusing on the narrow issue of whether the police followed procedures set out in the manual designed for English forces and this has really taken over from some rather bigger and slightly more awkward questions.<sup>1</sup>*

16. It was not possible for us to deal with the issues identified by Mr. Power in our review; however, we look to the Committee of Enquiry, which is to be launched in the near future, by the Council of Ministers to ensure that they are fully addressed and subject to rigorous evidential tests.
17. We also agreed at a late stage to a request from Mr. S. Syvret to be called as a witness to provide testimony on issues which had broader relevance to our review.

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<sup>1</sup> Public hearing 28.10.11

As a former Minister for Health and Social Services Mr. Syvret had some experience with the use of external agencies within the context of governance and scrutiny of public departments and functions. We accepted that his testimony could support certain conclusions which we had already drawn from our review. Mr. Syvret's testimony is available on the Scrutiny website; however, he also used the occasion to make a number of serious allegations against named and unnamed individuals. For this reason, we have decided to redact certain sections of the transcript.

18. Our review has led us to consider another issue which strictly speaking goes beyond our terms of reference. It is impossible to ignore the media interest in Operation Rectangle and the way new developments, including the conclusions of the BDO Alto report have been presented. Given the immense controversy and polarisation that surrounded Operation Rectangle, we believe that balanced and well informed reporting is crucial. Our review has tended to draw us to a conclusion that this has not been the case with regard to the outcomes of the BDO Alto report. The reporting of one-sided information based on leaks has had the effect of reinforcing negative stereotypical images of the Police handling of the investigation. In the particular case of the conclusions of the BDO Alto report, the media themselves failed to give the person responsible for financial decisions an opportunity to give his views.
19. We are conscious that our review has not been able to fully examine the issues with media coverage but we believe that they ought to be considered by a future Scrutiny Panel.
20. Finally, it is important to clarify the role of BDO Alto in our review. At the outset, many of the questions that we had meant that they were at the forefront of our review and we are grateful for the detailed response they made in their submission which clarified how the initial concerns on which our review was based had come about. During the course of the review, it became clear to us that the genesis of the problems which had been identified in our terms of reference related to matters largely beyond BDO Alto's control, namely the way the report was commissioned, the conflict between their review and the disciplinary enquiry being conducted by the Wiltshire Police at the same time and the circumstances under which assistance was provided to them by the States of Jersey Police. The crucial fact is that BDO Alto was blocked from interviewing Mr. Harper and for this reason we believe that their review was incomplete and flawed. Aside from this fundamental point, which we believe should have been addressed by those who commissioned the review, our conclusions do not criticise the way BDO Alto conducted the review which they had been commissioned to undertake.

## **TERMS OF REFERENCE**

1. To examine the instructions under which BDO Alto was engaged to review the financial management of Operation Rectangle and their methods for gathering evidence for this review;
2. To clarify the connection between the BDO Alto review and the review on the same matter separately commissioned by the Acting Chief Officer of Police;<sup>2</sup>
3. To identify the reasons why the Senior Investigating Officer for Operation Rectangle was not interviewed by BDO Alto and was not given the opportunity to respond to the report's findings;
4. To clarify the liaison between BDO Alto and the Wiltshire Police, in particular the references in the BDO Alto report to the Senior Investigating Officer's statements to Wiltshire Police;
5. To investigate how details of the review into the financial management of Operation Rectangle came to be published in a national newspaper in October 2009; and
6. To consider the implications of the Sub-Panel's findings.

### ***Sub-Panel membership***

Deputy Trevor Pitman, Chairman

Deputy Roy Le Herissier,

Deputy Montfort Tadler (resigned from the sub-Panel on 11<sup>th</sup> July 2011),

Deputy Daniel Wimberley.

### ***Acknowledgements***

The Sub-Panel is grateful to all the witnesses who took time to prepare submissions on these issues and to attend public hearings. Their evidence greatly assisted the Sub-Panel in understanding the issues.

The Sub-Panel also wishes to acknowledge the contribution of Mr. R. Sorda whose questions regarding the review carried out by BDO Alto prompted the Sub-Panel to investigate this matter.

The Sub-Panel was disappointed that Mr Gradwell, the Senior Investigating Officer who took over responsibility for Operation Rectangle following the retirement of Mr. Harper, declined their invitation to attend. His explanation of a number of issues would have been very pertinent.

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<sup>2</sup> Note: the Sub-Panel's original terms of reference stated that the review commissioned by the Acting Chief of Police was 'on the same matter' as the BDO Alto review. It became clear however from the evidence of Mr. Warcup that the review he had commissioned was on a quite separate matter – see section 2 of this report.

In accordance with the Scrutiny Code of Practice all witnesses are given an opportunity to comment on the evidence sections of our draft report, that is, without our conclusions and recommendations. A copy of the Sub-Panel's draft report was provided to BDO Alto and Mr. Michael Kellett on 20<sup>th</sup> September 2011. BDO Alto informed the Sub-Panel that they had decided to write to the Privileges and Procedures Committee to raise a number of concerns regarding the conduct of this Scrutiny Review. BDO Alto Limited and Mr Kellett advised the Sub-Panel that they were unable to comment on the draft report pending receipt of a substantive response from the Privileges and Procedures Committee. The timetable for the publication of our report was deferred for over a month due to our decision to hold additional public hearings. However, the response from the Privileges and Procedures Committee remains outstanding as at the date of issuing this Report. Due to the imminent end of the current States Assembly following the elections in October 2011 the Sub-Panel considered with regret that there was no alternative but to proceed with publication without waiting for comments from BDO Alto and Mr. Kellett.

#### **Written submissions were received from**

- Mr. L. Harper, Senior Investigating Officer
- BDO Alto Limited
- Mr. M. Kellett, Police consultant engaged by States of Jersey Police
- States of Jersey Police
- Mr. G. Power, former Chief Officer, States of Jersey Police
- Mr. D. Warcup, former Acting Chief Officer, States of Jersey Police
- Mr. A. Bellows

#### **Other Relevant documents**

- BDO Alto report, May 2010
- BDO Alto Letter of engagement, dated 29th September 2009 (confidential)
- Ministerial decision dated 23rd February 2009 (confidential)
- Wiltshire Police: Finance Report, July 2010
- Wiltshire Report: Appendix: Chronology of Operation Rectangle September 2007 - November 2008
- Extract from Statement by Mr. G. Power to Wiltshire Police regarding financial management (confidential)
- Home Affairs Department Briefing Pack including correspondence with SIO, Police Chief, Treasurer, Minutes of Financial Oversight Board (confidential)

- Minister for Home Affairs Statement, dated 14 July 2010: three reports in relation to the management of aspects of the Historical Abuse Enquiry
- Home Affairs Department: Timescale for matters relating to Historic Abuse Inquiry and Operation Blast from November 2008
- Home Affairs Department: Memo dated 16th August 2011 in response to issues raised in Mr. Power's submission
- Comptroller and Auditor General: Report on Historic Child Abuse Enquiry, July 2010

### **Witnesses at Public Hearings**

04.07.11 Mr. L. Harper, former Senior Investigating Officer,  
15.07.11 Managing Director, BDO Alto Limited & Mr. M. Kellett  
15.07.11 Minister for Home Affairs  
15.07.11 Chief Officer, Home Affairs  
15.07.11 Mr. R. Sorda  
16.08.11 Mr. D. Warcup, retired Chief Officer of States of Jersey Police  
17.08.11 Mr. G. Power, retired Chief Officer of States of Jersey Police  
25.08.11 Minister for Home Affairs  
25.08.11 Chief Officer, Home Affairs  
28.10.11 Mr. G. Power, retired Chief Officer of States of Jersey Police  
28.10.11 Mr. S. Syvret

### **Terms**

ACPO Association of Chief Police Officers  
HCAE Historic Child Abuse Enquiry  
HDLG Haut De La Garenne  
HOLMES Home Office Large Major Enquiry System  
JAR/6 Item recovered from HDLG on 23rd February 2008, initially identified as part of a child's skull  
MIRSAP Major Incident Room Standard Administrative Procedures  
SIO Senior Investigating Officer  
SOJP States of Jersey Police

## KEY FINDINGS AND RECOMMENDATIONS

1. To examine the instructions under which BDO Alto Limited was engaged to review the financial management of Operation Rectangle and their methods for gathering evidence for this review.

### *Key findings*

- 1.1 Under the Public Finances (Jersey) Law 2005 the Chief Officer of Home Affairs is legally responsible for the expenditure of the States of Jersey Police. All concerned now agree that the decision to place accountability for the States of Jersey Police budget with the Home Affairs Accounting Officer was a mistake. This arrangement made it unnecessarily difficult for the Chief Officer of Home Affairs to ensure effective oversight of expenditure on Operation Rectangle which was an event of unprecedented complexity.
- 1.2 The terms of reference for the review of financial management during Operation Rectangle were drawn too narrowly. They directed BDO Alto to focus solely on the internal Police arrangements and the use of resources.
- 1.3 As a result, the review conducted by BDO Alto promoted a perception that the high levels of expenditure in the investigation were caused by a lack of management control by senior police officers whereas there was in fact a much broader failure by States systems to provide adequate and timely monitoring of the way financial resources were being used, which has not been acknowledged or examined.
- 1.4 The examination of governance arrangements in section three of the BDO Alto report is incomplete as it does not take into account evidence from Mr. Power, the Chief Officer of Police at the time.
- 1.5 An opportunity to include a more strategic examination of how Jersey runs and funds policing and lines of accountability, both professionally and politically, was missed.
- 1.6 The appointment of a Finance Manager seems to have fallen between two stools. BDO Alto review did not examine why Home Affairs did not appoint a finance manager at an early stage to work closely with the Police.
- 1.7 The Minister for Home Affairs should have ensured that the BDO Alto review fully examined the implications of the flawed structure for monitoring and challenge.
- 1.8 Operation Rectangle had significant unbudgeted consequences for the States of Jersey as a whole. However, it is not clear whether the senior management in the States had any established procedures for identifying and managing the risk. This aspect was not examined by BDO Alto as it was outside their terms of reference.
- 1.9 The review of an issue as highly sensitive as the Police use of resources in Operation Rectangle should not have been commissioned and overseen by the States department which had responsibility for the Police budget.
- 1.10 A completely independent body should have commissioned this review in order to provide a more transparent, comprehensive and rigorous challenge to the financial

monitoring arrangements in place between the Home Affairs Department and the States of Jersey Police.

- 1.11 In the highly charged atmosphere about the Historic Child Abuse Enquiry and the way it was handled it was inevitable that narrowly drawn terms of reference and the way the report focussed on specific expenditure decisions and less on wider issues of governance and control would be seen by some as less than objective and a deliberate attempt to discredit the HCAE.

### ***Recommendations***

- R.1 The Council of Ministers should report to the States on whether it believes that its procedures for the identification and management of major financial risks are adequate. If they think they are adequate, they should explain why, in the light of two successive failures<sup>3</sup> when major unprecedented risks were not well managed. If they think they are not, how they have made the procedures fit for purpose.
- R.2 Reviews of exceptional matters of public interest such as Operation Rectangle should be commissioned, their Terms of Reference set, and supervised in a completely transparent and independent way. The Council of Ministers must report to the States on how this is to be achieved.
2. **To clarify the connection between the BDO Alto review and the review separately commissioned by the Acting Chief Officer of Police**

### ***Key Findings***

- 2.1 Mr. Kellett was originally employed by the States of Jersey Police to undertake an internal review, commissioned by Mr. Warcup, relating to the overall conduct of the HCA investigation by the police.
- 2.2 Mr. Kellett, however, was not made aware of this intended task and was given separate instructions which required him to work closely with the BDO Alto review on the use of financial resources. These different instructions were given by Mr. Gradwell and had not been seen or authorised by Mr. Warcup.
- 2.3 Mr. Gradwell's instructions to Mr. Kellett caused confusion about the police consultant's role. Mr. Warcup initially praised Mr. Kellett's work but subsequently decided that it was inappropriate for him to be working on a joint review with BDO

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<sup>3</sup> The negotiating of a major contract with a French company with regard to the construction of the incinerator, and the running of a major crime investigation into historic child abuse, and possibly child homicide.



Alto on the grounds that it was inappropriate for anyone working for the States of Jersey Police to be investigating matters which were connected to the disciplinary enquiry being conducted by Wiltshire Constabulary.

- 2.4 The long delay in bringing the Wiltshire disciplinary enquiry to a conclusion had important consequences for the BDO Alto review as it led to Mr. Warcup's decision to prevent Mr. Kellett from interviewing Mr. Harper regarding his expenditure decisions during the course of the BDO Alto review.
  - 2.5 Despite the significant limitation imposed on the BDO Alto review by his decision, Mr. Warcup did not convey his concerns to the Minister for Home Affairs. The Minister was therefore unable to resolve the problem.
  - 2.6 Due to Mr. Gradwell's widely known negative views on the management of Operation Rectangle by his predecessor it was not appropriate for him to be directing the police consultant's work on the financial review. This undermined the independence of the BDO Alto review.
- 3. To identify the reasons why the Senior Investigating Officer for Operation Rectangle was not interviewed during the review and was not given the opportunity to respond to the report's findings**

### ***Key findings***

- 3.1 It is self evident, and all parties agree, that BDO Alto should have interviewed the key witness so that his evidence could have been included and evaluated in their report. Natural justice requires no less.
- 3.2 The failure to provide Mr. Harper with the opportunity to respond to the findings of the BDO Alto review was also, in our view, a significant error and inevitably undermines the credibility and fairness of that review.
- 3.3 Given that it was surely obvious that not to interview the Senior Investigating Officer in Operation Rectangle would leave the review open to criticism of being fundamentally flawed, BDO Alto should have brought this problem to the attention of the Home Affairs and insisted that some solution be found.
- 3.4 No one involved in the review brought to the Minister's notice the fact that there were apparent obstacles in the way of interviewing Lenny Harper.
- 3.5 The terms of engagement for BDO Alto should have made clear that their review would be subject to public scrutiny.

4. **To clarify the liaison between the review of financial management and the Wiltshire Police Investigation, in particular the references in the BDO Alto report to the Senior Investigating Officer's statements to Wiltshire Police**

#### ***Key findings***

- 4.1 BDO Alto stated that the references to Mr. Harper's statement to Wiltshire were included in their report in order to add some support to Mr. Harper's approach to certain financial issues.
  - 4.2 The three references briefly made in the BDO Alto report actually concern contentious issues which deserved a much fuller explanation of Mr. Harper's position.
  - 4.3 In our view, the justification given for referring to Mr. Harper's statement in fact supports the argument that he should have been contacted to establish his point of view across the whole review of financial resources.
5. **To investigate how details of the review into the financial management of Operation Rectangle came to be published in a national newspaper in October 2009**

#### ***Key Findings***

- 5.1 The evidence we have received points to Mr. Gradwell as the person responsible for leaking information from draft sections of the work which Mr. Kellett had prepared for the BDO Alto review.
- 5.2 Neither BDO Alto nor Mr. Kellett were responsible for the leak of information to the Mail on Sunday.
- 5.3 Mr. Gradwell's action in releasing prematurely to the media draft sections of an uncompleted report would have been a serious disciplinary matter for the Police. However, no action could be taken against him by the SOJ Police as Mr. Gradwell had completed his secondment and left the Island.
- 5.5 Mr. Gradwell's reasons for taking such an unprofessional step are not clear to us as he refused to participate in the Scrutiny review.

## 6. Media coverage

### *Key Findings*

- 6.1 The emphasis on alleged misuse of taxpayers' money in instances of media reporting risks implanting the impression in the public mind that the entire expenditure on Operation Rectangle was badly managed.
- 6.2 In our hearing with him on 25<sup>th</sup> August 2011, the Minister was sympathetic to our concerns about the way negative messages about Mr. Power and Mr Harper had been spun in the media and he offered to make a joint statement to this effect with the Sub-Panel. We believe that this would be a positive step.
- 6.3 Our primary concern about the premature leaking of details of the review of financial management relates to issues of fairness in the way these leaks are reported in the media without an adequate opportunity for an alternative perspective to be considered.
- 6.4 It is essential that the Chairmen's Committee give serious consideration to establishing a Scrutiny Panel which could undertake a review which will look specifically at the kind of issues we have identified in this report.

### *Recommendation*

- R.3 The Chairman's Committee should establish broadly-based Scrutiny Panel to undertake a review to examine issues relating to the media coverage which we have raised in our report.

**1. TO EXAMINE THE INSTRUCTIONS UNDER WHICH BDO ALTO LIMITED WAS ENGAGED TO REVIEW THE FINANCIAL MANAGEMENT OF OPERATION RECTANGLE AND THEIR METHODS FOR GATHERING EVIDENCE FOR THIS REVIEW.**

**Background and terms of reference**

1. On 23rd February 2009, Senator Ian Le Marquand, the Minister for Home Affairs [the Minister], endorsed the undertaking of an external review of the use of resources incurred by the States of Jersey Police (SOJP) during the Historical Child Abuse Enquiry (HCAE) codenamed Operation Rectangle. This review had originally been requested by the former Minister for Home Affairs (then Deputy Andrew Lewis) following the suspension of the Chief Officer of the States of Jersey Police (Mr. Graham Power QPM) in November 2008 *'in order to provide an independent opinion which would satisfy scrutiny in the future'*.<sup>4</sup>
2. Prior to this the Council of Ministers had already commissioned the Chief Constable of Wiltshire Constabulary to undertake a disciplinary investigation [the Wiltshire Enquiry] relating to the conduct of Mr. Power in respect of his supervision of Operation Rectangle. The Wiltshire Enquiry included as part of its remit an investigation into the financial management of Operation Rectangle insofar as it related to the Chief Officer; however, it was intended that the review commissioned by Home Affairs would deal with decisions taken by the police officers directly involved in the HCA investigation.
3. The Minister explained that the review was commissioned:

*for purposes of determining whether things had gone wrong, if so, what had gone wrong, to learn lessons from that, to see in general terms who was responsible, but it was not a disciplinary report.*<sup>5</sup>
4. The Chief Officer, Home Affairs, explained why he had believed that it was necessary to commission an external review of the use of resources:

*I think you have to go back quite a long way to the genesis of expenditure. So I think I will start with the former Chief Minister's statement on 26th February 2008 where he said that all necessary resources will be made available to the investigation. That had various interpretations at the time and I think the former Chief Minister himself sought to clarify it later what he meant by that. But, as we now know, because it is a matter of record, that gave rise to quite an unprecedented level of spending, during the course of which, because I am the Accounting Officer for the Home Affairs Department and I am legally accountable for public money, I clearly had an eye on expenditure right the way*

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<sup>4</sup> Ministerial Decision MD-HA-2009-0016

<sup>5</sup> Public Hearing 15.07.11

*through. So, in the course of the next few months, we had two sample audits, one was on the police budget, which was a routine audit of expenditure. I then followed that up with a sample audit of some of the expenditure, which was just to check that some of the invoices had been correctly authorised. At the same time, I was in liaison with the Treasury and Mr. Harper and Mr. Power over what arrangements were being made to make sure that money was being spent appropriately. [ ] That then culminated, towards the end of 2008, with a situation where most people still, including me, still wanted some reassurance about what had been spent, how it had been spent, whether it was value for money, and so there seemed no alternative than to authorise a value-for-money audit.<sup>6</sup>*

5. The Ministerial Decision defined the objective of the review as follows:

*To provide an independent and objective opinion on the financial and governance controls in place in respect of the Historic Child Abuse Enquiry (HCAE) in order to provide an assurance to the accounting officer and Minister that resources have been used efficiently and effectively.<sup>7</sup>*

6. The terms of reference given to BDO Alto were focussed on the issue of the use of financial resources, which had not previously been addressed<sup>8</sup>. The terms of reference were specifically to examine and consider the following in respect of the HCAE:

- *the costs associated with personnel eg overtime, accommodation, travel and subsistence;*
- *the costs associated with external supplies and services;*
- *the internal governance arrangements which existed within the States of Jersey Police to ensure the effective management control and the efficient and effective use of resources.<sup>9</sup>*

### ***BDO Alto Engagement letter***

7. BDO Alto Limited, an international accountancy and consultancy firm with a branch in St Heller, was commissioned to undertake the review. On 18th March 2009 the Home Affairs Department received a draft letter of engagement from BDO Alto and on 25th March 2009 confirmed that they were happy with the draft. Work on the review began straight away. The terms of engagement letter was finally confirmed six months later on 29th September 2009. The Managing Director, BDO Alto, explained the reasons for this delay:

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<sup>6</sup> Public hearing 15.07.11

<sup>7</sup> Ministerial Decision MD-HA-2009-0016

<sup>8</sup> BDO Alto report page 4

<sup>9</sup> Ministerial Decision MD-HA-2009-0016

*There was no adverse reason for that other than we had not at that point in time determined how we were finally going to report. When we started the process, we were not entirely sure what information we would be receiving. The investigation was clearly an ongoing investigation and, therefore, the format of the final report had to be determined.<sup>10</sup>*

8. One of the initial concerns expressed to the Sub-Panel related to the date of the BDO Alto letter of engagement (29th September 2009) as stated in the preface to the BDO Alto report. Yet, only a few days later, on 4th October 2009, the Mail on Sunday was referring to the findings of 'a report by financial auditors'.<sup>11</sup> It is clear from the explanation given by Home Affairs and BDO Alto that work had begun on the review much earlier, in March 2009.

### ***BDO Alto methods of working***

9. BDO Alto told the Sub-Panel that their review was not about the historical child abuse investigation per se:

*We were simply interested in whether or not financial spend on Operation Rectangle had been done in accordance with all of the usual controls and governance that surrounds any sort of spend within the States of Jersey or within States of Jersey Police, and to summarise what our conclusions were and to make some recommendations to help Home Affairs and the States of Jersey Police in managing that spend going forward. It is very, very different to an inquiry or an investigation.<sup>12</sup>*

10. BDO Alto described their method of working as follows:

*The level and nature of costs incurred was able to be analysed based on the financial data and all of the invoices and other documentary evidence that supports it. The discussions with the officers, with civilian staff, with contractors very much supported that process, but if we put our audit disciplines hat on, then the majority of our evidence is linked to documentary evidence and is also linked to compliance with procedures and financial policies in place, [ ]*

*Organisations rely on financial decisions to be documented, for there to be a robust documentary audit trail supporting decisions and supporting individual aspects of spend. [ ]*

*The Home Affairs Department account for the expenditure of the police force, among other things, so they were able to provide a full data dump of all of the costs relevant to Operation Rectangle, and that was our starting point. Having categorised the various aspects of the investigation spend, we were able to*

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<sup>10</sup> Public hearing 15.07.11

<sup>11</sup> See further discussion of how the newspaper became aware of these findings in section five of this report

<sup>12</sup> Public hearing 15.07.11

*then start to obtain detailed documentation and evidence to properly interpret firstly what that spend was and secondly that it had been procured in a way that is consistent with the policies and procedures in place in the States of Jersey and in the police force.*<sup>13</sup>

11. In order to assist BDO Alto with the review and to provide independent advice on the management of police operations and police regulations, Mr. M. Kellett, a former Senior Investigating Officer with experience in the North West Regional Asset Resourcing Agency, was engaged separately by the States of Jersey Police.<sup>14</sup> Mr. Kellett reviewed the relevant financial documentation contained in the Major Incident Room at SOJP and he undertook interviews with SOJP officers and other civilian contractors. The BDO Alto report states that its findings are *'the joint findings of Mr. Kellett and BDO'*.<sup>15</sup> (see further discussion in section 2 of this report).
12. BDO Alto stated that they had been able to conduct a thorough review and that the interaction with both Home Affairs and the States of Jersey Police and the provision of information by them had been very effective. There had there were no limitations or boundaries set upon them in gathering evidence, except for the fact that they were unable to take comments from Mr. Harper, the Senior Investigating Officer (SIO) of Operation Rectangle from its inception until his retirement from the SOJP Force in August 2008.<sup>16</sup> (see further discussion in section 3 of this report).
13. BDO Alto worked on their review throughout 2009. Initial indications given in May 2009 were that a full draft of the report would be available to Home Affairs by 10th July 2009.<sup>17</sup> However, it was not until February 2010 that the final version of their working papers document was forwarded to the Home Affairs Department, shortly before the Minister received the report of the Chief Constable of Wiltshire in relation to the finance related aspects of Operation Rectangle.<sup>18</sup>
14. The Minister told the Sub-Panel that the BDO Alto review had fundamentally come to the same conclusions as Wiltshire, except with much more detail. BDO Alto had covered issues which came under the responsibility of the SIO and which were not directly the responsibility of Mr. Power (for example, management of the security cordon at Haut de la Garenne, employment of a specialist dog handler and the associated costs and forensic expenditure):

*I viewed frankly the BDO Alto as just providing me the detail in relation to some areas where the detail was lacking in the Wiltshire financial report.*<sup>19</sup>

15. As it now appeared that the Wiltshire Police had concluded their investigation in respect of financial management it became clear that the BDO Alto report would be for audit purposes only rather than potential evidence in the disciplinary

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<sup>13</sup> Public hearing 15.07.11

<sup>14</sup> States of Jersey Police Submission. Mr. Kellett's terms of engagement are set out in his submission

<sup>15</sup> BDO Alto Report page 4

<sup>16</sup> Public hearing 15.07.11

<sup>17</sup> BDO Alto submission appendix (confidential)

<sup>18</sup> Timescale for matters from November 2008 relating to Historical Abuse Enquiry and Operation Blast, Home Affairs Department

<sup>19</sup> Public hearing 15.07.11



proceedings.<sup>20</sup> It was also agreed with Home Affairs that the report would be made public. As the full working papers document was too long for public consumption BDO Alto undertook to prepare a shorter summary report.

16. The final redacted document with 19 recommendations for the future conduct of major police investigations was received by Home Affairs at the end of May 2010.
17. In July 2010 the Minister wrote to Mr. Power indicating that the disciplinary process was to be discontinued due to lack of time.
18. The BDO Alto report was published by the Minister along with extracts from the Wiltshire report and a statement by the Minister on 13th July 2010.

### **Criticisms of BDO Alto review**

19. During the course of the Sub-Panel's review significant criticism of the scope and balance of the review undertaken by BDO Alto has been expressed by the senior police officers responsible for the conduct of the Historical Child Abuse investigation from September 2007 through to 2010, namely Mr. Power, Mr. Harper and Mr. Warcup.
20. The Sub-Panel made it clear at the start of its review that it did not intend to re-examine the substance of the findings of the BDO Alto report; nevertheless the Sub-Panel has found it essential to consider whether these criticisms have any basis in fact.
21. Mr. Power told the Sub-Panel that in his view the BDO Alto review was insufficiently strategic as it had failed to examine the flaws in the system of financial management which existed at the time of Operation Rectangle:

*It is frustrating, particularly with the almost impossible situation that we found ourselves in in operating the system of financial management that was imposed upon us contrary to best practice advice, and how that arose and how responsibility for that ought to be shared.<sup>21</sup>*

22. In his submission Mr. Power invited the Sub-Panel to consider:

*...whether the balance of investigative effort and critical comment has been correctly struck between the actions of operational Police Officers, with no financial training or qualifications, and the trained accountants of the Home Affairs Department who share a legal responsibility for the financial management of the Police Service. In my view a fair balance has not been achieved. It appears to me that the actions of Police Officers have been subjected to intense scrutiny and critical comment, whereas by comparison the*

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<sup>20</sup> Timescale for matters from November 2008 relating to Historical Abuse Enquiry and Operation Blast

<sup>21</sup> Public hearing 17.07.11

*actions of those with the training, qualifications and statutory responsibility have been relatively immune from critical examination.*<sup>22</sup>

23. Mr. Harper stated in his submission:

*The BDO report totally misunderstands and misrepresents the situation of the SOJP as it was then in relation to the management of its budget. The report compares the management of the police budget unfavourably with UK forces and rather misleadingly equates (supposed) operational independence with the financial decision making ability of UK forces.*<sup>23</sup>

24. Mr. Warcup described the review, after having seen initial sections of the report drafted by Mr. Kellett, as follows:

*The review had become overly focussed on Mr. Harper, lacked objectivity, had the potential to be unfair to Mr. Power and could have seriously undermined the investigation by Wiltshire Police.*<sup>24</sup>

25. This section of the report focuses on the criticism by Mr. Power and Mr. Harper regarding the balance of financial and governance control which existed between the States of Jersey Police and the Home Affairs Department. The criticism expressed by Mr. Warcup will be discussed in section two of this report.

### **Role of Accounting Officer**

26. In order to assess the criticisms of Mr. Power it is necessary to understand the position of the Accounting Officer for Home Affairs and the financial expertise available to the States of Jersey Police. Under the Public Finances (Jersey) Law 2005 the Chief Officer for Home Affairs is the Accounting Officer and is '*personally accountable for the proper financial management of the resources*'<sup>25</sup> within his department, including the SOJP budget.

#### **(a) BDO Alto Report**

27. In section three of its report entitled 'Financial Governance and Control', the BDO Alto report deals with the difficult position in which the Accounting Officer for Home Affairs found himself during Operation Rectangle where, although he had legal responsibility for police expenditure, the overall control of operational expenditure remained the responsibility of the Chief Officer SOJP.

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<sup>22</sup> Submission by Mr. G. Power QPM, page 2

<sup>23</sup> Submission by Mr. Harper, paragraph 10

<sup>24</sup> Submission by Mr. Warcup, page 6

<sup>25</sup> Article 38(1) Public Finances (Jersey) Law 2005

28. The BDO Alto report makes a number of key observations on the financial governance and control of the HCAE investigation. These are summarised as follows<sup>26</sup>:

- The investigation did not have a proper budget established from the outset
- There were few finance policies in place to ensure proper management of investigation spend
- The increase in the scale of the enquiry following the discovery of JAR/6<sup>27</sup> should have resulted in the formalisation of procedures in respect of management of cost, however this did not occur
- The investigation lacked a dedicated Finance Manager and, even if not deemed necessary at the outset, then one should have been appointed following the discovery of JAR/6 and the significant increase in the investigation.

29. The key issues identified by BDO Alto were (in summary)<sup>28</sup>

- There was no budget against which SOJP and Home Affairs could monitor investigation costs on an ongoing basis
- With no budget in place Home Affairs had no visibility on forecast expenditure levels
- This coupled with minimal financial reporting generally did not allow the Accounting Officer at Home Affairs to discharge his obligations under the Finance Law, ie he did not have timely information to enable him to scrutinise investigation expenditure or forecasts
- MIRSAP<sup>29</sup> states that a Finance Manager should be appointed immediately and is crucial in setting up a major inquiry
- By not appointing a Finance Manager, the roles are necessarily covered by operational policing resources and other administrative staff on a more fragmented and uncoordinated basis, which does not maximise investigation efficiency or effectiveness.

30. The Comptroller and Auditor General endorsed the conclusions of the BDO Alto report in respect of the :

*The effect is that the Department's Chief Officer is denied the means by which he might satisfy himself that appropriate financial controls have been instituted*

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<sup>26</sup> BDO Alto report, pages 17 - 19

<sup>27</sup> Item recovered from HDLG on 23rd February 2008, initially identified as part of a child's skull

<sup>28</sup> BDO Alto report, pages 17 - 19

<sup>29</sup> Major Incident Room Standard Administrative Procedures

*within the States of Jersey Police as one would normally expect an Accounting Officer to do.*<sup>30</sup>

31. The Minister, on the basis of both the Wiltshire and BDO Alto reports, drew the conclusion:

*There was an extraordinary situation that the historical abuse inquiry, as it unfolded, it expanded in terms of Haut de la Garenne, had no budget, and had no additional financial safeguards, no Finance Officer, no Gold Command Group, et cetera, it is quite an extraordinary situation, I mean it is quite contrary to the normal controls that would happen where you would expect there to be a budget.... There should have been a Gold Command Group; that is where much of the managerial failures came down to the decision of Mr. Power and Mr. Harper to centralise control in the 2 men alone. That is the core of the issue because, if you had a Gold Command Group you would have had finance people on it, you would have had other police officers, and you have proper checks and balances built in.*<sup>31</sup>

**(b) Mr. Power's view**

32. In Mr. Power's view the BDO Alto report does not fully examine the issue regarding the role of Accounting Officer from the perspective of the Chief Officer of Police and consequently does not appreciate that, as Chief Officer of Police, he was also denied the means to ensure that appropriate financial controls were in place.
33. Mr. Power said that the introduction of the Public Finance Law 2005 had produced a 'bizarre' arrangement whereby the Chief Officer of Home Affairs had responsibility for financial management in the police service while the Chief Officer of Police had no financial staff under his management.<sup>32</sup>
34. Mr. Power told the Sub-Panel that he had strongly opposed these arrangements but had not been supported by the Chief Officer of Home Affairs. He commented:

*The Chief Officer for Home Affairs was keen to go along with that arrangement in spite of me producing copies of the best practice advice from other jurisdictions which say you should not do that. You should not split financial control away from the operational management. The Minister for Treasury at the time and the Chief Minister were very determined to impose that arrangement. So I think all of the financial staff were taken away from police headquarters so we were operating around the £20 million a year budget and we did not have a qualified financial person within line management within the police service. So I think a good strategic report which looked at this would*

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<sup>30</sup> Historic Child Abuse Enquiry Report under the Public Finances (Jersey) Law 2005 July 2010

<sup>31</sup> Public hearing 15.07.11. See also the Minister's statement: Three reports in relation to the management of aspects of the Historical Abuse Enquiry, dated 14 July 2010

<sup>32</sup> Public hearing 17.08.11

*identify that is where the problem began because I do not think anybody is disputing that there were problems.*

*I speculated at the time were we being set up to fail. It was [ ] an arrangement which every expert on the proper governance of a police force would tell you it is one that would not work most days and certainly would not work under pressure as proved to be the case<sup>33</sup> (emphasis added by Sub-Panel)*

35. Mr. Power covered this issue in some detail in his statement to Wiltshire police<sup>34</sup> and also in his oral evidence to the Scrutiny public hearing on 17th August 2011. He described the arrangements as 'a seriously imperfect system'. I should be noted that the disciplinary enquiry was focussing on Mr. Power's responsibilities which included overall financial management. However, there was an understanding that the BDO review should not encroach onto the disciplinary enquiry (see further discussion in section two of this report). As a result, although Mr. Power's evidence would have been relevant to an understanding of the monitoring relationship between Home Affairs and SOJ Police, those carrying out the review of financial management were not made aware of the wider issues identified by Mr. Power.

36. Mr. Power described how he tried to make an imperfect system work (i.e. before the advent of Operation Rectangle). He told the Sub-Panel:

*What I did was to make sure that the senior management meetings that we had, which occurred on average every couple of weeks, were attended always by a member of the Home Affairs Department finance section. So we also had a qualified accountant sitting at the table of the management meetings representing Home Affairs and we always had a financial report as a standard item.<sup>35</sup>*

37. The BDO Alto report makes only a brief and oblique reference to the system of financial accountability in place at the time implying that UK forces would have had stronger arrangements available to the Police. The report states:

*The Accounting Officer has no managerial and/or operational oversight role, and the SOJP have total operational independence and autonomy at all times. This is consistent with the UK forces, albeit we understand that they have a more evolved system of financial accountability in place.<sup>36</sup> (emphasis added)*

38. The Chief Officer of Home Affairs told the Sub-Panel that, with the agreement of Mr. Power, he had moved the Finance Director and HR Senior Manager to the Home Affairs Office in the Royal Square in 2000 in order to set up the central Home Affairs Department. Thus the financial management arrangements and access to financial advice that applied during Operation Rectangle had endured for five years before Ministerial government and for the next three years prior to the start of Rectangle (and for the four years since). He said that Mr. Power always had ready access to the financial advice he required. Even though it

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<sup>33</sup> Public hearing 17.08.11

<sup>34</sup> Paragraphs 265 - 284 dealing with financial management. The extract from the statement was provided to the Sub-Panel on a confidential basis

<sup>35</sup> Public hearing 17.08.11

<sup>36</sup> BDO Alto report page 12

wasn't under his direct command, it was only ever fifteen minutes walk away and the arrangements had worked perfectly well for the eight years before Rectangle.<sup>37</sup>

39. Mr. Power told the Sub-Panel that when it became clear in the latter part of 2007 that Operation Rectangle was likely to have significant financial implications, he had asked the Chief Officer, Home Affairs, what arrangements he wanted to establish in respect of financial management:

*I was conscious that it was his decision to take. He was the Accounting Officer and he had a legal responsibility for the budget. He said that he would appoint the senior finance officer, who I know, to work directly with the Rectangle team... The person who would be, if you like, the eyes and ears of the accounting officer inside the Rectangle team.<sup>38</sup>*

40. Mr. Power had been satisfied that this was appropriate as the officer was well accustomed to working with the police and his abilities were well respected. Mr. Power appears to have placed a great deal of reliance on this arrangement, referring to it three times in his statement:

*'I was satisfied that qualified financial personnel were being given unrestricted access to all relevant items;*

*the feedback I received from the appointed financial experts was that all matters were properly documented and records were available for examination;*

*at every stage I was advised by qualified financial experts'.*

41. Mr. Power told the Sub-Panel that in the early stages of the HCA enquiry there were meetings held between Mr. Harper and the Chief Officer of Home Affairs and his senior accountants discussing issues such as the financial Policy Group and travel costs. At this stage, he said, no concerns were expressed. Nevertheless, despite the reassurances that he was receiving he became uneasy that there was perhaps not sufficient rigour in the Home Affairs approach. He believed that the turning point came after a meeting of the Council of Ministers (22nd May 2008) in which Ministers had raised questions which were beginning to circulate publicly about police expenditure about hotel bookings for visiting police, business class flights to Australia and police overtime.
42. At that point (27th May 2009) the Chief Officer for Home Affairs contacted Mr Power asking him to sign a letter of assurance that expenditure was being controlled within financial directions. Mr. Power said that he was not comfortable with this because of the lack of financial staff within his own office. He then made a suggestion, in response dated 9th June 2008, saying that a more robust arrangement was required and recommending the establishment of a 'Financial Oversight Board'. This proposal was accepted although Mr. Power felt that it was not acted upon with sufficient speed as the first meeting of the Board did not take place until 23rd July 2008. Mr. Power commented:

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<sup>37</sup> Public hearing 25.08.11

<sup>38</sup> Public hearing 17.08.11

*At that meeting I was able to make some proper recommendations, the concept of constructive challenge, the idea that we should bring in some independent auditing procedures. [ ]*

*The minutes will show that nobody raised any concerns and so whatever I might have felt intuitively the fact is that the people who had the knowledge of financial procedures, who had daily access to all of the accounts was unanimous in telling me that there was nothing I needed to do and nothing I needed to worry about. ... Whatever people are saying in hindsight what they said at minuted meetings is simply a matter of record and what is a matter of record is that nobody had any concerns.*

*Any alleged revelations regarding irresponsible spending that came to light came to light after I was no longer in post. [ ] It was when I was no longer in post when people started telling a very different story.<sup>39</sup>*

43. Mr. Power said that he had not seen the Financial Oversight Board as a permanent feature because it was going to be absorbed into a Strategic Coordinating Group (Gold Group) which he expected Mr. Warcup to establish once he had been appointed as Deputy Chief Officer. The lack of a Gold Group to oversee the management of Operation Rectangle was subsequently seen as a key failure in Mr. Power's administration.<sup>40</sup> Its early establishment would have been in accordance with standard police procedures for major crime incidents. BDO Alto also draw attention to this on page 16 of their report and the principal conclusions of Chapter 3 (Financial Governance and Control) are based on a requirement for formalisation of procedures in respect of the management of costs which they say did not happen.
44. In the second hearing with Mr. Power the Sub-Panel sought reasons for his not proceeding on these lines. Mr. Power said that he could defend his position on a number of grounds. The principal reason, however, was that in the early stages of Operation Rectangle there had been a cascade of allegations, including a number which accused police officers of covering up abuse. A Gold Group would have involved bringing in to the management of the enquiry people who were, at the time, potentially suspects or associates of suspects

*It is clear that there are certain people who you normally bring in, some of the senior management team, who had some questions to answer. Now, as it is has turned out some of those questions have been answered and been answered in a satisfactory way but you did not know that then... As soon the fog had cleared, and we began to get a clearer picture, it became more realistic to talk about establishing a gold group. The Gold Group was established in 2008 and I am pleased ... it came at the right time,<sup>41</sup>*

45. Mr. Power believed that by the summer of 2008 the corporate governance around the enquiry had become quite solid:

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<sup>39</sup> Public hearing 17.08.11

<sup>40</sup> See reference to Minister's evidence paragraph 31 and Chief Officer's evidence paragraph 63

<sup>41</sup> Public hearing 28.10.11



*I think everyone agrees that long before I left office in November 2008 that there were very robust arrangements in place. Nobody is accusing anybody of not having a sound arrangement in place, say, in July, August, September, October or November 2008. That is where we had got to. I fully agree with hindsight we did not get there quickly enough but it was all rather moving very fast and unfamiliar territory for everybody, including some of the senior politicians.*

*With hindsight, perhaps I was a little bit too intimidated about the fact that ... the law was very clear that the responsibility for financial oversight was not mine it was the Chief Officer for Home Affairs and although I was getting assurances from his department, as I think I discussed already, I thought: "No, this really is not good enough, I have got to get some rigour around this".<sup>42</sup>*

46. Mr. Power considered that the Chief Minister's statement to the effect that all necessary resources would be provided for the HDLG investigation without the setting of a normal budget had caused particular problems:

*The political background was very difficult because in one sense we were trying to produce financial rigour and on the other hand the Chief Minister at the time, no doubt for reasons of reassurance or whatever but possibly with different motives was making public statements to the effect that money was no issue.[ ] I found myself intercepting the expenditure which was being made on the strength of Chief Minister's promise that we were not going to worry about money and Home Affairs said: "No, you cannot do this because there is not a budget approved by the States." [ ]*

*The Chief Minister was handling it under pressure, he assured us he knew what he was doing in his public statement that cost was no object with the best of motives but he effectively undermined those of us who were working to try and bring some control.<sup>43</sup>*

47. Mr. Power said that he had urged both the Chief Officer, Home Affairs, and the Treasurer to regularise the situation by ensuring that there was a proper budget approved by the States:

*We may have got away with that before the Finance Law where somebody would have found a pot of money in a quiet corner but under the Finance Law you can only spend what is in the budget. That is the way the law is now and the Chief Minister had not got his head around that and what was then necessary was for the Treasurer to produce a paper for the States asking the States to vote for the official budget.<sup>44</sup>*

48. Mr. Power's overall criticism of the balance of the BDO Alto report is based on the perception that the actions of the police in Operation Rectangle had been subjected to intense scrutiny against best practice guidelines in other jurisdictions

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<sup>42</sup> Public hearing 17.08.11

<sup>43</sup> Public hearing 17.08.11

<sup>44</sup> Public Hearing 17.08.11

whilst the context in which the Police found themselves with regard to financial management had not been fully examined:

*It seems to me very clear that substantial amounts of investigative effort has been ploughed into making critical comments regarding the police service. They were facing critical comments in the States about the expenditure on the [Wiltshire] investigation and I suppose this - in my reading of it - caused a lot of energy to be directed towards finding critical things to say about policing which perhaps justified, the long-running suspension, the anticipated inquiry, the £2 million of expenditure. [ ]*

*I am not aware that anybody has been appointed [ ] to look critically at the actions of Ministers or senior civil servants in establishing arrangements which prove to be if not unworkable at least very difficult.<sup>45</sup>*

49. Mr. Power believed that BDO Alto had focussed on matters of financial detail which had led to strong criticism of the Senior Investigating Officer at the time but had failed to examine the wider governance issues:

*I think there was an inordinate emphasis on the detail of expenditure in restaurant bills and matters of that nature rather than how did you get into a situation where there was so many fingers in the pie of financial management and no clear line of accountability. I mean that is the bigger question.*

*I still think there are some important lessons. It is just not good enough to say that: "The senior investigating officer at the time did not control expenditure properly and so let us criticise him and we can all go home." I think that that are some serious issues about how Jersey runs and funds policing and lines of accountability, both professionally and politically, which need to be taken on board and I think that opportunity perhaps has been missed.<sup>46</sup>*

### **(c) Mr. Harper's views**

50. Mr. Harper believed that it was important to understand the context for financial management in which the States of Jersey Police were operating at the beginning of the HCA Enquiry. He described the situation in scathing terms:

*In reality, unlike UK forces, we did not have the ability to track our budgets as they do in the UK. Where the UK forces had in house finance departments which reported to the Chief Officer, we had an ever diminishing number of Treasury personnel who nominally worked with us but reported to the Treasury.*

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<sup>45</sup> Public hearing 17.08.11

<sup>46</sup> Public hearing 17.08.11

*We had to rely on them for monthly bulletins as to how we were doing. These bulletins became a joke, so inaccurate were they...*<sup>47</sup>

51. BDO Alto, however, believed that Mr. Harper's criticism was not relevant to their review which was focussed on the management costs of Operation as a 'stand-alone' major investigation.<sup>48</sup>
52. Note; The Sub-Panel has not examined the criticism levelled by Mr. Harper regarding the Treasury reporting, as this would be beyond its expertise and its remit; nevertheless, it is important to point out that this difference of view is a crucial matter in any assessment of the above criticisms of the BDO Alto report.
53. Mr. Harper told the Sub-Panel that he had received little guidance in respect of financial affairs and that concerns about overspending had not been raised with him during his period in charge of the investigation. Nevertheless, he claimed, he had been mindful of the importance of controlling costs from the start of the investigation.
54. Mr. Harper pointed out that he had even been criticised for commenting in a press release on the potential financial implications of launching a potential formal homicide enquiry following the discovery of JAR/6 at Haut de la Garenne. The press release read as follows:

*it is unlikely that a formal homicide enquiry could be justified in circumstances where the suspects are very likely deceased. As well as having huge financial implications such an enquiry could also detract from the serious allegations of criminal abuse in which the victims and suspects are still alive*<sup>49</sup>

55. The Chief Executive of the States had commented

*'the financial implications are irrelevant here, the issue is how is justice best served? Should the investigation continue or not.'*<sup>50</sup>

56. Mr. Harper referred to a meeting on 4th June 2008 with the Chief Officer and Finance Director of Home Affairs which had been called to discuss the financial management controls he had put in place at the start of the investigation and to deal with certain specific queries relating to travel costs (the cost of accommodation for visiting officers and the expenses for the trip to Australia by his officers), all of which were dealt with to the satisfaction of the Home Affairs finance team at the time.

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<sup>47</sup> Mr. Harper's submission paragraph 10

<sup>48</sup> BDO Alto submission, page 16

<sup>49</sup> Update regarding skull fragment found at HDLG dated 18th April 2008

<sup>50</sup> email dated 18th April 2008, copy supplied to the Sub-Panel

**(d) Chief Officer, Home Affairs**

57. The Chief Officer, Home Affairs, gave his account of the difficulties of his position as Accounting Officer in two public hearings. He explained to the Sub-Panel that he had argued in support of the principle of the Accounting Officer arrangements under the Finance Law as he had not accepted that the Police should be a special case in comparison with the other heads of department within Home Affairs.<sup>51</sup> He acknowledged, however, that the circumstances of Operation Rectangle had led him to change his mind on the issue.

*With the benefit of hindsight when you have a major inquiry like this, whatever weaknesses there are show through, and Mr. Warcup described them as systemic. Where you have a service that is entirely its own master, except that it clearly reports at the moment to the Minister and does not report to me, then there will be a tension set up at times like this. It would be far better in hindsight if the Chief of Police was an accounting officer.<sup>52</sup>*

58. The Chief Officer summarised the two major difficulties that he faced in terms of his responsibility for financial management:

**(a) lack of budget:** *I knew from 26th February 2008 that I was on a bit of a sticky wicket. Here is a huge amount of expenditure, unprecedented really, no budget, nobody telling me how the money is going to be refunded, no control over instructing the police how to spend it, and yet I am legally responsible in law.*

**(b) lack of timely information:** *The other thing, of course, is we were not party to any of the spending decisions so things were being looked at in retrospect and we had to build a pattern of expenditure based on what had already happened rather than what was going to be authorised.<sup>53</sup>*

59. He said that he had been mindful of the seriousness of the police investigation and had wished to retain a discreet distance from operational matters:

*In February 2008, when the former Chief Minister made that statement, I was going to be the last person to interfere with what the police were doing and the last thing they needed was me on their backs saying: "Have you filled in these balance sheets?" There was a time and a place for that but it was not just then.<sup>54</sup>*

60. The Chief Officer recounted the steps he had taken to seek reassurance from Mr. Power and Mr. Harper that appropriate financial controls were in place.<sup>55</sup>

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<sup>51</sup> Chief Officer's Letter to the then Chief Executive dated 7 November 2005, provided to the Sub-Panel

<sup>52</sup> Public hearing 25.08.11

<sup>53</sup> Public hearing 15.07.11

<sup>54</sup> Public hearing 15.07.11

<sup>55</sup> Full records of relevant correspondence with the SIO, Chief Officer Power, the Treasurer of the States and minutes of the Financial Oversight Board were provided to the Sub-Panel in a confidential Briefing Pack from Home Affairs

- On 21st February 2008 (prior to the discovery of JAR/6): The Finance and Administration Manager sought details of the potential costs of the operation including overtime in order to prepare a financial projection
- On 26th March 2008: The Finance and Administration Manager provided the SOJP with a report of the estimated costs of the operation with projected costs to 30th June 2008 of £1.5 million
- 7th May 2008: The Finance Director, Home Affairs, requested a meeting with Mr. Harper to discuss how he was planning and monitoring current expenditure. Mr. Harper responded giving an assurance that all expenditure was operationally necessary, governance had been checked by ACPO homicide working group. This was confirmed in a further email on 28th May 2008
- The requested meeting took place on 4th June 2008. The Chief Officer commented that he had found no reason to challenge the assurances he had received at that stage:

*The point [is] that this is a major inquiry and people who had been brought over to look at the way they were conducting it were apparently saying that this was okay; this was being conducted in the right fashion. I am not going to question that. Why would I challenge that?*<sup>56</sup>

- 27th May 2008: The Chief Officer wrote to Mr. Power asking for a formal assurance that expenditure was being controlled in accordance with finance directions. This action followed prompting by the Chief Executive to the Council of Ministers and the Treasurer of the States who had faced questions from the Council of Ministers on 22nd May 2008 regarding the costs of the HDLG investigation. The Treasurer had pointed out in an email that it was not unreasonable 'given that there are no budgetary constraints on this expenditure' to seek such an assurance.<sup>57</sup>
- The Chief Officer stated in his letter that monitoring of expenditure had been conducted by his Finance Director and her staff hitherto in a discreet manner so as not to impact on the progress of the investigation.
- The Chief Officer told the Sub-Panel that this letter had been a clear indication to Mr. Power that he was concerned about the current situation:

*This was me saying to the Chief of Police: "I need your assurance that what is going on you are happy with." So, that is a written challenge. There is no other way of describing it.*<sup>58</sup>

- The Chief Officer believed that it was his letter which made Mr. Power think that something else was required and led to Mr. Power's suggestion of a Financial Oversight Board.

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<sup>56</sup> Public hearing 25.08.11

<sup>57</sup> email dated 22.05.08 provided in Home Affairs Briefing Pack

<sup>58</sup> Public hearing 25.08.11

- The first meeting of the Financial Oversight Board took place on 23rd July 2008 with two subsequent meetings on 3rd October 2008 and 12th February 2009
- The Chief Officer said that given the time of year (July) it had been difficult to find an earlier date due to the absence of key individuals.

61. Following the establishment of the Financial Oversight Board the Chief Officer, Home Affairs, felt able to write to the Treasurer of the States on 31st July 2008 to provide assurance that he had received the required confirmation from the States of Jersey Police that appropriate arrangements were in place to monitor and control expenditure.

62. The first meeting of the Gold Command Group took place on 1st September 2008 and this was attended by the Chief Officer. The Chief Officer commented that he immediately saw the value in these meetings as he was able to talk in real time with the senior management running the enquiry - there had been no platform for that before the Gold Group - however, he had been unaware of this procedure:

*I did not know that Gold Groups were the order of the day as a policing thing. I did not know that it was in their procedures to establish the Gold Group for things like this.<sup>59</sup>*

63. The Chief Officer said that recent experience of another major police enquiry<sup>60</sup> had proved the importance of the Police appointing their own Finance and Administration Manager to organise all the financial issues from within the Police Force, something that had not been done for Operation Rectangle. He maintained that this was a police procedural issue:

*It is not for me to do that: that is standard operating procedure for major enquiries. If Mr. Power had asked me: "I cannot get anyone, I need to have one of your 3 people" we would have talked about it but that was never requested.<sup>61</sup>*

64. The BDO Alto report picks up this point:

*It has also been suggested to us by the Home Affairs Finance and Administration Manager that had he been seconded to SOJP during the course of the investigation, or at least during its most intense period, that he may have been able to actively contribute to the management and control of expenditure.<sup>62</sup>*

65. It was at the end of November 2008, some four months after his letter to the Treasurer of the States providing assurance regarding the expenditure on Operation Rectangle, that the Chief Officer found that he was no longer able to provide this assurance. This followed as a result of the Metropolitan Police report which had culminated in the suspension of Mr. Power as Chief Officer. On 31st December 2008 he wrote again to the Treasurer stating

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<sup>59</sup> Public hearing 25.08.11

<sup>60</sup> The Victoria Crescent case

<sup>61</sup> Public hearing 25.08.11

<sup>62</sup> BDO Alto report page 15

*serious doubt has been cast ... over the appropriateness of significant expenditure ... and the overall course of the enquiry. In such an unprecedented situation where the States of Jersey Police is concerned, I am clearly unable to give the assurance requested.*<sup>63</sup>

66. The Chief Officer told the Sub-Panel that he had fully expected that his own role of Accounting Officer would come under scrutiny when he proposed the review of the use of resources; however he was prepared to stand by the decisions he had made in relation to the oversight of the investigation. He said that his own conduct during the police operation had been subsequently endorsed by the Comptroller and Auditor General in his review which followed the publication of the Wiltshire and BDO Alto reports:

*I accept that the Chief Officer of the Home Affairs Department was throughout mindful of his personal responsibilities and took reasonable steps to discharge his responsibilities within the constraints that I have described.*<sup>64</sup>

**(e) The Minister's view**

67. The Minister defended the focus of the BDO Alto report:

*The primary purpose of the BDO report is to look at whether monies had been spent efficiently and effectively and, therefore, by its nature it was always going to be delving into a great deal of detail and producing some sort of view as to whether or not this was the proper use of expenditure. It was always going to be focusing on the dog expenditure, it was always going to be focusing on the hotel expenditure, it was always going to be focusing on the outside company being paid an hourly rate rather than a daily rate, it was always going to be focusing on the overtime at double time running on, et cetera. It was always going to be focusing on those individual things.*<sup>65</sup>

68. The Minister acknowledged, nevertheless, that he had expected the review of financial management to deal with broader governance issues including the functionality of the Home Affairs Department, albeit he recognised that this issue was not expressly within their terms of reference. He noted that BDO Alto had in fact included a chapter on 'Financial Governance and Control' in their report (chapter three).<sup>66</sup>
69. The Minister also acknowledged that the system of accountability was flawed. He said that he had been clear 'right from the start' that it would have been better for the Chief of Police to have been the Accounting Officer at the time, with his own

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<sup>63</sup> Chief Officer, Home Affairs, letter dated 31st December 2008

<sup>64</sup> Report of Comptroller and Auditor General report on Historic Child Abuse Enquiry, July 2010

<sup>65</sup> Public hearing 25.08.11

<sup>66</sup> Public hearing 25.08.11



financial staff<sup>67</sup>; however, in his statement in July 2010 he had dismissed this as a major problem:

*There is no doubt that the unsatisfactory finance structure of the Home Affairs Department will have slightly contributed to the problems. It is simply not satisfactory that the Chief Officer at Home Affairs should be the Accounting Officer for the SOJ Police when he has no oversight or control over the activities of the States of Jersey Police.*<sup>68</sup>

### **Sub-Panel comments**

#### **Setting BDO Alto terms of reference**

70. The Sub-Panel believes that a broader examination of the difficulties caused to both the Police and the Home Affairs by the flawed monitoring structure would have been appropriate and consequently the terms of reference for the BDO Alto review were drawn too narrowly. As a result, the review tended to promote the perception that the high levels of expenditure in the investigation were caused by a lack of management control by senior police officers whereas there was in fact a much broader failure by States systems to provide adequate and timely monitoring of the way financial resources were being used, which has not been acknowledged or examined.
71. BDO Alto acknowledge the wider context in their report, but in effect make only a passing reference without developing the point:
- We have formed the overall view that the monitoring environment in place around Operation Rectangle did not support the proper scrutiny of expenditure by Home Affairs on a timely basis....*<sup>69</sup>
72. Had BDO Alto been fully conscious of the problems described by Mr. Power in his statement to Wiltshire they might have considered that an examination of the 'monitoring environment' deserved more weight in their report. However, as stated elsewhere<sup>70</sup> this was not available to them because BDO Alto was required not to encroach upon the disciplinary enquiry being undertaken by Wiltshire.
73. It could be argued that the Ministerial Decision allows for a much wider perspective. It states the objective of the review to be 'an independent and objective opinion on the financial and governance controls in place in respect of the HCAE investigation'.<sup>71</sup> However, in his public statement in July 2010, as stated above, the Minister dismissed the issue as of 'slight importance' and focussed attention on the management failures of the police.

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<sup>67</sup> Public hearing 25.08.11

<sup>68</sup> Minister for Home Affairs: three reports in relation to the management of aspects of the Historical Abuse Enquiry, dated 14 July 2010

<sup>69</sup> BDO Alto report page 13

<sup>70</sup> See paragraphs 121

<sup>71</sup> Ministerial Decision MD-HA-2009-0016

74. We believe, on the contrary, that an understanding of the split responsibilities of the Accounting Officer at Home Affairs and the Chief Officer of SOJ Police has an important bearing on the specific problems of financial management identified by the BDO Alto review. In our view, the Minister should have ensured that the implications of the flawed monitoring environment were examined fully in the review of financial management.
75. We also believe that the fact that the terms of reference were drafted by the Home Affairs Department and approved by the Home Affairs Minister had important consequences for the review. This meant that the review was commissioned, overseen and finally signed off by the Home Affairs Department. The Home Affairs Department was too closely involved in the matters under review and should have passed over the commissioning of the review to a separate body for independent scrutiny and oversight.
76. We suggest that this arrangement is unlikely to fulfil the overall objective set for the review of financial management, namely an '*independent and objective opinion of the financial controls in place*'.<sup>72</sup> There is also a risk that there will be a lack of challenge towards those who have commissioned the review.

#### **Monitoring and Oversight by Home Affairs**

77. We have identified a number of areas where there appears to have been a lack of challenge by BDO Alto for Home Affairs
78. One of the key findings of the BDO Alto report was the importance of appointing a Finance Manager to any major police enquiry. From the evidence we have heard there is a disagreement between Mr. Power and the Chief Officer, Home Affairs, about whether such an appointment was made. Mr. Power appeared to believe that such a person was in place at an early stage of the police investigation. However, the Chief Officer, Home Affairs, said that no such request was made until the establishment of the Finance Oversight Board where the Finance Director, Home Affairs was nominated to represent the interests of the Chief Officer, Home Affairs. BDO Alto did not have the opportunity to examine the contradiction in the evidence because they did not have access to Mr. Power's evidence.
79. Related to this matter is the evidence of the Finance and Administration Manager was that he was obtaining very little information about ongoing spend. The BDO Alto makes the following observation:

*It has been suggested to us by the Home Affairs Finance and Administration Manager that had he been seconded to SOJP during the course of the*

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<sup>72</sup> Ministerial Decision MD-HA-2009-0016

*investigation, or at least during its most intense period, that he may have been able to actively contribute to the management and control of expenditure.*<sup>73</sup>

80. The suggestion by the Finance and Administration Manager was made in hindsight; it must be questioned why a secondment was not proposed at the time during the investigation.

81. The BDO Alto report refers to the lack of structure and the reliance on unminuted and infrequent meetings between the Home Affairs Finance and Administration Manager and SOJP personnel. BDO Alto gives the following explanation

*This approach appears partly driven by Home Affairs desire to provide the enquiry team with 'space' to deal with, what was thought to be at the time, a child homicide investigation.*<sup>74</sup>

82. We understand why this approach was adopted by Home Affairs in the very early stages of the investigation but we suggest that it would have been appropriate for BDO Alto to challenge why the approach was allowed by Home Affairs to persist for so long without rectifying the evident failings.

83. No direct reference is made in the BDO Alto report of the Financial Oversight Board (FOB) which was established by Mr. Power following the request by the Chief Officer, Home Affairs, on 27th May 2008 for reassurance about how expenditure was being monitored.<sup>75</sup> (The establishment of the FOB is referred to in the Accounting Officer's letter of 31st July 2008 to the Treasurer of the States<sup>76</sup> but not described in any detail).

84. The Chief Officer, Home Affairs, and Mr. Power both regarded this as an important development and as a result the Chief Officer, Home Affairs, was able to give the Treasurer and the Council of Ministers the reassurance they were seeking. However, despite this importance of this development, it does not appear that its establishment was treated with any great urgency as there was a period of six weeks between the suggestion by Mr. Power and the first meeting of the FOB.

85. In our view, BDO Alto does not question this delay in their report.

### States wide issues

86. Another consequence of the narrow terms of reference and limited focus of the BDO Alto review is that the broader context for the way HCA investigation was handled by the States beyond the Home Affairs Department was not considered. As previously stated by witnesses, this was a matter of unprecedented seriousness for the Island, particularly following the discovery of JAR/6 and the possible implications of this find. This led to the Chief Minister's statement on 26th

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<sup>73</sup> BDO Alto report page 15

<sup>74</sup> BDO Alto report

<sup>75</sup> see paragraph 39 above

<sup>76</sup> BDO Alto report page 14

February 2008 that all necessary resources would be made available to the investigation.

87. However, as time progressed the scale of the expenditure became more and more acute. By the end of March 2008 the projected police costs were £1.5 million. By 3rd June, when P.91/2008<sup>77</sup> was lodged for debate by the States, estimated overall costs across all departments had risen to £6m. This was later revised upwards to £7.5m.<sup>78</sup> Given the nature of these extraordinary costs it is appropriate to ask what forms of risk assessment were being undertaken at the most senior levels of the States management.
88. The Chief Executive to the Council of Ministers and the Treasurer of the States prompted the Chief Officer of Home Affairs to seek formal assurance from the Chief of Police on 22nd May 2008 regarding control of expenditure, as described above<sup>79</sup>. However, there is no record which has been made available to us which shows evidence of any further enquiries made by senior management for a considerable period of time.<sup>80</sup>
89. The Chief Officer, Home Affairs, provided the assurance requested by the Treasurer of The States on 31st July 2008. It was not until 1st December 2008 that further questions were asked by the Treasurer of the States regarding the justification of expenditure. It seems clear, however, that serious doubt about expenditure had been appearing for some time prior to that point. We understand that the matter was not discussed at the Corporate Management Board in the intervening period.
90. In our view there is a parallel to this situation in the failure of the States to hedge the Euro in respect of the management of the Energy from Waste plant project. Here too there was confusion about where responsibility for financial oversight lay which led to the problem. In the hearing with the Public Accounts Committee the then Treasurer of the States commented:

*There are lots of learning points from this. One of them was, we have not had such a major procurement before and one of the issues was, I think if you look through there, was a lack of clarity about who was responsible for what, and all things being equal, and if you read it under the law the accounting officer is responsible for the revenue and capital spend of their department. So, the accounting officer for this project was clearly the Chief Officer of Transport and Technical Services and that is responsibility for all risks to do with that project.<sup>81</sup>*

91. The then Chief Officer of Transport and Technical Services, on the other hand believed that the risks were being managed by the Treasury:

*I disagree with that statement that was made. ... In this particular case the whole issue about managing the funding of this project, [ ] was passed to the Treasury and Resources Department...*

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<sup>77</sup> Historic Child Abuse: Funding

<sup>78</sup> Amendment to P.91/2008 lodged 13th August 2008

<sup>79</sup> See paragraphs 60

<sup>80</sup> Full records of relevant correspondence with the SIO, Chief Officer Power, the Treasurer of the States and minutes of the Financial Oversight Board were provided to the Sub-Panel in a confidential Briefing Pack from Home Affairs

<sup>81</sup> Transcript of PAC hearing 20.04.09

*At that stage, 2007, the project was going to be funded by external borrowing and that, as I have already said, has to be the responsibility of the Treasury and Resources Department, the Treasury and Resources Minister, because under the Public Finances Law they are the only people who can enter into external borrowings. As the project progressed and it became clear that tenders were received and there was a considerable euro element which had to be managed, the Treasury officers continued to take that role. Now at no time - I repeat, at no time - did any Treasury officer or the Treasurer come to me and say: "The goalposts have changed, the scope of this project has changed, we cannot manage the split of it." They accepted that work and they carried on with that element of it, which was the euro management.<sup>82</sup>*

92. Among the conclusions reached by the PAC was that the Chief Executive and Corporate Management Board had failed to prioritise this substantial capital project. In our view, there appears a have been a similar failure by the senior management in the States to manage the financial risks involved with Operation Rectangle.
93. We believe that there was a missed opportunity in the BDO Alto review to learn important lessons for the States as a whole due to the narrow focus of their review. In a more strategic review, it would have been appropriate, to ask why the Corporate Management Board had not scrutinised the governance and control arrangements earlier and more closely.

### **Independent oversight**

94. In our view, it would have been more appropriate for an independent body such as the Comptroller and Auditor General, to have been given responsibility for this review in the first instance. Instead, the various reports which had been already undertaken meant that any review undertaken by the Comptroller and Auditor General would have duplicated the work<sup>83</sup>.
95. In the event, the Comptroller and Auditor General issued no more than a summary report making a generalised reference to the problem caused by the conflict between the Accounting Officer's personal responsibilities under the Public Finance Law and the importance of safeguarding the operational independence of the police. He also pointed to the importance of an independent police authority for the States of Jersey Police, a provision which was finally approved by the States in February 2011<sup>84</sup> after many years of delay.
96. In our view, had the Comptroller and Auditor General undertaken the review from the outset, he would undoubtedly have included a more thorough analysis of the difficulties described by Mr. Power and a greater challenge to the Home Affairs Department.

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<sup>82</sup> Transcript of PAC hearing 11.05.09

<sup>83</sup> Historic Child Abuse Enquiry: Report of Comptroller and Auditor General, July 2010

<sup>84</sup> P.192/2010

97. In addition, any issues arising from the review by the Comptroller and Auditor General would have been subject to further public scrutiny by the PAC. Instead, it has been necessary instead for our Sub-Panel to take up this matter some time after the events.

### ***Key findings***

- Under the Public Finances (Jersey) Law 2005 the Chief Officer of Home Affairs is legally responsible for the expenditure of the States of Jersey Police. All concerned now agree that the decision to place accountability for the States of Jersey Police budget with the Home Affairs Accounting Officer was a mistake. This arrangement made it unnecessarily difficult for the Chief Officer of Home Affairs to ensure effective oversight of expenditure on Operation Rectangle which was an event of unprecedented complexity.
- The terms of reference for the review of financial management during Operation Rectangle were drawn too narrowly. They directed BDO Alto to focus solely on the internal Police arrangements and the use of resources.
- As a result, the review conducted by BDO Alto promoted the perception that the high levels of expenditure in the investigation were caused by a lack of management control by senior police officers whereas there was in fact a much broader failure by States systems to provide adequate and timely monitoring of the way financial resources were being used, which has not been acknowledged or examined.
- The account given in the BDO Report of the arrangements which took place between Home Affairs and SOJ Police to monitor and challenge expenditure on the HCAE is at odds with the account given by Mr. Power.
- The examination of governance arrangements in section three of the BDO Alto report is incomplete as it does not take into account evidence from Mr. Power.
- An opportunity to include a more strategic examination of how Jersey runs and funds policing and lines of accountability, both professionally and politically, was missed.
- The appointment of a Finance Manager seems to have fallen between two stools. BDO Alto review did not examine why Home Affairs did not appoint a finance manager at an early stage to work closely with the Police.
- The Minister for Home Affairs should have ensured that the BDO Alto review fully examined the implications of the flawed structure for monitoring and challenge.
- Operation Rectangle had significant unbudgeted consequences for the States of Jersey as a whole. However, it is not clear whether the senior management in the States had any established procedures for identifying and managing the risk. This aspect was not examined by BDO Alto as it was outside their terms of reference.

- The review of an issue as highly sensitive as the Police use of resources in Operation Rectangle should not have been commissioned and overseen by the States department which had responsibility for the Police budget.
- A completely independent body should have commissioned this review in order to provide a more transparent, comprehensive and rigorous challenge to the financial monitoring arrangements in place between the Home Affairs Department and the States of Jersey Police.
- In the highly charged atmosphere about the Historic Child Abuse Enquiry and the way it was handled it was inevitable that narrowly drawn terms of reference and the way the report focussed on specific expenditure decisions and less on wider issues of governance and control would be seen by some as less than objective and a deliberate attempt to discredit the HCAE.

### *Recommendations*

- The Council of Ministers should report to the States on whether it believes that its procedures for the identification and management of major financial risks are adequate. If they think they are adequate, they should explain why, in the light of two successive failures<sup>85</sup> when major unprecedented risks were not well managed. If they think they are not, how they have made the procedures fit for purpose.
- Reviews of exceptional matters of public interest such as Operation Rectangle should be commissioned, their Terms of Reference set, and supervised in a completely transparent and independent way. The Council of Ministers must report to the States on how this is to be achieved.

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<sup>85</sup> The negotiating of a major contract with a French company with regard to the construction of the incinerator, and the running of a major crime investigation into historic child abuse, and possibly child homicide.



**Supplementary issue: Mr. Power's remarks on authorisation of payments**

98. It is necessary to refer to one matter not directly connected to our review but which caused some particular comment in the hearing with Mr. Power. In his submission Mr. Power refers to the unauthorised payment of expenses by Mr. Harper in the course of Operation Rectangle. Mr. Power stated that, since he had not countersigned any of the claims, someone outside the Force must have done so. He draws the following conclusion:

*It appears that some person has made payments to the Deputy Chief Officer in breach of the rules governing payments, and in particular it appears that payments were made without any prior authority from the Chief Officer and without the knowledge of the Chief Officer. It is hard to see how the person making the payments could have been anyone other than a member of the Finance Section of the Home Affairs Department.<sup>86</sup>*

99. These expense claims were examined in detail in the BDO Alto report. It should be noted that the report actually refers to the claims being signed off by one of the three Chief Inspectors.<sup>87</sup>

100. The Sub-Panel raised this matter with the Chief Officer, Home Affairs, who provided an explanation in a Memo dated 16th August 2011. He pointed out:

*The essential point to make concerning Mr Power's submission is that Members of the Finance Section of the Home Affairs Department do not make payments. The authorisation process relies upon bills and claims being countersigned before the finance staff receive them. In other words, the expectation is that they will have been checked and certified as an appropriate charge to public funds. With the correct authorisation (two signatures from within the SoJP) payments are then processed by the Treasury and Resources Department, not by the Home Affairs Finance Staff.*

101. The matter was raised during the hearing with Mr. Power. The Sub-Panel was not aware at the time of the Chief Officer's explanation and consequently Mr. Power's statement was not corrected in the hearing. It is unfortunate therefore that Channel Television chose to highlight this allegation in their coverage of the hearing with Mr. Power. The Chief Officer addressed this matter in the subsequent hearing on 25th August 2011. However, Channel Television failed to cover this hearing despite their focus on the issue in the previous broadcast. The Chief Officer commented:

*I was sick to the pit of my stomach when I heard that. It is just not true. We do not see any bills in the Home Affairs Department. The process is that the person who makes the order or incurs the bill signs it off. [ ] The first we know of expenditure is when it comes up now on the J.D. Edwards system and we are able to make our financial profiling in our reports. I never see any of this stuff and this either needs to be retracted or corrected because [ ] it shows an ignorance of the process.<sup>88</sup>*

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<sup>86</sup> Mr. Power's submission paragraph 5

<sup>87</sup> BDO Alto Report page 57

<sup>88</sup> Public hearing 25.08.11

## 2. TO CLARIFY THE CONNECTION BETWEEN THE BDO ALTO REVIEW AND THE REVIEW SEPARATELY COMMISSIONED BY THE ACTING CHIEF OFFICER OF POLICE<sup>89</sup>

### *Background*

102. In December 2008 Mr. Warcup, the then Acting Chief Officer of Police, tabled a proposal to the Police Strategic Co-ordinating Group (Gold) to conduct a review of a broad range of issues relating to the conduct of Operation Rectangle but which were not covered within the other reviews currently being undertaken (by Wiltshire and subsequently by BDO Alto)<sup>90</sup>. Mr. Warcup told the Sub-Panel:

*We had a number of internal issues which we needed to review including learning lessons of how we should do things in the future. We [also] had had a number of public complaints, we had had a number of issues of concerns raised by members of the public, by States Members, and through that process we felt that it was necessary to research those, document those, and to have that information available should it be required either to respond to the Minister, to States Members' questions or indeed to any future committee of inquiry.<sup>91</sup>*

103. Mr. Gradwell, the Senior Investigating Officer for Operation Rectangle who had replaced Mr. Harper, was given responsibility to carry out this internal police review within the following terms of reference which were drawn up by Mr. Warcup:

*'The purpose of the review was; 'to carry out a formal internal review into matters which currently do not fall within the parameters of the current historic abuse enquiry or other related investigations or review. The aim is to identify issues which have been identified during the course of the enquiry or have come to light as a result of complaints, which;-*

- a) Give rise for concern in relation to the overall conduct of the enquiry.*
- b) Have been raised as a matter of complaint either internally, or by members of the public.*
- c) Have come to light as a result of information and intelligence received.*
- d) Are likely to be of relevance to any future public enquiry.*
  
- e) Are likely to form the basis of questions from States Members in relation to their accountability function.*

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<sup>89</sup> Note: the Sub-Panel's original terms of reference stated that the review commissioned by the Acting Chief of Police was 'on the same matter' as the BDO Alto review. It became clear however from the evidence of Mr. Warcup that the review he had commissioned was on a quite separate matter.

<sup>90</sup> The Sub-Panel acknowledges that its own terms of reference, which refer to a review 'on the same matter' as BDO Alto are incorrect in this respect.

<sup>91</sup> Public hearing 24.08.11

- f) *Relate to matters which will assist in demonstrating the openness and transparency of the States of Jersey Police in respect of the overall conduct of the enquiry.*<sup>92</sup>

104. Mr. Gradwell was also tasked with identifying a suitable person to lead the internal police review and Mr. M. Kellett, a former Senior Investigating Officer with experience in the North West Regional Asset Recovery Agency, was appointed to fulfil this role.

105. Subsequently, it was agreed that Mr. Gradwell and Mr. Kellett would assist BDO Alto in relation to matters of police procedure and practice as it was recognised that the accountants would have no knowledge of the management of police operations or police regulations.<sup>93</sup> The terms of engagement provided to Mr. Kellett stated: *'Mr. Kellett is being employed to liaise with and assist where possible the accountants and to identify expenditure on specific areas'*. Mr. Kellett was described as *'ideally experienced to work with the accountants'*.<sup>94</sup>

106. Mr. Kellett said in his evidence:

*Whilst it was not explicitly stated, it was my understanding from the outset that BDO Alto and I would prepare a joint report of our findings.*<sup>95</sup>

107. Mr. Warcup, however, had not expected that co-operation with BDO Alto would extend that far. In his written evidence, he stated categorically that he had not approved a joint report with BDO Alto and did not consider such an approach appropriate. He told the Sub-Panel:

*The BDO review was commissioned by the Minister, the terms of reference agreed by the Minister, and the involvement as far as I was concerned, when that was commissioned in December 2008, was to provide some resource to assist people from the auditors [ ] to understand their way through the practice, procedures and policies of policing. Not to carry out a review on their behalf, not to carry out an investigation and that was my clear understanding and instruction at that time.*<sup>96</sup>

108. It was not until towards the end of July 2009 that Mr. Warcup came to realise that the work undertaken by Mr. Kellett was taking a different route other than that which he had prescribed. He found that Mr. Gradwell had given Mr. Kellett different instructions. He said that, whilst he attached no blame to Mr. Kellett

*We were both working under the illusion that everybody was working to agreed terms of reference.*<sup>97</sup>

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<sup>92</sup> Submission by Mr. Warcup, page 4

<sup>93</sup> *ibid*

<sup>94</sup> Terms of reference provided to Mr. Kellett contained in full in his submission

<sup>95</sup> Submission by Mr. Kellett, page 3

<sup>96</sup> Public hearing 16.08.11

<sup>97</sup> Public hearing 16.08.11

109. Mr. Kellett stated in his evidence to the Sub-Panel that he had never received a copy of the terms of reference for the internal police review commissioned by Mr. Warcup, indeed that he had not seen them until he had had the opportunity to read Mr. Warcup's submission, received on 14th July 2011, two years later. He said that 'to [his] great surprise' Mr. Warcup had referred to this piece of work at a meeting with him on 21st July 2009 but Mr. Warcup had not subsequently provided him with a copy of the terms of reference.<sup>98</sup> Mr. Kellett confirmed that he carried out no work on the internal SOJP review:

*The only review I was carrying out was the joint review with BDO Alto that I understood I was commissioned to do.*<sup>99</sup>

110. Mr. Warcup told the Sub-Panel that he was very concerned on seeing draft sections of Mr. Kellett's work:

*There were matters which I considered were more relevant to the Wiltshire Enquiry particularly as they concerned Mr. Power. Having considered aspects of the draft reports I was also concerned at the methodology adopted, namely that evidence was used to reach conclusions despite the fact that key witnesses had not been deposed in writing.*<sup>100</sup>

111. Mr. Warcup said that he challenged Mr. Gradwell at this point and issued directions to return to original review and have that work done.

112. Mr. Kellett said that Mr. Warcup had not raised his concerns with him at the time of his meeting with him on 21st July 2009 and that Mr. Warcup had in fact expressed 'complete satisfaction with what I had produced'. It was not until a letter dated 7th September 2009 that Mr. Warcup raised any of the concerns set out in his submission. Furthermore, Mr. Kellett claimed that Mr. Warcup had misunderstood the methodology of the review he was carrying out with BDO Alto:

*We were not carrying out a criminal or disciplinary investigation where statements needed to be taken from witnesses. I made contemporaneous and comprehensive written records of conversations I had with every member of SOJP and Home Affairs Department who I interviewed and these are quoted from in our report, together with documents to which we had access. All of our conclusions are based on sound, verifiable evidence.*<sup>101</sup>

113. Mr. Warcup states in his written evidence that he came to the conclusion that Mr. Kellett should not carry out any further work with BDO Alto as his original instructions had not been complied with. He went on to make further strong criticisms of the BDO Alto review:

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<sup>98</sup> Mr. Kellett's supplementary submission, dated 18th July 2011

<sup>99</sup> *ibid*

<sup>100</sup> Mr. Warcup's submission

<sup>101</sup> Mr. Kellett's supplementary submission, page 2

*The review had become overly focused on Mr. Harper, lacked objectivity, had the potential to be unfair to Mr. Power and could have seriously undermined the investigation by Wiltshire Police.*<sup>102</sup>

114. Mr. Kellett claims that prior to Mr. Warcup's instruction to cease work with BDO Alto he had already effectively resigned over his (Mr. Warcup's) refusal to allow him to interview Mr. Harper (see section 3 for further discussion on this matter) as well as his wish not to have a joint report with BDO Alto. Mr. Kellett had set out his concerns on both issues in an email to Mr. Warcup dated 2nd September 2009 and expressed concern that his findings would be suppressed.<sup>103</sup>
115. Mr. Warcup told the Sub-Panel that after Mr. Kellett's departure the different aspects of internal police review had been concluded in a different way.

### **Sub-Panel comment**

116. The confusion about Mr. Kellett's role in the review of financial management is an important issue because it relates to one of the key questions in the Sub-Panel's review, namely the reasons why Mr. Harper was not interviewed in the course of the review regarding his decisions on expenditure. We return to this matter in the next section of this report.
117. It appears to us strange that Mr. Warcup failed to keep oversight of the work he had commissioned on an internal review of the SOJ Police handling of Operation Rectangle between December 2008 and the end of July 2009 when he realised that his instructions were not being carried out.
118. The issues regarding the different instructions given to Mr. Kellett by Mr. Gradwell are discussed below.

### **Primacy of Wiltshire**

119. It is important to understand that Mr. Warcup's views on the review being undertaken by BDO Alto and Mr. Kellett were firmly based on the principle that the Wiltshire review dealing with the disciplinary matters relating to Mr. Power's should have primacy over other investigations. He maintained that this view was based on legal advice and discussions with the investigating officer from Wiltshire. He was concerned that the instructions given by Mr. Gradwell to Mr. Kellett had led to the situation whereby the States of Jersey Police were becoming involved in

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<sup>102</sup> Mr. Warcup's submission page 6

<sup>103</sup> Mr. Kellett's supplementary submission, page 3

the process of investigating the financial decisions made by both Mr. Power and Mr. Harper. He told the Sub-Panel:

*That was not the expectation that I had. That was already agreed as part of the terms of reference for Wiltshire and the Wiltshire inquiry had primacy in every respect.*<sup>104</sup>

120. Mr. Warcup said that he was fully cognisant of the fact that the Wiltshire investigating officer was a finance director with police experience and that Wiltshire was looking into financial issues as part of their remit. In his view, therefore, an additional investigation undertaken by a consultant working for the States of Jersey Police was inappropriate because of the potential for relevant information to be used as part of the disciplinary enquiry:

*I mentioned that some of the witnesses have not been deposed in writing so if we are making issues which are going to be substantially challenged then it would only be right to do so if you had the written evidence backing that up. Of course that written evidence may have been available to Wiltshire but it certainly was not available to anyone in Jersey, including Mr. Kellett, because the aspects of the Wiltshire inquiry were entirely confidential.*<sup>105</sup>

121. Mr. Warcup said that the two issues he had highlighted in his comment on the work Mr. Kellett was doing for the BDO Alto review, namely the focus on Mr. Harper and the potential unfairness to Mr. Power were directly connected:

*At the time, although I was speaking to [the Chief Constable of Wiltshire] about matters which affected the States of Jersey Police we could not discuss matters of evidence in the same way as I could not discuss matters with the Minister in relation to that. So what we had to do is we had to make sure that there was no conflict between what Wiltshire were doing and what the States of Jersey Police were doing. I was very clear in that regard that if comments were made which were critical of Mr. Harper they could, by implication, have therefore been critical of Mr. Power because we did not know at that time where the Wiltshire inquiry was at, whether the Wiltshire inquiry would draw conclusions that Mr. Power was ultimately responsible or whether indeed individually they would be responsible for their own options. The focus on Mr. Harper may have been detrimental in that regard.*

122. This was the basis, therefore, on which Mr. Warcup was opposed to a police consultant playing a leading role in preparing a joint report with BDO Alto. Mr. Warcup said that, whilst he fully understood the reasons for the BDO Alto review, he had reservations about the BDO Alto proceeding at the same time as Wiltshire and would have preferred the two investigations to be dealt with separately:

*It is fair to say I would not have initiated the BDO Alto review in the way it was done but it is appropriate to look certain things, to learn the lessons even while there are inquiries ongoing. What must be established, however, is what the*

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<sup>104</sup> Public hearing 16.08.11

<sup>105</sup> Public hearing 16.08.11

*parameters of those are and where you draw the line in relation to the extent of those inquiries.*

*I would say that it would have been perhaps better to deal with the issues of alleged misconduct and deal with those first and to completely separate out the other issues. If there are other issues that need dealing with that are likely to overlap, they should be included within the terms of reference for the primary review.*

*It is not uncommon in a police discipline inquiry for the investigating officers to be asked not only to see whether there are any misconduct issues which flow from the circumstances, but also whether there are any organisational issues from which the organisation can learn and benefit in the future.<sup>106</sup>*

123. The Minister said that Mr. Warcup never raised these concerns with him and that in his views his concerns were 'over-rated':

*All these reports were fundamentally being produced for me and at the end of the day it was my task in terms of the way in which I used the reports and information and what happened with them and when to ensure that there was not any prejudice to the Wiltshire inquiry.<sup>107</sup>*

124. The Minister said that in any case delaying the BDO Alto report until the completion of the Wiltshire enquiry would have meant too long a wait due to the long delay in submitting that report. It had in fact initially been expected that Wiltshire would be completed in March 2009, which was about the time when the BDO Alto review was initiated. However, he told the Sub-Panel, by the time he came onto the scene it was already clear that the disciplinary enquiry had become very adversarial. Consequently, the timetable for the Wiltshire enquiry had become very protracted.

### **Sub-Panel comments**

125. Mr. Warcup's views on the primacy of Wiltshire relate to the matters discussed in the first section of this report, namely the fact that evidence from Mr. Power relevant to the issue of financial management was unavailable to those carrying out the BDO Alto review on these matters.
126. Mr. Warcup made it clear that he expected that there should be no discussion by the States of Jersey Police, including Mr. Kellett, of the evidence received by Wiltshire. Nor was it appropriate for the Wiltshire evidence to be discussed with the Minister. It appears that Mr. Warcup interpreted this very strictly to the extent that that he did not convey any of his concerns to the Minister about his police

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<sup>106</sup> Public hearing 16.08.11

<sup>107</sup> Public hearing 25.08.11



- consultant working in close connexion with BDO Alto and about contacts with Mr. Harper.
127. The Minister also kept a strict distance from the BDO Alto review on the grounds that he wanted them to produce an independent review without any interference. This meant that he was in no position to be made aware of the limitations faced by BDO Alto in approaching Mr. Harper unless a direct approach was made to him.
128. In our view, it was unfortunate that there was no communication with the Minister by Mr. Warcup on his concerns. This would have forewarned the Minister about the difficulties with the review of financial management which have emerged during our review. The Minister had commissioned the BDO Alto review and had a right to be told about any matters which impact directly, and, as it turned out, impose major limitations, on that review. It appears to us that Mr. Warcup could have communicated with the Minister on this issue without any compromise of the Wiltshire enquiry.

#### **Lack of objectivity and focus on Mr. Harper**

129. Mr. Warcup's allegations regarding the lack of objectivity in the BDO report and the focus on Mr. Harper must be considered carefully.
130. Firstly, it is necessary to deal with Mr. Harper's suggestion that there was some bias in the appointment of Mr. Kellett. In his submission to the Sub-Panel Mr. Harper called into question the close links between Mr Kellett and Mr Gradwell which, he said, seemed to have been '*conveniently overlooked*'. He based this on the fact that both officers worked in the same region of the North West of England and know each other well.<sup>108</sup>
131. Mr. Kellett's evidence strongly rebutted this suggestion which he regarded as a slur on his professional integrity. He said that, whilst it was true that they were both close colleagues for a period about twenty years ago, they had had little or no personal or professional contact since 2001. Mr. Kellett claimed that, in any case, it was common practice for senior investigating officers to have their investigations reviewed in a professional and independent manner.<sup>109</sup>
132. Mr. Warcup said that he was aware of the previous relationship between Mr. Kellett and Mr. Gradwell; however, he did not view that as uncommon and he did not consider that there was any reason in principle to impugn the professional integrity of either officer.
133. However, Mr. Warcup went on to say that he had indeed become concerned subsequently about the potential influence of Mr. Gradwell on the direction of the

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<sup>108</sup> Mr. Harper's submission paragraph 6

<sup>109</sup> Mr. Kellett's submission paragraphs 7-11

BDO Alto and on Mr. Kellett. This was due to Mr. Gradwell's well publicised views on the conduct of the HDLG enquiry:

*I would have been and would still be comfortable with ... had they carried out the work which I had initially set to them, I would have been comfortable with that. I was not comfortable in relation to the focus [ ] ... there was a predominant purpose to look at the activities of Mr. Harper at that particular point.<sup>110</sup>*

134. The instructions given by Mr. Gradwell to Mr. Kellett bear out Mr. Warcup's remark about the predominant focus on Mr. Harper's activities. They required him to examine specific and contentious areas of expenditure:

1. *The Forensic Spend at Haute de la Garenne. The full cost, including travel, hotel and subsistence bills. (No forensic strategy)*
2. *The employment of Mr Martin Grime – Specialist Dogs*
3. *The deployment of officer X– SIO Driver*
4. *The cost and management of the security cordon at Haute de la Garenne*
5. *The purchase of glassware for seconded officers*
6. *A trip to London by various officers commencing on Wednesday 30th April 2008. (Other visits may also require scrutiny)*
7. *The employment of seconded and agency staff to Jersey. Including issues such as travel and rest day rate.*
8. *The use of corporate credit cards for entertaining visitors and staff.*
9. *Anomalies identified by the review.*
10. *The management of overtime on Operation Rectangle.*

*Other areas may become relevant as the review progresses.<sup>111</sup>*

135. The comment 'no forensic strategy' may be worth noting. This was a contentious matter in itself. Mr. Harper maintained in his evidence to the Sub-Panel that there was a forensic strategy.<sup>112</sup>

### **Sub-Panel comments**

136. We have not been provided with any factual evidence to support Mr. Harper's assertion that the identification and appointment of Mr. Kellett was in any way improper. We have no reason to call into question the explanation given by Mr. Warcup.

137. We have found no reason to call into question Mr. Kellett's integrity or professional qualification to undertake the review.

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<sup>110</sup> Public hearing 16.08.11

<sup>111</sup> Mr. Kellett's submission page 2

<sup>112</sup> see paragraphs 7 & 8 of his submission

138. There is no suggestion that the review carried out by BDO Alto and Mr. Kellett was not thorough and comprehensive in looking at all aspects of expenditure for Operation Rectangle. As previously indicated the Sub-Panel's review is not about a critical re-examination of BDO Alto's findings and recommendations. However, given the focus on the activities listed by Mr. Gradwell most of which were under the direct responsibility of Mr. Harper, it would appear essential for Mr. Harper to be interviewed in relation to his decisions. This issue is discussed in the next section of the report.
139. There is, however, an issue with regard to the guidance provided by Mr. Gradwell and we share Mr. Warcup's concern. The problem is that Mr. Gradwell's views on the management of Operation Rectangle were well known, arising from the review he had undertaken of the investigation with Mr. Warcup following his appointment as successor to Mr. Harper as Senior Investigating Officer. His critical views had been made public in the press conference on 12th November 2008. Therefore, it is legitimate to question whether it was appropriate for Mr. Gradwell to be responsible for directing a piece of work which was intended to be '*independent and objective*'.
140. This question is similar to our concern, expressed in the first section of this report, that the Home Affairs Department were too close to the matter to be responsible for the commissioning and oversight of the BDO report.
141. Our concerns about how Mr. Gradwell publicly expressed his views on the management of Operation Rectangle are discussed later in this report (see section five).

### **Key Findings**

- **Mr. Kellett was originally employed by the States of Jersey Police to undertake an internal review, commissioned by Mr. Warcup, relating to the overall conduct of the HCA investigation by the police.**
- **Mr. Kellett, however, was not made aware of this intended task and was given separate instructions which required him to work closely with the BDO Alto review on the use of financial resources. These different instructions were given by Mr. Gradwell and had not been seen or authorised by Mr. Warcup.**
- **Mr. Gradwell's instructions to Mr. Kellett caused confusion about the police consultant's role. Mr. Warcup initially praised Mr. Kellett's work but subsequently decided that it was inappropriate for him to be working on a joint review with BDO Alto on the grounds that it was inappropriate for anyone working for the States of Jersey Police to be investigating matters**

which were connected to the disciplinary enquiry being conducted by Wiltshire Constabulary.

- The long delay in bringing the Wiltshire disciplinary enquiry to a conclusion had important consequences for the BDO Alto review as it led to Mr. Warcup's decision to prevent Mr. Kellett from interviewing Mr. Harper regarding his expenditure decisions during the course of the BDO Alto review (see next section of this report).
- Despite the significant limitation imposed on the BDO Alto review by his decision, Mr. Warcup did not convey his concerns to the Minister for Home Affairs. The Minister was therefore unable to resolve the problem.
- Due to Mr. Gradwell's widely known negative views on the management of Operation Rectangle by his predecessor it was not appropriate for him to be directing the police consultant's work on the financial review. This undermined the independence of the BDO Alto review.

**3. To identify the reasons why the Senior Investigating Officer for Operation Rectangle was not interviewed during the review and was not given the opportunity to respond to the report's findings**

**Background**

142. Mr. Harper, despite being the Senior Investigating Officer for Operation Rectangle until his retirement in August 2008, was not contacted during the course of the BDO Alto review nor invited to comment on the findings of their report.

143. Mr. Harper told the Sub-Panel:

*I picked up somewhere along the line that there had been criticism of the financial management of the investigation but at no time was I ever told by anybody, States of Jersey Police or anybody else, that BDO or any firm of auditors were carrying out an investigation into the financial management of the inquiry.<sup>113</sup>*

144. This occurred despite the clear instruction in the terms of reference contained in the Ministerial decision endorsing the undertaking of a review on the use of resources in Operation Rectangle which stipulated:

*Direct contact should be made with the appropriate key individuals to secure a full and thorough assessment.<sup>114</sup>*

145. All parties (the Minister, Chief Officer, BDO Alto, Mr. Kellett and Mr. Warcup) agreed in their evidence to the Sub-Panel that the failure to interview Mr. Harper was undesirable and that the BDO Alto report would have had a better basis if he had been given the opportunity to respond its findings. The Minister told the Sub-Panel:

*I think that more consideration should have been given to finding a way to allow Mr. Harper to see what the report was likely to say and to comment on it; I think that is right.<sup>115</sup>*

146. The Minister said that, despite noting that Mr. Harper had not been interviewed, he had considered that BDO Alto report contained references to sections of things that Mr. Harper had apparently said,

*It therefore gave me the impression that, although he had not been interviewed, that his views on different matters had been considered.<sup>116</sup>*

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<sup>113</sup> Public hearing 04.07.11

<sup>114</sup> Ministerial Decision MD-HA-2009-0016

<sup>115</sup> Public hearing 15.07.11

147. The Minister said that he would have expected that if BDO Alto had concluded that they were unable to express a proper judgment on the financial management of Operation Rectangle that they should have raised the matter with him:

*Then it would come back to me and I would have then no doubt have made sure there was a way of doing it. But they did not say that; they seemed to be content to reach their conclusions, they seemed to think that they had weighed things up sufficiently.<sup>117</sup>*

148. The Sub-Panel's brief is to examine how and why the situation occurred in which Mr. Harper was not contacted and to give an overall assessment of whether this omission damages the credibility of the review.
149. We wish to reiterate here that nothing in our report implies an opinion on the way Mr. Harper conducted Operation Rectangle or the substance of BDO Alto's findings.

#### How the situation occurred

150. Mr. Kellett explained in his submission<sup>118</sup> that it had always been his intention from the outset to interview Mr. Harper. He was aware that Mr. Harper had already been interviewed by the Wiltshire Police and was conscious of the overlap between the two investigations. Mr. Kellett had discussed the matter with members of the Wiltshire team and had seen the statement made by Mr. Harper to Wiltshire. However, there were a number of issues not dealt with in that evidence which were relevant to a comprehensive account of the issues surrounding the use of resources. As Mr. Harper was due to be re-interviewed by Wiltshire it had been agreed, in order to save time and to interfere with Mr. Harper's domestic life as little as possible, that it would be appropriate for Mr. Kellett to do so at the same time. In an email to Home Affairs dated 2nd June 2009 Mr. Kellett explained:

*The usual practice in a review such as this would be that the SIO would be the first person to be seen. In an exercise as lengthy and as complex as this review of Operation Rectangle has been, there would also likely be a meeting to discuss emerging findings. However, as Mr Harper has retired and is living in Scotland, this has not been possible so far. As some of the emerging findings suggest strongly that elements of the report are going to be critical of him, I believe that it is essential to give him the opportunity to influence the contents and to be able to respond to some of the proposed criticisms. Apart from being no more than fair I think that this is also desirable with an eye on future events - it would be difficult to rebut suggestions at a public enquiry or in the media that the report and the review exercise itself were incomplete and flawed, as*

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<sup>116</sup> Public hearing 15.07.11

<sup>117</sup> Public hearing 15.07.11

<sup>118</sup> Mr. Kellett's submission page 5

*perhaps the most important person in the enquiry was not even spoken to. [ ] If he gives us an account it will be more difficult for him to challenge things later or to spring any surprises.<sup>119</sup>*

151. Mr. Kellett, however, discovered that Mr. Warcup had different views about whether it was appropriate to liaise with Wiltshire. Following advice received from Wiltshire Police Mr. Warcup instructed him not to interview Mr. Harper at that time.<sup>120</sup>
152. Mr. Kellett stated in his evidence that at no time did Wiltshire raise any concerns with him directly about his liaison with their investigation (see further discussion in section 4 of this report).
153. Mr. Kellett stated that he raised the matter with Mr. Warcup on several occasions and finally wrote to him by email on 2nd September 2009 on this matter and the issue of Mr. Warcup's objections to him carrying out a joint report with BDO Alto. He felt so strongly at the time over the issue of contacting Mr. Harper that he made it clear that he would resign from his work on the review unless these matters could be resolved

*I have previously expressed my concern to you, both verbally and in writing, that not interviewing Mr Harper will seriously undermine the credibility of the review. As the former Senior Investigating Officer of Operation Rectangle he should be given an opportunity to influence the outcome of the process and, given the seriousness of what has been found, natural justice dictates that he be allowed to do so.<sup>121</sup>*

*If you cannot change your position on this then I do not see how I can continue to contribute anything useful and I would have no alternative other than to terminate my involvement in the review of Operation Rectangle immediately.<sup>122</sup>*

154. Mr. Warcup, however, maintained his opposition to an interview with Mr. Harper and consequently no interview was arranged to cover the issues which Mr. Kellett had hoped to address.

### **Sub-Panel Comment**

155. We believe that the concerns expressed by the Mr. Kellett and the consequences he had foreseen were absolutely correct. Unfortunately Mr. Kellett's warning was ignored.

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<sup>119</sup> Appendix to BDO Alto report (confidential)

<sup>120</sup> Mr. Warcup's submission, page 5

<sup>121</sup> Mr. Kellett's submission, page 6

<sup>122</sup> Mr. Kellett's supplementary submission, page 3



156. Given that it was surely obvious that not to interview the Senior Investigating Officer in Operation Rectangle would leave the review open to criticism of being fundamentally flawed, BDO Alto should have brought this problem to the attention of the Home Affairs and insisted that some solution be found.
157. We believe that the long delay in finalising the BDO Alto report, due to the fact that the report could not have been published before Wiltshire disciplinary enquiry had been concluded should have afforded the opportunity to rectify this matter. A range of people, BDO Alto, the Chief Officer, Home Affairs, or the Acting Chief Officer of Police could have brought this deficiency to the Minister's attention. However, no action was taken.

#### **Impact of not interviewing Mr. Harper: (a) Mr. Harper's views**

158. Mr. Harper contends in his submission that due to their failure to interview him BDO Alto had missed a substantial body of evidence available on the financial decisions they had been commissioned to review:

*The completion of a review of my decisions relating to the use of financial resources without even seeking an explanation from me as to why I made those decisions, makes it inevitable that the review will be unfair, slanted, un-objective, and lacking in credibility. Such a review is unlikely to provide a true picture of the situation, and indeed, I would argue that there are so many factual inaccuracies and wrongful assumptions included in the report, that this is exactly what happened. If I had been spoken to it is unlikely that the report would have come to the same conclusions as it did.<sup>123</sup>*

159. Mr. Harper further commented on this omission:

*I think it is absolutely bizarre that when they are given terms of reference to find out matters such as this that they do not even contact the person who is probably responsible for making the vast majority of those decisions.*

160. To illustrate his point Mr. Harper detailed in his submission a number of examples of contentious issues where he believed that BDO Alto's interpretation was open to challenge. The key issues were:
- (a) The decision to enter and search Haut de la Garenne
  - (b) The identification of JAR/6 (the fragment initially identified as the partial remains of a child)
  - (c) The situation regarding management of SOJP budget (previously discussed in section 1 of this report)

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<sup>123</sup> Mr. Harper's submission page 3

- (d) The cost of the forensic dog and accommodation for Mr. Grime at L'Horizon
  - (e) The attendance at meetings in London
  - (f) Hospitality and use of purchase cards at restaurants London
161. BDO Alto responded in detail to these points in their own submission.<sup>124</sup> It is not the Sub-Panel's intention to repeat the detail of these arguments, which can be read in the submissions available on the Scrutiny website, or to determine their relative merits.
162. It is significant, however, to note the first item in the list above, namely the decision to enter and search Haut de la Garenne. Mr. Harper claims that this decision was crucial to the BDO Alto conclusion that much of the spending was unnecessary. He goes on to explain that BDO Alto had based their assumptions on this on an interim report by the Metropolitan Police (the same report which was used as a basis for the Police press conference on 12th November 2008 which had called into question the previous handling of Operation Rectangle). Mr. Harper said that he had evidence to support his search strategy:
- BDO have completely missed this but would not have been allowed to if they had spoken to me.*<sup>125</sup>
163. BDO Alto responded that Mr. Harper had misunderstood their findings. Their review was not undertaken to consider the justification of operational decisions but whether or not the use of resources following these decisions was properly based on value for money.<sup>126</sup>
164. Nevertheless, the Minister agreed that the influence of the Metropolitan Police report on BDO Alto was an important issue. He pointed out that he had made clear in his statement on the release of the BDO Alto report that he disagreed with BDO Alto's interpretation of this matter. The Metropolitan Police's view was that they should not have started digging at all in the first place. The Minister's view, supported by Wiltshire, was that, even if it was questionable to start, once the police had thought that they had found a piece of skull fragment, then it was not unreasonable for them to carry on.
165. In our view, this argument bears out the significance of the failure to interview Mr. Harper in relation to his financial management of Operation Rectangle.

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<sup>124</sup> BDO Alto report pages 13 -31

<sup>125</sup> Mr. Harper's submission paragraph 7

<sup>126</sup> BDO Alto submission page 14-15

### The impact of not interviewing Mr. Harper: (b) BDO Alto's view

166. BDO Alto maintained that the lack of contact with Mr. Harper had not materially influenced their main findings:

*The findings contained in our Report were researched and evidenced; no facts or other information have come to, or been brought to our attention since the issue of our report that would cause us to revise the findings as stated therein.<sup>127</sup>*

167. The Managing Director, BDO Alto, told the Sub-Panel:

*We were not allowed [to interview Mr. Harper], and therefore we formed our opinions based on all of the other evidence that we had available to us. It is not appropriate to consider that Mr. Harper was the one person in the whole world who could answer our questions. That is not the case; he was working as part of a larger team and there were a lot of other senior people involved in this investigation aside from Mr. Harper, so while Mr. Harper as Senior Investigating Officer takes overall command, it is not the case that he is involved in every single piece of detail, [ ] so there are lots of other people that you can get that evidence from.<sup>128</sup>*

168. He did however acknowledge that there were certain areas where BDO Alto had been unable to report because the documentary evidence obtained was not on its own sufficient in the absence of Mr. Harper's contribution to be able to draw a final conclusion and make a recommendation.

*So, if you like, the content of the report, the format of the report, was influenced by the fact that [BDO] could not speak to him. Having said that, no information has come to our attention subsequently that would need us to change any of the findings and recommendations as presented.<sup>129</sup>*

169. BDO Alto further maintained that Mr. Harper was not the subject of their review and it was not the intention of the report to be directly critical of him or of any other individual. BDO Alto said that they had acknowledged the hard work of Police officers and third party contractors during the course of the Operation Rectangle enquiry and confirmed that 'The report is not intended to be in any way critical of their individual efforts....'<sup>130</sup>

170. Mr. Kellett reiterated this point in his submission:

*The Review was not an investigation of any individual but was designed to ascertain what had occurred and to make recommendations for the future. Indeed, that much is clear from my terms of reference. [ ] The manner in which some of our conclusions were expressed was diluted precisely because we had not been able to speak to Mr Harper. Nevertheless, as he himself pointed out in*

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<sup>127</sup> BDO Alto Report page 5

<sup>128</sup> Public hearing 15.07.11

<sup>129</sup> Public hearing 15.07.11

<sup>130</sup> BDO Alto submission page 4

*his oral evidence, he made the bulk of the financial decisions and he therefore cannot absolve himself of the extremely serious and costly errors that were made.<sup>131</sup>*

171. Mr. Kellett made a point of praising the dedication of Mr. Harper and his determination to bring suspected offenders to justice:

*We have no doubt that Mr Harper was totally dedicated to the task of investigating serious crimes that had possibly occurred at Haut de la Garenne and that he was entirely sincere in his belief that child abuse there and elsewhere in Jersey was a major issue that needed to be dealt with. Throughout the period that Operation Rectangle was live, he and his staff displayed great dedication and did their utmost to bring suspected offenders to justice and we pointed out as much in our report. However, we were not asked to examine motivation and dedication but rather to look at how the resources available to the investigation were managed. We did so and made nineteen recommendations. Inevitably, because of the central role Mr Harper performed, his management of the resources formed a central part of our examination but to the extent that any of those recommendations constitute criticism of his actions, no criticism of, let alone attack on, the existence of the investigation or of the motivation for it is intended or implied.<sup>132</sup>*

#### **Sub-Panel Comment**

172. While BDO Alto may be able to make the argument after the fact that nothing Mr. Harper has said in evidence would lead them to alter their findings, we do not see how they could confidently make that claim in the course of their review without having access to anything Mr. Harper might have told them.
173. The issues raised by Mr. Kellett's declaration above (paragraph 170) that the review carried out by himself and BDO Alto was not intended as criticism of the police investigation is a serious point which we consider later in the section on the media coverage (section 6 of this report).

#### **Mr. Harper's willingness to co-operate in the review of financial management**

174. BDO Alto claimed in their submission that it was not clear at the time of their review whether Mr. Harper wished to be interviewed. This view was based on the fact that Mr. Harper had already refused earlier in 2009 to return to the Island in respect of a court case regarding two men charged as part of the Historical Child Abuse Enquiry. It should be pointed out however that Mr. Harper did not refuse to

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<sup>131</sup> Mr. Kellett's submission page 7

<sup>132</sup> Mr. Kellett's supplementary submission page 4

participate in the case and had offered to give evidence in front of a UK court, an offer which was not taken up.

175. BDO Alto also claimed that Mr. Harper had been aware of the review being undertaken into the costs of the investigation but had made no attempt to contact SOJP or Home Affairs to offer himself for interview.

### **Sub-Panel Comment**

176. BDO Alto's suggestion that it was not clear whether Mr. Harper would agree to be interviewed was based on a newspaper report<sup>133</sup> and does not give the full story. As he had offered to give evidence in a UK court.
177. We note that Mr. Harper had co-operated with Wiltshire and there is no reason to suggest that he would not have been motivated to participate in a review of his management decisions.
178. BDO Alto's suggestion that Mr. Harper could have made contact with them on his own initiative, is not well founded. It is firmly the responsibility of the investigating team to make contact with a witness, not the other way round.

### **Possibility of BDO Alto interviewing Mr. Harper without the police consultant**

179. In his submission Mr. Warcup states that his intervention preventing an interview with Mr. Harper related only to the SOJP internal review and not the BDO Alto report which had been commissioned by the Home Affairs Department and was outside his area of responsibility:

*What I did was to advise on what we as the States of Jersey Police would do in our role as part of that. It was not for me to advise in relation to how the BDO Alto would conduct their audit and their review.....Nobody owns a witness so there is every freedom to approach people and speak to them.<sup>134</sup>*

180. BDO Alto's response to Mr. Warcup's submission was one of surprise. In their view Mr. Warcup had been quite categorical about the issue and there had been no question of their seeking to interview Mr. Harper without Mr. Kellett:

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<sup>133</sup> BDO Alto report page 5: reference to an article posted on 'This is Jersey' website on 22<sup>nd</sup> August 2009

<sup>134</sup> Public hearing 16.08.11

*We could only interview any police officer or, for that matter, retired police officer with the permission of the Chief Officer, because this a live police investigation and Mr. Harper's confidentiality obligations did not disappear just because he retired from the States of Jersey Police.*<sup>135</sup>

181. Mr. Kellett stated in his evidence:

*BDO Alto would not have been in a position to carry out an effective interview of Mr Harper without my presence and by forbidding me from interviewing him he in fact also prevented BDO Alto from doing so.*<sup>136</sup>

### **Sub-Panel Comment**

182. We agree that Mr. Warcup's suggestion that BDO Alto might have proceeded to interview Mr. Harper on their own, without the assistance of Mr. Kellett, was not a feasible option. However, we believe that Mr. Harper should still have been given the opportunity by BDO Alto to respond to the findings of their report before it was published.

### **Public enquiry or a review?**

183. Mr. Harper maintained in his submission that it is a 'well established point of lawful procedure that in certain types of investigations and enquiries certain points of procedures must be followed to ensure fairness and accuracy'. He cited the case of *Maxwell v DTI 1974* and the requirement under the Inquiries Act 2005 for warning letters (known as 'Salmon letters') to give fair notice to those concerned of possible criticism in any report arising from an inquiry that might be made of their conduct so that they might be able to respond.<sup>137</sup>

184. The Sub-Panel understands that Mr. Harper approached the ICAEW, the professional body for chartered Accountants in England and Wales to lodge a formal complaint against BDO Alto Limited regarding their alleged breach of the code of conduct which states that all reports being carried out by companies of accountants should be seen to be fair and objective and take all points of view into consideration. Mr. Harper informed the Sub-Panel that the ICAEW however had not been prepared to pursue the matter as they did not accept that his allegations had been proved beyond all reasonable doubt.

185. BDO Alto submitted that Mr. Harper's reference to the UK inquiry process was not relevant in respect of their review as they were not engaged to undertake either a public enquiry or a public investigation:

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<sup>135</sup> Public hearing 15.07.11

<sup>136</sup> Mr. Kellett's supplementary submission, page 2

<sup>137</sup> Institute for Chartered Accountants for England and Wales

*Our review was undertaken solely for the Minister and the Accounting Officer of the Home Affairs Department and our findings were presented to them in our Report which the Minister determined to release into the public domain.*<sup>138</sup>

BDO Alto's view was that there was therefore no legal or other requirement for Mr. Harper to be interviewed.<sup>139</sup>

### **Sub-Panel Comment**

186. We do not believe that BDO Alto's argument in this respect is well founded as it is clear from the evidence below that public scrutiny of the BDO Alto review was envisaged.

187. Firstly, we note that the Schedule to BDO Alto's letter of terms of engagement letter states that BDO Alto will produce an 'Executive Summary' document summarising the key findings contained within their detailed report. (The 'Executive Summary' is the BDO Alto report which was made public on 14th July 2011). The letter goes on to say:

*This document will be issued on a private and confidential basis to an agreed distribution list, rather than on a privileged basis, and may be issued in a form that could be admissible to scrutiny or any other hearing in due course, if required. (our emphasis)*<sup>140</sup>

188. Secondly we note an email dated 2nd June 2009 from the police consultant to Home Affairs which clearly refers to the possibility of a public enquiry as well as media interest following the review of financial management. He wrote:

*Apart from being no more than fair I think that this is also desirable with an eye on future events - it would be difficult to rebut suggestions at a public enquiry or in the media that the report and the review exercise itself were incomplete and flawed, as perhaps the most important person in the enquiry was not even spoken to.*<sup>141</sup>

189. We accept that wording of the terms of engagement letters are ambiguous as they imply that the intention was for the BDO Alto review to be both private and confidential and at the same time open to scrutiny and a public hearing. However, the likelihood of future public scrutiny should have been clear to BDO Alto from the outset.

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<sup>138</sup> BDO Alto submission page 4

<sup>139</sup> BDO Alto report page 5

<sup>140</sup> Letter dated 29th September 2009 (supplied in confidence to the Sub-Panel)

<sup>141</sup> BDO Alto submission, Annex (confidential)



### **A parallel with the Napier Report**

190. There is an important parallel to the failure to give Mr. Harper the opportunity to respond to the findings and recommendations of the review of financial management. This is shown in the Napier Report, firstly in the failure to seek an informal resolution to the perceived breakdown of relationship with the Chief Officer of Police (paragraphs 49-53).
191. Napier found that Mr. Lewis, the Minister for Home Affairs at the time, questioned the need to proceed to a suspension of the Chief Officer without preliminary discussions with him but was advised that this would not be appropriate (paragraph 54)
192. Napier commented: The confrontation with Mr Power was seen coming by officials weeks in advance of 12 November, and I do not know why the opportunity to head it off (or at least attempt to do so) was not taken. (paragraph 55)
193. A conscious decision was in fact taken by officials not to raise disciplinary issues with Mr Power because of the potential risk to the media announcement that was seen as essential in allowing the criminal prosecutions to go forward in the courts. (paragraph 57)
194. Napier found that the Minister should have asked the Chief Executive to carry out the preliminary investigation, before proceeding to suspension (paragraph 65)
195. The Chief Officer of Police should have had the opportunity to be shown the Metropolitan Police report and to offer some explanation, before the Minister took any decision to suspend. (paragraph 67)

***Key findings***

- It is self evident, and all parties agree, that BDO Alto should have interviewed the key witness so that his evidence could have been included and evaluated in their report. Natural justice requires no less
- The failure to provide Mr. Harper with the opportunity to respond to the findings of the BDO Alto review was also, in our view, a significant error and inevitably undermines the credibility and fairness of that review.
- Given that it was surely obvious that not to interview the Senior Investigating Officer in Operation Rectangle would leave the review open to criticism of being fundamentally flawed, BDO Alto should have brought this problem to the attention of the Home Affairs and insisted that some solution be found.
- No one involved in the review brought to the Minister's notice the fact that there were apparent obstacles in the way of interviewing Lenny Harper.
- The terms of engagement for BDO Alto should have made clear that their review would be subject to public scrutiny.

#### 4. TO CLARIFY THE LIAISON BETWEEN THE REVIEW OF FINANCIAL MANAGEMENT AND THE WILTSHIRE POLICE INVESTIGATION, IN PARTICULAR THE REFERENCES IN THE BDO ALTO REPORT TO THE SENIOR INVESTIGATING OFFICER'S STATEMENTS TO WILTSHIRE POLICE

##### Background

196. Mr. Harper made a statement to the Wiltshire Police about his role in the management of Operation Rectangle. Mr. Harper has complained about the inclusion of three brief specific references to his statement in the published BDO Alto report. These refer to

- (a) Mr. Harper's meetings with Home Affairs during the course of the investigation to discuss financial matters. BDO Alto notes that Mr. Harper had maintained in his statement that he was never asked for detailed forecasting costs. They state that this contradicts discussions with the Finance and Administration Manager at Home Affairs.<sup>142</sup>
- (b) Australia trip: BDO Alto notes that Home Affairs had queried certain expenses, such as the Australia trip but that they were always happy with the explanations given.<sup>143</sup>
- (c) Jersey compliance with ACPO standards: BDO Alto made the observation in their conclusion to Chapter three of their report that there was a failure to implement a number of ACPO policies relating to management of the Major Incident Room (MIR), in particular the appointment of a Finance Officer, impacting effectiveness and management of resources. This was one of the key issues identified in their review. The reference to Mr. Harper's statement states that Mr. Harper had previously noted that, in his opinion, the ACPO standards of investigation do not normally apply to SOJP because SOJP is not a Home Office force. BDO Alto go on to say that Mr. Harper also appeared to dismiss the need for a review of this investigation at an early stage and a review was only carried out once the new SIO had been appointed.<sup>144</sup>

197. BDO Alto stated that these references were included in order to add some support to Mr. Harper's approach to certain financial issues.<sup>145</sup>

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<sup>142</sup> BDO Alto Report, page 12

<sup>143</sup> BDO Alto Report, page 12

<sup>144</sup> BDO Alto Report, page 21

<sup>145</sup> BDO Alto submission paragraph 32

## Data Protection Issues

198. Mr. Harper's complaint is made on the grounds that the statement given to Wiltshire was given on a confidential basis as part of the disciplinary enquiry and that he had been given an assurance that the statement would not be provided to anyone else. He claimed that the disclosure of his statement was a potential breach of data protection legislation.<sup>146</sup> He said that the Wiltshire Report make the obligation to confidentiality clear:

*'Paragraph 1.2 of the discipline code (for Chief Officers of the States of Jersey Police) requires that all parties involved in the operation of this code will maintain confidentiality while proceedings are being progressed.'*<sup>147</sup>

199. The Sub-Panel is not qualified to make any judgment on whether or not there was a breach of data protection legislation in allowing Mr. Kellett access to Mr. Harper's statement to Wiltshire.

## Contact with Wiltshire made by the police consultant

200. Mr. Kellett explained in his evidence that he had regular contact with Wiltshire Police from the early days of his involvement in the review and exchanged information with them. Indeed the first contact had been made by the Wiltshire team. This was done openly and with full knowledge of all relevant parties although the contact was solely through him. BDO Alto had no involvement in any contact with Wiltshire. Mr. Kellett commented:

*Many of the issues that we were dealing with were the same and it made sense to talk to each other, because, as I pointed out, I, during the process of my investigations, uncovered evidence that was relevant to their inquiry that they had not already found, and it was proper that we talked to each other.*<sup>148</sup>

201. He acknowledges that the actions of Mr. Harper were a central focus for the work being carried out by both the Wiltshire and BDO Alto. He was aware that Wiltshire held a record of an interview with Mr. Harper in the form of a draft statement and requested permission to see it. This was granted after legal advice had been taken by Wiltshire. Mr. Kellett was given access to the document and was permitted to take notes but not make a copy.<sup>149</sup>

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<sup>146</sup> The Sub-Panel is aware that Mr. Harper has contacted the legal advisors for the Wiltshire team in relation to this complaint; however, it is not aware of any formal data protection complaint

<sup>147</sup> Extracts of the report of the Wiltshire Police Investigation, dated 13.07.11, page 2

<sup>148</sup> Public hearing 15.07.11

<sup>149</sup> Mr. Kellett's submission, page 7

202. Mr. Kellett told the Sub-Panel that he did not regard his access to Mr. Harper's statement as a breach of confidentiality:

*It is not uncommon that the disciplinary investigation is going on at the same time as a review of this nature in the circumstances that applied to Rectangle.... The fact that the statement is confidential does not mean that it cannot be used in circumstances other than purely for the reasons that it was given.<sup>150</sup>*

### **Primacy of Wiltshire enquiry**

203. As previously discussed, (see section 3 of this report), Mr. Warcup had concerns about the exchange of information between Mr. Kellett and the Wiltshire police. He told the Sub-Panel:

*My understanding was that the States of Jersey Police and those working for the States of Jersey Police would not see any of the evidence in relation to the Wiltshire inquiry.....It would raise an issue should there any misconduct procedure I would have thought it would have been a matter which would be subject to challenge within the misconduct process to say why did that happen and was it appropriate and what was the purpose.<sup>151</sup>*

### **Sub-Panel Comment**

204. The issues regarding the primacy of the Wiltshire Enquiry are considered above in section two of this report (see Primacy of Wiltshire). As already discussed, this principle had a major impact on the review of financial management through (a) the limitations Mr. Warcup set on joint working between the police consultant and BDO Alto and (b) the Acting Chief Officer's refusal to allow Mr Harper to be interviewed by the police consultant
205. Having already noted that the issue of a potential breach of data protection is not within our remit, the issue for us in this section of our report is the use of the three references indicated above. In our view, the justification given for referring to Mr. Harper's statement, namely that it provided some additional information on the approach adopted by Mr. Harper, merely underlines the importance of contacting Mr. Harper to establish his point of view. The three references briefly made in the BDO Alto report concern contentious issues which deserved a much fuller explanation.

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<sup>150</sup> Public hearing 15.07.11

<sup>151</sup> Public hearing 15.07.11

- (a) First, the disputed versions about meetings with Home Affairs and the role of the Finance Officer is a central issue (see discussion paragraph 78 of this report);
- (b) Second, the use of Business Class by the officers travelling to Australia to take witness statements was an issue which caused serious questions to be raised in the States in the early stages of the investigation (May 2008) and was subsequently highlighted in the media's negative comments about Mr. Harper's handling of the investigation. (It is noted that Mr. Harper's explanation was not developed at this point of the report; however, it is given later in the report)
- (c) Finally, in our view, Mr. Harper's remarks about Jersey's compliance with ACPO standards and his apparent dismissal of the need for a review, demand a fuller explanation. His reasons for taking this position, if confirmed, ought to be the subject of scrutiny.

### ***Key findings***

- **BDO Alto stated that the references to Mr. Harper's statement to Wiltshire were included in their report in order to add some support to Mr. Harper's approach to certain financial issues.**
- **The three references briefly made in the BDO Alto report actually concern contentious issues which deserved a much fuller explanation of Mr. Harper's position**
- **In our view, the justification given for referring to Mr. Harper's statement in fact supports the argument that he should have been contacted to establish his point of view across the whole review of financial resources.**

## 5. TO INVESTIGATE HOW DETAILS OF THE REVIEW INTO THE FINANCIAL MANAGEMENT OF OPERATION RECTANGLE CAME TO BE PUBLISHED IN A NATIONAL NEWSPAPER IN OCTOBER 2009

### Background

206. On Sunday 4th October 2009 the Mail on Sunday published an article by their reporter David Rose<sup>152</sup> referring to 'a leaked report by financial auditors' which had been seen by the newspaper. The article then appears to quote the then Acting Chief of Police: 'Dave Warcup told the Mail on Sunday that he had appointed an independent team of auditors to examine Harper's spending - it includes two forensic accountants and a police expert in seizing criminals' assets'<sup>153</sup>. This statement was factually inaccurate. Later in the article the leaked material is identified as an 'interim report'. No mention was made in the article of BDO Alto; however, it appears clear that the article is referring to their review.

207. In their submission BDO Alto give a full and contemporaneous record of discussions and correspondence between BDO Alto and Home Affairs following the publication of this article. Mr. Kellett stated in his submission:

*It is clear that it was not an 'interim report' or the consolidated report that was leaked to the newspaper but rather content of the drafts of sections of my contribution to the report.*

208. Mr. Kellett explained that he had circulated copies of his work on a confidential basis to the Acting Chief Officer, to Mr. Gradwell, to the Wiltshire team and to BDO Alto for feedback and comments. In a telephone conversation after the article had appeared Mr. Gradwell admitted to Mr. Kellett that he had been responsible for the leak. Mr. Kellett said that he deplored this action.

209. The States of Jersey Police submission confirmed this and described the circumstances as follows:

*D/Supt M Gradwell left Jersey in August 2009 and retired from the police service on 2 September 2009. Prior to leaving and unbeknown to the States of Jersey authorities, Mr. Gradwell gave a number of press briefings which were critical of the investigation led by Mr. Harper. During the course of these briefings, it is evident that Mr. Gradwell made verbal references to extracts from the BDO Alto report on financial matters. This was wholly improper and less than helpful to the ongoing enquiry. [ ] Mr. Gradwell is on public record as*

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<sup>152</sup> The Sub-Panel contacted Mr. Rose in relation to this article but did not receive a reply

<sup>153</sup> Note: Mr. Warcup did not in fact appoint the accountants to undertake this task. The Minister for Home Affairs commissioned the review.



*accepting that he quoted information from notes later incorporated in the report, but he vehemently denies 'leaking' a copy of the report to the media.<sup>154</sup>*

### Details of the article

210. Some of the wording quoted in the Mail on Sunday article is very close to the phrases in the final report; in addition specific details of financial costs are disclosed. There seems to be little doubt from the number of specific details and phrases used by the newspaper that the reporter had extensive access to Mr. Kellett's material whether or not the reporter was actually given a copy of the work.
211. The article refers three times to comments by Mr Gradwell, the retiring Senior Investigating Officer, who had described the handling of the HDLG investigation as a 'shambles'.
212. The article refers to specific details of financial costs contained in the 'leaked report' including £750 per day for the first seven days' work for the forensic dog and £650 per day for 136 days after and 49 claims on force credit cards for meals costing more than £50; more than £5,700 on Mr. Harper's card alone.<sup>155</sup>
213. The article states that, in a three month investigation the reporter had spoken to a number of individuals connected with the Operation Rectangle: including the Dog Handler, the Chief Executive and the Head of Operational support of NPIA and a former Metropolitan Police Commander.
214. The article also claims to make a number of direct quotes from the 'leaked report'. These later appeared in the published BDO Alto report, albeit the wording in the published report had been somewhat amended in most cases, for example:
- (a) a comment by an employee of LGC Forensics: *We followed the dog. Where the dog barked was dug up.' This says the interim report was a fundamental error'*.<sup>156</sup>
  - (b) a comment that Mr. Harper had 'little idea' of how to use the HOLMES computer system. The article refers to an email where Mr. Harper asks a question about the role of an analyst. This was not found in the published report which actually says: *SOJP personnel lack depth of experience in using HOLMES - including senior personnel fulfilling key roles.*<sup>157</sup>
  - (c) 'the conclusion to the auditors' interim report regarding use of the dog: *'It was an expensive mistake to bring in Mr. Grime. It would have been far preferable and much cheaper to have tried to obtain appropriately trained dogs and handlers from UK police forces.'* The underlined words have been

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<sup>154</sup> States of Jersey Police submission

<sup>155</sup> The published BDO Alto report page 58 actually gives the figure as 45; the second figure not given

<sup>156</sup> The published BDO Alto report page 9.

<sup>157</sup> The published BDO Alto report page 21

amended in the published report which reads: *It was an expensive decision to employ Mr. Grime and to deploy him in the ways described in this Report. It may have been wiser and cheaper to have sought to obtain appropriately trained dogs and handlers from UK police forces.*<sup>158</sup>

- (d) a comment on meal with a News of The World journalist: *'We do not see how this occasion can possibly be regarded as a business dinner within the terms of the policy'*. This sentence appears unamended in the BDO Alto report.<sup>159</sup>
215. The article makes 10 further references to specific details contained in the 'leaked report'. The article also refers to emails from Mr. Harper to his staff (Forensics Manager) obtained by the Mail on Sunday.
216. Mr. Rose had previously written a number of other articles critical of Mr. Harper's conduct of the investigation going back to May 2008 (18.05.08; 24.05.08, 15.11.08). In May 2008 he made a reference to the 'leaked' cost of the investigation (£6.5million) but did not develop any criticism. In his article in November 2008 in which he interviewed Mr. Gradwell he stated that the police were said to be concerned at the enquiry's profligate spending (eg decision to send two officers first class to Australia and a £100,000 bill for the use of Eddie the sniffer dog). In the course of the article he stated that he had obtained confidential documents including an email from Mr. Harper and the official log book kept by the forensic science team.
217. Channel Television also appeared to have access to information from the review into the financial management of the HDLG enquiry. In their two programmes in September 2009 they interviewed Mr. Gradwell on his retirement and referred to a number of specific details from the BDO Alto report such as dinners in specific London restaurants, overnight stays for one hour meetings and the failure to appoint a finance manager.

### **Police response to Mr. Gradwell's action**

218. Mr. Warcup stated in his submission that the disclosures made by Mr. Gradwell to the media on his departure from Jersey had not been authorised or approved by himself or any other person in the SOJ Police.

*They were made without my knowledge, were inappropriate and could have jeopardised the objectivity and fairness of the Wiltshire enquiry.*<sup>160</sup>

219. He said that he had been concerned that a considerable amount of information and documents had been leaked to the media from an early stage in the HCAE investigation:

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<sup>158</sup> see page 41 of published BDO Alto report.

<sup>159</sup> see page 55 of published BDO Alto report

<sup>160</sup> Mr. Warcup's submission page 7

*Unfortunately there were many issues right through from 2008 until 2010 where we did look to try and establish how information had been released to the media. It is a matter of some regret in many respects that it happened and I do not condone it at all..... I have to say that I think that the release of information in such circumstances is detrimental to the good conduct of the inquiry.... I think that that matter needs to be seriously considered for the future and the release of information, however well intentioned, has to be carried out under proper regulated and approved systems and not to fulfil whatever agendas people are trying to pull through.<sup>161</sup>*

220. The Minister told the Sub-Panel that he had discussed the matter with Mr. Warcup who had revealed to him that he (Mr. Warcup) had become aware that Mr. Gradwell intended to speak to the press on his retirement from the Police force about his views on the HCAE investigation. Mr. Warcup had sought assurances from Mr. Gradwell that he would not do anything of that nature, only to discover subsequently that Mr. Gradwell had already given his press interviews.<sup>162</sup>
221. The Minister told the Sub-Panel that it was not possible to discipline Mr. Gradwell for the disclosures he had made because of the fact that he had been seconded from another Police force and had already left Jersey. This point is confirmed in the SOJ Police submission:

*Having left Jersey and retired from the police service in England, it is not possible to take matters further outside of Jersey's jurisdiction.<sup>163</sup>*

### Sub-Panel comments

222. It is accepted that the subject of the leak to the Mail on Sunday was not an interim report prepared by BDO Alto but initial drafts which Mr. Kellett had prepared and circulated to a limited group of people within the SOJ Police (Mr. Warcup and D/Superintendent Gradwell) and to BDO Alto for information and feedback on accuracy of content and style. We also fully accept that neither BDO Alto nor Mr. Kellett were in any way responsible for this leak.
223. It is clear from the evidence we have received that Mr. Gradwell was responsible for leaking information from draft sections of the work which Mr. Kellett had prepared for the BDO Alto review. The information was published in an article in the Mail on Sunday in October 2009 but it also appears to have been made available to Channel Television for a programme in September 2009. Mr. Gradwell also gave an interview to the Jersey Evening Post in which he voiced extensive negative comments on the investigation carried out by his predecessor which he labelled 'a poorly managed mess'.<sup>164</sup> The disclosure of information from the

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<sup>161</sup> Public hearing 16.08.11

<sup>162</sup> Public hearing 25.08.11

<sup>163</sup> States of Jersey Police submission

<sup>164</sup> 29th August 2009

review of financial management was then part of a broader criticism of the investigation by Mr. Gradwell.

224. Mr. Gradwell's views on the investigation were already well known. As Senior Investigating Officer he had been a key figure in the press conference on 12th November 2008 which had called into question the previous direction of the investigation.
225. Our primary concern about the premature leaking of details of the review of financial management relates to issues of fairness in the way these leaks are reported in the media without an adequate opportunity for an alternative perspective to be considered. We give further consideration to this matter in the final section of our report.

### **Key Findings**

- **The evidence we have received points to Mr. Gradwell as the person responsible for leaking information from draft sections of the work which Mr. Kellett had prepared for the BDO Alto review.**
- **Neither BDO Alto nor Mr. Kellett were responsible for the leak of information to the Mail on Sunday.**
- **Mr. Gradwell's action in releasing prematurely to the media draft sections of an uncompleted report would have been a serious disciplinary matter for the Police. However, no action could be taken against him by the SOJ Police as Mr. Gradwell had completed his secondment and left the Island.**
- **Mr. Gradwell's reasons for taking such an unprofessional step are not clear to us as he refused to participate in the Scrutiny review.**

## 6. MEDIA COVERAGE

226. The BDO Alto review was an official review commissioned by the Minister for Home Affairs dealing with matters of legitimate public interest. The media has a right and even a duty to report fully on these matters. However, it is also important that the media give a balanced and complete picture. Our review has revealed a number of concerns about the media coverage of the BDO Alto report and its conclusions. We give a brief account of our concerns in this section of the report.

### Press Coverage of BDO Alto report

227. The publication of the BDO Alto and Wiltshire reports by the Minister for Home Affairs on 14<sup>th</sup> July 2010 was an occasion for highly critical attention on Mr. Harper. The Jersey Evening Post published an extensive six page report with headlines focussed on:

- Celebrity lifestyle of Lenny Harper and his officers
- Meals in top-class restaurants and first class travel at expense of tax payers
- £42,000 – the overtime paid to a single officer in the first 15 months of the historical abuse enquiry
- No dog's life for handler with luxury hotel lifestyle
- Hot on the trail of top London restaurants
- Lenny Harper and his team enjoyed £90-a-head meals and travelled first class at taxpayers' expense, an accountants' report revealed
- Off to Scotland Yard again
- First class on the Gatwick Express

228. The problem with the way the official review was reported is that it appears to take every opportunity to discredit, with the benefit of hindsight, those in charge of Operation Rectangle without any reference to the constraints and pressures under which the Police were operating during the early stages of the investigation. The emphasis on alleged misuse of taxpayers' money risks implanting the impression in the public mind that the entire expenditure on Operation Rectangle was badly managed.

229. In contrast, the BDO Alto report notes:

*In undertaking this Review and throughout the preparation of this Report we have been conscious of the fact that detailed scrutiny of any major inquiry will reveal errors, omissions and learning opportunities, particularly given the benefit of hindsight. It has not been our intention to be ultra-critical in our conclusions and we have attempted to be fair to all of those involved.<sup>165</sup>*

230. Mr. Kellett as previously mentioned<sup>166</sup> made a point of qualifying the critical attention in the report with praise for the dedication and determination which police officers brought to the task of investigating child abuse:

*We have no doubt that Mr Harper was totally dedicated to the task of investigating serious crimes that had possibly occurred at Haut de la Garenne and that he was entirely sincere in his belief that child abuse there and elsewhere in Jersey was a major issue that needed to be dealt with. Throughout the period that Operation Rectangle was live, he and his staff displayed great dedication and did their utmost to bring suspected offenders to justice and we pointed out as much in our report. However, we were not asked to examine motivation and dedication but rather to look at how the resources available to the investigation were managed. We did so and made nineteen recommendations. Inevitably, because of the central role Mr Harper performed, his management of the resources formed a central part of our examination but to the extent that any of those recommendations constitute criticism of his actions, no criticism of, let alone attack on, the existence of the investigation or of the motivation for it is intended or implied.<sup>167</sup>*

231. No such qualification appears in the above press report.

232. Furthermore, the newspaper did not pick up on the fact that Mr. Harper had not been interviewed or given the opportunity to respond to the criticisms in the report. Nor, as far as we are aware, did the newspaper give Mr. Harper any opportunity to state his own perspective.

### **Leaks to the media**

233. Our primary concern about the premature leaking of details of the review of financial management relates to issues of fairness in the way these leaks are reported in the media without an adequate opportunity for an alternative perspective to be considered.

234. It is clear that the premature leaking to a national newspaper of draft sections intended for incorporation in the BDO Alto report was intended to cast a negative

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<sup>165</sup> BDO Alto report page 5

<sup>166</sup> See paragraph 170 above

<sup>167</sup> Mr. Kellett's supplementary submission page 4

perspective on the police handling of Operation Rectangle. We have been unable to question Mr. Gradwell about his reasons for doing so, as he refused an invitation to attend a hearing with the Sub-Panel as a witness. Whatever his motivation, the effect of his actions was to undermine confidence in the handling of the HCA enquiry by his predecessors.

235. Two programmes broadcast by Channel Television in September 2009 had a similar impact locally. Channel Television also appears to have had access through Mr. Gradwell to significant details from the BDO Alto review prior to the publication of its report, referring to dinners in specific London restaurants, overnight stays for one hour meetings and the failure to appoint a finance manager.
236. These programmes were based on interviews with Mr. Gradwell, shortly before his departure from the States of Jersey Police, giving him the opportunity to paint a very negative picture of the way the Police investigation was led.
237. We are not aware that Channel Television made any attempt to contact Mr. Harper to gain an alternative perspective on the enquiry.

#### **Coverage of Panel hearing on 17<sup>th</sup> August 2011**

238. We were also concerned about the reporting by Channel Television of the public hearing held with Mr. Power on 17<sup>th</sup> August 2011. The programme chose once again uncritically to highlight aspects of alleged overspending by the Police and in particular Mr. Harper during the Historic Child Abuse Enquiry, referring in their introduction to the report to Michelin-starred restaurants, 4-star hotels, first class flights to London and Australia, the costs of the dog handler and police overtime.
239. The CTV commentary used the figure of £7.5 million twice, unqualified in any way, alongside statements about restaurant bills etc *'which the tax payer unwittingly had to sign for'*. It was suggested in this way that that sum was all somehow unjustified or tainted. The impression clearly left with the viewer was that the Police had wasted £7.5 million. In fact, the budget for expenditure by the States of Jersey Police was £4.5 million, the remaining £3 million was accounted for by other States Departments.
240. Furthermore, it ought to be noted that the £7.5 million figure was never all down to the decisions, right or wrong ones, by Mr. Power and Mr. Harper. Half of the spending on the enquiry was committed after their time leading the investigation.
241. In our hearing with him on 25<sup>th</sup> August 2011, the Minister was sympathetic to our concerns about the way negative messages about Mr. Power and Mr Harper had been spun in the media and he offered to make a joint statement to this effect with the Sub-Panel. We believe that this would be a positive step.



242. The programme attempted to characterise the public hearing as a 'blame game' between the Home Affairs department and the States of Jersey Police centred on who was responsible for the police spending. The programme picked up on a point made by Mr. Power in which he alleged that Home Affairs had been responsible for signing off expenses claims, linking this to the total £7.5 million cost of the enquiry.
243. The reporter approached the Home Affairs Chief Officer for a comment on this allegation and was told that the Chief Officer would be speaking to the Sub-Panel to explain the position. It was therefore perplexing to note that CTV failed to cover the subsequent hearings (on Thursday 25th August 2011) to discover the answer to their own questions.
244. No attempt was made during the course of the programme to present an accurate and balanced picture of the Scrutiny Sub-Panel's review. The reporter appeared to have undertaken very little background research into our review and resorted merely to replaying earlier versions of CTV coverage of the matter. Our concern about the programme was that, by focussing once again on the issue of expenses, it reinforced a negative stereotypical image of the Police handling of the Historical Abuse Enquiry and missed the serious points raised during the hearing with Mr. Power.
245. We sought to discuss the content of the programmes with representatives, including the reporters, from Channel Television and requested that they attend a public hearing for this purpose. Channel Television challenged whether such a request was within the terms of reference for our review and asked us to clarify the evidence we were seeking from them. We made it clear that we were not seeking to discover how they had obtained access to the BDO Alto report before it was published as that question had been clearly answered in other contexts. We also acknowledged that political examination of media issues is a sensitive and complex subject and we were not seeking to interfere with editorial judgment about programmes. However, we maintain that it is legitimate to challenge whether a proper balance of reporting has been achieved and whether information has been fairly presented. We believe that these matters are an appropriate subject of examination by Scrutiny.
246. We were unable to pursue these questions with Channel Television due to pressures of timing, in particular the forthcoming elections and the requirement to complete our report before the end of the current States Assembly.

## Conclusion

247. In each of the above cases neither of the media organisations appeared to undertake any critical analysis of their own of the information they had received. This feeds into the perception by a number of observers that the media has allowed itself to focus on alleged failures in police procedures rather than their attempts to investigate instances of child abuse which had been allowed to continue without effective challenge for many years.

248. The Island has been heavily polarised in regard to the conduct of the Historical Child Abuse Enquiry. The majority of the members of the public form their views on the basis of media reporting of these issues and we believe it is of paramount importance that the media strive to deal with issues of this magnitude with the highest standards of objectivity. Broadcast media have a special responsibility to use the few words that they have carefully in order to avoid false impressions being left in the minds of the public.
249. We note that parliamentary scrutiny in the UK is also attempting to grapple with difficult issues regarding media reporting. Here in Jersey there are particular issues with regard to the provision of objective reporting due to the limited number of local media organisations. We believe that it is essential that the Chairmen's Committee give serious consideration to establishing a Scrutiny Panel which could undertake a review which will look specifically at the kind of issues we have identified in this report.

### Key Findings

- **The emphasis on alleged misuse of taxpayers' money in instances of media reporting risks implanting the impression in the public mind that the entire expenditure on Operation Rectangle was badly managed.**
- **In our hearing with him on 25<sup>th</sup> August 2011, the Minister was sympathetic to our concerns about the way negative messages about Mr. Power and Mr Harper had been spun in the media and he offered to make a joint statement to this effect with the Sub-Panel. We believe that this would be a positive step.**
- **Our primary concern about the premature leaking of details of the review of financial management relates to issues of fairness in the way these leaks are reported in the media without an adequate opportunity for an alternative perspective to be considered.**
- **It is essential that a future Scrutiny Panel give serious consideration to undertaking a review which will look specifically at the kind of issues we have identified in this report.**

### Recommendation

- **The Chairman's Committee should establish broadly-based Scrutiny Panel to undertake a review to examine issues relating to the media coverage which we have raised in our report.**

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP18

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**Statement made by Graham Power Q.P.M. Chief Officer of the States of Jersey Police.**

1. I am the Chief Officer of the States of Jersey Police. I make this statement at the request of Mr Brian Moore, who is the Chief Constable of Wiltshire. Mr Moore is the investigating officer for "Operation Haven." This operation is a disciplinary investigation initiated by Andrew Lewis the former Minister for Home Affairs. I understand its purpose to be the examination of my role in respect of "Operation Rectangle," which is an investigation into allegations of historic child abuse in Jersey. The statement was commenced on Sunday 28<sup>th</sup> June 2009. Mr Moore has provided me with details of points he wishes me to cover. I have also received disclosure of some of the documents relevant to the investigation. I will attempt to structure my statement in a way which addresses the points raised by Mr Moore, and where appropriate make reference to the disclosed documents. Where a particular fact or sequence of events is not covered in the disclosure documents I have completed the applicable part of the statement from memory. Other than the documents which have been disclosed, I am denied access to the relevant files and documents at this time. Consequently some of my recollections may be imperfect. However, that said, I believe everything in this statement to be a true recollection of all of the events described.
2. The terms for the enquiry are set out in a thematic structure, as is the list of points I have been requested to cover. I will attempt to follow that structure wherever it is consistent with a coherent and reader-friendly narrative. The Investigating Officer will himself have noted that some of the themes and the evidence overlap. This is reflected in the disclosure bundles, where some documents and statements are duplicated under the different topics. I will however seek to consolidate some parts of the narrative under single headings where this appears to be appropriate. I will also cover some additional topics where I see them as being relevant. Issues around succession planning and the history of Mr Harper's relationships with some members of the political and legal community are examples.
3. **Some Details of my Career History.**  
I have been asked to discuss my previous working experience. I will cover the early history briefly, but will have more to say regarding my appointment to my current role, and the two subsequent extensions to that appointment.
4. I am not sure about the first date on which I entered the Police Service but recall that it was as a cadet in Middlesbrough Constabulary, and was probably in 1964. I was appointed to the rank of constable in 1966 and in that rank served in the Uniform, Traffic and C.I.D. departments. During my service in the Middlesbrough area the force was twice enlarged through amalgamations. The first was into Teesside Police, and the second into Cleveland Constabulary.
5. In 1974 I was selected for accelerated promotion by way of the "Special Course" at what is now the Police Staff College, Bramshill. I returned to the force after a year in the rank of Sergeant

and after six months was promoted to acting Inspector then Inspector. I had been awarded a Bramshill Scholarship at the end of the Special Course and in consequence, shortly after my promotion to Inspector, I attended Queen's College, Oxford, for three years, where I read Politics, Philosophy, and Economics, eventually achieving an M.A. with second class honours.

6. I returned to Cleveland Constabulary and served in a range of uniform operational postings until promoted to Chief Inspector and later Superintendent. Most of my time as a Chief Inspector, and around half of the time as Superintendent was spent in senior positions in operational support and planning roles. This had a high priority in Cleveland, which had at that time one of the world's largest petrochemical complexes sited close to heavily populated urban areas. The remainder of my time in the rank of superintendent was in sub-divisional commands in some of the inner-city areas of the force.
7. In 1988 I successfully applied for a position as Chief Superintendent and divisional commander in North Yorkshire Police. I was initially commander of Harrogate Division, which encompassed the sub-divisions of Harrogate and Skipton. The division was later amalgamated with the neighbouring Richmond Division, which created one of the geographically largest commands in the U.K. It was when I was commander of these two combined divisions, that I was selected for the 1991 Senior Command Course. Before I had completed the course, I successfully applied for the position of Assistant Chief Constable with Lothian and Borders Police.
8. I was allocated the role of "Assistant Chief Constable (Management Services)" responsible for a wide portfolio including recruitment, personnel, finance, I.T., planning and other support functions. During my time in that post I implemented a number of changes, including more objective promotion and selection processes, and in particular a much needed civilianisation of non-operational roles. My promotion to Deputy Chief Constable in 1994 was accompanied by a planned re-structuring of the force executive. As part of this process my previous position was abolished, and a civilian Director of Corporate Services appointed. This is believed to be the first executive-level civilian appointment in the Scottish Police Service.
9. As Deputy Chief Constable I was in periodic command of Scotland's second largest force, and had lead responsibility for professional standards and major events. The latter included the 1997 Commonwealth Heads of Government Conference, in respect of which I led the planning team, and was strategic commander during the event. During this period I was Assistant Secretary of the Association of Chief Police Officers in Scotland (A.C.P.O.S.). In this role I oversaw the permanent A.C.P.O.S. secretariat, and often led on the development of policy. I was also a full time member of the Association's executive. During this part of my service I was awarded the Queen's Police Medal for distinguished service. It was a strong feature of the mandate of the Association at that time to preserve the distinctive nature of Scottish Policing, and to resist the encroachment of English policing practices, which were perceived to be process-bound, bureaucratic, and remote from the everyday concerns of most people.
10. In 1998 I was appointed Assistant to H.M. Chief Inspector of Constabulary, based in Edinburgh. I conducted inspections of Scottish Forces, advised Ministers and others on policy, and considered appeals against decisions in respect of non-criminal complaints.
11. In 2000 I successfully applied for the position of Chief Officer of the States of Jersey Police. I note that my application for that position emphasised my experience in the development of policing under a devolved government, and the need to strike a balance between the strategic perspective, and the delivery of common-sense solutions. During the selection process the panel appeared to be interested in the fact that my senior policing experience had been gained

in an environment detached from Home Office influence, and that I had an understanding of the significance of different legal systems, not only with regard to criminal justice, but in sustaining the distinct culture of a society.

12. Following further process required by law, I was sworn in before the Royal Court as Chief Officer of Police in December 2000, on a five year contract. The three unsuccessful shortlisted candidates were the then serving Deputy Chief Officer (D.C.O.) who was Roly Jones, and two senior A.C.P.O. officers from England. I will return to the questions of my contractual position, and the issue of succession planning later in this statement.
13. Soon after my appointment I had a number of meetings and briefings with key figures and learned more of the culture and attitudes which prevailed in the island. I became aware of a strong anxiety that the island's laws and traditions were being eroded by a process of "creeping Anglicisation." I have been made aware that this view has been prevalent to various degrees on different topics for a number of decades. I was made particularly aware of the suspicions which existed in respect of senior officials, of whatever department, who came from outside the island and who were sometimes accused of attempting to turn Jersey into a "part of Hampshire." I absorbed these messages and resolved to ensure that any changes for which I was responsible were responsive to local needs, and there would be no blanket acceptance of laws and practices originating from the countries of the U.K. or elsewhere.

14. **Training Courses Undertaken.**

The investigating officer has asked me to provide information on training courses I have undertaken during my career. I have already written of my attendance at the Special Course in 1974 and the Senior Command Course in 1991. I see from the documents provided that in addition there is a record of my attending a Public Order Ground Commanders' course in 1990, and one on the Management of Civil Disaster and Emergency the same year. I recall that when serving in the Scottish Police Service I attended occasional training days at the Scottish Police College, and was sometimes asked to be a speaker. I recall speaking on diversity issues, and on another occasion I chaired a session on ethics.

15. In Jersey I have attended the occasional management development day organised on behalf of the public sector. I am the representative of Jersey, Guernsey and the Isle of Man on the Association of Chief Police Officers (A.C.P.O.) Committee which deals with Terrorism and Allied Matters. As part of this role I have maintained an interest in the subject matter, and attend relevant seminars and conferences in the U.K. and elsewhere. I am also an assessor for the police service High Potential Development Programme in the U.K. This is a programme for junior ranking police officers who appear to have exceptional potential. I maintain my skills as an assessor by attending training days organised by the managers of the programme.
16. I suspect that the Investigating Officer may be interested in any courses attended relating to criminal investigation. As part of my initial training in 1966 I attended lectures on the criminal law, powers of arrest and the like. I have no recollection or record of receiving any formal training in relation to criminal investigation since that time. Against this background I would point out that since 1994 I have been at a rank in the service where the possibility of direct command or oversight of crime operations is remote. In those circumstances I consider it legitimate to focus on broader corporate governance issues at strategic level, and to seek advice from suitable experts in relation to more direct operational matters should that become

appropriate. For the avoidance of doubt I have no current qualifications or training whatsoever in the investigation of serious crime, or in the oversight of such investigations.

17. **Experience in the Management of Major Incidents.**

I have been asked to provide information regarding my experience in the management of major incidents. I have already touched upon my experience in Cleveland where I undertook some command roles in relation to toxic emergencies and similar incidents, and when in North Yorkshire I was occasionally ground commander in respect of issues arising from "Acid House" parties, illegal festivals and the like. All of this was of course in the 1980s.

18. I have mentioned previously that I planned and commanded the policing of the 1997 Commonwealth Heads of Government Conference in Edinburgh, and in 1998 I prepared a public report relating to issues arising from a murder investigation in Aberdeen. During that enquiry I was supported by a strong team of specialist detectives.

19. Since taking up my present command I have encouraged and mentored local officers in the exercise of the responsibilities of command, whether in relation to anti-capitalist demonstrations, football related disturbances, or pop concerts. Once I am satisfied that a command structure is in place I normally assume a mobile role, visiting command centres, operational officers, and relevant local stakeholders. I am always alert to the problems which can arise when delegation is combined with interference. Additionally, I am conscious that my operational skills in these areas are no longer current, and that others have been trained to undertake the relevant roles.

20. **Major Crime. Competency Issues Relating to the Force.**

The readiness of the force to cope with the challenge of a major and unforeseen criminal investigation is raised at this stage, because it has been an issue, not just during Rectangle, but from the very beginning of my tenure as Chief Officer. My initial appointment as Chief Officer of the Force was in the aftermath of a report by Her Majesty's Inspectorate of Constabulary (HMIC), published in 2000, which was highly critical of the management of the force and its performance. There were also recognised serious professional standards issues to be addressed. I also became aware of a lack of self-sufficiency in the investigation of murder and comparable crime. In its simplest terms, it appeared to be the established practice for the force to effectively "hand over" major investigations to Devon and Cornwall Police. I did not think that this was sustainable for a number of reasons. These included the vulnerabilities created by such a dependency, for example, the acknowledged fact that the priorities of Devon and Cornwall Police must inevitably focus primarily on the needs of that force. In addition, visiting officers often found local law and procedures unfamiliar and it was necessary to provide them with guidance and support throughout an investigation. There was also the issues of local pride, the professional development of local officers, and the cost of mutual aid. There had inevitably been some local political and media criticism from those who could not understand why their local force was not undertaking a more visible role in major enquiries.

21. I addressed this matter on a number of levels. One involved a joint agreement with Devon and Cornwall which committed both parties to the specifics of what they would do, and in what circumstances. This also involved the permanent establishment, and periodic testing, of a H.O.L.M.E.S. 2 link in Jersey connected to the main Devon and Cornwall Computer. I also



encouraged greater emphasis on the need to train and develop local officers by a variety of means, including secondments to U.K. forces.

22. A further opportunity arose when the officer who was Superintendent and head of Operations indicated that he intended to retire and it was known that the then Deputy Chief Officer (D.C.O.) would retire soon afterwards. I had a number of discussions with the then President of Home Affairs, (the name given at that time to the Chair of the Home Affairs Committee) Alastair Layzell, and we agreed this created an opportunity to strengthen the local management team by recruiting a Superintendent and potential D.C.O. from outside the island. I told Deputy Layzell that we had a pressing need for a "heavyweight" detective who could take command in appropriate circumstances, and mentor local officers.
23. After candidates had been short listed, a selection panel was arranged. It is my recollection that the members were Deputy Layzell, Senator Wendy Kinnard, who was the Vice-President of the Committee myself and possibly a member of the Appointments Commission. Towards the end of the process two candidates stood out. Lenny Harper, who I believe at that time was a Superintendent in Strathclyde, was the strongest, and the second was a Acting A.C.C. in the National Crime Squad, John Pearson. I discussed the candidates with the panel. I pointed out that Mr Harper would be a bold choice. He was a man who would "lift stones and rattle cages." He was likely to be relentless on ethical issues. If we were to appoint him then we should be alert to these characteristics. We then discussed John Pearson. I drew attention to the fact that although not as broad in his experience as Mr Harper, he was nevertheless the specialist "heavyweight" detective we needed badly.
24. Deputy Layzell responded bravely to this situation and said that he would agree to change the establishment of the force on a temporary basis to accommodate both officers. Harper would be designated as Chief Superintendent and D.C.O. in waiting. Pearson was made Detective Superintendent. This was a controversial move, both within the force and externally. We had to address criticism that local officers were being deprived of promotion opportunities. This is a recurrent theme in island policing, which persists no matter how unrealistic some local aspirations may be, and one which is continually used as a means to attack the professional and political leadership of the force. Its significance should not be underestimated. I will refer to this factor again later in this statement.
25. Not long afterwards the planned retirements occurred and both officers moved into their intended positions. To complete this part of the narrative, the former Superintendent was Trevor Garrett, who is a local person who is still living in Jersey. The former D.C.O. was Roly Jones who was a good and committed officer who believed that he had not always had the full support he deserved. He did not have a long retirement and died some years ago. I recall that it was not very long after the selection process that Deputy Layzell was unexpectedly defeated in an election and left politics. He was succeeded as President of Home Affairs by Wendy Kinnard.

26. **The Nature of the Role of Chief Officer of Police in Jersey.**

It is claimed by various authorities that the policing system in Jersey can be traced back over 800 years. There does appear to be evidence that something resembling the current honorary system was in place in medieval times, and there can be no doubt that in recent centuries there was a Parish-based system close to the one which exists today. Honorary police officers are elected by voters in each of the twelve Parishes. The senior figure is the Connétable (or "Constable"), who is also head of the parish and a member of the States. The next most senior

in rank are Centeniers, who are responsible for the charging and prosecution of offenders. Vingteniers are the next rank. Some of the administrative functions of that role have in more recent times passed to other bodies, but they remain senior to the Constable's Officers, who are the junior and often most visible rank of the honorary service. One Centenier in each parish is designated Chef-de-Police and has delegated day to day control of policing on behalf of the Connétable. There is now an island-wide Honorary Police Association, in which the policing interests of all of the Parishes are represented.

27. In recent centuries notable events have from time to time highlighted the need for the honorary police to receive a measure of professional support. In 1853 *Loi sur la Polce Salarinée* were created to support the Connétable of St Helier, and subsequently the *Paid Police (Jersey) Law 1951* extended the provision of paid assistance for Connétables to the whole island. In 1974 the *Police Force (Jersey) Law* came into force. This changed the name of the force to the States of Jersey Police and brought some degree of legal definition to the relationship between the States and Honorary Police. However, some important distinctions and powers have been preserved. Most notable among these continuing powers are those which relate to the charging and prosecution of offenders. The States Police do not bring charges or undertake prosecutions. The role of the force is to gather evidence and present it to the relevant Centenier for consideration as to what action he or she thinks it proper to take. In serious cases Centeniers are advised by the Law Officers Department.
28. Under Article 9 of the 1974 Police Law the Chief Officer is responsible for "*the general administration and the discipline, training and organisation of the force.*" This is a role sometimes described as the "administrative head of the Force." Article 7 of the Law sets a requirement for the States and Honorary Police to exchange information on occurrences in parishes. In recent years I have agreed with honorary police representatives a means by which this is done electronically in the majority of cases. In other respects the law does not intrude upon the established position, that the role of the force is to provide professional support to the Connétables in the policing of their parish. This is re-enforced by Article 6 which refers to a schedule of prescribed offences. For the purposes of this statement it is sufficient to say that the schedule contains a list of offences which are more serious than others, and in respect of which a degree of professional skills are likely to be required. When such an offence comes to the notice of a member of the Honorary Police, he or she is required to "*request the assistance force.*" Even for example, in cases of homicide, the position under the 1974 law is that the Force is to assist the member of the honorary police. There is no provision which allows the force to take command without the agreement of the relevant Connétable, or his or her delegate.
29. During my period in office I have entered into a variety of discussions and agreements, both formal and informal, which have sought to bring a measure of contemporary realism to these legal arrangements. This has resulted in a strong working partnership between the States and Honorary Police which has been of benefit to the island. During these discussions the honorary police have been well represented by a number of their senior ranks. In recent times the most active has been Malcolm P. L'Amy who is the Chef de Police of the Parish of St Peter. Should the investigating officer wish to verify my account of this relationship, or to obtain further information, it is probable that Mr L'Amy would be willing to assist. His contact details are in the public domain.

30. The relationship with the honorary police also has implications for the type of laws and procedures which are appropriate for Jersey. Most honorary officers receive only a few days training, and some, little training of any sort. It follows from this that any policing procedure which is complex, or difficult for a volunteer force to absorb, can be seen as a threat to the honorary system. There are within the honorary service some strongly traditional and politically influential figures who have still not come to terms with the introduction of the "paid police." They can be suspicious and resentful of "foreign ways" which are seen as a threat to the survival of their traditional way of working, which is based predominantly on common-sense, local knowledge, and discretion, rather than any set procedure.
31. Such views are not confined to the older elements of the honorary service. They can be found, albeit in a more developed form, in the senior levels of government and the legal establishment where some notable figures favour an eventual severance of links with the U.K. and would see the ready acceptance of U.K. working practices as running counter to this agenda. I recall that in 2007 I assisted a small working group which included, among others, the Bailiff Sir Philip Bailhache and the Attorney General William Bailhache. The purpose of the group was to prepare a draft contingency plan for complete independence. I submitted papers to the group on the implications for law enforcement, and used some contacts from my previous role to offer suggestions as to who outside of the island, could assist in developing such a plan. I provided contact details of key figures in the Scottish Government and Administration including the Scottish National Party. I recall that some of the advice and contacts I provided were in an email I sent, probably in July 2007. This and other experiences reinforced my understanding that there was a tide flowing against closer association with the U.K, and a strong local agenda to develop working models and solutions within the island.
32. Over the years there have been attempts by myself and Wendy Kinnard, when she was Minister for Home Affairs, to address the issue of operational control and responsibility. The most recent of these being the failed attempt to introduce a new police law in 2008. The draft law sought, in a tentative way, to make the Chief Officer the person who was formally in operational command and control of the force. The law achieved some public debate and made it as far as a hearing before a Scrutiny Panel (a body similar to a Parliamentary Select Committee in England) before running out of time due to the approach of an election, at which the sponsoring Minister, Senator Wendy Kinnard, did not propose to stand. The panel hearings and other discussions make it clear that political opinion is divided on the matter of command and control of the police. Some wish to retain the legal primacy of the Connétables for the policing of their parishes. Others think that operational direction should sit with the Minister for Home Affairs. With the exception of Senator Kinnard, and possibly Andrew Lewis, there was no major lobby in favour of placing greater operational or command powers in the hands of the Chief Officer.
33. The duties of the Chief Officer of Police in Jersey are not confined to the running of the force and the management of the interface with the Honorary Police. In Jersey, the Home Affairs Department has no direct responsibility for policing, and only a marginal involvement in the development of legislation regarding the police. If there is to be any progress in this area then it normally falls upon the Chief Officer of Police to take the initiative, normally in consultation with the Minister for Home Affairs, the Law Officers and the Law Draftsman's department. One example is the recurrent attempts to achieve a modern police law, referred to above, and regulations dealing with complaints against senior officers. As I recall it was my predecessor who took the initiative on the establishment of a Police Complaints Authority and the beginnings

of a new Police Law. The Police Complaints Law was successfully implemented for most ranks of the service, but work stalled on the new Police Law and Senior Officer Discipline Regulations. After various frustrations I took on this work with Alison Fossey, who may have been a sergeant when the work began, and who is now an inspector. We worked with the law draftsman's department and produced a draft which, as described previously, went out to consultation and then to the Scrutiny Panel. Civil service involvement was minimal.

34. As a Chief Officer I also sit on the Corporate Management Board, along with Chief Officers from other departments. Together we share a collective responsibility for the administration of the governance of the island and for providing advice to the Council of Ministers. Very little of the board's business concerns law enforcement. It would be quite usual for me to be expected to contribute to discussions on education or health policy, and assist in prioritising the government's capital programme.
35. In addition to these roles, I would frequently prepare briefs for the Minister for Home Affairs prior to meetings, or draft answers to questions she was required to answer in the States, along with suggested "lines to take" during political questioning. I would engage regularly with the media and advise the Minister on "lines to take" during media interviews. Against this background the Chief Officer's actual responsibilities for the command of law enforcement in the island, are obscured in a mixture of outdated laws, customary practice, and the practical requirements of policing in the modern world.
36. The role of the Chief Officer of the States of Jersey Police is part police officer, part civil servant, part government policy maker and part ministerial advisor. I am not aware of any comparable role within any police service in the British Isles. I will return to this topic later when I discuss the relevance of English and Welsh guidelines and the dangers of equivocation when discussing the responsibilities of a "Chief Officer."

**37. The Accountability of the Chief Officer.**

It might at this stage of the statement be of some value for me to set out the accountability of the Chief Officer, how this has evolved during my tenure, and where it appears to stand today. As stated earlier, the Chief Officer is accountable to the Minister under article 9 of the Police Law for the "*general administration and the discipline, training and organisation of the Force.*" I know of no other relevant accountabilities which are attached to the post. It is to be noted that there is no mention of the Chief Officer having the responsibility for the operations of the force or for its performance.

38. The history of the accountability arrangements are set out in more detail in the affidavits filed in connection with my application for Judicial Review, which have been supplied to the investigating officer. In brief, at the time of my appointment there was a Home Affairs Committee, headed by a President and Vice President. The Chief Officer was accountable to the Committee and the normal rules of committee process applied. The President of the committee was Deputy Alastair Layzell and the Vice President was Senator Wendy Kinnard. There was also a Shadow Police Authority, which had been set up by the States in response to a report from a committee headed by Sir Cecil Clothier (The report is commonly known as "Clothier One".) I was told at the time that the Shadow Police Authority would progressively assume full legal status and the Home Affairs Committee would reduce its direct role in relation to policing. I was content to accept my appointment as Chief Officer on that basis.

39. Once I had been appointed, none of these promised changes occurred. The Shadow Police Authority faded away for a variety of reasons which included delays, and lack of overall political commitment. The States decided to move from a system of Committee Government to Ministerial Government, this change taking place in consequence of legislation passed in 2005. Before the changes to the system of government, the Chief Officer was accountable to some extent to two committees, namely the Home Affairs Committee and the Shadow Police Authority. After the change, he was accountable to a single individual, namely the Minister for Home Affairs. The first ever Minister for Home Affairs in Jersey was Senator Wendy Kinnard, who was the Minister in office at the critical time of "Rectangle."
40. The authority of the Minister for Home Affairs under the law appears to be unfettered. There is no obligation to consult with other parties, or obtain any approval for any action taken in exercise of Ministerial authority. During "Rectangle" both myself and the Deputy Chief Officer, met regularly with the Minister and updated her on developments. She also met with, and was briefed by the advisors appointed by the Homicide Working Group. I have no recollection or record of the Minister raising any matters of significant concern during "Rectangle." On the contrary, she appeared at all times, to be strongly supportive.
41. There is one aspect of my accountability which does not fit neatly into any of the requested topics, and I will therefore mention it here. [REDACTED]  
[REDACTED] On 10<sup>th</sup> December 2007 I saw Wendy in my office in relation to routine business. During this meeting [REDACTED]  
[REDACTED] I gave her some personal advice, then some additional advice of a professional nature. [REDACTED] and she should arrange for the Assistant Minister, Andrew Lewis, to assume responsibility for political accountability in respect of Rectangle. (Notebook 07/358 page 39.)
42. As it was, Wendy Kinnard took some time to reflect on her position, and it was not until 29th May 2008 that she relinquished responsibility for the enquiry. The decision that she should do so was taken at a meeting on 23<sup>rd</sup> May 2008 attended by myself, Wendy Kinnard, the Chief Minister Frank Walker and the Chief Executive Bill Ogley. The meeting was not a harmonious event. During the course of the meeting Frank Walker expressed annoyance that the enquiry was continuing to generate unwelcome media interest in the island, and adopted a bullying and offensive tone towards Wendy Kinnard. He made threats of suspension against both myself and Lenny Harper. I believe that the term he used was that he "*was under pressure to suspend the Chief and the Deputy Chief.*" He did not say who the "pressure" was from, nor did he give the impression that he was personally opposed to the idea. My notebook records that I made an email record after this meeting. (Notebook 08/95 page 34.) The Investigating Officer has subsequently provided me with a copy of the relevant email. It was intended for internal reading, and its robust tone is designed to reassure the relevant people that I am seeking to fulfil my identified role, (which will be discussed in more detail later,) of protecting the investigation from political interference. I did not record the suspension threat relating to myself in the email as it did not concern the people to whom the message was addressed.
43. The Investigating Officer may agree that the email was not written in anticipation that it would be read by persons other than those to whom it was addressed. It nevertheless provides support for my account of that meeting. The Investigating Officer may also note that in

paragraph 18 of my first affidavit I record that a States Member unconnected to these events, had told me of an overheard conversation between Frank Walker and Andrew Lewis, in which they appeared to be discussing the use of suspension. The Investigating Officer will also note that the email contains a suggested media "line." My practice of suggesting media "lines" where appropriate will be discussed later in this statement.

44. A consequence of the delay in Wendy Kinnard relinquishing her Ministerial responsibility for Rectangle [REDACTED]

[REDACTED] This had implications for the political leadership, and the representation of the Force in the States and elsewhere, during a time of significant challenge.

45. Under the Police Law my sole line of accountability was to the Minister for Home Affairs, who at the relevant time was Wendy Kinnard. Nevertheless, I had informal contacts with other Ministers on a regular basis. I have no recollection of any Minister raising any formal reservations regarding the conduct of the enquiry, other than in the meeting referred to above, and that was confined to a verbal outburst on the question of media attention from the Chief Minister, Frank Walker. I note that at a sitting of the Council of Ministers on 22<sup>nd</sup> May 2008 (the day before the meeting referred to above) the Council asked the Minister for Home Affairs for assurances that she was maintaining "effective political oversight" of the investigation by "being satisfied that the investigation was being undertaken in a professional and proper manner" and "being content that audit mechanisms in place to monitor the progress of the criminal investigation were suitably independent, professional and thorough." In consequence of these assurances the Council of Ministers "reaffirmed its full support for the police enquiry." (Statement Frank Walker paragraph 24.) I have no knowledge of any contrary view being expressed by the Council of Ministers since that date.
46. I hope that the above section on accountability is sufficient for the investigating officer at this time. I will now turn to the management of the force.

47. **The Force and its Management Processes.**

The States of Jersey Police is the national police force for the island of Jersey. It is not part of any other force, or any other law enforcement organisation. It consists of around 240 police officers and 90 civil servants. The Force does not have full-time standing units in a number of key areas including armed response, public order, family liaison and the like. The successful performance of the force depends on the goodwill of officers who are willing to undertake additional specialist duties on a part time basis. The joint financial crime unit (joint in the sense that there are customs representatives in the unit,) is relatively large in relation to the overall size of the force. It is not unusual for that unit to be managing a number of investigations regarding serious and organised crime, and corruption, at any one time. That is not to say that such offences are necessarily Jersey based. More commonly the force is investigating financial crime issues which originate in other jurisdictions and are believed to have a Jersey link. The delivery of co-operation and support to an acceptable standard in such investigations is important in maintaining the reputation of the island and the Force.

48. Overall, crime is relatively low and force performance is high. The years since 2000 have predominantly been characterised by falling crime, high detection rates, and high public confidence. Reports by H.M. Inspectorate of Constabulary have been positive. The views of the community are regularly surveyed and assessed. It is common for survey returns to show satisfaction levels in excess of 90%. While it could be plausibly argued that in Jersey everyone is

a member of a minority group, some minorities are more evident than others. The recruitment of police officers from minority groups is at a proportionate level, and recorded levels of confidence in the police service among minorities in the population commonly exceeds that of the population as a whole.

49. The force executive consists of the Chief Officer, the Deputy Chief Officer, the Superintendent, who is also the head of operations, and the head of planning and research. Two members of the Home Affairs Department are also invited to executive meetings. They are a financial representative and the Head of H.R.
50. Corporate governance is exercised through a cycle of meetings which is as follows:
- Short daily informal meetings at 0900 with the Chief Officer and such members of the executive, or their nominees, as are available.
  - The executive strategy group. This meets every 2/3 weeks. There is an agenda, advance circulation of papers, and a minute keeper. The group discusses policy issues at a strategic level. The minutes are available on the force intranet and are copied to the Minister for Home Affairs and the Assistant Minister. Financial issues are a standing item.
  - The force management board. This consists of the executive and a broader membership including line managers and staff associations. It meets on average, every 2/3 weeks and alternates with the strategy group. Again, finance is a standing item and the minutes are widely available.
  - Ministerial meetings. These are periodic but fairly regular meetings attended by the Minister and the Assistant Minister, along with the Chief Officer, the Deputy Chief Officer and the head of operations. Due to the operationally sensitive nature of some of the agenda items, attendance was restricted to those named above.
  - Strategic level meetings with the Honorary Police. These are less frequent but are normally attended by 3 or 4 nominated representatives of the Honorary Police, the Chief Officer, and a relevant operational officer. Again, there is an agenda and minutes. Discussions usually revolve around local initiatives and legal developments which might impact on the honorary service. There is sometimes a need to dispel suspicion or rumour.
  - Any other operational meetings as are required to cascade any issues from the above meetings. I would not attend these unless specifically invited.
51. I have sought to operate this meeting cycle on a "one size fits all" basis. The meetings can cover a variety of topics, but are intended to bring management issues within a simple and transparent framework, hoping to achieve solutions which are collectively owned rather than driven from the top. I do not encourage proliferation of the meeting cycle. In a force of a few hundred staff, all of whom work from the same building complex, and who see each other several times a day, there is no need for people to spend undue lengths of time in management meetings. I also insist that meetings start on time, are focussed, and to the point. The meeting cycle is intended to support the work effort. It should not become a substitute for work.
52. The above arrangements have provided a foundation for an efficient and well run police service. It is my recollection that the force has, in my eight and a half years in office, always finished the year within its allocated budget and that there is a widespread acceptance of the States Police as a high performing and professional organisation.



53. I note that in Mr Warcup's statement he describes at some length the processes for formulating and delivering policy in the police forces of England and Wales, and the powers to introduce codes of practice under the "U.K. (sic) Police Reform Act." I am not sure if I am expected to comment on that narrative at this time but if I am then I am unable to do so. I have not lived or worked in England or Wales for close to 20 years and cannot speak with authority on how things are done in those countries. I am however satisfied that the corporate governance arrangements which I established for the States Police are suitable for the requirements of the force and the island. Jersey is not part of the U.K. and is not bound by any U.K. legislation.

54. **The Succession Plans.**

The appointment of both Lenny Harper and John Pearson, achieved through the process I have described earlier, did much for the effectiveness of the force. John Pearson brought a wealth of experience as a senior detective and was effective in developing the skills of more junior officers. I will address the experiences of Mr Harper in a separate section of this statement.

55. As my initial five year appointment as Chief Officer was drawing to an end I had some informal discussions with members of the Home Affairs Committee. It was clear that a majority hoped that I would agree to my contract being renewed. On balance, I was attracted to this but felt that it was now time to set a limit and have a clear view of the date on which I would eventually retire. After a period of reflection I agreed to remain for a further two years. I believe there was some discussion as to whether this period should be longer, but I was clear at that time that two years was the limit as far as I was concerned. My initial five year appointment was therefore extended to seven years and it was anticipated that I would retire at the end of 2007.

56. Some time in 2006 it became evident that there was going to be a continuity problem in the senior management structure of the force. I would need to check the records in some detail to work out how this arose, but I believe that along the way there had been some adjustment to the contracts of both Lenny Harper and John Pearson. They had also formed views of their own as to their probable departure dates. When the anticipated departure dates were known it became apparent that all three senior ranks were due to leave within, as I recall, the space of a year. There were then a number of discussions as to how this could be addressed. Lenny Harper said that he had retirement plans, and wanted to leave on the set date. I have a recollection that John Pearson expressed some interest in staying, but said that this ran counter to his intention to settle his small son in a school and a community where he could be sure that he could remain if he wished. Against this background "one more year" or something similar, did not fit in with his plans. Also, and significantly, there was yet again the issue that John Pearson appeared to be blocking the promotion of a local candidate, but the same could not be said at that time regarding myself or Mr Harper. I did some political soundings around this, and came to the conclusion that to extend John Pearson's contract would not achieve the necessary political support. The political agenda of achieving local promotion would override any considerations of his value to the force. That left me to consider if I should remain in post in an attempt to provide continuity until a new senior team could be in place.

57. From my personal perspective there were two disadvantages with this. Firstly, it did not fit well with a number of plans and commitments, one of which was (and remains) family welfare issues in the U.K. The second was the obvious fact that my professional qualifications were clearly dated, and that there was, in my view, a need to bring in someone with a more contemporary background.

58. Over a period of time I worked with others to address these issues. This resulted in the production of a succession plan which offered a good prospect of resolving the problem. The first feature was for someone to understudy John Pearson closely, and spend a year or more shadowing him as his potential successor. The selected person would also benefit from secondments to U.K. forces and additional training. The person selected was the then head of C.I.D. André Bonjour, who seemed at that time to be the obvious choice. Initially things went according to plan, but then difficulties arose. The first setback was that as John Pearson was approaching retirement, André did not pass the assessment procedure for the rank of Superintendent, even though he was the only candidate. As I recall the selection panel consisted of, myself, Wendy Kinnard, Andrew Lewis (who was then Assistant Minister for Home Affairs,) and a member of the Jersey Appointments Commission. The background was that the position had been advertised internally, but only André Bonjour had applied. He had been set some written project work, some letters to answer and had undertaken psychometric tests. The panel met to consider the preliminary results before planning the next stage which was a presentation and interview. It quickly became clear that all members felt that the standard of the work seen so far did not justify promotion without competition, and the position should be advertised again, and other potential local candidates should be encouraged to apply. This happened and Shaun Du Val was successful, and promoted to Superintendent on John Pearson's departure.
59. Soon afterwards information was received which suggested that André Bonjour had failed to take action in respect of some earlier reports of child abuse. The concerns were such that South Yorkshire Police were asked by Lenny Harper to conduct an investigation. This effectively put André Bonjour's career on hold. It will be necessary to return to the matters investigated by South Yorkshire later in this statement.
60. Running alongside these events was the succession plan for my own position. Political soundings indicated that approval of a succession plan was unlikely unless it offered the prospect of local succession and promotion. At this stage I perhaps ought to explain that an external appointment to the force was not within the political remit of the Minister for Home Affairs. She could only begin the process by producing a written proposal. Approval was also needed from the Ministers who controlled Housing and Public Sector Employment, and it was probable that the States Employment Board and the Jersey Appointments Commission would need to be involved. Even if approved by all of the above, it would be open to States members to discuss the plan, and if dissatisfied, to seek to have it overturned. This is the reality of island policing. What the force actually needs in terms of skills and experience is relegated to a side-issue. The overwhelming consideration is what can be achieved politically, and this is heavily dependent on the extent to which any plan for management succession favours locally qualified candidates. I still thought we needed an experienced "heavyweight" detective but it looked unlikely we were going to get one. I did however make it clear to both Wendy Kinnard and Andrew Lewis that I hoped the new D.C.O. would have current skills in the oversight of major crime enquiries. I was concerned that having failed to bridge the gap caused by the departure of John Pearson we would be left vulnerable until more local development could take place.
61. I met with Wendy Kinnard and Andrew Lewis. We discussed a draft succession plan. Basically it involved my existing contract being extended by a further three years to a total of ten years. This duration was chosen because it can, in some circumstances, trigger certain entitlements with regard to residency, should that be a preferred option. I made no secret of the fact that I

wished to leave earlier, but the ten year contract was seen as a safeguard against the unforeseen, or a change in personal plans. It was then envisaged that we would recruit a new DCO from outside the island, and he or she would be designated as the next Chief Officer, subject to the requirement that this would enable locally qualified officers to be promoted into the consequential vacancies. When it was felt that locally qualified officers were ready to be promoted into the positions of D.C.O. and Superintendent I would retire and the succession plan would fall into place. The most probable candidates for the internal promotions were seen as Shaun Du Val for D.C.O. and David Minty for Superintendent. This plan then went forward into the political process, and the repercussions began.

62. Wendy Kinnard was the only female to hold Ministerial office in Jersey, and in my view she appeared to be under constant political pressure. She sometimes made comments on what she saw as the oppressive attitude of some Ministerial colleagues towards her. Her political influence was not strong. Her position was not helped by the fact that she did not always cope well with unforeseen media and political questions, sometimes becoming "flustered" and appearing confused. On occasions I would see the need to give interviews which "explained" or "clarified" something she had said. This had the side effect of providing an opening for further critical comment which raised questions regarding the chain of accountability, and sometimes challenges as to who was actually in charge of whom. In my view this was a symptom of the totally unsatisfactory arrangement whereby the Chief Officer is accountable to a single Minister. In the absence of a Police Authority or a governing Committee there is no mixture of strengths and weaknesses, no balance of views and no corporate strength to fall back on when under challenge. I have addressed this matter in greater detail in my Judicial Review application, a copy of which is with the Investigating Officer. Nevertheless, in spite of the imperfections of the system, I believe that I was always loyal and supportive of Wendy Kinnard during her time as President and then Minister for Home Affairs. I admired her political integrity, her progressive values, and her courage as a female working in a male dominated environment.
63. As soon as the succession plan became known, the political debate started. There were difficulties with other Ministers on matters of detail, and threats from some States members to put forward a vote of "no confidence" on the basis that Wendy Kinnard had not planned for local succession to the rank of Chief Officer. I spent some time preparing briefs, presentations and answers to questions, as we responded to the criticism. For a while the matter hung in the balance but we eventually seemed to secure the agreement of all of the relevant parties. Then two things happened which threatened the whole proposal. The first occurred when the then Chief Minister, Frank Walker, asked the Chief Executive, Bill Ogley, to email me and ask whether Andre Bonjour had been on the Senior Command Course, and if not, why not? I took this as the revival of a recurrent proposal, sometimes repeated in politics and radio phone-ins by a range of individuals, that André should be the Chief Officer. Leaving aside the absurdity of what was being suggested this was an example of an agreed plan being undermined from within the heart of government. The second event happened when for some reason Wendy Kinnard was absent from the States during questions to Ministers, and Andrew Lewis answered a question in relation to the succession plan. In the process he unexpectedly departed from his script. He said that the position of Deputy Chief Officer and Chief Officer designate would after all be open to local officers. I later learned from a reliable source that he had apparently spoken to Chief Inspector David Minty and suggested that he apply.

64. All of this was completely unexpected. For some reason I learned of it while at the local airport. I immediately rang my P.A. [REDACTED] and dictated an email to the Chief Executive asking whether there had been a change in government policy. As it was, the email was drafted but not sent as I met Andrew Lewis at the airport and dealt with the issue face to face. I recall I pointed out that I had agreed to serve beyond retirement age in order to deliver an agreed succession plan which would ensure that the force had a person with relevant skills and qualifications in a senior position, and that I was not inclined to continue on any other basis. Andrew back-peddled. As I recall he said that he had been misunderstood. I then helped him draft a "clarification" in which he said, that what he had actually meant was that there were currently officers with Jersey residential qualifications who were serving in U.K. forces and that these officers may well apply (none did.)
65. After a few further difficulties we eventually began the process of advertising and selection. By then, more time had lapsed. I had been hoping for a long handover between the new DCO and Lenny Harper. It was even possible that had a successor been identified earlier, and had the right approach been made, Mr Harper would have agreed to bring forward his retirement to facilitate the succession. All of this was now less probable due to the arguments and delays. The whole process left Wendy Kinnard exhausted. She had managed to stay firm under pressure, but had required strong support from myself. At the end of the process I was clear in my mind that we could not go through such an exercise again in the near future. We had to operate with the management resources we had, and try to bring the new appointment forward if that was possible. I have rehearsed all of this because there are some fundamental points which emerged:
- While others played a role, the succession plan was mostly my plan and it was my determination and drive to bring it to fruition which enabled it to survive. Without my input there would have been no external appointment of a D.C.O., no appointment of David Warcup, nobody at D.C.O. rank with the relevant experience skills and qualifications to be considered for the position of Chief Officer, and no "Operation Haven" either, as I would have walked away and retired earlier.
  - At some stage when the command of "Rectangle" is discussed, I might be asked "Why didn't you just bring a senior officer in from the outside." The above account is offered in order to bring a touch of realism to that suggestion.
66. Finally, it might be of benefit if I reiterate some key issues around the succession plan, and my agreement to serve beyond the normal retirement age of 60. Everyone knew that I was past the normal retirement age for my position, everyone knew that I had agreed to serve on to bridge a gap until others were ready to move into more senior positions. Additionally, although it was not greatly discussed, everyone knew that my training and qualifications were becoming dated. Ministers knew it, Civil Servants knew it, and other senior officers knew it. It was a decision taken and owned by a whole range of senior figures, all of whom went into the arrangement with their eyes open. I have since read in the press that in England some Chief Constables who have agreed to serve beyond their retirement dates have been paid a significant "retention fee." I do not remember this being discussed in my case.
67. Mr Leonard Harper's Background and Experiences in the States Police.  
I have indicated earlier, that at the selection stage it was noted Mr Harper had high standards, and that these were combined with intrusive tendencies. It was foreseen that the combination

of these attributes could generate tension in some quarters. It is however fair to say that there was some acceptance that, with the Force still in the aftermath of the 2000 H.M.I. report, a degree of robust management of performance and ethical issues was seen as overdue. At this point it might be of value to give some details of events prior to "Rectangle" in order to provide a history of attitudes and relationships. It is important to recognise that the enquiry developed against a background of previous experiences. Some of these experiences influenced how people subsequently behaved.

68. As Mr Harper settled into his role as DCO it became apparent that his intrusive approach to professional standards issues was revealing more problems than anyone had anticipated. A full account is not necessary, but it needs to be recorded that a significant number of staff left the force as a result of investigations into their conduct. Some of these staff had used their position for personal gain, and not all were police officers. Proportionately, civil servants became subject to investigation at about the same rate as police officers, and some of the attitudes displayed were revealing. For example, one member of staff, having been found to have ordered electronic equipment on the force account and taken it home, protested that such actions were a recognised "perk of the job."
69. There were also a number of covert professional standards operations against police officers who appeared to be working in a relationship with drug importation gangs. These relationships involved, among other things, the leaking of intelligence from police systems. Mr Harper conducted these operations entirely within the resources of the force. He developed a circle of officers he could trust, and worked on a strict "need to know" basis. In a small force with one operating base, this created some unusual situations. I recall seeing four constables taking their meal together in the canteen. All had served in the force for some years and must have been colleagues at various stages. I knew that three of the constables had for some time been engaged in the covert investigation of the fourth. Yet there never seemed to be any compromise.
70. Mr Harper was particularly strong on diversity issues. People left the organisation having been found to have been engaged in sexual harassment. We also had what is believed to be the first case of dismissal in Jersey for racial abuse in the workplace. This proved to be controversial, particularly as racial abuse in public was not illegal. Running alongside this was the political agenda of Wendy Kinnard. As a politician I think that she could be fairly described as "liberal left." Her political agenda overlapped with Mr Harper's professional agenda. She was involved in groups which had been established to try and bring discrimination laws into force in Jersey. It was not illegal to discriminate on the basis of race or gender, and she hoped to change this. I gave her periodic discreet support with a number of initiatives but the task proved too formidable, and her efforts made little progress. We had a little more success in relation to racial abuse. I worked, again with Detective Inspector Alison Fossey as I recall, to draft a law based partly on the English Public Order Act which would have addressed some public order issues but also provided powers to deal with racial abuse. The first attempt to introduce the law failed, having been criticised as "political correctness." However, a weakened draft was introduced a year or two later and eventually came into force.
71. I also had some engagement on the general issue of corruption. It was in relation to this matter that an apparent oversight by the Home Affairs Department had adverse consequences which to some extent carried forward into Rectangle. In order that the matter can be fully understood, it is necessary to draw attention to the late Lillie Langtry (1853-1929) who was reported to be the

mistress of Edward VII. Miss Langtry holds the distinction of being the only person known to have been convicted of corruption in Jersey, in a case which, if I have heard it right, involved the bribing of a customs officer in relation to a passport. The Langtry case set a precedent in respect of any future prosecution. Shortly after my initial appointment I attended a meeting with politicians and law officers who were considering drafting a Jersey corruption law. It was said that in order for Jersey to retain approval as an international finance centre it was necessary to have such a law. I do not remember anyone saying that such a law was a good thing in itself. I believe that discussions continued for three or four years. I remember making a number of representations concerning what I thought to be the weaknesses in the draft law but I do not remember these being influential.

72. Eventually the Corruption Law was adopted by the States on 25<sup>th</sup> October 2005 and was sanctioned by the Privy Council on 9<sup>th</sup> May 2006. It was registered by the Royal Court on 26<sup>th</sup> May 2006. It was against this background that Mr Harper received information which drew his attention to the fact that one tow-away contractor had a near monopoly of police business. This was said to be a consequence of him providing gifts and favours to police officers. These included such things as free fuel, hire cars and use of accommodation in Spain. To shorten the story, a type of amnesty was agreed and in consequence about 20 police officers made statements describing a corrupt relationship with the contractor, who was a Mr Roy Boschat. Mr Harper caused the conduct of Boschat, and some police officers who had not come forward, to be investigated.
73. For some politicians and public figures this was the last straw. A political and media campaign was waged against Mr Harper. The core of the argument against him was that the award of business in exchange for favours was a traditional part of Jersey life and that Mr Harper was an intruder who was interfering in the "Jersey Way." Prominent in these attacks was Senator Ben Shenton. Running parallel with this was a letter campaign and personal threats to Mr Harper emanating from Boschat and his associates. The documents disclosed to me also make reference to letters from a Mrs Mauger. She is Boschat's sister and effectively Boschat under another name. At some stage files were submitted alleging offences under the Corruption Law. Not long afterwards I learned that lawyers were trying to see if Boschat's conduct fell within the parameters of the Langtry case. When I asked why, I was told that although the corruption law had been through the legislative processes, nobody had brought forward an "Appointed Day Act" to bring it into force. I have since been told that the responsibility for this rested with the Home Affairs Department and for some reason the need for an Appointed Day Act had apparently been overlooked. The consequence was that Boschat was not eligible for prosecution for corruption and effectively no action was taken. Apparently prompted by these events the Minister for Home Affairs brought forward an Appointed Day Act which was lodged on 2<sup>nd</sup> February 2007. Soon afterwards the law came into force as the "Corruption (Jersey) Law 2006."
74. There was however one further episode which led to Boschat appearing in court. The way this happened had some influence on how some issues relating to the abuse enquiry were approached. The chain of events began when Boschat gave evidence in the defence of a police officer who had been charged with disclosing information from police computers. As I recall, it was believed that the police officer and Boschat had a mutual interest in vehicles with unusual number plates. The belief was that police systems were being used to identify the owners of such vehicles in order that Boschat could consider purchase. When he was giving evidence

Boschat appeared to say that he had on one occasion asked the police officer to check a police computer for owner details. I recall that Mr Harper obtained a transcript of the trial and caused further enquiries to be made. These further enquiries provided some corroboration of what Boschat had said in evidence.

75. A file was submitted to the Law Officers Department and a member of that department directed that Boschat be charged. My recollection is that Boschat was in the custody area waiting to be charged when two States Members went to see the Attorney General Mr William Bailhache, and made representations on Boschat's behalf. The States Members concerned were Deputies Colin Egge and Sarah Ferguson (who has since been elected Senator.) The Attorney General then intervened personally, and directed that Boschat should not be charged and that the papers be referred to him. This was done and nothing was heard for some weeks. At some point a journalist became interested and addressed a question to the Attorney General. Shortly afterwards Boschat was charged and later appeared in Court. I believe that there are some email exchanges involving Mr Harper and the Attorney General which will corroborate this sequence of events.
76. To conclude the story; at Boschat's trial, the Magistrate ruled that the main evidence against him, was that which he gave himself on oath when he was a witness, and that its use would infringe his rights against self incrimination. Accordingly, he was acquitted. Nevertheless, I know that this episode was influential in shaping Mr Harpers views of the relationship between the law officers and politics, and that it entered his thinking when he considered how issues of arrest, advice and charge should be approached during "Rectangle."
77. Running parallel with this was a series of complaints made by Boschat against Mr Harper, alleging abuse of authority and related allegations. This in itself raised interesting questions. The D.C.O. is appointed by the Minister for Home Affairs and appears to be ultimately accountable to the Minister. There is no disciplinary code relating to the Deputy Chief Officer. The complaints by Boschat therefore raised interesting legal issues, and the advice of the Attorney General was sought on how they should be progressed and what, if anything, anyone was entitled to do should they turn out to be substantiated. Eventually I asked Devon and Cornwall Police to investigate. As is customary when a U.K. Force is invited to operate in Jersey I ensured that they were given designated point of contact in the force to assist them with local laws and procedures. I have been told since, that none of the complaints were substantiated. The issue of who, if anyone has disciplinary powers in relation to the D.C.O. was not, so far as I recall, fully resolved.
78. These occurrences led to a series of attitudes and perceptions which impacted on future events. In some sections of society, Lenny Harper, Wendy Kinnard and to some extent myself, became regarded by some elements in the political community and the media as dangerous radicals, interfering in the islands traditional ways and poking our noses into places where we were not welcome. To others, Lenny Harper was a popular hero who was rattling the cage of those with reactionary attitudes and interests, and bringing a welcome and challenging approach. Mr Harper sometimes spoke of these things. He was confident that he was carrying out his duties in a proper manner, but felt that large sections of the political establishment were out to get him. He also felt that support from the Law Officers was weak, and that there was no real appetite for a challenging approach driven by values of fairness and integrity.
79. I have been asked by the investigating officer to make specific comment on my view of Mr Harper's strengths and weaknesses. His strengths were evident. He was hardworking,



tenacious, and committed to maintaining high standards of conduct and performance. He was active in maintaining the traditional role of the Deputy of the Force in protecting my interests, and acting as an effective sounding board and gatekeeper on difficult issues. I could depend on his loyalty, and had no reservations regarding him being in charge of the force during my absence.

80. In addressing his less positive qualities some may expect me to speak of his ability to work in partnerships and his approach to professional standards issues. But in this respect, all was not as it is sometimes alleged to have been. I found him to be active and committed in respect of those partnerships where he felt that there was corresponding commitment on the part of other participants, and where there was a worthwhile and progressive agenda. For example, on his own initiative, he at one time formed a group representing minority interests in the island. I forget the title of the group, but the purpose was to establish links and to provide a sounding board for the force, and a voice for less visible elements of the community. I recall that he established contacts with the gay community and with people of Portuguese heritage. I am aware that Stephen Regal, who later became a member of the Independent Advisory Group, may have been involved at some stage. He appears to touch upon the matter in his statement. For an alleged "dinosaur" Lenny Harper was remarkably active on progressive issues. However, he was not one for maintaining the appearance of a relationship where he felt that his commitment was not being reciprocated. He was no diplomat, and his disdain for those who he regarded as unprofessional or obstructive to progress was sometimes visible. Over time he came to have a negative view of a number of Jersey Politicians, many of the senior figures in the public sector, and the Law Officers Department. In those cases he tended to manage relationships in a rather formal and professional way. I do not recall him being deliberately offensive in those relationships but there was no visible warmth either.
81. On professional standards issues he was direct and robust. Together we had inherited a viper's nest of problems and set about them with determination. Island police forces can present some challenging issues. It needs to be remembered that in Jersey people of all characters, backgrounds and positions in later life, often went to the same school, and in some cases are related to each other. This can create a network of relationships between police officers and other sections of the community. Sometimes this works to the advantage of the Force but at other times it can lead to the risk of compromise and similar problems. There is only one significant base of police operations, and any other premises used by the Force are only a few miles away. Unlike larger forces, problems cannot be addressed by the transfer of personnel. Nobody can be given a "fresh start" in another division. There are no other divisions. Problems have to be addressed directly. They cannot be passed to another group of senior officers in another place. Against this background Mr Harper brought to bear what I think can be fairly described as a low tolerance level on conduct issues. This was particularly noticeable where he felt that a member of staff was not responding to his agenda for improvement. Nevertheless it was not within his power to impose significant disciplinary sanctions. Any sanction beyond advice and warnings was a matter for me. I applied my own judgement. Sometimes my findings in disciplinary matters would support his view. Sometimes they very clearly did not. That is a matter of record.
82. He was a firm believer in the rehabilitation of offending officers wherever that was possible. Keith Bray, who has provided a witness statement, is an example. Keith was a good officer who went through a period of difficulty and had a series of disciplinary problems, all of which Lenny

Harper addressed by advice, warnings, and changes of duties. As soon as it was felt that Keith had recovered his position Lenny was keen to bring him back into the fold. Keith was made acting inspector for part of the enquiry and trusted with high levels of responsibility. Some officers admired what Lenny had done in improving standards in the force, others disliked him intensely. That is the nature of things. It is not the role of the Deputy in a police force to be always popular. If it is, I know of nobody who has achieved it. I never did.

83. Finally, I was sometimes asked if I thought that Lenny could be a successor to my own position. Leaving aside the issue of qualifications, I thought not. The Chief Officer's position demands wider skills. I have to maintain a working relationship with all manner of people, some of whom I neither admire nor respect. This requires degrees of tact and diplomacy which were not Lenny's strongest skills. He was plain, personal and direct. He was best suited to the position he held, and the job he enjoyed.

84. The Handover to David Warcup and Related Issues.

Before I move to the next stage it may be appropriate to deal with some peripheral items raised in the statements of witnesses, but not part of the core of the allegations. I think that they are worth covering at this stage for a number of reasons. It might for example assist the Investigating Officer in gaining a better understanding of the background to the main events. It might also assist with an assessment of the credibility of some of the witnesses. The investigating officer may feel entitled to conclude that if some witnesses are not speaking the truth in respect of some marginal issues, they may be less credible in respect of core issues.

85. I see from my notebook that operations began at Haut de la Garenne on Tuesday 19<sup>th</sup> February 2008. The following morning I had my first face-to-face meeting with David Warcup in my office at police headquarters. (Notebook 07/358 pages 78-80.) This had been preceded by a number of telephone conversations. Mr Warcup was a candidate for Mr Harper's position at the time, but already emerging as a person who was showing strong interest, and who appeared to have the qualifications and background suitable for the post. However, in reviewing his application at the short listing stage I had made notes and given advice in relation to the fact that he had only ever served in Northumbria Police. This was my only matter of concern at that time, but I saw it as significant. Having moved forces myself on a number of occasions I am aware of how unsettling the changes in culture and working practices can be, particularly when the new force is in a different legal jurisdiction. It is easy for a new-appointee to become unsettled by the change, and to retreat to the comfort zone of regarding the practices of their previous force as "the right way to do things" and everything in their new environment which is different as something which has to be changed. In policing terms Jersey is about as "different" as it is possible to get. I know that at various stages I alerted Mr Warcup to this danger and gave him examples from my own experience.

86. At our first meeting and in subsequent meetings and conversations, I spoke about the needs of the enquiry, and expressed the hope that succession could take place as early as possible. Once his appointment had been confirmed I encouraged him to think about how things could be taken forward after Mr Harper's departure, and consulted with him regularly when decisions needed to be taken in order to ensure that I was not acting in a way which was inconsistent with his intentions.

87. I offer one example at this time. André Baker, in paragraph 50 of his statement speaks of the need to discuss options with regard to who would be S.I.O. after the departure of Lenny Harper.

Paragraph 16.1 of the third Homicide Working Party report sets out a range of options. Paragraph 55 of Mr Baker's statement indicates that on 20<sup>th</sup> May 2008 I had a very open mind on the subject. Paragraph 71 of his statement speaks to events on 30<sup>th</sup> June 2008 when there was a meeting involving myself, David Warcup, and the Homicide Working Group. It can be inferred from the text that Mr Baker was expecting a discussion of the options. Instead he discovered that David Warcup was to take the strategic lead and that a S.I.O. was to be seconded from the U.K. He states "*There was no further discussion on the options as he had made his mind up and was very strong about this.*" This is correct. I had consulted prior to the meeting with Mr Warcup and we had agreed that this was his preferred option. I then used the authority of my position to ensure that Mr Warcup got the management structure he wanted.

88. In all respects my handover to Mr Warcup was thorough and professional. It must be remembered that this was not an ordinary induction process. Mr Warcup had been agreed by Ministers as my successor. It was my understanding of the spirit of the succession plan that I should progressively withdraw from setting the policy for the force and allow Mr Warcup to gradually take the lead to the point where a handover could be seamless. I had no intentions of relinquishing my command in any formal sense, but I recognised that it would not be within the spirit of the plan for me to develop policy in a way which was not consistent with Mr Warcup's longer term intentions.
89. As soon as it became known that Mr Warcup was the successful candidate I began a series of contacts intended to facilitate his induction into the force. I asked if he could start as soon as possible, and take an early handover of the position of D.C.O. (at that time held by Shaun Du Val in an acting capacity.) This would have enabled him to gain an early oversight of "Rectangle" and present me with plans to take it forward. He said that he could not do this, as his Chief Constable had commitments which required that he remain in Northumbria during his notice period. This was a setback. I felt that we were ready for a "fresh start" and an early handover would have been welcomed.
90. I nevertheless pressed ahead with a range of actions intended to ensure that he had a positive and welcoming introduction to the force. I arranged for the production of an induction programme which would allow him to visit key players in the force, the public sector and the wider community. My recollection is that my then staff officer, Jeremy Phillips administered this on my behalf, using templates which had been developed for previous newcomers. It was passed electronically between the forces until agreed by both parties. The induction programme should still be available to the investigating officer. I also gave a number of media interviews, making positive statements regarding Mr Warcup's background and achievements. I spoke to the Chief Executive to the Council of Ministers Bill Ogle regarding Mr Warcup's role on the Corporate Management Board. Normally deputies and substitutes are not allowed. I made representations to the effect that an exception should be made in Mr Warcup's case given that he was my intended successor. After discussion this was agreed. I took him to a meeting of the Board and introduced him to key partners. Our joint presence should be recorded in the minutes.
91. Housing is always a difficult issue for newcomers to the island. Mr Warcup indicated that he preferred to rent a property. He also told me that there was a complication in that his wife had a dog to which she was attached. He had become aware that Jersey landlords normally specify that no dogs are allowed. On being told this I made use of local contacts and identified potential properties where the landlord may be willing to waive this consideration. I passed

details to Mr Warcup. At some stage Liz Webster, who was the head of H.R. for Home Affairs approached me regarding a request she had received from Mr Warcup. She said that he had asked for his first three months rent to be paid by the force. The justification for this request being that Mr Warcup had said he had been unable to sell his house in England and would therefore be paying both mortgage and rent at the same time. I was told that this was not a usual entitlement but there was a degree of discretion, and if I gave my agreement then it could be done. I thought that the request was presumptive, and appeared to show an inappropriate attitude, but I nevertheless gave my agreement in the interests of good relations and a smooth transition.

92. A date was set for Mr Warcup to be sworn in at the Royal Court. I arranged positive media releases and media opportunities following the event. I accompanied him personally and introduced him to key individuals in the media and public life. I suggested "lines to take" which included maintaining the momentum of the enquiry. I recall that he used the material I had suggested during his interviews.
93. At every stage during his induction I was positive and supportive. I made it clear that I regarded Rectangle as his operation, and although periodic briefings and updates would be welcomed, I would not interfere. I particularly assured him that I would not be giving any directions to Mick Gradwell. I would concentrate on the running of the force for the time being and would assess from time to time how the transition was developing and what advice, if any, I should give to the new Minister, when elected, regarding a possible handover of command. It may be remembered that Mr Warcup's induction to the force was taking place in August 2008. The elections for Senators and Deputies were due in October and November, and a new government would be appointed in December. The serving Chief Minister, the Minister for Home Affairs, and the Assistant Minister for Home Affairs, were not standing as candidates. Different people would be appointed to these key positions. It was therefore anticipated that in January 2009 there would be an opportunity to sit down with key individuals and discuss the future direction of the force, and the structure of its political and professional leadership. I took the view that no significant change of direction was appropriate in the meantime.
94. The working relationship with Mr Warcup appeared to be going well, but there were some negative signals. For example, he would persistently arrive late for meetings. It was my habit to insist that meetings would always start precisely on time. I believe that this is appropriate in a professional organisation, and assists in setting a businesslike tone. Mr Warcup seemed to make a point of being a few minutes late, and neither apologising nor offering comment. I tried not to take this as a deliberate slight and preferred to believe that he had formed this habit in a less professional organisation. I made the occasional comment but decided to wait a while before addressing the issue directly. I hoped at the time that he would gradually adjust to the requirements of his new environment.
95. There was one other negative episode which I remember well. This was the morning on which we were both booked to undertake our Officer Safety Programme (O.S.P.) training. I was conscious that my annual qualification was due for renewal and had asked for my own training to be at a time when Mr Warcup was available. So far as I recall, it was in his induction programme, and would certainly have been in his diary. While I am not familiar with requirements elsewhere, local procedures necessitate that officers are O.S.P. trained at all times, and particularly when undertaking uniform patrols. As Chief Officer of the Force I patrol in uniform on a regular basis, including occasional night shifts, late night shopping, and special

events. During these patrols I attend operational incidents on the same basis as any other police officer. Over the years of my command this has led to an expectation in the community that their Chief Officer of Police will be visible and accessible. Such patrols also afford an opportunity for informal feedback from the community and States members. Patrols during the lunchtime break in States sittings can be a useful opportunity for chance encounters and informal meetings.

96. On the morning in question I had changed into my tracksuit and was ready to go downstairs to undertake the training when David Warcup appeared. He had not changed from his office clothes. He said that he had remembered another commitment and could not do the O.S.P. training after all. I then went ahead without him. This did nothing for his credibility as staff became aware of what had happened. By this time a picture was emerging of a somewhat bookish individual who was perhaps less comfortable with the visible leadership aspects of his role. Nevertheless, I still felt at that time that although his development needs were greater than anticipated, they were still capable of being addressed.
97. I now turn to some of the other negative comments which feature variously in the statements of Mr Warcup and Mr Gradwell. Both seem to think that I do not work long enough hours. This is untrue. I am either at work or available for duty 24/7. I rarely take days off and hardly ever take "proper" holidays. During leave periods I am either available locally or attending to family matters in the U.K. I live a few minutes walk from my office and have created a small office in a spare bedroom of my home. That office was connected to police I.T. systems. I also kept a police radio at home. I sometimes prefer to study files and documents at home rather than in the headquarters environment. That is not an unusual way of working. My notebooks show much of my recorded work activity. It can be seen that I frequently record the fact that I am undertaking clerical work on evenings, weekends, and public holidays. In most of those occasions I will also have used force I.T. systems, either to communicate, or to monitor operational events. The investigating officer will be able to verify this.
98. It is also said that I pay frequent visits to the gymnasium at the police station. It is true that I do this approximately three times a week. It is a good habit and I recommend it. Mostly it is at lunchtime but occasionally it is at other times. I do not take proper lunch breaks. Normally I have either a quick bowl of soup in the canteen, or, if I am busy, a sandwich in my office. I am a police officer. I need to maintain a level of fitness to carry out my duties.
99. Mr Warcup suggests that I allocated him a disproportionate amount of cover duties. He is missing the point. We are an island force. For the senior leadership there is no time off, there are no days off, and there is no "off duty". I am permanently available when on the island. I suggested that Mr Warcup took "first call" for a while in order that staff could become accustomed to dealing with him, and to enable him to establish a profile. I also made it clear that I would be available at the same time, and that he should speak to me whenever he felt the need. He did this when issues arose regarding Chief Inspector John Sculthorp. He set out a proposed course of action which I discussed with him. I recall that his plan was agreed with some minor changes. (Notebook 08/95 page 79.) In any event calls off duty are rare. Weeks can pass without a call being received. It is barely an imposition for an experienced senior officer.
100. Mr Gradwell suggests that I spend a disproportionate number of lunchtimes at the Rotary Club. (Presumably I do this when not in the gymnasium or when I have not gone home early.) He is wrong. The Rotary Club of Jersey has a meeting programme which includes one lunchtime

meeting per month. About a year ago I received a warning letter for poor attendance. I ought to add that the club is active in supporting community initiatives in which the police are partners. My attendance at any time can be justified on that basis alone. The keeper of the club attendance register is Mr Chris Borney, who lives near La Rue de Samares. His full contact details are in the public domain.

101. Mr Gradwell says that I did not discuss the enquiry with him in detail. He is right about that. I made it clear that I would not cut across his line of management which was to Mr Warcup, with whom I was in regular contact regarding Rectangle and other issues. I did however ensure that I personally welcomed him and checked that we were doing all that we could to support his secondment. He confirmed that this was the case, and made particular positive comment regarding some extra travel arrangements which had been made to enable his wife to visit. I did warn him about the local sensitivities to high profile "outsiders," and gave him some general advice regarding the need to show respect for these sensitivities and local traditions. I also warned him that his presence as S.I.O. was a disappointment to the expectations of some local officers, and that he should not be intrusive beyond his allocated role. He had been seconded for a limited period to undertake a specific task and nothing more. That part at least fell on stony ground. He had not been seconded long when Superintendent Shaun Du Val alerted me to an email chain which referred to the need for the Law Officers to interview and select a police officer for a secondment. I recall that the Law Officers Department had asked for a "representative of the force" to take part in the process and Mick Gradwell had, for some reason, allowed himself to be selected by the Law Officers Department for that role. This set a number of alarm bells ringing among the Operations Management team. The controversy which followed the appointment of John Pearson came to mind.

102. There was clearly a view within the force management team that this was evidence of a "plot" to retain Mr Gradwell in a senior position in the force to the detriment of local succession. I assured Shaun Du Val that I had no knowledge of the matter, and that there was no plot. Shaun made some contact with the relevant parties and smoothed things over. I recall that he later told me that it would be best if I did not get further involved. I believe that this episode showed that Mr Gradwell had not absorbed the simple advice I had given him. I cannot think how I could have made it simpler. Moreover, on reading his witness statement I see that he has not learned from the experience. At paragraph 33 he appears to say that he is joint third in seniority in the force. Unless something is going on which has so far not been made public, he is not a member of the force at all. He is a member of Lancashire Constabulary seconded to work temporarily in the island for a limited purpose. If he persists in taking any different position it will be damaging to morale and lead to understandable tensions in the management team.

103. I now turn to one of the lighter features of the allegations, which is Mr Gradwell's assertion that I did not acknowledge or speak to him at a reception held prior to a community service at St Helier Parish Hall. Apparently he wishes to complain about this. I remember the event in question. I saw that Mick Gradwell was there, and I think that I acknowledged him across the room. It is possible that I did not speak to him. This would be because I was circulating among the visitors and members of the public who were present. In my view events of this kind are too often characterised by groups of police officers huddled together, to the detriment of the purpose of the occasion. I did not see Mr Gradwell circulating. He seemed to be spending his time in close discussion with David Warcup. When the event started I chose to sit among people who were not police officers. As I recall I was seated close to the Dean of Jersey and his

wife, with whom I had some conversation. I noted that Mick Gradwell was seated in the row behind. He was next to David Warcup. I consider Mr Gradwell's complaint to be childish, frivolous, and unbecoming of a senior police officer.

104. I now turn to a matter of more substance. In paragraph 515 of his statement David Warcup refers to the locked cabinet in my office and states "*I established that Mr POWER refused to disclose the combination of the safe as a result of which I arranged for a locksmith to attend.*" It is untrue that I refused to provide details of the combination. I note that Mr Wayne Bonne was present when the cabinet was opened. I understand that Mr Bonné is a member of the Wiltshire force and is assisting the investigating officer. By virtue of his presence he appears to be a witness in this matter. I am content for the investigating officer to come to his own assessment of what implications, if any, this has for Mr Bonné's role in this enquiry.
105. The true facts, which can be supported by documents and witness evidence, are as follows. In early December 2008 I received notification that the combination for the cabinet had been requested. This request came to me by way of a telephone call from Liz Webster, who is my appointed contact with the Force and States Departments. I agreed at once to provide the combination. I provided a written authority for the cabinet to be entered for legitimate purposes, and asked that Advocate Lakeman, who was acting as a friend and advisor at that time, be present to represent my interests. On 15<sup>th</sup> December 2008 Mr Ian Crich, who had previously been authorised to communicate on behalf of the Minister for Home Affairs, wrote and confirmed that the arrangement was agreed and that a Mr Phil Wells would be the point of contact. I placed the combination in a sealed envelope and handed it to Advocate Lakeman. On 22<sup>nd</sup> December Mr Crich wrote again. He confirmed that there had been contact between Advocate Lakeman and Mr Wells but added that Mr Warcup was objecting to the agreed arrangements. On 9<sup>th</sup> January 2009 Mr Crich wrote again and stated that Mr Warcup was not willing to proceed on the basis of the agreement which had been reached in our correspondence. This was in spite of the fact that Mr Crich had apparently been authorised to deal with the matter on the Ministers behalf. I sent a reply dated 12<sup>th</sup> January 2009 indicating that I was taking advice.
106. On 13<sup>th</sup> January 2009 my professional representative, Dr Timothy Brain, Chief Constable of Gloucestershire, wrote to the Minister confirming my continued willingness to assist in this matter and offering two senior police officers as possible alternative representatives to be present on my behalf. They were the Connetéble of St Helier and the Chef-de-Police of St Peter. The letter from Dr Brain was ignored. No acknowledgement or reply was ever received. I later learned that the cabinet had been opened and that no person representing my interests had been present. In the light of these events it is my position that nothing in my conduct in relation to access to the cabinet was in any way unreasonable. I was professional and cooperative at every stage and certainly nothing done on my part amounted to a refusal to disclose the combination. I consider that the statement made in relation to this matter by Mr Warcup is deliberately false and misleading in a way which is calculated to misrepresent my actions, and damage my interests.
107. Finally, in this section of the report, I note that Mr Warcup states that I lack interest and motivation. He is wrong in that assessment. I have a longer experience in the police service than anyone I know. I do not get animated, I do not get excited and I never panic. I am calm, controlled and give good advice, particularly in respect of the complexities of managing a police service in Jersey. One of Mr Warcup's problems is that he would not listen to my advice.



Anyone who doubts my stamina and ability to deal with long and complex challenges has not been paying attention for the previous eight months. I will deal with other matters raised by Mr Warcup later in this statement.

108. **Other Matters Relevant to the Reliability of some Witnesses.**

I now hope to cover briefly some peripheral issues, which may assist the investigating officer in an assessment of the credibility of some witnesses. The first relates to the statement of Andrew Lewis dated 6th January 2009. The statement says a number of things which are not true. However, the claim which can most readily be checked is at paragraph 19 in which Mr Lewis states that I "dismissed" allegations of bullying and harassment made by customs and immigration staff working in the joint intelligence bureau. This is untrue. When I became aware of these allegations I caused them to be registered as formal complaints, and they were notified to the Police Complaints Authority. The allegations were fully investigated and one was found to be substantiated. One police officer was given formal words of advice. Deputy Lewis was updated on the progress and the outcome of these complaints during the course of the Ministers meetings with myself and senior staff to which he refers elsewhere in his statement. The investigating officer should have little difficulty in verifying this.

109. I now turn to the case of the documentation given to me at the time of my suspension, which has already been subject of correspondence dating back over eight months, and is currently subject of an appeal under the Administrative Decisions (Review) (Jersey) Law 1982. Copies of the relevant documents are in the possession of the investigating officer. In their statements both Mr Ogley and Mr Lewis taken together appear to claim that the letter notifying me that I would be subject of the disciplinary process was created on the morning of the suspension itself, namely Wednesday 12<sup>th</sup> November 2008, or at the earliest the previous evening, and was in consequence of information they were given on the 11<sup>th</sup> November 2008. Neither Mr Ogley or Mr Lewis make any reference in their statements either to the letter from the Minister to the Chief Executive which is required under paragraph 2.1.1, of the code in order to initiate the disciplinary process, or to the letter of suspension itself. However, both seem to claim that the decision to activate the disciplinary process was taken in consequence of information received on the 11<sup>th</sup> November 2008, and by implication, not before.

110. My initial views of these events are covered in more detail in my two affidavits copies of which are in the possession of the investigating officer. When I first examined the three documents I felt that they were not consistent with what I was being told about the sequence of events and the decision making process. Firstly, they are unusually legalistic and complex. They seem to be the product of significant thought and preparation. It is not immediately evident that they could have been produced within the timescale apparently claimed. Secondly, the suspension letter refers to a meeting earlier in the day which everyone agrees did not happen. No explanation is offered for this by anyone. It is just left hanging in the air. There is also the question of the order in which the different documents were created. For example, was the letter confirming the suspension created before or after the letter initiating the disciplinary process? Even if it was afterwards, what was the gap between the two, and what consideration took place during that period?

111. I have sought the disclosure of this material for a variety of reasons, one of which is to test the truthfulness of the official account of the decision to suspend. If key figures have lied about this, they may have also lied about other things. My attempts to obtain this information have

proved to be challenging. Jersey does not have a freedom of information law and the political culture is one which gives priority to confidentiality over transparency. There is a Code of Practice on Access to Information. It can, with effort, be found on the States website. Civil servants are not trained in its use, nor are they encouraged to use it. I have nevertheless sought this information under the Code, but at the time of writing the disclosure of the information continues to be refused, and nothing has been provided. It is of course a matter for the investigating officer to consider to what extent this issue is relevant to the credibility of some key witnesses. I offer the view that in the context of the determined refusal which currently extends over eight months, to provide basic information, it is almost beyond belief that there is nothing to hide. In my view the refusals and the evasions speak for themselves. Something occurred which is not consistent with the official account of the decision to suspend, and there is a determination at the highest level to prevent the truth being known.

112. It may be of assistance to point out that Mr Ian Crich appears to be a key player in both the issues over access to the secure cabinet, and the suspension process. I am told that Mr Crich is now working in the U.K. and therefore presumably beyond the influence of the Jersey authorities. The value or otherwise of Mr Crich as a witness may be something which the investigating officer may wish to consider.

113. **Equivocation In the Use of the Term "Chief Officer."**

Collin's dictionary defines "Equivocate" as "to use vague or ambiguous language in order to deceive someone or to avoid telling the truth." Equivocation has a long history in the English language, and in religion and politics. During periods of religious persecution in the 15<sup>th</sup> and 16<sup>th</sup> centuries, it was taught and written about as a doctrine by means of which believers could provide misleading answers to questions without committing the sin of lying. In more recent times equivocation has been used by political speech writers, and sometimes lawyers, to construct misleading arguments. The skill in equivocation is to shift the meaning of a word or phrase in mid argument in order to justify a conclusion which "sounds right" but is in fact invalid.

114. Equivocation does not necessarily involve deception. There are a number of examples in popular speech which equivocation is used to convey a meaningful statement. A common example is the phrase "boys will be boys." Taken literally, this statement is entirely tautological. "Boys will be boys," appears to be in the same category as "yellow is yellow" or "hot is hot," that is, the phrase is circular and provides no information. Yet when I say "boys will be boys" I am communicating a message. This is because I am equivocating. In "boys will be boys" the first use of the word "boys" refers to young men. The second use of the word "boys" refers to persons who are inclined to mischief. Thus by means of equivocation I am able to convey a meaningful statement without deception.

115. I now invite consideration of the following:

*There are rules which apply to Chief Officers.*

*Mr Power is a Chief Officer,*

*Therefore the rules apply to Mr Power.*

116. This statement, if made in the context of "Rectangle," would have many of the classic features of a deceptive argument based on equivocation. The equivocation is in the change of meaning of the term "Chief Officer". The first time it is used it appears to relate to persons who are eligible to be a member of the Association of Chief Police Officers in England, Wales and Northern Ireland (A.C.P.O.). The second time it is used it appears to relate to the head of the

Police Service in Jersey. They are two different things. The argument may appear at first sight to be valid, but when the equivocation is understood the argument collapses. It fails because it seeks to provide a single conclusion in relation to two separate categories of person. I will deal with the second of the two different meanings of the term "Chief Officer" first.

117. It has been explained earlier in this statement that the position of the Chief Officer of the States Police is a unique position, which is not directly comparable to any corresponding position in the British Isles. The head of the force just happens to be called the "Chief Officer." There are two main reasons for this. The first is that "Chief Officer" is the term used to describe the executive head of a public service in Jersey. For example, the head of the health service is a "Chief Officer," the head of Education is a "Chief Officer" and so on. We meet as a group of "Chief Officers" to co-ordinate policy for the public sector. Another reason why I am called a "Chief Officer" is to avoid confusion with the role of the Connétables (or "Constables") who are elected representatives of their Parish, and are legally responsible for policing and prosecutions within their jurisdiction.
118. For similar reasons the head of the police service in Guernsey is also called a "Chief Officer." In the Isle of Man the head of the force is called a "Chief Constable," and in Gibraltar he is called a "Commissioner." If I had been called a "Commissioner" then the comparison with the role of a "Chief Officer" would not appear to be quite so straightforward. Yet all that would be different would be the name.
119. I now turn to the term "Chief Officer" as it may be understood in England. As I understand it the term is applied to any police officer above the rank of Chief Superintendent, and to any civilian member of staff operating at executive level with a direct line of reporting to a Chief Constable. (There may be some minor exceptions, but they are not important for the current purpose.) Furthermore, it is commonly understood that when the term "Chief Officer" is used in the context of the conduct or oversight of significant operations it is nearly always addressed to Operational Assistant Chief Constables. In putting forward this view I find some support in the statements of Mr Gradwell and Mr Warcup.
120. For example, in paragraphs 9 and 10 of his statement Mr Gradwell speaks of major crime investigations and says *"Dependant on the type of investigation a Gold Group would be formed or I would report to a Detective Chief Superintendent. For example in relation to the Morecambe Bay Tragedy I would report weekly to a Detective Chief Superintendent and monthly to Gold Group. The Gold Group would usually be chaired by an officer of Assistant Chief Constable rank."*
121. David Warcup, who has never been appointed to head a police force states in paragraph 31 of his statement *"As previously mentioned, I have almost ten years experience as a Chief Officer of Police before transferring to the States of Jersey Police."* In paragraph 34 he states *"As a Chief Officer of Police I have had experience in ..... including the management and oversight of serious and organised crime investigation."* He then goes on to list training and qualifications he has attained as a Chief Officer. The Investigating Officer may also note that his training in relation to major crime investigation took place in 2003, when he was an Assistant Chief Constable, and two years before he was promoted to Deputy Chief Constable. There appears to be no record of any training in respect of criminal investigation since that promotion.
122. Equivocation in relation to the term "Chief Officer" is used extensively throughout the evidence in Operation Haven. Three examples may suffice at this time. Mark Houze is apparently drawn into discussing the responsibilities of a "Chief Officer" in paragraphs 51 and 52

of his statement. I am sure that his equivocation is unintentional but it is equivocation nevertheless. Bryan Sweeting equivocates throughout his statement. His criticism of my role would not work otherwise. André Baker, in his second statement, uses the term "Chief Officer" in an equivocal way but adds at paragraph 6 "It must be remembered that Lenny HARPER was also a Chief Officer."

123. For the avoidance of doubt my position is that I am a "Chief Officer" in Jersey, and nowhere else. The term "Chief Officer" has been applied to my post for purely local reasons. It has been used locally for more than 50 years. It is the local term for the head of a public service, and at no time has it ever been recorded that its use locally is intended to enable a comparison to be made with the duties of a person who may be called a "Chief Officer" in another jurisdiction. The term "Chief Officer" as used in various guidelines which are said to apply to police services in England has a completely different meaning. For most operational purposes the term when used under English guidelines applies to Assistant Chief Constables; a rank I ceased to hold in 1994. I do not regard myself as a "Chief Officer" within the terms of the English guidelines nor do I regard it as fair or reasonable that such a direct comparison should be made.

124. Operation Rectangle and its Significance to the Force and to the Island.

I have been asked to write about *"The significance and impact of OP Rectangle to the SOJP and the Island of Jersey."* The belief that there have been cases of child abuse which have not been properly addressed, and "cover ups" to protect senior figures, has been a feature of island life for some years before I was appointed in 2000. I have direct knowledge of some of the events which have happened since that time. In respect of most of the earlier cases I can only repeat what I have been told, or, as I am currently denied access to files and records, repeat what I am able recall from my previous reading of the subject.

125. The issue has also been part of a major political divide. Prominent and active in this debate has been Senator Stuart Syvret. He also features in some of the witness statements. He is a controversial local politician, who is noted for his anti-establishment views. He has a significant number of supporters in politics and the wider community. From some of the evidence offered by witnesses who have provided statements during the course of this enquiry, the Investigating Officer may have felt that he was being encouraged to take a view that the Senator was some form of marginalised "crank" figure, whose opinions should be taken lightly. That would not, in my view, be an accurate assessment. Senator Stuart Syvret is the island's current longest serving politician. Although he has not faced an election in recent years, he sometimes claims, on the basis of historical results, that he is also the islands most popular politician. That might be arguable, but it could also be true. As a professional police officer I recognise that I should try to avoid expressing a view on a political figure. However, given that he is a common thread which runs through much of the background to this enquiry, I find that hard to avoid. In any event it might be appropriate to deal with this now and then move on to other things. While I cannot support many of the things which Senator Syvret says and does, I nevertheless see value in his contribution to the political process. He brings a spirit of challenge which is often lacking in local political debate. He is a determined, committed and interesting person, and a politician who most ordinary people, or individuals who are disadvantaged, would trust. In a community which is sharply divided into "us" and "them" he is apparently seen by many people as one of "us."

126. In the interests of transparency I disclose that I have been on friendly terms with Senator Syvret and his partner, Deputy Carolyn Labey. She is also a hard-working and dedicated politician. Some time before "Rectangle" became a big issue Carolyn Labey invited my wife and I to a small social event held at the farmhouse where they both lived. Stuart Syvret was present. Nothing of a sensitive nature was discussed. Since I have been suspended both Stuart and Carolyn have initiated contact. I have told them that it would be best if this contact ceased for the time being. Shortly after my suspension I met with Senator Syvret in my capacity as his constituent. The meeting took place in St Helier Parish Hall and the Connétable of St Helier was present as a witness. We discussed issues relating to the suspension and my representations to have it overturned. Neither at this meeting, nor at any other time have I discussed operationally sensitive matters with Stuart Syvret. There have been no "leaks" and no secretive contacts. My dealings with him have been either entirely professional, or have constituted a legitimate exercise of my common-law right to communicate with my elected representative.

127. Shortly after I was appointed as Chief Officer I remember being told about a case of abuse which had resulted in the conviction of a member of staff from Victoria College. This establishment is a boys' school which is regarded by some as the "Eton College" of Jersey. It is where many of the future leaders of the Jersey establishment are educated. The offences involved a male teacher who was sexually abusing students. Some of the abuse was said to have taken place on a boat at sea. The sexual abuse of boys in boats at sea was to be a common feature in many of the allegations preceding and surrounding "Rectangle." The teacher was convicted, and so far as I know, sentenced to imprisonment. I later learned that some police officers involved in the investigation claimed that they had been denied resources and support during their enquiries. There were stories that evidence and notes had gone missing, and that senior officers may have been obstructive towards the enquiry. It was also said, and I think I have seen a report to that effect, that the College authorities had not been cooperative, and some police officers had been shocked at the attitudes to abuse which they had encountered. It was alleged that the abuse of boys had been described by one person as a "perk of the job" or some phrase of that nature. I believe that the South Yorkshire Police enquiry, commissioned by Lenny Harper, touched upon some of these issues, and some of the officers involved in the original investigation have provided statements to that enquiry.

128. There were also rumours regarding a couple known as the Maguires. Some years before my appointment they had been charged with the physical abuse of children in a States run home but charges had been dropped. The case re-surfaced during Rectangle. On one occasion I received information which caused me to speak to the Attorney General. I told him my information (which had been provided to me in consequence of an overheard conversation in a departure lounge at Gatwick) was that a camera crew and journalist were on their way to Jersey to do some background work on the Maguires. They then intended to travel to France and "doorstep" Mr and Mrs Maguire. The Attorney General told me that they would find Mr Maguire difficult to doorstep as he had been dead for years. He had been seriously ill with cancer when the charges were dropped, and had died not long after. It is fair to say that the Attorney General was not the only person to hold this belief. It was accepted "common knowledge" that Mr Maguire was dead. The appearance not long afterwards of a rather fit and angry looking Mr Maguire on television, came as an interesting surprise. I was later told the

Maguires had been working as caretakers in France. Their "caretaking" apparently involved looking after the second homes of some Jersey residents.

129. I recall a case which occurred a few years after I was appointed. It involved a senior civil servant who was suspected of accessing child pornography on the internet. The civil servant was a person who was seen as a rising star in the public sector, and a potential Chief Officer. He was also a senior member of the local sea cadets. This caused some "need to know" issues due to the fact that Chief Inspector André Bonjour was also a senior member of that organisation. A warrant was executed, but it was found that the suspect's computer had been wiped the previous evening. Nevertheless, after some detailed computer forensic work he was convicted. There were other enquiries relating to alleged abuse within the sea cadets, but I do not have the details. I was however told that there was one other case in which a computer had been wiped, shortly before an arrest. I cannot remember more about that case.
130. In the period following my appointment I periodically had occasion to be concerned regarding standards and performance in what was then called the "Family Protection Unit" or something of that nature. It was the unit which dealt with child protection issues, and is now known as the Public Protection Unit or P.P.U. Around 2006 these concerns increased, following a number of reports and incidents. I can only remember one in any detail. I recall that a parent wrote to me complaining that her child had been abused, and that the unit were taking too long to deal with the case. I ought to add that, at the initial phase, I deal personally with all correspondence addressed to me. This is possible in a small force. There were also allegations that phone calls to the unit from the writer of the letter, had not been returned. Rather than go through the chain of command, I rang the unit direct. I asked for an update on the case and was told that this was not available as the Detective Sergeant was on leave and only he would know about it. This alerted me to the fact that there did not seem to be any case tracking system in the unit. A later report on the management of the case revealed issues which were dealt with either by Mr Harper or line management.
131. I was clear that this was an area in which we were vulnerable and I therefore initiated a series of events which led to the re-structuring of the relevant areas of the C.I.D, and a decision to place Alison Fossey in charge of Public Protection and some other units, on her promotion to Detective Inspector. I see from his statement that David Minty expresses some dissatisfaction with these changes and appears to feel that his position as head of C.I.D. was not respected. I can understand why he may feel that way, but it is my view that he had a solution imposed upon him because he had failed to deliver a solution himself. I would also add it is my recollection that the whole re-structuring proposal went through the normal policy process and was later approved by the Minister for Home Affairs, who at that time was Wendy Kinnard, in consequence of a written paper which I submitted to her. I also recall that the position was advertised and that only Alison Fossey, who had a background in that type of work, applied for the post.
132. D.I. Fossey was asked to self-inspect the department using a template obtained from H.M.I.C. The results were very negative. There was no effective workload management, and an absence of formal information sharing agreements with partner agencies. I supported her in making the necessary changes and assisted with drafting and then signing-off the relevant partnership agreements.
133. The lesson I took from this was that the Force had been part of the problem. The widespread belief that there was "no point" in reporting child abuse in Jersey applied not just to

cynicism regarding the criminal justice system, but also to the police. There were legends and rumours that cases had been "buried" by the police, prosecutors, and the Courts. I also realised that once D.I. Fossey had put her changes in place and gained trust and credibility, then the number of reported offences might increase. They did.

134. As soon as it became clear that the police would take abuse issues seriously and deal with them in a professional manner, the number of reports increased. The latest figures that I have seen, which were published in late 2008, indicate that following "Rectangle" this increase was recorded as being 152%. I have not had access to figures on the number of reports prior to Rectangle, but I imagine that the difference since then will be significant. I will return to Alison Fossey's early tenure in the department and what it revealed later in this section.
135. I now turn to a case which had a fundamental effect on relations between the Force, government representatives, and the leadership of the public sector. This was a case in which two local men had abused a boy who was also a sea cadet. As far as I am aware the men did not have a direct connection with the sea cadets as an organisation, but they owned or had access to a boat. I do not recall that I had any knowledge of the case during the time that it was current. I think I first became aware when a Serious Case Review (S.C.R.) report was circulated. I did not think the S.C.R. document was a very good report. It raised more questions than answers and skimmed over the really difficult issues. I was not surprised when Senator Stuart Syvret, who at that time was the Health Minister, criticised the report and raised a number of questions. Some of these were directed at the police and were of a critical nature. I was not troubled by this. I thought that the way to deal with his questions was to provide honest answers. I recall that I asked for information and a response was sent to the Senator. I soon learned that those in charge of the island's government did not intend to take the same approach.
136. What happened thereafter is touched upon in more detail in my first affidavit. In brief, a plan was formed, apparently in the Chief Minister's Department, to respond to Senator Syvret's questions by removing him from his position as Health Minister. This began in what was effectively a "pincer movement", which commenced on Wednesday 25<sup>th</sup> July 2007. Two groups met at the same time in different government buildings. One was a sub-group of the Corporate Management Board, at which I was present, and the other was a meeting of the Child Protection Committee, at which Alison Fossey was present. Neither of us was aware of what was intended.
137. It was put to both groups that it would be appropriate for us to express "no confidence" in Senator Syvret as Minister. This would enable the Chief Minister to ask the Council of Ministers to take a similar line before referring the matter to the States as a whole. I objected to what was being proposed and refused to become involved. I was asked by the Chief Executive to leave the meeting. On doing so I discovered that Alison Fossey had left her meeting on similar grounds. We both made notes soon afterwards. (Notebook 07/120 pages 51-58) To complete this account, the Child Protection Committee did in fact pass a vote of "no confidence" in Senator Syvret as Minister for Health and Social Services. I am not aware of any similar resolution passed on behalf of the Corporate Management Board. However, following a subsequent "no confidence" vote by the Council of Ministers, the matter was put to the States as a whole and Senator Syvret was removed from office. I recall that he was succeeded by Senator Ben Shenton.
138. This was one of a series of events which contributed to tension between the force and the political leadership of the island. We did not agree on how the build-up of allegations and



concerns regarding abuse issues was to be managed. I was, and still am, very clear that the only way to bring the growing crisis to an end was to investigate what was being alleged, and to take enquiries to a point where there was nothing more to be done. My impression of those in government was that they just wanted the whole issue to go away. I have thought in some detail about this divide and what lies beneath it. I think it is cultural. The police service has, in recent years, placed heavy emphasis on operating in a way which is ethical and defensible. I mentioned earlier in this statement that I had some marginal involvement in these developments. On the other hand I do not think that ethics plays a big part in Jersey political thinking. Apart from discussions with Senator Wendy Kinnard, I cannot remember ever having a discussion at senior government or public service level which had an ethical dimension. I cannot remember anyone ever arguing for or against a particular policy because it was right or wrong. Discussion always seems to be about delivering to an agenda on budget and "protecting the reputation of the island" (usually meaning the reputations of those engaged in the discussion.) Jersey political life sometimes appears to be obsessed with reputation. It was against this background that "Rectangle" began to take hold.

139. I cannot remember the exact day "Rectangle" started. If the date is in the large folders of documents provided to me then I apologise for not finding it. In the context of some of the investigations conducted by the force it was not a major event. Alison Fossey felt that there were a number of linked reports relating to the Sea Cadets and to Haut de la Garenne. She was given authority to explore further. At some point the operational name "Rectangle" was allocated. I suspect that the operational name will initially have been for budget purposes. The enquiry had a potentially significant impact if details became public, but so did a lot of other enquiries running at the time. I have written earlier about the high level financial crime investigations in which the force has a role. Some are highly sensitive, and have potential major implications for international finance and politics. In some cases meetings are held with the major intelligence agencies in the U.K. and with law enforcement and similar agencies from around the world. We manage all of these enquiries in the same way. Somebody has lead responsibility and a line manager exercises oversight. If there are developments which I need to know about, or which need to be discussed, this is usually done in a closed session after the daily 9a.m. meeting. We do not have "Gold Groups" or "Strategic Oversight Boards" or anything of that nature. We are a small force. We all know each other and speak to each other every day. If we have problems we sort them out by personal contact. I have described the force meeting cycle earlier in this statement. It is sufficient for the needs of the force. We do not need complex paraphernalia designed for forces twenty times our size.

140. At some stage Alison Fossey brought to my notice reports and statements relating to the abuse case which had led to the Serious Case Review and the eventual dismissal of Senator Syvret as Minister for Health. She drew attention to evidence which indicated that when under investigation, the offenders had been in text contact with a former senior detective, and that the contact seemed to be intended to obtain information regarding police enquiries. The former detective had never been interviewed about this matter. The case was by then about a year old or even older. A decision was taken to ask the former detective to attend the police station for interview. He attended, but would not answer questions. Not long afterwards it was learned by legitimate means that shortly after the interview he made a long telephone call to a former senior officer. Both persons are known members of the yachting fraternity. I understand that

the failure to interview the former detective when the opportunity first arose was one of the issues covered in the South Yorkshire enquiry.

141. This and other emerging evidence brought a new dimension to the enquiry. Alleged offenders were being named by victims and witnesses, and some were former police officers. Others were persons in senior positions in the public sector. This was discussed with Mr Harper and it was agreed that he should maintain oversight of the enquiry, and that the "need to know" principles which had applied in previous professional standards enquiries, should be applied to Rectangle. This of course had the negative side effect of isolating some of the force management team from the enquiry. It was felt at the time that this was unavoidable. Until there was a clearer picture of who may be accused or compromised by the growing number of allegations, the enquiry would have to be closely managed between Lenny Harper and Alison Fossey.
142. "Rectangle" continued to be a confidential enquiry, and its impact on the wider community was therefore negligible. I had at various stages provided confidential briefings to the Minister for Home Affairs, Wendy Kinnard, the Chief Minister Frank Walker, and the Chief Executive Bill Ogley. The content of these briefings outlined that the Force was exploring some historical reports to see if there were matters which needed further investigation. As time passed the briefings became more detailed. Some of these briefings took the form of prepared statements previously agreed with Mr Harper. Examples are to be found in notebook 07/358 pages 20 and 24. It may be of note that the second of the two briefings which occurred on 15<sup>th</sup> November 2007 was intended to be received by the Chief Minister Frank Walker. However, in spite of the briefing having been arranged in advance he did not attend. (Notebook 07/358 page 24.) When I asked where he was I was told by the Chief Executive that Senator Walker was attending a lunch reception in another part of the building, which he did not wish to leave. This confirmed a view which I was forming, that the Jersey Government was showing a lack of recognition of the inevitable public and media interest which would occur when the enquiry became more widely known. I had from time to time encouraged an appreciation of the fact that handling the issue would prove to be a challenging task, and that the island's government needed to plan and prepare. I appeared unable to convince the Chief Minister of this, and I saw no significant evidence that the Chief Executive had a plan, or even that he had given significant thought to how a more public phase of the enquiry would be managed. This lack of recognition and preparation had significant consequences in 2008 when the level of media interest exceeded all expectations, and the island's government became exposed to criticism and challenge.
143. Nevertheless I think it important to emphasise that Rectangle was a fairly long-running operation before it became highly visible. I had maintained contact with it throughout 2007, by means of regular briefings and conversations with key staff and partners. Alison Fossey was S.I.O. She was trained, competent, and well in control of the investigation. Lenny Harper was providing strategic oversight of both Rectangle and the professional standards issues which were being investigated alongside Rectangle. Even at the beginning of 2008, although there was evidence of enhanced media interest, this was largely local and manageable. Nobody foresaw, or had any reason to foresee, that a local enquiry based in a small island most people have barely heard of, would suddenly become world news. Nobody was really prepared for that. When it happened the impact was substantial. Every agency was caught off-balance and reactions had to be improvised. Deep rooted political and social divisions were brought into focus as the international media spotlight turned on the island. Later in this statement I will

argue that much of the media interest was driven by issues outside the remit of the police, and how government and others, sometimes with good intentions, added significantly to the challenges the force and the island was facing. This was not just a police problem. It was a Jersey problem.

144. On the morning of Tuesday 19<sup>th</sup> February 2008 I attended St Martins Parish Hall where I met with the Connétable, Silva Yates. I had arranged the meeting some days before on the basis that I wanted to discuss a "Parish Issue." I told him the Force was about to start some exploratory work at Haut de la Garenne, and this was part of a search for evidence in relation to the abuse enquiry. I said that we would hope to keep the work discreet, but we might be there for a couple of weeks. There might be some media interest or some questions to him as Connétable. I took this conversation to be a discharge of my responsibilities under Article 7 of the 1974 Police Law. The Connétable thanked me for the information, and said he did not intend to become closely involved. I took these comments as a request for "assistance" under article 6 of the Police Law. (Notebook 07/358 page 78 refers.) He said that we should ask if we needed any help, and in fact he was of considerable assistance in the weeks which followed, supporting the use of Honorary Police on the cordon and related duties.

145. As is now well known the U.K. media became aware of the work at Haute de la Garenne, and the whole enquiry became the subject of intense media and political interest. The political interest was both external and internal. Long-standing political rivalries were re-ignited and challenging questions were raised regarding the constitutional position of the island and the ability of its institutions to deal with issues of this nature. I will address some of these consequences later in this statement.

146. **"The Standards the SOJP Work to, with Particular Reference to ACPO/NPIA Guidance."**

I have been asked to make comment regarding the above. Most of what I have to say is not really a matter of my own or anyone else's opinion. It is a matter of law. Jersey is an independent legal jurisdiction. It has its own laws, its own courts and its own police services. It is bound by nobody else's laws or procedures. There are thirteen police forces in the island. Twelve are elected volunteer forces which largely operate within their Parish. The thirteenth Force is the States Police, which now has jurisdiction throughout the island to patrol and to gather evidence in relation to alleged offences. The States Police do not charge or prosecute offenders. Any suspected offences have to be reported to the honorary police in the relevant parish. A Centenier will then decide what action, if any, is to be taken with regard to a suspected offence. In taking decisions Centeniers refer to guidelines issued by the Attorney General. Should it be felt that a Centenier has taken an apparently perverse decision the Law Officers are able to intervene. Nevertheless, the discretion of the Honorary Police is considerable. The States Police have no powers to charge or prosecute any offender for any offence. That is the law. Some might think it a strange business. It is however Jersey's business. It is nobody else's business.

147. All thirteen police forces are obliged to operate in accordance with the laws of the island and any statutory guidelines or procedures approved by the competent Jersey authorities. That is how it is. No other laws and procedures apply or have any jurisdiction in the island.

148. On some occasions a situation arises where there are no relevant local laws or procedures. When that occurs it is considered acceptable to look and see what might be done in a similar

situation elsewhere. Sometimes Jersey looks to England for guidance. Sometimes it looks to other countries in the U.K. I am aware for example that the local fire service is inspected and takes its lead in relation to working practices and standards, from the Scottish Fire Service Inspectorate. When Jersey was seeking to develop a "joined up" criminal justice database, work was done on the basis of a model which was viewed in Northern Ireland. The development in Jersey of the scrutiny panel system benefited from considerable input from representatives of the Scottish Parliament. The current emergency planning officer was recruited from a position in the Welsh Assembly, where he had been developing procedures in that jurisdiction. As a community we are free to choose where we obtain our advice from, and how we react to that advice. It is for Jersey to decide. Nobody else can impose any laws or working practices without the agreement of the island's governing authorities.

149. Sometimes guidelines and working practices developed in other jurisdictions can form the basis of local procedures. The best way to illustrate this might be to refer to a real issue which is relevant to this enquiry. That is, the concept of a "critical incident." I took an interest in this about three to four years ago. One afternoon I was in my office when I made a routine computer check on live incidents. I read one entry which said that there had been an incident involving a police vehicle and two people were dead. I went to the control room and established that a police car on its way to an incident had been involved in a collision with another vehicle. It later transpired that only one person was dead and the other badly injured. I realised that this would have significant implications. I established a separate command and control for the incident and allocated different people to lead on the different areas or responsibility. These included contact with the Law Officers, the Minister, the Media and the Jersey Police Complaints Authority, as well as the customary actions regarding scene management and related issues. As the dust settled I began to wonder what would have happened if I had not been there. Would the staff on duty have known what to do, and did we have operating procedures which would cope with such a situation?

150. I remembered that in my contacts with colleagues in England they had spoken of something called a "critical incident" and that when something was given this name, a particular process was activated. I discussed this with colleagues and, so far as I recall, brought the matter to a meeting of the Executive Strategy Group (E.S.G.). I thought that we should gather more information about a "critical incident" and whether it involved a process which could usefully be adopted locally. Someone was allocated to undertake the necessary research. There should be a record in the minutes of the Executive Strategy Group relating to this. This type of project would have followed a familiar process. When we identify a deficiency in local policy and procedure somebody is allocated to prepare a paper. This would involve research into how things are done elsewhere. It is possible that A.C.P.O. procedures might be examined. The person responsible might take A.C.P.O. guidelines and amend these to take account of local law and procedure. It might also be necessary to translate any A.C.P.O. guidance into a more reader-friendly language.

151. What spoils the story to some extent in this case is that I do not recall if the work was ever finished. It might be that the person given the task left, or moved on to other things. I just do not remember. However, had the paper been completed this is how it would have moved forward from that point. It would have been circulated to members of the Executive Strategy Group (E.S.G.) for preliminary comment and suggested amendment. When we thought that it was ready to come to the table we would list it as an agenda item. It would then be subject of a

formal discussion. Once a draft was agreed, it would go to the Force Management Board (F.M.B.) for a wider discussion. When a draft had been approved through this process I would have to decide whether there was a need for political ownership. In the case of the force adopting English guidelines for use locally this would probably be the case. I would therefore have tabled it for a Ministerial meeting with the Minister for Home Affairs and the Assistant Minister. In my experience Ministers are most likely to be interested in any potential for political challenge, (in this case I would have thought that there was probably none,) and also any financial or training implications. If financial implications were present then this would be an impediment, and they would be enough on their own to prevent a policy being accepted. Training implications could probably be approved provided that they could be met within budget.

152. As I have stated earlier, the proposal to adopt the concept of a "critical incident" did not make it through this process, and therefore did not become part of Jersey's police procedures. The same can be said of any other police procedure from another jurisdiction which has not been through the process I have described.

153. The status of guidelines which have not been adopted locally is that they constitute advice, which is there for the information of the Force, and for the officer dealing with a particular case. They can be used or not used as the force or the officer in the case sees fit. That is not an opinion. It is just a statement of the Law. If Ministers are not content with this position then they could seek to change it through the political process. A proposal to adopt English policing guidelines en-bloc could be progressed either through a recorded Ministerial decision, or by means of a debate in the States. So far Ministers have chosen not to do this. That is a matter for them. It is not a matter for me. I do not think that I am able to assist further with this subject.

154. The involvement of the A.C.P.O. Homicide Working Group.

I have been asked to comment on the involvement of the A.C.P.O. Homicide Working Group, the contents of their reports, and the implementation of their recommendations. Their role was vital to the conduct of the enquiry. I will argue elsewhere that when a fairly discreet and local enquiry turned overnight into a world event it was too late to re-think command structures and roles. We had to remain focussed and work within the management resources we had. But we needed expert help and guidance. I personally had lost touch with where "experts" were to be obtained from in 2008. Fortunately Lenny Harper had done some groundwork, and through this I learned about the "Homicide Working Group," who apparently could be activated in our support through John Stoddart, who was Chief Constable of Durham, and who led for A.C.P.O. in the appropriate business area. The relevant contacts were made and the Homicide Working Group (H.W.G.) was asked to assist. I do not think that I had heard of the HWG prior to them being recommended as a source of expertise for Rectangle.

155. The HWG were led by André Baker, who is a Deputy Director of the Serious and Organised Crime Agency (SOCA.) I had met with Mr Baker a number of times previously in his SOCA capacity. Details of Mr Baker and his career history can be found on the internet. I believe he can be fairly described as an internationally recognised expert on the investigation of serious crime. The HWG were part of a plan to provide expert guidance, and oversee the investigation through to the time when a new management team could be in place. We had, for reasons

previously described, failed to retain the services of John Pearson, who was a senior and experienced detective, on the management team. We were however already actively engaged in the recruitment of a new D.C.O. with the relevant background. There were two leading candidates. One was André Baker who was effectively already on the ground, and the other was David Warcup who had already visited the force and who was in regular telephone contact. We just needed to bridge the gap. I hoped to close the gap by bringing forward the appointment of the new D.C.O, and by using the H.W.G. to guide the investigation in the meantime. I was also mindful that D.I. Fossey would soon be returning to the Force, and that when some of the outstanding professional standards issues had been resolved, it might be possible to achieve closer involvement with members of the Force management team. In this respect I thought that David Minty, who was head of C.I.D, might be able to play a greater role. I also believed, as did everyone else, that the work at Haut de la Garenne was a brief episode which would soon be over. With hindsight it is now known that is not what occurred. One find led to another, and as the exploration of one scene within the complex was finished, there were forensic indications which led to another.

156. I have seen statements in the disclosure file which speak of the limitations of the mandate of the H.W.G. These are interesting but well informed by hindsight. What I was told at the time regarding the role of the Homicide Working Group is what is set out in their terms of reference and reports. I note that the terms of reference state that they will *"quality assure the investigation."* I relied heavily on the H.W.G. to guide me and others as to what we should be doing and how. The analogy is not perfect, but during this period André Baker assumed something of the status of the A.C.C. (Crime) which we needed but did not have. I relied heavily on the H.W.G. for expert advice. And I was resolved to take their advice. If for example, they had advised that there was a serious deficiency which could only be solved by a change in key personnel then I would have tried to do that. I was not given such advice and therefore I did not do it. I note that in his statement John Stoddart speaks of the supervisory role of a *"Chief Officer"* in such circumstances and says *"I am however acutely aware that Mr Power was the only other chief officer and that this may have presented him with some real difficulties."* He then goes on to consider how these difficulties might have been addressed and suggests *"extra resilience at ACPO level."* For reasons given earlier, such a solution was impossible under the rules under which the Force is required to operate. Accordingly I did the next best thing and relied on the senior expert who was available. In managing the situation which existed at the time, I acted on my own authority, but in doing so was heavily guided by André Baker and his team. André Baker was an experienced and seasoned ACPO officer who was either present on the ground, or in regular contact throughout the key events. I valued his support.

157. The reports of the HWG speak for themselves. They describe an investigation which needs some *"tweaking"* but is generally on course. Some of the language is complimentary. For example there are references to the *"correct approach"* and *"good practice."* In the groups second report at paragraph 7 they state *"The States of Jersey Police are to be commended for their positive reception of the (previous) report and for their extremely prompt response in implementing the recommendations."* I met with members of the group on a regular basis and toured locations in their presence. When it was not possible to meet, I would speak to André Baker by telephone. This included a period when I was on leave and dealing with family matters in the U.K. I made arrangements for the HWG to meet with Ministers, when neither myself nor any other member of the Force were present, so that the HWG could give a candid view of our

performance in the investigation. Following these meetings I would have conversations with Ministers and it was clear that no concerns had been raised. I studied all of the HWG reports in detail and asked for, and received from the Rectangle team, action plans addressing the recommendations. I do not know what else I could have done to maximise the value of the H.W.G. I was guided by their views and gave priority to their advice and recommendations. Whatever might be said now, there is nothing in any of their reports which raises major concerns. No crisis is identified. No drastic action is called for. There are the anticipated recommendations in respect of procedural and policy issues, and reassuring messages regarding the action taken in response to what they have recommended previously.

158. I note that the feedback given to the Minister for Home Affairs was even more positive. In a statement dated 7<sup>th</sup> May 2009 Andrew Lewis speaks of his briefings by the H.W.G. and states in paragraph 8, "When I received their report with the recommendations, I was told by Andy Baker that the investigation was a 'shining example' of how an investigation of this type should be run and that they were satisfied that the S.I.O. was doing a good job."

159. There are some issues later in this statement where it will be necessary to refer back to the HWG reports. However, I can at this time think of nothing more to be said regarding the *"Involvement of the A.C.P.O. Homicide Working Group."*

160. Comments in Relation to the Metropolitan Police Serious Crime Review.

I have been asked for *"Your comments in relation to the reports by the Metropolitan Police Serious Crime Review."* I take this request to refer to the review of Rectangle which I requested on the advice of André Baker. I will address that aspect in more detail later in this section of the statement. In response to the question I will offer some comments regarding the background and other issues associated with this report. The Minister for Home Affairs has stated that the report itself is *"out of play"* (transcript of the suspension review meetings.) He indicates that this is because the Metropolitan Police will not agree to its use for disciplinary purposes. I am not surprised. The commissioning of review reports is recognised good practice, and reviewers are often encouraged to be challenging. Their reports are valuable in setting an agenda for the future of an investigation. Their use for a disciplinary purpose would have widespread implications for the future of this process. Senior Officers might be reluctant to commission such reports, and reviewers might be inhibited in what they said. The stance taken by the Metropolitan Police is in the interests of the service, and is also very much in the public interest. I support the position that the Metropolitan Police have taken. I hope that the investigating officer is able to come to the same view. It follows that in support of the position taken by the Metropolitan Police I will not be commenting on the contents of the review report.

161. During the major stages of Rectangle I was aware that it was customary for comparable enquiries to be subject to a review, although I was less sure what was normal in respect of frequency and timing. For this reason I took advice from the HWG. The advice which I was given appears to be well covered in the statement of André Baker paragraph 71. I recall much of the discussions around this issue, and my recollections broadly accord with what the statement says. We talked about the need for a review and its timing. We both thought that a review report would be useful in setting the agenda for the new management structure I was in the process of implementing. I asked André Baker to make the necessary arrangements, and he said that he would. The issue was discussed between André Baker, myself and David Warcup



when we met at the Radisson Hotel on 21<sup>st</sup> July 2008. We were there for the purpose of interviewing the shortlisted candidates for the position of S.I.O. Apart from the selection process itself, it was an opportunity for the three of us to get together and have a full discussion regarding the enquiry. André Baker is right when he says that *"We had a general discussion on the selection process, strategy for the enquiry and timescales."* I felt it important that the future of the enquiry was fully owned by the senior people involved. I recall that the matter of a review was discussed with candidates during the selection process, and certainly with the successful candidate who was Mick Gradwell. We all appeared to agree on the position. Taken overall I believe that I am entitled to state that the decisions in relation to the nature and timing of the Metropolitan Police review were supported by all of the relevant senior officers, and that in agreeing how this issue was to be addressed, I was acting on sound expert advice.

162. I will now touch briefly on some aspects of the statements of the reviewing officers. For reasons already given I will not address the content in detail. I note from their statements that the reviewing officers are Mr Bryan Sweeting and Mr Terrence Britton. One of them is a Superintendent and the other is a retired police officer. Neither has any experience in the management of a police force at a strategic level. I see from their statements that we met briefly on 29<sup>th</sup> October 2008. My impression at the time was that they were competent practitioners in an urban environment, but perhaps not familiar with the unique issues of island policing. To some extent this is corroborated by their statements. Mr Britton appears to believe that Jersey has a *"Police Authority"* (paragraph 7) and sees relevance in the advice of the *"Crown Prosecution Service"* (paragraph 20.) In his statement of 30<sup>th</sup> April 2009 Mr Sweeting indicates that he has apparently looked for any evidence that I *"delegated"* my supervisory responsibility for Mr Harper, and can see no evidence that I did. It would be fascinating to know where he searched for this evidence, and to whom he thinks I might have made such a delegation in a force in which the only two Chief Officer ranks were Mr Harper and myself.

163. I do not think that I can make any further useful comment in respect of the review by the Metropolitan Police.

164. **Mr Leonard Harper as Senior Investigating Officer.**

I have been asked to comment on *"The appointment of Mr Harper as SIO or the continued acceptance as SIO when the opportunity arose to make changes."* I am not sure what is meant by the latter part of this question, or whether it implies that the questioner knows something which I do not. I have described earlier in this statement the long and exhausting battle that had to be endured in order to obtain authority to advertise and recruit a new D.C.O. from outside of the island, and how that left the Minister for Home Affairs in a position in which she could not realistically make a further approach for permission to fill another senior post externally. I have also described how, when the enquiry became major news, we were already part way through the process of replacing Mr Harper as D.C.O. and how leading candidates for that position were already engaged with the force and updating themselves on the enquiry. I have also written about how there was a clear plan to *"bridge the gap"* by using the HWG to advise Mr Harper, while simultaneously attempts were being made to bring forward the appointment of his replacement. I have also acknowledged that I did not foresee, and neither did anyone else, the complexity and duration of the search at Haut de la Garenne.

165. I think that I have also explained the background of political and cultural resistance to the importation of senior public sector staff from outside the island and how this is reflected in a

range of legal processes relating to employment and housing. The difficulties caused by the housing and employment laws are not a side-effect of those laws. They are the main point of the laws. For constitutional reasons Jersey is not able to operate immigration controls. Immigration is controlled indirectly by restricting the right to work and the entitlement to occupy most categories of housing. Every case for the importation of key staff has to be evidentially justified. Sometimes this involves going through the futile exercise of advertising locally and engaging in a selection process merely to demonstrate that there is no local candidate available. I recall that this happened when we recruited the current forensic manager, Vicky Coupland. I believe that her recruitment took over a year.

166. Sometimes this process can be by-passed by the use of a temporary secondment. A person who is seconded remains a member of their own force. They are not allowed to live in qualified accommodation and their secondment is expected to be restricted to a period which is no longer than necessary. The authority to authorise a secondment to the Force rests with the Minister for Home Affairs. The process used in order to enable secondments for Rectangle, was for the Minister to write to the Lord Chancellor asking for U.K. assistance. When agreement had been given, individual forces and officers could be approached. At the time Mr Gradwell's secondment was authorised in July 2008 the political ground was more fertile than it had been in the early part of the year. There was a new Minister for Home Affairs (Andrew Lewis) who I had persuaded that the management model which I had developed involving a new D.C.O. and S.I.O. was an essential package. This was not the case in 2007/2008. Wendy Kinnard was exhausted by her efforts to gain sanction for my plan to recruit a new D.C.O. She was also a supporter of Lenny Harper and his approach. They were close in the professional and political sense. So much so that there were occasional rumours that their relationship was more than professional. Jersey is fertile ground for rumours. I was aware of the rumours and considered them to be without foundation. Most Jersey rumours are totally false. I know because I have been the subject of a few from time to time myself. They are not true either.

167. Finally on this particular aspect of the question, I note that André Baker states that the decision to recruit an S.I.O. from outside of the island was confirmed at a meeting on 30<sup>th</sup> June 2008 (paragraph 71.) Although I do not have access to the relevant records, this would have been followed by an approach to Andrew Lewis as Home Affairs Minister for his agreement. Mr Gradwell states that he commenced duty as S.I.O. on 8<sup>th</sup> September 2008 (statement paragraph 31.) He then had to begin familiarising himself with his new role, and read through the statements taken up to that date. Thus, the time period from deciding to appoint an S.I.O. from outside the island to the selected person starting work was over two months. At that point the new S.I.O. would begin a process of familiarisation with the existing evidence in order to become effective. In other words, it cannot be done overnight. It is not an instant solution.

168. I now return to the role of Lenny Harper as S.I.O, although much of what there is to be said should be apparent from some of the earlier parts of this statement. I have described how, in the earlier stages, Rectangle was an enquiry running alongside a number of others being carried out by the force. D.I. Alison Fossey was the S.I.O. and Lenny Harper was maintaining strategic oversight. It was decided that Lenny Harper would have this role for reasons which included the professional standards elements and, to put it plainly, some uncertainty regarding who in the force could or could not be trusted at that time. I know the position on that question is a lot clearer now, but it was far from clear then. In normal terms, the scale of the enquiry has been assessed by Mr Britton, who participated in the review by the Metropolitan Police, as one which

a Detective Inspector ought to be capable of dealing with under supervision. (Witness statement T. Britton, paragraph 6.) I agree that in normal circumstances this would be the case. What made this enquiry different were the potential political implications, and the professional standards issues. There was also the probability that media interest would intensify (although nobody foresaw the extent to which this would happen,) and that there would be the customary political attempts to interfere or score points. Alison Fossey was a good investigator, but relatively new to her rank. She was not skilled in dealing with political challenges, and not confident in a hostile media environment. She was also undergoing some domestic issues at that time which were placing her under pressure. Some of these matters could have been comfortably addressed in a U.K. force where choices of skilled senior personnel are available. We are an island force outside of the U.K. We operate with what we have. Only in the most exceptional circumstances can we do otherwise.

169. I would need more access to files to discover when Lenny Harper moved from having strategic oversight to being S.I.O. I know that when this happened nothing much changed in reality. He still worked as D.C.O. and carried out any functions in relation to Rectangle on a part-time basis. Alison Fossey was in effect the full time head of the investigation. Initially I saw Lenny Harper's appointment as adding strength and authority to the investigation, to protect Alison from interference, and allow her to concentrate purely on investigative matters. In so far as any U.K. guidelines were relevant in that situation, Lenny Harper was a "Chief Officer" for the purposes of those guidelines.

170. At some stage, after consultation with others, I took a decision which affected this working relationship for a period of time. This involved an International Female Commanders' Course which was being run at the Staff College and which D.I. Fossey had qualified to attend. The course is normally for officers of Superintendent rank, but she was assessed as having the relevant level of ability, (as it happened she proved to be the outstanding student on the course.) I recall this was to take place in early 2008 and would involve her being away for around ten weeks. Throughout my service I have seen promising officers effectively punished for being of high value in a particular position, and therefore hard to release when career opportunities arise. I am conscious of the long term damage this can cause, and try to avoid it wherever possible. I discussed the situation with Alison Fossey and Lenny Harper and we agreed that she should be released, and cover would be provided by others "acting up." This did of course bring Lenny Harper's role as S.I.O. into greater focus. It was clear that his day-to-day leadership would be more "real" than it had been up to that point.

171. I note that one of the periods during which the HWG were present in Jersey was from 29<sup>th</sup> February to 2<sup>nd</sup> March 2008. They subsequently completed a report which drew attention to the fact that Mr Harper was undertaking the duties of S.I.O. on a part-time basis. They recommended that he should become full time, and that another person undertake the duties of D.C.O. I reflected on this and saw the sense in this recommendation. The only realistic candidate to be acting DCO was the third in command of the force, who was Superintendent Shaun Du Val. Shaun was a suitable person to act up, and in my view had potential to move permanently into that rank following appropriate development. This was a decision which would have required Ministerial approval. Without access to the relevant files I do not know how this was done. It might have been in a Ministerial meeting, or it might have been agreed verbally. In any event, it was approved. Shaun was made acting D.C.O. and David Minty Acting

Superintendent. This was also a good opportunity for David. He had demonstrated potential as Chief Inspector and I had him in mind as a future Superintendent.

172. It might now be appropriate to digress a little, and discuss who in the force other than Lenny Harper could have been S.I.O, and why this did not happen. The problem overshadowing any internal solution to the issue of who should be S.I.O. was the continuing professional standards issues, and uncertainty as to who may be the next person to be implicated in allegations concerning the "cover up" of abuse. From the distance of time it all appears clear. In the midst of the initial deluge of reports and allegations it was not possible to predict who would be the next person to be "named." The reports from the HWG describe backlogs of incoming information and actions. At the relevant time, we knew that we did not know the full picture of what was alleged against whom, and in the initial rush of reports and allegations which followed the publicity around Haut de la Garenne, the picture that we had was changing daily.

173. Running alongside this was the undoubted fact that Lenny Harper had, within the space of a few hours, become established internationally as the public face of the enquiry. His candid and robust style of delivery, accompanied by his unconcealed distancing from the Jersey government and establishment, inspired confidence in victims and witnesses, and in the media. It should be remembered that at this time Jersey was going through something near to a constitutional crisis. There were high profile demands, from within the island and elsewhere, for the enquiry to be taken out of the hands of the Jersey authorities, who were being portrayed by many in the media and U.K. politics, as secretive, sinister and untrustworthy, and placed under the control of independent prosecutors from the U.K. I held the view that all of the abuse allegations could be managed within the Jersey Criminal Justice System; although later in this statement I will describe some of the frustrations in attempting to persuade the Law Officers and others to recognise and address the adverse perceptions which the investigation was attracting.

174. Almost overnight we had moved to a position in which any replacement of Lenny Harper as S.I.O. would have been world news. At one point, frustrated by what he perceived as constant political sniping, he told me that if political actions interfered with his role as S.I.O. he would "not go quietly." I was conscious from this, and other parts of the background of the case, that if the position of S.I.O. was not handled carefully it could trigger a "tipping point" which could have far reaching legal, political, and constitutional consequences. In any event, any change in Mr Harper's status could only be undertaken with the support of the Minister for Home Affairs, who at that time was Wendy Kinnard. I have described previously that she appeared to be a strong supporter of his approach, and from what she told me, she was also sympathetic to the demands for independent prosecutors and judges. A change in S.I.O because Mr Harper was about to retire, or even a change in consequence of an "early handover" were one thing. To change him in mid-flow for no better reason than the absence of current qualifications or similar reasons, might make sense in the upper levels of the police service, but would not be credible elsewhere, and could have had far reaching consequences.

175. Nevertheless, I gave thought to how we might develop a "plan B," and be in a position to phase-in a new leadership should that be appropriate. The plan involved David Minty who was a Chief Inspector and head of the C.I.D. By that time some of the early confusion had cleared, and it was emerging that the "cover up" allegations did not appear to have implications for David. On one occasion when we were together I spoke to David Minty and Mr Harper about the need for continuity and the preservation of corporate memory. I said it was logical that the head of C.I.D. should undertake this role, and that David Minty should begin shadowing Mr

Harper and become more visible in briefings and media events. I recall that this happened for a while but then became less noticeable. I see from his statement (paragraph 26) that David says this was in consequence of him being made Acting Superintendent and head of operations. I think that this is a thin excuse. He was given an opportunity, and should have grasped it. Most other people were by then, doing two jobs at once. He should have made more effort. I asked Lenny Harper about David Minty's role, and he said that he had shown interest in the career opportunity of being associated with the enquiry, but less interest in the hard work involved. I accept that there will be more than one side to this account, but this is all of the information I have access to at the time of writing.

176. In spite of the difficulties, I persisted in considering an internal appointment of an S.I.O. at the appropriate time, and David Minty continued to feature in those deliberations. In paragraph 55 of his statement, André Baker describes a discussion we had during a break in an unrelated meeting in the U.K. Although my recollection of the details of what was said differs from his, I note he confirms that on 20<sup>th</sup> May 2008 I still saw David Minty as the favoured option to take over from Lenny Harper as S.I.O. I had discussions on this issue with David Minty and I recall that at my suggestion he completed a report setting out his willingness to undertake the role, and his qualifications for doing so. The investigating officer may wish to see if this report can be located. The appointment of David Minty as S.I.O. was one of the options I took forward to my discussions with David Warcup. Had this option been agreed it would of course have enabled a much earlier phased handover of responsibility. However it emerged that Mr Warcup preferred to have an independent S.I.O. from the U.K. I cannot remember the details of my discussions with David Warcup, but they must have involved consideration of the need for the enquiry to be seen to be fully independent of local political considerations, and how the appointment of a long-serving Jersey officer might impact on this.

177. I was not in disagreement with the decision to appoint an S.I.O. from the U.K, but was aware that this presented me with further challenges in managing the delayed handover between the two management regimes, and also the need to address the disappointment of David Minty. It also created a need for me to obtain political agreement for what was proposed. By way of partial corroboration of these events I see that on 9<sup>th</sup> June 2008 I made a note that I had discussed succession for Rectangle with Shaun Du Val. (Notebook 08/95 page 37.) I know that on another occasion when I was meeting with David Minty in relation to another matter, I took the opportunity to explain to him why he had not been chosen for the role. I am unable to find a note of this discussion.

178. While I was addressing the delicate matter of how to phase out Lenny Harper's command of the enquiry, and the appointment of a new management structure there were the predictable demands for Lenny Harper to be given an extension to his contract and retained as S.I.O. These were led by Senator Stuart Syvret, but there was little doubt that he was also speaking for others. It was known that some witnesses and victims had confidence in Lenny Harper, and some understandable fears as to whether the independence and integrity of the investigation would be maintained in his absence. In the interests of completeness I should also add that the retention of Lenny Harper as S.I.O. was one of the options identified by the HWG. (Third report. Paragraph 16.)

179. The local demands to retain the services of Lenny Harper were for the most part directed at the then Minister for Home Affairs, Andrew Lewis. I encouraged the Minister to hold firm and to be clear that there would be no extension to Mr Harper's contract. I was determined that

there would be a fresh start under new management. I felt confident that David Warcup would not want Lenny Harper "under his feet," and that in consequence, Mr Harper's retirement plans should be allowed to run their course. I recall that I rang David Warcup and confirmed that I had his support on this point. At some stage Andrew Lewis began to bend under the pressure. He said that it would be helpful if I could say that Lenny Harper did not want an extension to his contract. I said that I could not say this because it was not true. I had not mentioned the subject to Lenny Harper and did not know his views. He said that I should therefore speak to Lenny Harper and confirm that he did not want to stay on. I then asked what we would do if Mr Harper said that he actually wanted an extension. I got the impression that Andrew Lewis had not thought this through. I said that the best thing to do was to say nothing to Mr Harper. However, I reminded Andrew Lewis, not for the first time, that we were supposed to be working to a succession plan agreed by the States Employment Board and the Appointments Commission, and that it was not within the mandate of either of us to change that plan. I said that we should emphasise this point in any exchanges, and minimise any impression that we had discretion in the matter. I was aware that sticking to an agreed plan was not a conspicuous feature of Jersey politics, but felt that it was important that we did so on this occasion. Some of these exchanges took place by email.

180. So far as I can recall that is the full account of the history of Lenny Harper as S.I.O. for Operation Rectangle and of my involvement in this matter. During all of this period I was also running the Force, and there were all of the normal operational and staff issues to be addressed. The understanding always was that Lenny Harper would concentrate on Rectangle, and I would concentrate on running the force, and acting as a buffer between external influences, usually politicians, and the enquiry. I estimate that about 80% of my time was given to running the force and most of the other 20% was spent dealing with issues related to Rectangle. In the first report of the HWG there is an item headed "Governance of the Investigation" which states:

*"Other than from a supervisory and responsibility standpoint Mr Graham Power, Chief Officer for the States of Jersey Police, is not involved in the actual investigation. He is and has been, responsible for attending to any issues of a political nature or in an advisory capacity to the Chief Minister, ministers and politicians. It is very important that this continues to protect the investigation and allow for the investigation to be independent and unfettered by any demands."*

Recommendation 13 of the same report states:

*"That the Chief Officer maintains a safety zone between the investigation and any demands of politicians."*

The second report at paragraph 44 states:

*"Governance – the Chief Officer retains the independent position to advise the politicians and wider community. This not only protects the enquiry from political interference but allows the SIO and team to focus on the enquiry."*

181. The role described above is expressed in diplomatic terms but is nevertheless clear in its intention, and the actions which it is designed to support. The Chief Officer was to act as a buffer zone to protect the enquiry from "interference." This is a role which may be unfamiliar to officers with a U.K. background. In Jersey there is no universally accepted doctrine of constabulary independence, and the concept of policing without "fear or favour" is not as widely respected as it may be in other jurisdictions. Views on the issue vary, but it is fair to say that there were, and still are, some elected representatives who struggle with the idea of an operationally independent police service. They prefer to see policing as just another public

service comparable to Health, Housing or Education, where it is the role of politicians to decide how issues are to be addressed, and for public servants to implement the political will. It is fair to say that many thinking politicians recognise the problem, and have sought to address it through the establishment of an independent police authority or something similar. However, all such discussions seem to run into difficulty on the issue of who is in control of police operations.

182. It is against this background that I spent my time trying to defend the independence and the integrity of the enquiry, and address the issues of S.I.O. succession in 2008.

183. The Strategic Parameters for Operation Rectangle.

I have been asked by the Investigating Officer to comment on "*The establishment of strategic parameters for Operation Rectangle.*" In the interests of brevity I will also use this section to address the related question of any formal written strategy for Rectangle. At the risk of appearing difficult, I would point out that whatever direct involvement I had in Rectangle was for a brief period during the transition between two management regimes. By the time I had any significant role, Rectangle was a well established and relatively long running operation. It was one of a number of significant criminal investigations running within the force at that time, indeed at any time. It had a line management structure supported by staff trained in major crime investigation, as well as oversight by a "Chief Officer" who was the D.C.O. of the force. When I came to have a degree of personal responsibility for the enquiry I did not see myself as being obliged to go back to the beginning, and audit to what extent strategic parameters and things of that nature were in place. I had responsibility for managing the force and in dealing with what was happening there and then. Historical research was not part of the agenda.

184. I did however do what I could to check that everything was as it should be. I visited the Major Incident Room (M.I.R.) on a regular basis. These visits are documented in my notebooks. I checked that the contingency plans which I had previously developed with Devon and Cornwall Police were being implemented, and that the Devon and Cornwall commitment to provide the relevant key staff was being fulfilled. I always sought out the person who appeared to be in charge, and asked them if they were being properly supported in terms of welfare and accommodation, and if they had everything they needed. I would also ask questions along the lines of "*is the system running as it should be?*" I do not know how Major Incident Rooms work in detail, but I do know that they operate according to the requirements of the H.O.L.M.E.S. 2 computer system, to which I had negotiated access at the beginning of my tenure as Chief Officer. I relied on the reasonable assumption that this system will have mandatory fields for such things as strategic parameters, and that skilled operators would be alerted to any field which has not been properly completed. I say this because in my experience this is how police systems work. All of my questions relating to the operation of the M.I.R. were answered in a positive way. Although I have not viewed the document for some time I recall that the agreement with Devon and Cornwall envisages that they will manage and operate the M.I.R. They have the relevant skills and qualifications and the States of Jersey Police do not. I am aware of no local obligation to supervise or audit their work. I personally did not go into the system and attempt to discover what was and what was not there. That is not my role and I would not know how to do this.



185. I have noticed some reference to strategic parameters in the reports of the Homicide Working Group. I suspect that there might be other references in the disclosure material. For example the second HWG report at paragraph 19 states:

*"The team has asked the SIO to define the parameters of the investigation. He has confirmed that it includes: the homicide investigation at Haut de la Garenne; the historical child abuse investigations at Haut de la Garenne; a confidential allegation in respect of a high profile member of the community; any suspect who worked at Haut de la Garenne who then went on to work in child care and allegations relate (sic) to that subsequent role; any victim at Haut de la Garenne who was relocated into alternative child care and further abused; and any offence that occurred with a connection to Haut de la Garenne, e.g. day trip boot rides. It does not include any allegations of cover up, conspiracy to pervert the course of justice by a public official or any other unrelated homicide or allegation or child abuse"*

Paragraph 6.1. of the first H.W.G. report states:

*"Policy decision 2 details the investigation thresholds of 'serious indictable offences.' This is good practice at an early stage which allows the team to focus on the most serious offences and not be diverted by minor assaults that could have amounted to the 'moderate correction of a child."*

Paragraph 6.1 of the third H.W.G. report refers to the remains found at Haut de la Garenne and states :

*"The SIO has intimated that if the children died post war a homicide investigation will be undertaken. The SIO will then review the resource requirements to conduct both the homicide investigation and the on-going complex abuse allegations."*

186. The first H.W.G. report paragraph 7.3 states:

*"The SIO is responsible for the strategic direction of the investigation. He makes and records the decisions."*

If this was the case at the peak of the enquiry then it was certainly the case in the formative stages, when Lenny Harper was the "Chief Officer" with strategic oversight of the enquiry. The fact that he has retired and is no longer available for disciplinary investigation does not mean that I am culpable in his absence.

187. I can think of nothing further I can offer in relation to the question asked in respect of the strategic parameters of operation rectangle.

188. The Meeting Structure between Myself and the Senior Investigating Officer.

I have been asked to comment on "The lack of a formal meeting structure between yourself and the SIO." I have described earlier in this statement the meeting structure of the force and how this is used to cover a range of issues. I have also made it clear that in a small force, with a handful of key players who are in daily contact with each other I see no need for the range of

meetings, groups and working parties which often characterise the management of larger forces. However, once Lenny Harper assumed the full time role of S.I.O in addition to his existing role as a "Chief Officer," I recognised that I needed to maintain regular contact in order that I could be effectively positioned to carry out my own agreed role of acting as a "buffer" between the S.I.O. and external distractions. I also needed to be well informed in order that I could discharge my own media role of supporting the enquiry, and to continue to provide strategic level information to the media and government. I will write more about that later in this statement. There were other reasons why I needed to be regularly briefed. These included my need to know of any developments which appeared to compromise police officers or senior figures in the community, in order that I could consider any management or professional relationship issues. There was also the obvious advantage of me being able to act as a sounding board for Mr Harper, to learn of his intentions, and to engage in dialogue regarding any proposed action which might not have my full support, or which may have implications which he may not have foreseen.

189. These meetings were regular, face-to-face, candid and direct. At the height of the media interest they usually took place on a daily basis, and took place regularly thereafter. They took place at police headquarters, at Haut de la Garenne, and elsewhere. When we could not meet fact-to-face we spoke by telephone. We were in contact during evenings, weekends and leave periods. I kept a note of the meetings in my notebook, and where appropriate, generated emails or other messages in consequence of what had been said at the meeting. If someone wants to call these meetings "informal" then I beg to differ. They were fit for purpose, and nothing more elaborate was required. I might add that the style of meeting I had with Mr Harper would be quite characteristic of how things are often managed in Jersey, and I suspect other small communities.

190. While the subject matter of the meetings varied, a typical meeting would involve Mr Harper updating me on the latest developments in the enquiry, and his anticipated actions for the days ahead. I would discuss any issues which I had "fielded" on his behalf, and perhaps bring him up to date on the general running of the force. We would frequently discuss the media coverage of the previous 24 hours, and any feedback I had received from within the political community. He would usually respond by expressing frustration at the nature of the reporting, and refer to the record of what he had actually said. I will make more comment on media issues later in this statement.

191. The Management of the States of Jersey Police Day to Day Business During Operation Rectangle.

I have been asked to comment on the day to day management of the force during operation Rectangle. The Jersey public has become accustomed to high standards of police service, with an emphasis on visibility, and a focus on the concerns of ordinary people. Crime levels have consistently fallen and levels of public confidence, by various measures, have often exceeded 90%. It was clearly a challenge to maintain this level of service and public satisfaction during the exceptional demands posed by the abuse enquiry. The Force does not have the luxury of a large senior management team, and it is often necessary for key individuals to play dual roles. In addition there was the added complication of the professional standards aspect of the investigation. Enquiries into the possible involvement of serving or retired police officers in

cases of abuse, either directly as abusers, or in respect of failing to act on reports of abuse by others, were still live and it was not possible to predict where those enquiries would lead. The Operations Management Team is a close-knit group, which has a common email address. The decision, described earlier, to keep the key aspects of Rectangle on a "need to know" basis, impeded the corporate style of working which normally characterised the management team. I have described earlier how it was agreed at an early stage that I would concentrate on the running of the force, and how I sought to give around 80% of my time to that activity. For most of this time I was well supported by Shaun Du Val in his role as acting D.C.O.

192. There were the inevitable tensions between Operations Management and Rectangle in matters relating to resources. This was not only in respect of numbers of staff, but also in terms of local expertise. While Rectangle was being supported by temporary staff from outside the island, there was nevertheless a need for local officers to be closely involved, in order to retain local ownership and provide advice on local laws and procedures. These tensions are to some extent reflected in the observations of the H.W.G. Paragraph 13.4 of their third report states: *"The Ops Management have asked for States of Jersey police officers to be returned from Operation Rectangle to other duties in the island. They suggest that as staff from the U.K. are deployed on the operation, their own staff should be made available for deployment on other Jersey policing requirements. The request is understandable but key roles on the enquiry must be from Jersey. They know the powers, the systems, the processes and can meet the long term requirements of such a complex enquiry. It is particularly important as they move to the arrest phase."*

193. These issues were managed through the force management process, and through daily contacts and meetings. It was a difficult period, but with a few exceptions, the performance of the force was maintained, and the wider community did not suffer significant adverse consequences as a result of the resource impact of Rectangle.

194. **The Allegations made by Senator Stuart Syvret Against the Attorney General and Others.**

I have been asked to provide information regarding the relationship between the investigation and the Law Officers Department. I will do that in the next section of this statement. Before doing so I think it appropriate to write a section in respect of criminal allegations made by Senator Stuart Syvret in respect of people who at the time of the allegations held positions as follows: the Attorney General Mr William Bailhache (soon to be the Deputy Bailiff), the Deputy Bailiff, Mr Michael Birt, (now the Bailiff) and the Bailiff, Sir Philip Bailhache (now retired.) This information is offered because it is relevant to the background of the overall enquiry, and the relationship with the Law Officers Department. It also had a relevance to the relationship between the enquiry team and Senator Syvret, and the extent to which he was inclined to use his influence to persuade witnesses and others to trust the police and co-operate with the enquiry. Finally, my personal role in addressing the Syvret allegations also inhibited the extent to which I was able to participate actively in the relationship between the Law Officers Department and Rectangle while the investigation was current.

195. For a number of years, possibly starting before my appointment, Senator Syvret had been outspoken in his criticism of the Jersey legal establishment, and in particular in the approach taken towards child abuse issues. He had given interviews and circulated papers on the subject. He alleged that the Law Officers and the Courts had used their powers to cover up abuse by States employees and public figures. The implications of his allegations were that there was an

"old boys" network which conspired to prevent abusers being brought to justice. These allegations had been repeated in statements to the press and others, and circulated in emails among the political community. The Senator and others had copied some of this correspondence to me over the years.

196. I had always taken the position that the allegations as they stood were not supported by visible evidence, and until such time as they were made formally to the police I did not have to take any action. I did not regard the circulation of an email as a "report." At some stage the Senator became more determined and more focussed. This was at a time when Rectangle was gaining momentum and the issue was once again topical. Although I am prevented from having access to the relevant papers, I recall that at some stage the Senator entered into correspondence stating that he wanted to make a formal complaint. I recall I said this would require a police officer to take a written statement from him and he agreed to this. I recall that a statement was taken. I think this might have been done by a member of the Rectangle team.
197. My recollection is that the statement, when complete, made general allegations that the Attorney General, and his predecessor in that role who was by then the Deputy Bailiff, had a general propensity to direct that there should be no proceedings in abuse cases. He also alleged specific "cover ups" in the case of the abuse at Victoria College, and the case of the Maguires. I have referred briefly to both cases earlier in this statement. In the Victoria College case the Senator made much of the fact that the then Bailiff, (who is the Attorney General's brother,) had been on the board of governors of the college during the period in which the offences took place, and had allegedly failed to take appropriate action in respect of the abuse. It was also said that key figures in the college at the time, who the Senator believed were responsible either for failing to prevent the abuse, or for impeding a full investigation when it came to light, had subsequently gone on to occupy senior positions in public life. He also appeared to allege that the decision of the then Attorney General (now the Bailiff) not to prosecute the Maguires, was motivated by an intention to protect key figures in the public sector.
198. I recognised that the allegations were significant for the island. They were effectively the "coming to the boil" of issues which had been brewing for some years. I discussed how the matter should be handled with Lenny Harper and Shaun Du Val (notebook08/95 page 08.) We agreed that the complaints by Syvret should be addressed separately from Rectangle, and that it was appropriate for me to take personal control of the issue. I was assisted in this task by Shaun Du Val and other officers. I think however it is a matter of record that I took all of the major decisions. My first decision was that there would be no criminal investigation unless the "reasonable suspicion" test was passed. I was comfortable with this. I have seen too many long and expensive enquiries launched without this basic question being asked. If there was no "reasonable suspicion" that a crime had been committed then there could be no justification for the use of police powers. At some stage I was in the presence of the Attorney General in connection with another matter. He told me that he had heard of the allegations and he wanted them investigated by a police force from outside of the island. I told him that this was for me to decide in consultation with the Home Affairs Minister should the issue arise, although I noted his view. I then told him that I was not proposing to have any normal police investigation undertaken unless the reasonable suspicion test was passed to my satisfaction. I think that this took him by surprise but he accepted what I said and we did not speak about it again.

199. A consequence of this decision was that I had to determine how the "reasonable suspicion" test would be applied and who would help me address this. I had previously discussed the matter with Stephanie Nicolle, who was retiring as Solicitor General. This first discussion occurred on 20<sup>th</sup> March 2008 (notebook 08/95 page 03.) She took a few days to reflect on the matter but later suggested that I take advice from the newly appointed Solicitor General who was Tim Le Cocq. I did as advised and together we agreed a plan. Advocate Robert Macrae, who was in private practice locally, and independent of the Law Officers, would be asked to provide advice. I agreed that the way forward would be to recover the case files in relation to Victoria College and the Maguires, and to select from storage a random batch of files 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 U.K. Barrister based in London.
200. The outcome was that the review of the randomly selected "no further action files" recovered from storage indicated that while there were some marginal differences in view between the lawyers who were tasked with reviewing the files, and the earlier decision-makers, these fell within the parameters of normal judgement. The reviews of the Maguires and Victoria College cases were a little more complex. In the case of the Maguires it was concluded that the decision of the then Attorney General fell within the parameters of reasonable decision-making in respect of the information which the Attorney General had in his possession at the time. There might have been some issues around the standard of the information, but I cannot remember what they were. I do however remember that the file contained information to the effect that Mr Maguire was seriously ill with cancer, and not expected to live. This had apparently come from someone within the Force and had been accepted by the then Attorney General and others. As subsequent events have shown, it is likely that this information was false. It was not clear who was the originator of the information, and I saw no point in further enquiries in relation to that matter. In respect of the investigation at Victoria College, the legal advice which I received indicated there was some evidence that enquiries had been impeded by persons within the college, and that it would have been legitimate to consider the arrest and prosecution of other parties at the time of the events. However, I was also provided with legal advice which said that to do so now would be an abuse of process.
201. The question then arose as to how this information was to be communicated to Senator Syvret. One of the lawyers in the case drafted a letter for me to consider which was factual but also impersonal, direct, and unlikely to achieve closure. Shaun Du Val produced an alternative draft which was more suitable, but in my view still not appropriate in the circumstances. I wanted to communicate the difficult message that the allegations were going no further, but do this in a way which might be accepted and, importantly, would not be to the detriment of the understanding that Senator Syvret would continue to support Rectangle and encourage potential witnesses to have faith in the investigation. I spent about a week drafting the letter, which, by normal letter standards, is long and detailed. I did not receive a reply but subsequently heard that the Senator had accepted the contents, and was grateful for the effort made. The investigating officer may wish to view the letter and include it in the relevant papers accompanying his report. It is my definitive statement on how I feel about the allegations made by Senator Syvret. It also is yet another illustration of issues which I was managing alongside any oversight of Rectangle.

202. **The Relationship with the Attorney General and the Law Officers Department.**

I have been asked to comment on "*The management of the relationship between the SIO and the prosecutorial legal team.*" I am happy to do this and intend to do so in detail. To begin with however it might be useful for me to make a simple statement of evidential fact in case it has been overlooked. Namely:

**I note that members of the Law Officers Department, and lawyers involved in Rectangle have made statements. While these statements inevitably set out views which show some marginal differences between the lawyers involved, on one point they are unanimous. They all confirm that they were all given everything they asked for. Every lawyer in every statement describes a sequence of events which led to them being provided with every access and every facility they requested. They are equally unanimous that all of this was delivered under my command, either by me personally or by subordinates instructed to do so on my behalf. I cannot find in the evidence a single word of dissent on this important evidential issue.**

203. The statement of the Attorney General offers an account of many of the relevant milestones in the development of the relationship with the legal team. At this stage I acknowledge that the Attorney General appears to have tried to be fair, and gives an accurate account of some of the key events. I will set out a different interpretation of some of these events, and offer some new information which the Investigating Officer may see as relevant. The Attorney General has completed his statement with the benefit of access to records and notes. I will be relying on the disclosure documents provided by the Investigating Officer, and my recollection of what occurred and when. In order to give an account from my perspective, it might be best if I begin by summarising some of the issues which I felt impeded the earlier development of the relationship between the investigation and the Law Officers Department. In no particular order they are as follows:

- The perception issues arising from the fact that Jersey does not have a prosecution service. Prosecutions for serious crime are undertaken by the Jersey Law Officer's Department. However, the main function of that department is to provide the island's government with legal advice. The department has some secondary functions of which being a prosecution service is but one. When a potential prosecution is focussed on a government department and its staff, a perception is created that the "government's lawyers" are the ones who will decide if there is to be a prosecution. This can undermine the confidence of victims, witnesses, and in some cases police officers, in the independence of prosecution decisions.
- Differences of opinion with the Attorney General regarding the need to address perception issues by appointing a high profile, specialist, and independent "special prosecutor" or similar person to work with the police.
- Confusion as to the "chain of command" in the Law Officers Department and who was in a position to provide advice and decisions.
- The baggage of previous cases, including the Boschat case, described earlier in this statement, which had created relationship and confidence issues.
- Issues around the availability and workload of Advocate Stephen Baker who was engaged to assist the Attorney General.

- Reports which may not have had any basis in fact, which necessitated a discussion with the Attorney General regarding the suitability of [REDACTED] to undertake a high profile role.
- The poor handling by Simon Thomas, a barrister from the U.K, of the initial relationship with the police team and the problems arising from his handling of the legal advice with regard to the case of [REDACTED] 279, 281
- Claims by Lenny Harper that he was receiving confidential information from within the Law Officers Department and the nature of that information.
- Reports that the Attorney General had been seen playing golf with one of the leading suspects.
- My personal involvement in the investigation of the allegations made by Senator Syvret against the Attorney General and others, and the necessity that I seek to maintain a distance between myself and the Attorney General during the time that investigation was current.

204. It may have been suggested that Operation Rectangle progressed through its earlier stages without the benefit of a partnership with the Law Officers Department. The disclosed evidence accords with my own recollection that two members of the Law Officers Department were assisting the enquiry in its earlier stages. They were Lawrence O'Donnell, who was a full-time prosecutor, and Bridget Shaw, who I think worked as a part-time prosecutor and is now the Assistant Magistrate. This is referred to in paragraph 9 of the Attorney General's statement. The second HWG report, under "Recommendation 9" refers to a meeting between the S.I.O. and Lawrence O'Donnell on 15<sup>th</sup> March 2008 to discuss the Wateridge case.

205. It was clear that before long, this established partnership with the Law Officers would need to move to a higher level. My own view, which was expressed at every stage and never changed, was that this would be best achieved by the appointment of an independent specialist lawyer, who could work full time on the investigation, and be a single point of contact for the Rectangle team. I thought the Attorney General should delegate as much of his authority as the law allowed to that person, and step back from direct involvement in the enquiry. I did not just think that the force needed this. I thought that Jersey needed it. I made this point to Ministers, to the Attorney General and, as an aside to another issue, to the Bailiff. I repeated this message at every opportunity. I linked it to my own vision of how Jersey was to recover from the difficult experience we were going through. Like it or not, the Criminal Justice system was approaching a controversial and sensitive enquiry in a climate of distrust, and accusations of conspiracy and cover-up. There were vocal demands for external intervention, and evidence that the relevant U.K. authorities were showing what was regarded as an intrusive interest in the island's affairs. I was very clear in my own view of the route out of problems we were experiencing and frequently summarised it as follows:

- There was only one possible solution to the situation that the island was in, and that was one which entitled Jersey to say that all of the allegations had been examined thoroughly and that everything which was capable of being taken to court had been to court. If we did not bring closure to these issues in Rectangle, they would forever be returning to cause division and conflict.
- Jersey's Criminal Justice system was capable of doing this and doing it well, but that would never be enough. We also had to convince the world that we had done it well, which meant that we had to manage issues of perception. A good way to start would



have been for some senior figures to recognise that they had to think about perception at all. The dismissal of dissenting views in a way which appeared to be high handed or arrogant, even if accompanied by the right decisions, was not what the situation required. What people thought about the criminal justice system mattered almost as much as the effectiveness of the system itself.

206. I was immodest enough to think that my letter to Stuart Syvret was an example of how some of these issues should be handled and explained. I ensured that it was seen by senior figures in the legal establishment.

207. I have explained earlier in this statement how Lenny Harper's experiences in Jersey had not led to him becoming an admirer of the island's laws or prosecution processes. Nevertheless I thought that he handled the necessary relationships in a professional way. However, as Rectangle began to gather pace he began to speak of information he was receiving from within the Law Officers Department. He spoke of dissent within the department on the issue of the appointment of an independent prosecutor, and he alleged that the Attorney General had been heard to say that a prosecutor would not be needed as none of the cases would be going to court anyway. I did not give this a lot of credibility at the time, but gave it more weight later when Wendy Kinnard told me that she had been approached by a member of staff from the Law Officer's Department who had expressed similar concerns regarding the proposed arrangements for prosecution. The investigating officer may see value in interviewing Lenny Harper on the issue of this alleged information, and in seeking to establish whether its authenticity can be verified in any way.

208. It might be useful to offer some comment on the role of Stephen Baker. Mr Baker is a highly regarded lawyer who is experienced in working with the police. He is liked and respected by police officers. From his evidence the impression may have been given that he was a lawyer dedicated to Rectangle whose efforts at engagement were frustrated. This is not entirely the case. He is a busy criminal lawyer with a heavy and varied workload. I see from the disclosure documents he was first appointed to the case in late January and had some involvement in issues around the charging of the accused Wateridge. I will return to that matter in more detail a little later in this statement. The point I wish to make at this time, is that in the period which followed his appointment 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 U.K.'s leading criminal. Warren was in custody locally, having been arrested in Jersey following a covert operation by the force. Warren, who at one time appeared in the Sunday Times Rich List, was reported to have substantial criminal wealth, which he had successfully hidden from the various agencies which had sought its recovery. This led to an interesting exchange of correspondence between David Minty and Stephen Baker. David asked if Baker was being paid for his services, and if he was, whether he proposed to make a disclosure to the financial crime unit. I think that this was eventually resolved in favour of Baker, who successfully argued that he did not have to do so.

209. Warren's defence relied heavily on attacking the process used to gain covert evidence. This involved some authorisations which I had approved. There were extensive disclosure requests, and a number of senior officers, including myself, were required to give evidence. I recall that I had to delay a planned period of leave in order to do this. The point I am making is that at a key stage in Rectangle, the relationships between the force and Stephen Baker's firm were mostly

adversarial and in relation to the Warren case. He was by no means the dedicated full-time prosecutor we badly needed.

210. A short time afterwards I was presented with a professional and ethical dilemma and consequential distractions, by the appointment of [REDACTED]

[REDACTED] I am aware the Investigating Officer for Operation Haven is in possession of notebook entries which make reference to this matter. [REDACTED]

[REDACTED] I personally know nothing to his detriment. At first I welcomed his appointment and saw no cause for concern. Then I remembered the intense media interest which there had been present in the earlier stages of the investigation and anticipated that U.K. Journalists might assemble for the trials (assuming there were any.) They would be looking for sensationalist angles in their reporting. About the same time I remembered stories I had been told regarding [REDACTED] At the risk of being repetitious, I do not know if any of the stories are true, I just know that they exist, and that a number of people think that they are true. Any story relating to a known figure in Jersey has to be considered in the context of a local cultural tendency to invent and spread rumours regarding people in public life.

211. In brief, it appears that some people maintain that [REDACTED] has a reputation for the sexual harassment of female staff. One story, which came to me from more than one source, is that he is alleged to be responsible for a case of harassment of a junior member of staff when working in the [REDACTED] According to the story [REDACTED] dealt with the matter without any formal action, and that the victim left her position and was now working elsewhere [REDACTED] It was alleged that some other staff members felt that the harassment had been "covered up." The name of the alleged victim is known to me. One of her work colleagues spoke to me and told me that the victim had a dossier in relation to [REDACTED] and she had seen it. The dossier was said to contain copies of compromising emails. It was said that the dossier was being kept for possible future use. I thought about what I should do with this information, and after a while I arranged to see the [REDACTED] I did this because I felt that he should be aware of the potential risk should any element of the media attempt to run a "sex pest" type story should [REDACTED] in Rectangle. In raising this matter I had in mind both the interests of the enquiry and those of [REDACTED] himself.

212. I spoke to the Attorney General on 30<sup>th</sup> April 2008. He said that he had no good recollection of anything of significance, but there might have been something in 2003 which Stephanie (Stephanie Nicolle the recently retired Solicitor General) had dealt with. He went on to say that he would research the matter and give it some thought. (Notebook 08/95 pages 26-27.) I did not press him further nor did I offer any view about what he should do. I just told him I thought that there was a risk of intrusive media interest whether the stories were true or false. I said that I thought that the risk was less than 10% but it was still a risk. I had no intention of raising the matter with anyone else. I was just informing him because I thought that he ought to know and I was leaving the issue with him. That was how the matter ended. I think [REDACTED] continued to have a role in Rectangle but I do not think it was a very visible one. This was an awkward issue, and the outcome meant that a possibility of an effective one-to-one relationship with a [REDACTED] had been lost.

213. In the initial stages of the working relationship with the Law Officers there were difficulties in relation to prosecution and charging issues. One related to the decision to charge a man

called Wateridge, who had previously worked at HDLG and was accused of indecency offences involving children. I see from the Attorney Generals statement that this event took place on Wednesday 30<sup>th</sup> January 2008. Some of Mr Harper's reasoning for not wanting to arrest and then release any suspect in order to await legal advice, involved a perceived need to maintain a momentum, and to strengthen witness and victim confidence in the authenticity of the enquiry. I was told from time to time that some witnesses with important evidence were speaking to the police verbally, but lacked the confidence to commit their evidence to writing. The charging of a suspect would be a symbolic act which might inspire confidence in the justice system in the minds of many who were still sceptical. If my recollections are correct, then the Wateridge arrest will have been after the unrelated arrest of Boschat referred to earlier. If that is the case then Mr Harper would have also wished to avoid a repeat of the "Boschat experience" described earlier in this statement, whereby the gap between arrest and charge could provide an opportunity for political attempts to interfere in the process. It is probably fair to point out that I did not see this in the same way as he did. I thought the events around the Boschat case were peculiar to that case, and unlikely to be repeated. However I was aware that the experience had affected the way in which Mr Harper was then approaching his relationship with the Law Officers, and his own preferences in respect of issues of arrest and charge. He had discussed his intentions with me some time previously. I understood that it was his wish to convince potential witnesses that this time it was "for real" by bringing charges early in the enquiry, and I supported the idea that he should move forward on that basis in liaison with the Law Officers Department. This discussion would have occurred when he was working with members of the Law Officers Department who were based in Police Headquarters. They were Lawrence O'Donnell and possibly Bridget Shaw, but I am not able to recall whether he said that he had discussed it with them. It would be surprising if he did not. I see from the statement of Stephen Baker that all of the relevant email exchanges relating to the arrest of Wateridge had been copied to Lawrence O'Donnell. It may be that he had been the person giving advice up to that point. The investigating officer may see value in exploring this whole issue with Mr Harper.

214. The core of the story is that Wateridge was in the process of being charged, when Stephen Baker attempted to intervene but apparently was too late to change matters. My notebook for that day records that in my briefing from Mr Harper I was told that there had been an "issue regarding charging." (Notebook 07/358 page 68.) Stephen Baker's intervention came at a time about which he states "At that stage I knew nothing about the cases." (Statement of Stephen Baker paragraph 7.) He had clearly been retained by the Attorney General to work on the abuse enquiry. He knew that, and obviously the Attorney General knew that. I see from his statement that the Attorney General wrote to Lenny Harper to inform him of the arrangement on 17<sup>th</sup> January 2008. No claim is made that there had been any contact with Mr Harper from Stephen Baker or Cyril Wheelan, or that any meeting had been arranged to activate the relationship. One interpretation of these events could be that the police investigation was running ahead of the engagement by the Law Officers appointees, who were attempting to catch up with the enquiry at short notice, without having first established a working relationship or familiarised themselves with the details of the enquiry. This was not a positive episode in the working arrangements with the Law Officers Department and it led to some exchanges relating to how matters could be taken forward in a more corporate manner. I note that the Attorney General states that shortly after this episode a meeting was arranged between Lenny Harper,

Stephen Baker and Cyril Whelan. The reports of the Homicide Working Group indicate that this meeting took place on 28<sup>th</sup> March 2008.

215. I recognised the need to build a closer working relationship the Law Officers Department and asked André Baker for advice on the best way to approach this. He said that the integration of a lawyer into the team would be a positive move and that *"a step approach may be the best way to achieve such."* (Statement André Baker paragraph 44.) It was with this advice in mind that I approached the meeting of 22<sup>nd</sup> April 2008 with Stephen Baker, Cyril Whelan and Simon Thomas. I had previously had some professional involvement with Baker and Whelan but it was the first time I had met Simon Thomas. We had an amicable discussion, during which I made it clear that although the working relationship with the Law Officers department had experienced a bumpy start, I was determined to overcome this and achieve full integration with the legal team. The introduction of Simon Thomas to the enquiry was the first move in the *"step approach"* I was being advised to take, and I hoped that this would lead to the building of a successful and growing relationship in the near future. I see from his statement that after the meeting with me he had a *"friendly"* meeting with Lenny Harper and was provided with the necessary access and facilities.
216. Before moving on to the case of [279, 281] and how this affected the relationship with the Law Officers, I will touch upon another aspect of the meeting of 22<sup>nd</sup> April, which related to a theme which I had been pursuing throughout the enquiry, namely the chain of command in relation to legal advice, and the need for clarity in respect of who the police were working with, and who was able to give authoritative advice and decisions. I recall that I raised this and was told by those present that Simon Thomas was working directly with the police, but that he was employed by Stephen Baker. I was told that Cyril Whelan was also working with Stephen Baker, and that the working relationship would be in Jersey, although either at this meeting or in a subsequent conversation I was told that a specialist lawyer in England would be receiving some statements by fax and giving advice. However, the Attorney General would remain in control, and would be taking the key decisions, although he would not be directly involved in the working relationship. At least I think that is what I was told. I later asked the same question directly to the Attorney General. He had to give the matter some thought, but then offered a similar analysis.
217. This was not the type of arrangement to which I had been accustomed in my previous working experience. I had been engaged in a number of enquiries in my previous force, mostly relating to professional standards issues, where a working relationship with prosecutors had been important. This relationship was always arranged the same way. At the commencement of an enquiry the Crown would appoint a single Procurator Fiscal with full authority to take all of the relevant decisions. The working relationship was between the one Procurator Fiscal and the one senior police officer. In my view this is how it should be. The arrangements applied by the Law Officers to Rectangle almost needed a flow-chart to be understood. They were fertile ground for inconsistency, mixed-messages, and misunderstandings. Things were difficult enough as it was, without the added burden of complex and confusing arrangements for legal advice and prosecution.
218. Nevertheless, following the introduction of Simon Thomas to the team I maintained an interest in how the arrangement was progressing, by asking Lenny Harper directly, and by chatting to staff when I was on *"walkabout"* in the Major Incident Room (MIR) and elsewhere. I recall it was during this period that I met some junior lawyers who were in the MIR. They told

me they were working on some disclosure files on behalf of Stephen Baker. Generally speaking, I was picking up positive indications and became quietly confident that the "phasing in" of the legal team was going to plan.

219. I now turn to the arrest of [279, 281] and the events which followed. There are different accounts of this incident, but I believe that there is common agreement on some key core facts. These are as follows:

- There had been discussions between Simon Thomas and the officers in the case, in the days prior to the arrests. These appear to have taken place on 17<sup>th</sup> and 20<sup>th</sup> June 2008. No written record of these meetings has been produced.
- Simon Thomas gave legal advice. This appears to have been verbal. No written record has been produced.
- On the day of the arrests Simon Thomas was in England and gave further advice to police officers by mobile phone.

220. These events took place against a background of a decided policy of the S.I.O, described earlier, of seeking to charge suspects on the day of their arrest. The reasons for this policy are given earlier in this statement. The exchanges around the arrest and charge of Wateridge will also have alerted Stephen Baker to the views of the S.I.O. in this regard. I was later told by Lenny Harper that Simon Thomas was well aware of his intention to charge [279, 281] on the day of their arrest and that Thomas agreed to that course of action. I am aware this is disputed by Simon Thomas.

221. Whatever the truth of the matter, it appears to be beyond dispute that confusion was allowed to develop. Simon Thomas knew full well that we were engaged in a "bridge building" exercise after a period of difficulty. In these circumstances he had a duty to be precise in his advice, and to be available at key moments in the enquiry. This did not happen. What happened may have been a genuine misunderstanding as to the way forward, but the actions of Simon Thomas contributed to the problem. I felt then, and I feel now, that he let me down and he let the Law Officers down. A carefully planned phased transition towards the full integration of the legal team into the enquiry had suffered a serious setback. I will now describe how I was alerted to this and what action I took.

222. I arrived at work on the morning of 25<sup>th</sup> June 2008 and was met in the outer foyer of my office by my then Staff Officer, Jeremy Phillips. Jeremy was good at sensing "trouble" and he would often speak to me directly if he saw a problem developing. On this occasion he indicated that he wanted to speak to me before anyone else, and before I got distracted by other things. He showed me the press release that Mr Harper had issued the night before regarding the release of [279, 281]. I read it and recognised that it would cause problems. In short, the press release stated that [279, 281] had been arrested on the basis of legal advice that they were to be charged after their arrest. It claimed that the legal advice had then been changed and in consequence they had been released. The media statement had generated significant interest.

223. I may have had some brief discussion with Lenny Harper on the media release during the earlier part of the day, but if I did it is not recorded. I do have a note that I spoke by telephone with David Warcup and discussed how the matter was to be handled. I also have a record that at 1355 hours I attended a meeting at the Law Officers Department with the Attorney General and Andrew Lewis who I believe was Assistant Minister for Home Affairs at that time. (Notebook 08/95 page 47.) The Attorney General was angry regarding the events surrounding

the arrest and release of [279, 281] and I could understand why. At the appropriate time I steered the conversation towards the need for a recovery plan. I emphasised that I was in the process of introducing a new management team to the enquiry and I had spoken that morning to David Warcup and obtained his agreement that the future of the enquiry would be structured around the concept of a "mixed team" of police officers and lawyers. (Notebook 08/95 page 47. Day book 25<sup>th</sup> June 2008.) I told him I proposed to direct that there should be no further arrests for the time being and I hoped that he would agree that any future legal advice would be in writing. I said that I planned for Alison Fossey to report directly to me over the next few days, and that she would be tasked with preparing the ground for the new management regime and the new working partnership. I also took the opportunity to repeat my long standing request that he appoint a single lead lawyer with delegated authority and full time commitment to the investigation. I later confirmed all of this in a letter. John Edmonds was present at that meeting. I had not met him before but learned that he was new to the island and had a background in criminal prosecution. I recall it was not long afterwards that I had occasion to speak to the Attorney General on another matter and I took the opportunity to ask if John Edmonds was a suitable person to be our single point of contact. The Attorney General seemed surprised at the suggestion and I heard nothing more of it.

224. Following the meeting with the Attorney General I had a face to face discussion in my office with Lenny Harper about the media release. He told me the investigating officers were sure that Simon Thomas had agreed that [279, 281] be arrested and charged on the same day. The media had been aware of the arrests, and had asked for updates. Before [279, 281] could be charged Simon Thomas had made a mobile phone call from a location in England, as I recall Mr Harper said that it was from a railway station, and had directed that no charges be brought at that time. Mr Harper said that this put him in a difficult position with the media as they wanted to know what had happened, and he did not want the police to be blamed for the confusion. I told him that nevertheless his actions had created something of a crisis which I would now have to manage.

225. I instructed him as follows and later confirmed what I had said by email:

- He should submit a written duty report on the incident.
- There should be no further arrests without specific written advice from the Law Officers.
- All relevant press statements will be cleared with the Law Officers before release.

226. I told Mr Harper that I would be engaged in further discussions with the Attorney General on the management of the problems arising from this event. I acknowledged that he was approaching the end of his service and was about to take a period of leave, before returning to conclude his role in relation to Rectangle. I said that I had been engaged in discussions with his successor who would have oversight of the enquiry and that it was clear that Mr Warcup preferred a close integration with the legal team, and that this was likely to be the direction in the future. It would be helpful if he did not impede that transition. I also said that I would be asking the Deputy S.I.O. Alison Fossey, to report to me daily, and it was probable that I would be asking her to do some preliminary work to secure the level of integration I envisaged for the future. At the end of this discussion Mr Harper left my office. (Notebook 08/95 pages 47-48 and follow-up email.) My notebook records that following his return from leave I had a small number of brief contacts with Lenny Harper during the period when he was "clearing his desk," ready to hand over to David Warcup. I did not see Lenny Harper in the final 10/11 days of his service and have had no contact with him since.

227. Shortly after [redacted] 279, 281 incident I began my regular meetings with Alison Fossey. At an early stage I said that she should arrange to see Stephen Baker, find out what he wanted from the enquiry in terms of access and information, and tell him that he could have it as soon as it could be arranged. I then concentrated on giving David Warcup the support he needed to implement the necessary changes, and in focussing on previous experience in joint working as a key factor in the selection of the new S.I.O.
228. I have since seen a report in the Jersey Evening Post dated 25<sup>th</sup> June 2009 which quotes from the Attorney Generals Annual Review. In the report there is reference to the issues around Rectangle, and the Attorney General is quoted as saying "However, some of the faults must have been on the side of the law officers, whether of communication or otherwise. Whatever the cause, the result was that the law enforcement agencies did not work together as they should."
229. I will now attempt to deal briefly with some of the lesser issues relating to the relationship with the law officers. At the beginning of this section I have touched upon my oversight of enquiries into criminal allegations made by Senator Syvret concerning the Attorney General and others. This has been dealt with in more detail in the previous section of this statement. I do not think there is much I can usefully add, other than to re-state that although I could not totally avoid the Attorney General during this period, my responsibility for the enquiry into the Syvret allegations was an inhibiting factor in respect of our working relationship.
230. I have also mentioned earlier the allegations that the Attorney General had been seen playing golf with a leading suspect, who was named as [redacted]. I know one report came through Wendy Kinnard, when she was Minister for Home Affairs. I have a brief note which may indicate that this conversation with Ms Kinnard happened on 23<sup>rd</sup> June 2008 (notebook 08/95 page 46). I was also aware there were said to be reports from other sources. I recall that enquiries were made and the person who was supposed to have witnessed the event either could not be traced, or was overseas and could not be contacted. For a while this story was "doing the rounds," and it seemed that lots of people knew someone who knew someone who had seen this incident. I think that at some stage the story was put to the Attorney General and he said that he did not know if it was true or not. I was told that the Attorney General and [redacted] are [redacted] and it is possible that they may have [redacted]
231. Personally, I see this as an issue which is in some respects typical of situations which arise in island jurisdictions, where key individuals live and work together in the same community. I am personally willing to accept that if the Attorney General played golf with [redacted] 100 times he would still be willing to prosecute him or not, as the evidence required. The stories did however impact badly on issues of perception, fed the imaginations of conspiracy theorists, and damage victim confidence. It would of course not have mattered much at all if the Attorney General had agreed to my request to appoint an independent prosecutor and step back from the whole enquiry. But that request was not acted upon.
232. I have been asked to comment on things I am reported to have said in the context of managing the relationship with prosecutors, concerning the imminent retirement of Lenny Harper and the impact this might have had on issues relating to the practical control of his actions. Anything I said around this will have been against the background of handling the transition to the new management regime. It was clear that both the Attorney General and Andrew Lewis were eager for change. I tried to persuade them to be patient and to allow the succession plan to take its course. I held strongly to the view that any direct intervention in Mr



Harper's role during the final weeks of his service would ignite a media frenzy and distract from the smooth transition we were trying to achieve.

233. I was conscious that Mr Harper was under some pressure. The investigation had been demanding, and he had been through some difficult periods. I was also aware that there were some medical and other issues in his family which were causing him some anxiety. In addition, he was approaching the end of his long service as a police officer and this in itself was a major life event. Nevertheless I thought that he was coping well, and at our regular meetings he seemed to be in good spirits but clearly tired and ready for a rest. He had coped with some traumatic personal and professional events in the past, and had come through them well. He was on the receiving end of some political criticism, but there was nothing new about that. I was aware that both the Attorney General and Andrew Lewis were looking forward to his departure, and would probably be happy to see him forced out sooner, provided someone else did it; and did the explaining afterwards. I felt that the right approach was to stay calm and seek to achieve a seamless transition. Mr Harper was already in the process of closing down his role in the enquiry and this should be allowed to continue. I did at some time make the obvious point that he had by then passed the time where any disciplinary sanction could be applied to him, even if he had done anything which merited such action. The right thing to do was to manage him through his final weeks, and then re-launch the enquiry on a revised basis. In arguing for this approach I did not foresee the <sup>279,</sup><sub>281</sub> episode, but neither did anyone else, and by the time it had happened the handover had already begun.

234. Finally with regard to this part of the statement, I note the comments by some of the lawyers who have provided statements to the effect that from their perspective things improved significantly when Mr Warcup and Mr Gradwell became involved in the enquiry, and the apparent willingness of some lawyers to see this as evidence to my detriment. There is an absence of comment, or even apparent curiosity, as to where Mr Gradwell and Mr Warcup appeared from. Presumably nobody thinks that they dropped suddenly from the sky, although a reading of some statements might give this impression. Yet again, and for the record, let me repeat that both Mr Warcup and Mr Gradwell were appointed to their roles as part of a structured plan which I devised, and which I drove through the political process in the face of significant difficulty. If it had not been for my efforts neither Mr Warcup nor Mr Gradwell would have been appointed at all. When appointed they implemented my wishes, well documented before their arrival, to develop an effective partnership with the Law Officers Department. This is the basis of the claim made at the beginning of this section of my statement. Not a single lawyer identifies a single facility or a single piece of information which was not fully delivered, either by me personally, or by subordinates acting under my instructions, and at the time of my suspension there was in place a working partnership which met all of their expectations. That was an outcome of my efforts on behalf of the enquiry. There is not a shred of evidence that I failed to deliver in respect of any legitimate expectation regarding the working relationship with the Law Officers Department.

235. The Search of Haut de la Garenne.

I have been asked to comment on "*The justification for the search of HDLG.*" I do not think that I have a great deal to say on this matter. The reasons which led Lenny Harper as the Senior Investigating Officer to conclude that an examination of some locations at HDLG was

appropriate are well documented. That was primarily his decision. From what I was told of the evidence, his decision seemed perfectly reasonable. I recall the original expectation was that we might be there for a couple of weeks or not much longer. The intention was to do some initial exploration to see if there was justification for further work. I have described earlier in this statement how I discharged my obligations under the Police Law by meeting with the Connétable of the Parish, and providing him with a briefing on the day the operation started.

236. As is now well known, the initial examination of the scene indicated a need for further work, and this in turn identified a need to explore further. I am aware of no speculative searching at HDLG. All of the searches were based on intelligence or evidence. The whole of the complex is a fairly large site. I have not worked it out precisely, but suspect that we might have searched no more than 5% of the total area. From time to time the work at the scene indicated that there were rooms and areas which had been "bricked up" and there was at least one false wall. These understandably aroused interest and it was necessary to determine whether there was justification for a more detailed search. The search dog seemed to play a significant role in determining whether a specific location needed to be examined further. I am not an expert on dogs or what they do. I do know however that this dog and its handler came with the appropriate recommendations from the U.K, and it was used accordingly.

237. There was always an intention to call a halt to the searches as soon as possible, but as soon as a potential exit date approached there would be another find, which necessitated further work. It has at some stage been suggested to me that we could have avoided having to search HDLG at all. I think that this is unrealistic. During Rectangle we were attempting to mop up rumours, reports and allegations which had been circulating for decades. As I have explained earlier, Rectangle was the chance to bring closure to a long running saga. The only way to do this was to be in a position to say that every line of enquiry had been pursued, and there was nothing else to do. If we had not searched HDLG when we did, then it would have become necessary for it to be searched at a later date, and in the intervening period the allegations of cover-up and conspiracy would have grown more complex, and taken a stronger hold in the beliefs of the community. I am sure that we were right to undertake the search at HDLG, and to place the Force and Jersey in a position to say that the whole issue of what may or may not have been concealed there, had been examined as thoroughly as possible.

238. I believe this was a common view at the time, although the views of some others appear to have been influenced by hindsight. For example I note that the former Chief Minister, Frank Walker, whose statement indicates that he now holds a different view, nevertheless had no hesitation in April 2008 in telling the States that "I am satisfied, completely satisfied, that the police have a totally legitimate need to investigate those cellars." (Statement Frank Walker paragraph 20.)

239. Operation Rectangle as a "Critical Incident."

I have been asked to write about my understanding of the term "*Critical Incident*" in the context of policing. To some extent I have done this earlier when I described the policy-making process, and how consideration was given to adopting the concept of a "critical incident" in Jersey. I described how the necessary work was not finished, and how accordingly, the concept was never formally adopted.

240. I have examined the guidelines produced by the National Policing Improvement Agency for England and Wales (NPIA.) I will offer some comment on the guidelines, and their local relevance. Where applicable I will emphasise a particular part of the quoted text. Such emphasis will of course be mine and not that of the authors.
241. The guidelines state that they contain *"Practice advice to assist policing in the United Kingdom."* The guidelines go on to state *"The implementation of all practical advice will require operational choices to be made at local level in order to achieve the appropriate police response."* The broad sweep of the guidelines emphasises the need for early identification of an incident which may have a wider impact than the initial circumstances may suggest. Examples are given in the guidelines of cases which had a major impact, but which were initially regarded as relatively routine, with some consequential loss of control and effective management. The Stephen Lawrence and Harold Shipman cases are given as examples. Elsewhere in the document guidance is given on the relationship between local policing, in the form of Basic Command Units (BCUs) and the Chief Officer team based at the force headquarters. Readers are alerted to issues which can arise if local commanders are slow to recognise the significance of an incident, and bring it to the attention of the Chief Officer team. The advice is set in an overall context in which *"more than two fifths (forty two percent) of victims were less than 'fairly satisfied' with the police response they received,"* and in which there are issues of trust and confidence to be managed in partnership with minority groups in the community. There is also an identified need to access groups which are described as *"hard to reach or hard to hear."* The guidelines emphasise the priority of addressing the impact on victims, their families and the community. These appear to be the priorities on which the police are encouraged to focus.
242. I cannot criticise the guidelines for their wisdom and value in a U.K. urban policing context. They do however describe a background which is a world apart from island policing, and the situation in Rectangle. Jersey has a single professional police service in which the Force headquarters and territorial policing are combined. All key managers meet every morning, and operational incidents are monitored by the management team both at work and from home on a 24/7 basis. Levels of public confidence are high, sometimes exceeding 90% in key areas, and the Jersey Social Survey indicated that in some cases minority group confidence was higher than the overall average. There is no suggestion that the significance of Operation Rectangle was in any way overlooked or missed. Far from it, the significance was recognised early. Oversight and investigation were provided at a rank level several tiers above that which might be considered normal for an enquiry of that scale (Statement of Peter Britton. 5<sup>th</sup> March 2009. Paragraph 6.) The approach to the hard-to-reach groups, who for the most part constituted the victims and witnesses in Rectangle, was carefully managed and effective. I will deal with this in more detail later in connection with a question relating to the "Gold Group."
243. I see from the documentation which has been provided to me that on 28<sup>th</sup> December 2007 Mr Harper recorded that in his view Rectangle was *"technically a critical incident."* He then goes on to describe features of the critical incident model which he had decided not to apply at that time. I also note that on 7<sup>th</sup> May 2008 Inspector Fossey records that *"The historical abuse enquiry is a critical incident,"* she then goes on to describe the family liaison strategy for Rectangle, and how this differs from the normal model used in U.K. This ambiguity is understandable. What is evident is that Jersey officers are showing an awareness of U.K. guidelines and are effectively "cherry picking" those aspects which they see as locally relevant. That is what they are supposed to do. That is the long established and politically endorsed

method of policing in Jersey. If there is now a wish that things be done differently in future then that is a matter for government. It is not something which the force can determine alone, and it is certainly not a matter within the sole remit of the Chief Officer of the force or the Management team.

244. Decisions relating to the application or otherwise of Critical Incident guidelines were taken by the investigating team and in particular by Mr Harper, who was the "Chief Officer" responsible for the enquiry. I recall no direct involvement on my part and would not necessarily expect to be involved in the kind of details which, for example, are included in the comments of D.I. Fossey as described above.

245. **The Role of the "Gold Group."**

I have been asked to provide information regarding my understanding of the concept of a Gold Group and related issues. I note from the disclosure evidence provided that all relevant witnesses confirm the success of the Gold Group, established under my command and on my instructions. I note that the Gold Group was operating successfully for over two months before my suspension. I believe that my timing for the establishment of a Gold Group was correct, and I will give reasons for this later in this statement.

246. However, to return to the initial question, I offer the following information on my understanding of the concept of a gold group, and my history of engagement with a group of this nature. I have described previously that I was promoted to Assistant Chief Constable in Lothian and Borders Police in 1991. I learned soon after my appointment that Chief Officers had evaluated a command system known as "Gold, Silver and Bronze." The result of the evaluation was that the system was judged unsuitable for use in the police service. As I recall the reasons given included the fact that the proposed system envisaged an officer at police headquarters exercising command over the officer in charge at the scene of an incident. This was felt to be the wrong way round, and contrary to the established role of the O.I.C. (officer in the case/officer in charge/officer in command) system which operated generally in the service. It was also felt that "Gold Silver and Bronze" necessitated an additional layer of bureaucracy, and obscured issues of individual responsibility. I recall that the other emergency services also rejected the system for similar reasons. At some stage I learned that police forces in England had come to an opposite view. I cannot comment on this. I have not lived or worked in England for approaching 20 years, and am not able to speak with any authority on how things are done in that country.

247. When I was appointed as Chief Officer of the States of Jersey Police I noted that "Gold, Silver and Bronze," was in use for major events. I did not interfere with this. The force was accustomed to working that way, and I do not believe in change without justification. I did however ensure that whenever I was involved, Gold command operated with a light touch and that primacy was given to the judgement of the senior officer on the ground.

248. I recall a series of discussions around the concept of a partnership based approach for Rectangle. I remember discussing "partnership working" more than the concept of a "Gold Group" although the two concepts are basically the same. These discussions were with Lenny Harper and André Baker and also, I think, with Wendy Kinnard, although I am less sure of the latter. Lenny Harper has documented his reasons for not establishing a Gold Group in December 2007. In summary these relate to the fact that there were allegations touching upon potential partner agencies, and that the establishment of a group at that time could involve the

risk of compromise. He was right in that decision. In the early rush of activity after Rectangle became public knowledge, allegations of involvement, conspiracy, and cover-up were flowing thick and fast. Prominent individuals were being "named" and it was impossible to predict where all of the allegations were leading. I was sure that the force needed to move towards something along the lines of a "Gold Group" model, but equally sure that this could only be done when the evidential picture had achieved a level of stability which was not present in the early stages.

249. There were nevertheless discussions as to what compensating measures could be taken in the intervening period. Lenny Harper's engagement with the N.S.P.C.C. from England was a positive move. They became part of the Rectangle team and brought a level of expertise which might have been available through a local partnership had circumstances been different. I also gave thought to how my own actions could bridge the gap until a time when a more formalised partnership could be in place. As a normal part of my duties I was meeting with the Chief Executive and the Chief Minister from time to time. I would use these occasions to provide updates and receive feedback. This would in turn be fed into my daily meetings with Mr Harper. Other routine meetings included the Attorney General, and to a much lesser extent the Bailiff. I also made use of my regular cycle of meetings with the Minister for Home Affairs and the Assistant Minister. These meetings provided an opportunity for briefings and feedback, which was supplemented by informal meetings, and encounters in-between more formal meetings. For example, notebook 07/358 page 50 records a chance meeting with Senator Perchard, who was at that time Assistant Minister for Health, during which issues around the enquiry were discussed. I have described earlier the meeting cycle of the force, and how this involved regular contact with finance staff. These meetings continued throughout Rectangle and will be addressed in more detail later in this statement. Additional to my discussions with the Jersey authorities I provided periodic confidential briefings to His Excellency the Lieutenant Governor in his capacity as the representative of British Crown interests.
250. Perhaps the most significant of the contacts I established and maintained during this period was with Senator Stuart Syvret and his partner Deputy Carolyn Labey. Senator Syvret was by nature a person who was unlikely to work in co-operation with any group he saw as representing the Jersey "authorities," and this included the police. Yet he was a person who victims and witnesses would trust. He was our route into the "hard to reach and hard to hear" groups whose co-operation and confidence was important to the enquiry. I worked with Mr Harper in maintaining contact with Senator Syvret and Deputy Labey, and building their confidence in the independence and integrity of the police operation. This was done without compromise to confidential information held by the police. It was a relationship which was able to survive Senator Syvret's disappointment at the result of his complaints against the Attorney General and others which I have described earlier. Victims and witnesses would approach the Senator with information, and he would agree to pass this to the police. In reality this information rarely added to our knowledge. What was however, of greater value were his public assurances that the police investigation would be thorough and independent, and his encouragement to anyone with information to contact the Rectangle team. This is my perspective of the relationship with the Senator, and how it worked to the advantage of the enquiry. The investigating officer may see merit in obtaining an account from the Senator's own perspective.
251. It would be an over-statement to describe the activity in the preceding paragraphs as constituting the operation of a "Gold Network," but I was nevertheless conscious that it

combined some of the principles which I hoped to incorporate into a more formal group at the right time.

252. While the logic of the narrative to this point would appear to require that I go on to describe the transition to a full gold group and its timing, I am conscious that I have also been asked to write about issues relating to a Community Impact Assessment and the Independent Advisory Group (I.A.G.) There is a degree of overlap in the subject matter which makes it difficult to address these themes separately. There is also the significance of the consequences of the formation of the I.A.G. and how these amounted to a setback for the intention to form a gold group.

253. The Independent Advisory Group and Related Issues.

To begin with, I have been asked to comment on the matter of the Community Impact Assessment (C.I.A.) My recollection is that this was mentioned to me by D.I. Fossey in an informal conversation which might have happened when I was on "walkabout" within police buildings or HDLG. She told me that a C.I.A. was being prepared. I noted what she said, and did not seek further involvement. From the context of the conversation I took it that she had been asked to complete the assessment by Lenny Harper. I was not familiar with the concept of a C.I.A. at that time but have since read about it from the guidelines on the management of a critical incident.

254. I see that the purpose of a C.I.A. is to *"identify factors which may have an effect on community tranquillity."* Under the guidelines the responsibility for ensuring that an assessment is carried out rests with *"Chief Officers."* Lenny Harper was a *"Chief Officer"* for the purposes of those guidelines. The guidelines state that assessments *"may involve cross-border considerations (eg. where an incident takes place in one B.C.U. and the family lives in another.)"* From my reading of the guidance it appears that the primary relevance is to larger forces where communities are diverse and where there may be tensions in relationships with the police. I take the reference to factors which may have an effect on *"community tranquillity"* to be coded language which relates to the risk of police actions having the potential to trigger public disorder.

255. I decided not to get drawn into a discussion of the relevance of a C.I.A. in Jersey. Island policing is very different from the situations described in the guidelines relating to critical incidents. To begin with, the police service in Jersey lives within the community it polices. There is nowhere else where it can live. I have previously worked in urban stations in the U.K. where no police officer lived in the community we were policing, nor would we want to. We drove in to work, policed the area we were paid to police, and then drove home afterwards, often thankful that we did not have to live near our place of work. Island policing is not like that. We live and work as part of the community we police. We shop in the same shops, and drink in the same pubs. Our children go to the same schools, and we get our hair cut in the same hairdressers. Police officers are known and recognised on and off duty. Our police officers are recruited from every significant ethnic and economic community in the island. In these circumstances I question the need for elaborate tools to tell the Force what is going on in the street where we live. I am aware that there will be other views. However, I am the Chief Officer of the Force and that is my view.

256. Irrespective of my views regarding the relevance of a CIA, it had clearly been commissioned by the S.I.O. and that was a matter for him. I did however continue to monitor a reliable source of community views on a regular basis. This was the crime victim survey work undertaken by the force research unit. Among other things, victims were asked a few simple questions designed to provide a measure of public confidence in the force. The results were published quarterly, but I would visit the unit on a regular basis. I did this because I had a natural professional interest, and also because the then Chief Minister, Frank Walker, and the Chief Executive Bill Ogle, had told me from time to time that Rectangle was "damaging the reputation of the force." I once asked Frank Walker how he knew this, and he said that he knew it was true because all of his dinner-party guests and tennis partners said so. I was inclined to believe that the people to whom he referred were not necessarily a cross-section of the community, and thus sought reassurance from a more scientific source. For this reason I repeatedly checked with the research unit to see if there was any statistically significant change in public perceptions which might be attributed to Rectangle. None was found.
257. In his statement (paragraph 23,) André Baker describes a meeting he had with Lenny Harper, and myself at HDLG at which the formation of a gold group and an Independent Advisory Group (IAG) was discussed. Mr Harper did not want either but I was coming to the view that we might need both eventually, although I could see the argument that the time was not yet right for a gold group. There was a convincing argument that there was not yet sufficient clarity around who, in the potential partnerships which would constitute the group, might be directly or indirectly compromised as a consequence of the investigation. After discussion I decided that we would press ahead and form an IAG. All that I knew about an IAG was what André Baker told me at the meeting. I had never been involved in one before. André said that he would provide the necessary guidelines, terms of reference and advice. At that time I had mixed feelings regarding the relevance of an IAG but felt that on balance it should be tried. For reasons which I have discussed previously, I had reservations regarding the importation of English policing methodology into a small island force. However, I was resolved that an IAG would be formed and given a chance to succeed. In taking this decision I had a number of considerations in mind. Firstly, it might prove to be worthwhile in itself. Secondly, I had committed myself to working to the advice given by André Baker, and this was his advice. I either had to accept it or think of a good reason why not, and I could not think of one. Thirdly, in spite of my ingrained resistance to bureaucracy I was coming to the view that Rectangle was reaching a scale at which some of the management processes used in larger forces may need to be applied. This included a gold group. I saw the formation of an IAG as "making a start" which could be progressively developed into other processes.
258. Having agreed to an IAG I then set about putting it together. I used contacts to produce a list of names and was pleased when all agreed to take part. I took a personal involvement in the early business of the group then deliberately pulled back to allow the relationship between the group and the Rectangle team to develop. Quite early in the life of the IAG I found myself fielding political "flack" from a variety of sources. No matter how often the purpose of the group was explained it was clear that some States members saw it as a threat. The group was portrayed as some sort of "watchdog" or oversight board which, it was argued, usurped the role of elected members. It was not long into the life of the group that the Attorney General became involved. This happened after the group had, with the best of intentions, invited public



representations in respect of Rectangle. The Attorney General asked that I meet with him about this.

259. The Attorney General set out some of his reservations regarding the appropriateness of establishing such a group in Jersey. In his witness statement he says :

"I was not sure that there was a role for such a group here in Jersey for this specific case alone. Whilst I can see the relevance of having such groups set up in the U.K. to advise for example where there were potential racial difficulties. I was not sure that there was (were) any potential difficulties in this case which could be perceived by the community and which were unknown to the police."

(Witness statement of William Bailhache, H.M. Attorney General for Jersey, dated 30<sup>th</sup> April 2009 paragraph 112.)

He also told me that he felt that the public consultation by the IAG put them in contact with potential jurors, and could prejudice future proceedings.

260. I could see the logic in the view of the Attorney General. I knew through the history of our working relationship the he was sensitive to any introduction of U.K. practices into the island, and the formation of the IAG was bound to run counter to his views. He also echoed my own views, expressed earlier, that in a small island force we do not need elaborate mechanisms to tell us what is happening on the streets in which we live. In case it is not obvious I make the point here that in some ways the experience regarding the IAG almost encapsulates one of the principal dilemmas in the command of an island force, and in some respects the command of Rectangle. If we do not follow U.K. procedures we may be accused of failing to follow "best practice." If we do follow U.K. procedures we may be accused of unnecessarily importing foreign practices and undermining local autonomy.

261. The Attorney General told me that he wanted the IAG disbanded. I thought that this would be a bad idea. It would be a media event in its own right, and create yet another incident to be managed. I spoke to colleagues and said that we should keep the group in existence if we could, but try to do this in a way which gave it a low profile. Conscious that if no action was taken it might just "fade away" I intervened on 4<sup>th</sup> August 2008 to press for a "re-launch" of the group. On 14<sup>th</sup> August 2008 I pressed for a further meeting and a chance for the group to meet David Warcup. D.I. Fossey asked for delay due to availability problems. I feared that if another meeting did not happen soon, then recovery would be impossible. I instructed that a meeting should "happen" irrespective of whether all members could attend. This would allow David Warcup to introduce himself to members, and attempt to take the group forward under his leadership. (Email chain 4<sup>th</sup>-14<sup>th</sup> August 2008.) The group continued to meet throughout 2008. I later learned that they resigned in 2009 well after I had been suspended. Whatever led to their demise, it was not due to any actions taken by me. I respect all members of the group for the effort they put in and for their patience during a difficult experience. They were all busy people who had voluntarily given up their time to undertake a difficult public role. I wish that things had worked out differently.

262. The experience of the IAG caused me to think again about the extent to which I should be following the model recommended by the HWG, and in particular the timing of the introduction of the gold group. I was having these thoughts at a time when relationships between Mr Harper and the Law Officers were strained, and there were corresponding tensions with other areas of the public sector. I was coming to the view that the formation of a gold group and the application of some of the processes associated with a major crime enquiry in the U.K. would

stand the best chance of success if positioned as part of the change in the management regime for Rectangle. I discussed this with David Warcup, and indicated that I would try to keep things "ticking over" until he took command, and that thereafter, we should make a series of changes in the management and oversight of the enquiry. After David Warcup assumed responsibility for Rectangle we had a series of discussions regarding the enquiry, but specifically regarding the need for the new SIO, when appointed, to bring the investigation within a management structure which Mr Warcup would find more familiar. This is confirmed by David Warcup in paragraph 183 of his statement when he says *"Throughout the selection process it was absolutely clear that we were recruiting a candidate who had the skills and experience to work to the recognised national standards which I have previously referred to."*

263. It was through this chain of events that the Gold Group came into being and was launched at a time when it had the maximum chance of success. I am pleased that this new innovation in the policing of the island has proved successful. I attribute much of its success to the preparation and timing which I brought to its introduction.

264. Finally I have been asked in this context to provide information on the process of review, and the justification for a single agency approach. I believe that both of these issues have been covered in earlier parts of this statement.

265. **Financial Management.**

I have been asked to comment on my obligations under the Public Finances (Jersey) Law 2005 and the financial management of Rectangle. The introduction of the 2005 Law was a significant event for the Jersey Public Sector and for the Force. Prior to the introduction of the Law the Force had a Finance Director and supporting staff who assisted the management team by monitoring budgets and providing day to day advice. The Director of Finance was a member of the Force senior management team and attended executive meetings. **During this period, and all other times under my command the force has operated within budget.**

266. The 2005 Law introduced the concept of an "Accounting Officer." I saw a copy of the law at the draft stage, and noted it proposed that the Accounting Officer responsible for the Force would be the Chief Officer of the Home Affairs Department who was Steven Austin-Vautier. I also noted that in the guidelines accompanying the draft law the duties of an Accounting Officer included the setting of targets and objectives for line managers, and the monitoring of their performance. This had the appearance of an attempt by stealth to bring the management of the force under the control of a Civil Servant. The Chief Officer for Home Affairs took his instructions directly from the Minister for Home Affairs, and he also had a line of reporting through the Treasurer to the States, to the Minister for Finance. I suspected that it was yet another move in a recurrent agenda which sought to bring the police service "into line" and give it a status no different from any other States Department. A few years earlier I had spotted a similar move during the drafting of the Employment (Jersey) Law 2003. The initial draft of the Law effectively turned police officers into employees of the States, and gave Ministers direct powers of discipline and suspension. With valuable and much appreciated assistance from the Law Officers Department this aspect of the law was withdrawn, and the status of police officers as "office holders" accountable to their Chief Officer was preserved. However, the Public Finances Law proved to be more problematic.

267. I had meetings on the subject with the Chief Executive Bill Ogley, The Treasurer to the States Ian Black, and the Chief Officer of the Home Affairs Department Steven Austin-Vautier. I also submitted at least one paper opposing the proposals and giving examples of good practice advice from elsewhere. The thrust of my argument was that the Chief Officer of Police should be the Accounting Officer for the force, with appropriate qualified support, and that there should be no intrusive powers vested in a civil servant or any other person who was not a sworn police officer. This would maintain operational and financial responsibility under a single chain of command. The outcome was that I won half of the argument. On my analysis, once it became clear that the proposed controlling influence over the management of the force had been identified, and that it had been made clear that this would be challenged, there was no appetite to take it further. The attempt to bring the management of the force under political control through the small print of the Finance Law had been discovered, and whoever was behind the proposal would have to await their chance another day. However, it was decided that the Chief Officer of Home Affairs would be the Accounting Officer, but he would have no control over the management of the Force. Then, as now, the Chief Officer of Home Affairs is Steven Austin-Vautier. He had supported the original proposal. I told him that I thought that he was foolish to do so. He had accepted responsibility for something over which he had no control and this was always bad practice. In my view he should have supported my bid to assume the role of Accounting Officer, or better still, he should have supported my efforts to remove the Force from direct Ministerial influence by the establishment of a Police Authority as recommended by the Clothier Committee some seven years earlier, along with the devolved budget which formed part of the Clothier Model.

268. Not long afterwards the then Director of Finance and his staff were removed from police premises and re-located in the offices of the Home Affairs Department. I then had to think about how we would manage the Force without any qualified finance staff, and without any direct access to financial information. Having discussed the matter with Steven Austin-Vautier I decided that I should make it clear to the management team that the Home Affairs financial staff would have unrestricted access to the force, and that finance staff were expected to attend meetings of the Executive Strategy Group and the Force Management Board. This would give them formal engagement with the management of the force every one or two weeks as well as any informal contact they needed at other times. The Home Affairs Department finance staff (some of whom had recently been the police finance staff) did as requested and their attendance at Force meetings is well documented in the minutes of those meetings. There was always a standing item regarding finance, and the visitors from Home Affairs were encouraged to produce a single page report on headline issues. Primarily, this would involve details of spending to date and projections to the year end. If there was a projected over or under-spend there would be advice on how this could be addressed. If there was a "problem," for example expenditure which appeared to be inconsistent with the budget, or a demand for expenditure which was hard to address, the meeting would nominate a member of the Operations Management team to work directly with the finance officer to resolve it, and report the outcome to the next meeting. Importantly, this was also an occasion for the Accounting Officer, through his representative, to formally record any concerns. The record will show that this hardly ever happened.

269. I believe that the record of the meetings referred to will show effective corporate governance of the finances of the force in difficult circumstances. Sometimes the arrangement

led to near-farcical situations. On occasions the Treasurer to the States would ask for expenditure information, or there would be a need for the provision of financial data for some reason. This request would usually be addressed to the Accounting Officer or his nominee at Home Affairs, although sometimes it would be addressed to "all Chief Officers" which meant that it came to both me and the Accounting Officer. In the latter case the request would then be forwarded to me to deal with. I would respond by asking the relevant Home Affairs Finance Officer to provide the required information. I would then re-transmit the information back to Home Affairs so that the Accounting Officer could respond to the enquiry. Somehow we made the system work, but it is not an ideal way to conduct the financial management of a police force. At the end of each year Steven Austin-Vautier asked me for assurances regarding financial management. I think that this was a requirement of the finance law. This would trigger some exchanges about the degree of assurance I was able to give. We usually agreed a form of words which made it clear that I was providing any assurance on the basis of advice which I had been given by his staff. I know of no other police organisation which operates without any financially qualified staff, and without direct access to financial information. When the arrangement was first imposed as a consequence of the Finance Law, I speculated with Steven as to whether he and I were being set up to fail. He did not think so.

270. When it became clear that Rectangle was likely to have significant financial implications I asked Steven Austin-Vautier what arrangement he wanted in respect of financial management. I was conscious that it was his decision to make. He was the accounting officer and he had the legal responsibility for the budget. He said that he would appoint his Senior Finance Officer, Liz Middleton, to work directly with the Rectangle team. Liz was in many respects the right choice. She was his most senior finance officer, well accustomed to working with the police, and her abilities were respected. There was however a drawback which I was not able to discuss with Steven. I was aware that she was in a relationship with one of the suspects. The person concerned was [REDACTED] 108 [REDACTED]

The relationship was said to have been formed when [REDACTED]

[REDACTED] When the relationship became more generally known Liz was transferred to Home Affairs and 108 retired not long afterwards. Both 108 and [REDACTED] Mario Lundy, were both being "named" in connection with allegations at the time.

271. This was during a stage in the enquiry when new allegations were a daily event and the picture was still incomplete. It later became clear that the main allegations against 108 and Lundy related to physical abuse in their supervision of young boys, and that some might characterise this as "harsh treatment" rather than criminal abuse. However, at the early stages it was not possible to predict how far reaching or serious the allegations may turn out to be. I discussed with Lenny Harper how we should manage the appointment of Liz Middleton to the role and he did not seem concerned. As I recall he felt that she could manage the financial issues without access to operational information. He would monitor the situation and ensure that she did not gain access to the sensitive aspects of the enquiry.

272. From that point onwards I checked periodically with Steven Austin-Vautier that he was getting full cooperation from the Force. The budget for Rectangle was discussed regularly at management meetings. The record will show that details of Rectangle expenditure were reported at force meetings, and significantly, no concerns were expressed. No matter what the finance staff may say now, the fact is that they repeatedly attended meetings in the force when they "had the floor" and also had the opportunity to record any concerns regarding budgets,

expenditure or access. They could do this verbally or in writing. The minutes were always an agreed true record of what occurred, and would be forwarded to Ministers and published on the force intranet. No significant concerns were recorded.

273. There were a few key events along the way which merit comment. One was the unexpected announcement by the Chief Minister, Frank Walker to the effect that money would be no object in the abuse enquiry. Under the Finance Law he had no authority to do this. Only the States could vote for expenditure which was beyond the allocated budget. This took all Chief Officers by surprise, and undermined efforts which were being made to impose financial discipline. This was not unprecedented. Ministers were sometimes prone to making headline-seeking announcements which had financial implications, without then having any notion of where the money would come from. In this case it was more serious because of the potential scale of the expenditure, and because most Chief Officers had not assessed the implications for their department, or how they would be managed. While Chief Officers and financial staff understood the true position in respect of the Chief Minister's announcement, most other staff did not, and some saw it as a licence to spend as they saw fit. Myself and others then had to devote time and effort explaining the correct legal position to staff and restraining those who were about to commit to significant expenditure. My email to David Minty dated 1<sup>st</sup> May 2008 is one example. In short, I had been asked to sanction some additional expenditure in consequence of the enquiry. I pointed out that the announcement by the Chief Minister may have been "ultra-vires" and that we should await the outcome of a formal vote in the States before making further commitments.
274. From time to time I received verbal assurances from Liz Middleton and her staff, and from Lenny Harper that the direct relationship was working well and that full access to financial information was being provided. Steven Austin-Vautier appeared to be doing things his way, which tended to be relaxed and informal. His department did not appear to me to have the same rigour in its corporate governance structure as the police. Nevertheless, it was his business and not mine, I was conscious of the problems which can occur when there are "two captains on the bridge of the same ship," and I remained respectful of his responsibilities by keeping a discreet distance. This was particularly so in light of the assurances I was being given.
275. Things changed on 22<sup>nd</sup> May 2008 when the Treasurer to the States, Ian Black, intervened and appeared to remind Steven Austin-Vautier of the extent of his responsibilities as Accounting Officer. In an email the Treasurer told him "*the Accounting Officer was personally responsible for prudent and economical administration, and that resources are used efficiently and effectively.*" Steven was prompted to contact me on 27<sup>th</sup> May and ask me to sign a letter which provided him with assurances regarding the financial management of the investigation. This request was in addition to the annual document of assurance which I have referred to earlier. As far as I know this was the only action which Steven Austin-Vautier proposed to take in response to the email from the Treasurer. I declined to sign the letter. I was not directly involved in Rectangle which was being overseen full time by Lenny Harper. In addition, I had deliberately kept a distance from the relationship between Lenny Harper and the finance team. I resisted the temptation to remind Steven Austin-Vautier that the only way I could get financial information on any police activity was to ask a member of his own staff, who would be in an office a few feet from his own. However, Steven had asked for support, and I resolved that I would provide it. I also saw it as an opportunity to bring my own style of working to bear on the

financial oversight of Rectangle, as opposed to what I saw as the less structured approach which Home Affairs had been taking.

276. I responded to him on 9<sup>th</sup> June 2008. The delay was because I had taken a few days leave which I had spent locally. (Notebook 08/95 pages 36-37.) I responded by suggesting that what the situation needed was a Financial Oversight Board (FOB) with agreed membership, an agenda, and minutes of meetings. I recommended that apart from myself and Steven the membership should include Liz Middleton and the S.I.O. Steven agreed to my proposal, but seemed slow to take it forward. I see that the first meeting did not take place until 23<sup>rd</sup> July 2008. I recall that at the first and subsequent meetings I seemed to be the one taking the proactive approach. I introduced the concept of "constructive challenge" into the terms of reference and I urged Steven to obtain support from auditors. All of this was accepted. The investigating officer will note from the minutes of the Financial Oversight Board that there is no record of any unresolved concerns raised regarding the expenditure associated with Rectangle.
277. I was alert to the fact that I had agreed that David Warcup should press ahead with the establishment of a gold group, and there was an overlap with the responsibilities of the Financial Oversight Board. I envisaged that once the Gold Group was firmly established, it would be possible for it to absorb the FOB into its business. I discussed this with David Warcup who had asked me about the future of the FOB. I explained the difficulty that both Steven Austin-Vautier and I were then in positions where we were taking personal responsibility for finance, and I was not ready to let go of personal control through the FOB until I was sure that a proper and proven arrangement was in place for discharging those responsibilities on our behalf.
278. I have been asked to cover a number of other points relating to finance, some of which are tactical and some operational. I will provide as much information as I have on these issues. To begin with there is the curious matter of the Rectangle overtime costs, and their alleged impact on Jersey pensions. This is referred to in my email of 20<sup>th</sup> August 2008. This followed a meeting of the Corporate Management Board (CMB) which is the public sector Chief Officer group. Towards the end of the meeting we were given advance information on the pension rises for the year, which were due to be announced. I recall that this information was given by Mick Pinel who is a senior civil servant in the Human Resources Department. He said that pension rises were linked to pay costs in the public sector and that these had risen by 5%. It was recognised by all present that this created a potential problem. There was a constant political agenda around the cost of the public sector, which in popular belief was overstuffed and costly. This belief was countered by claims by Ministers that costs were being reduced. I recall that the public sector pay increase for the relevant year had been about 2.5% and that there had been no significant increase in staff. A cost increase of 5% therefore needed some explaining. I had little doubt that the rise would be due to questionable re-grading and similar devices used to overcome pay restraint. I was therefore not pleased to hear that it was proposed to attribute the increase to the overtime costs of Rectangle. I saw this as a straightforward evasion of responsibility by those tasked with restraining public sector staff costs.
279. I argued it was not plausible that police overtime should have such an impact. The Force as a whole only constituted 6% of the public sector. I said that if challenged, I would point this out. There was some discussion and back-tracking, but I left the meeting feeling that an attempt might still be made to make the police scapegoats for failings in the system, or of individual performance. On returning to my office I sent out my customary email to the management team alerting them to relevant issues arising from the CMB. In this case the pension rise and its

implications was the only item. I alerted them to the issue and set out "lines to take" in the event of any media enquiries. I have stated earlier how it is my practice to suggest "lines to take" with the media on difficult issues. This is a practice to which I will refer again later in this statement. I make no apologies for the attempted mirth in the email. We were having few enough laughs at the time, and an attempt to ease the famine was justified.

280. In respect of specific issues, such as the financial policy book and travel costs I see that an email chain dated 27<sup>th</sup> May 2008 indicated that the Accounting Officer, Steven Austin-Vautier and Liz Middleton were meeting directly with Lenny Harper. The emails also confirm that access was given to the financial policy book, and that there was scrutiny of travel costs. This is in accordance with my own recollection. I recall only one issue about travel costs in which I became directly involved. I believe that it concerned a trip to Australia to interview witnesses which resulted in questions in the States to the Minister for Home Affairs. I asked Lenny Harper about the costs and he provided an explanation which addressed the concerns. I have also been asked about hotel bills and hospitality. I do not think that I can help with this. These issues are a long way down the management chain, and I assume that nobody expects that I would have personally scrutinised hotel bills and things of that nature. I was satisfied that qualified financial personnel were being given unrestricted access to all relevant items, I was satisfied that they were reporting regularly to both me and the Accounting Officer on the results of their work, and I have no recollection or record of an relevant concerns being raised. Similar reasoning applies to issues such as the costs of forensic and other experts. My understanding is that these resources were obtained in consultation with the relevant U.K. authorities and their cost was whatever is normally paid in such circumstances. I am not an expert on what forensic experts should or should not be paid. I was not personally involved in the recording of any of this expenditure, nor as Chief Officer of the Force would I expect to be. The feedback I received from the appointed financial experts was that all matters were properly documented and the records were available for examination. The finance personnel employed by the Home Affairs Department have a number of roles, one of which is to give me regular advice on the financial management of the business of the force, and to bring to my attention any matter which requires my intervention. No evidence has been offered that any financial matter was brought to my notice which was not properly addressed by me.

281. I have been asked about cordon costs, and I can help a little with this. In a small force the cordon could only be staffed by means of overtime, and I knew this would be expensive. I used my contacts and influence with the Honorary Police to maximise their involvement. I encouraged the establishment of "mutual aid" to the St Martin's Honorary Police, and personally and actively worked the relationship to maintain commitment and involvement. This included networking with senior honorary officers, as well as regular visits to the honorary officers staffing the cordon. If this had not been done successfully the costs would have been substantially higher. As with a previous item. Corroboration may be available from Centenier Malcolm L'Amey who was actively involved in this partnership.

282. On a minor point Liz Middleton, in paragraph 18 of her statement, speculates as to whether I received financial training on 27<sup>th</sup> March 2007. Notebook 07/120 page 2, records that during the day in question I was engaged in other matters which included the planning of a cycle event. I recall this involved a stage of the Tour De Bretagne, and there were sensitive issues to be managed including the presence of the Gendarmerie for the duration of the race. I have no recollection of being given the training to which she refers.



283. I do not think that there is a great deal more that I can add on the subject of finance. I was actively engaged in attempting to make a seriously imperfect system work, and at every stage I was advised by qualified financial experts. I have seen no claim or any evidence that any access, or information, was denied to anyone with a legitimate responsibility for the management and scrutiny of the budget of Rectangle.

284. Finally, I notice that on 25<sup>th</sup> July 2009 the Jersey Evening Post carried a report of evidence given to the Public Accounts Committee by Steven Austin-Vautier. He is reported to have said that Rectangle exposed "*serious weaknesses*" in Home Affairs accounting arrangements. The report says that he described the difficulties arising from the fact that the department had two Chief Officers, and that he as Accounting Officer had no control over police operations. He described the arrangement as "*vulnerable.*" There is no report of Mr Austin-Vautier having told the Committee that I opposed the arrangement from the very beginning because of the divided responsibility and vulnerabilities which he describes. He also appears to have been silent on his own role in undermining my attempts to prevent the arrangement being imposed.

285. Media Management. General.

The Investigating Officer has provided me with a significant list of points to cover in relation to the media aspects of Rectangle. Included in these is a request to comment on "*The sensationalist media releases and the consequences of these.*" I am happy to do so, and it is perhaps appropriate that I begin with an admission. I am aware of one media event associated with Rectangle which can fairly be described as "*sensationalist.*" It is apparent that during the course of that event, both the media and the public were provided with misleading information, and that the consequences of this were both damaging and long term. I refer to the media conference staged by Mr Warcup and Mr Gradwell on Wednesday 12<sup>th</sup> November 2008. I will address that event in more detail in a later section of this statement, but will first set out some of the history in an approximate chronological sequence.

286. To begin with it needs to be remembered that for about the first year of its existence Rectangle was a covert operation, with no media aspects to address. That is not to say there was media silence on the general subject matter. Senator Syvret and his supporters were active in alleging that Jersey had a hidden history of child abuse, and that the authorities were resolved to do nothing about it. He was equally sure that the police were compromised, and that the local force would never take effective action. We obviously monitored these media and political events, but made a conscious decision not to counter any of the stories by admitting the existence of Rectangle. Over time the media focus grew stronger and interest was shown by U.K. broadcasters in the story. It was clear that at some stage we would have to go public, but that ideally this should be at a time which met operational requirements, and was allied to an appeal for witnesses and victims to come forward. I know that Lenny Harper spent some time visiting a specialist unit in the Metropolitan Police, where he received advice on timing and process. Work was done developing a website giving contact details for the enquiry and to encourage victims and witnesses to get in touch.

287. Throughout this process, the roles of myself and Lenny Harper fell into a pattern which was to be carried forward into the later stages of the enquiry. He managed the enquiry. I managed the external relationships and the running of the force. I did not reveal anything confidential to Stuart Syvret but I tried by various means to convince him that the police were independent, and

that we would respond professionally to any evidence of abuse. I also had brief conversations with the Minister for Home Affairs Wendy Kinnard, the Chief Minister Frank Walker and the Chief Executive Bill Ogley. I did not divulge a lot of detail, but the core of what I said was that we were looking at some historical reports in order to determine whether a full investigation was justified. I gave Wendy Kinnard what amounted to political advice on the matter. I said that how she positioned herself in relation to the Syvret campaign was a matter for her, but that a position in which she appeared to suggest, as some were, that Syvret was making allegations which had no substance, could leave her wrong footed. I gave similar advice to Bill Ogley with the suggestion that he try to influence the public statements of Ministers accordingly. I also advised Bill Ogley and Frank Walker that should a major abuse enquiry be launched there would be significant media management demands upon the islands government, and they should consider making appropriate preparations. I do not think that they absorbed this message.

288. As things progressed I decided that my briefings to the key figures needed to be put on a more formal footing. This was done by the reading of prepared statements from my notebook to Wendy Kinnard and Bill Ogley. It may be recalled that I have mentioned these statements previously. They were agreed in advance between myself and Lenny Harper, and intended to put key figures on formal notice that the profile of events was likely to increase. I also described one attempt to read a statement to Frank Walker, but he decided not to attend the briefing. As before, these statements can be found in notebook 07/58 where they commence on pages 20 and 24. There can be no doubt from these entries that key figures in government were formally put on alert that Rectangle was about to "take off" and that some preparation would be appropriate. They also show evidence that there had been earlier briefings containing less detail. Through all of this I was trying to maintain common ownership of the enquiry, and maintain unity through what I anticipated would be a difficult period.

289. When Rectangle became public, which was in the latter part of 2007, the political controversy intensified. There were angry exchanges in the States and elsewhere, which in brief involved Senator Syvret stating that he was right all along, and Ministers defending their position. On 19<sup>th</sup> February 2008 the search at HDLG began. Attempts were made to keep information about the search on a need-to-know basis, but it somehow came to the notice of the media and a photographer, said to be from the News of the World, was found hiding in the bushes. According to my notebook this appears to have been on the same day. (Notebook 07/358 page 79.) I have recorded that I spoke to the Chief Minister, Frank Walker, and alerted him to possible media interest in order that he could prepare himself for any approach. I discussed the position with Lenny Harper. We agreed that we could not let the local media discover details of the search by reading the News of the World, and that it was appropriate to give them some indication of what was going on. I am not sure, but it might be this was done on the same day or the following day.

290. I have been provided with a copy of a press release which appears to have been issued on 23<sup>rd</sup> February 2008 and relates to the "first find." I recall we prepared something before that but I am not sure. My recollection is that we discussed drafts of some initial media releases which were low profile, suggesting that we were examining the location for evidence and nothing more. It may even be that we passed brief details verbally to contacts in the local media. This recollection is re-enforced by a notebook entry on 22<sup>nd</sup> February which refers to my discussion of a "cover story" with Lenny Harper. (Notebook 07/358 page 83.) I also note that Louise Journeaux refers to a media release which was not issued (statement Louise Journeaux

paragraph 8.) Whatever it was we said, or indeed if we said anything at all, it cannot have gained wide attention because I see that in his statement Senator Shenton states that when we worked a nightshift together on 22<sup>nd</sup> February 2008 he was unaware of what he describes as the "excavations." (Statement of Ben Shenton paragraph 2, and notebook 07/358 page 83.) I do not want to get diverted on this point, but there is among all this, clear evidence that we hoped to undertake necessary work at HDLG and to leave afterwards, with the minimum of media attention. We were not looking for a media presence at HDLG. Jersey politicians were providing enough media entertainment of their own, and we hoped that we could keep the search operation out of the spotlight.

291. Things changed when we had the first find, generally known as the "fragment of skull." There had been a build-up to this event which is worth a few words to set the scene. My notebook indicates that on 20<sup>th</sup> February Mr Harper had told me that the search dog had given an "indication" (notebook 07/358 page 80.) near to the point on the floor where bones had been reportedly recovered around 3/4 years previously. The brief history of this was that bones had been found during building work but had been identified as animal bones. Some witnesses had subsequently cast doubt upon this identification. I spoke to the Chief Executive Bill Ogley and he had agreed that we could start to take up the floor (notebook 07/358 page 80.). In case it is not obvious I spoke to him because it was States property and he had agreed to be the point of contact for any consent. I see from my notes that much of this day and the other days between the start of the search, and the first find, was spent speaking to various people in government, keeping them updated, and resolving any misunderstandings. I also followed up an issue regarding suspect [REDACTED] who had visited the scene, [REDACTED]

[REDACTED] I asked Bill Ogley about this, was later told by him that he had made enquiries, and been assured that the visit was apparently legitimate, and in connection with departmental business (notebook 07/358 page 81.). I did not think this plausible, but felt that the matter could be taken no further at that time. I would have informed the Major Incident Room (MIR) of the result of this enquiry.

292. I see from my notes that on the morning of Sunday 23<sup>rd</sup> February 2008 Lenny Harper telephoned and told me about the first "find." (Notebook 07/358 page 83.) My recollection is that he said that it was "a piece of a child's skull." He said that it had been positively identified by a qualified scientist at the scene, and that it had been found in the location where the bones had been found previously. By then the media interest had grown, and he felt that he had to make an announcement to counter leaks and speculation. I do not know if he said so at the time, but he had an agenda of seeking to build confidence in the momentum of the investigation, and refute claims that the police were part of any establishment cover-up. We could do little for the reputation of the government or the criminal justice system, but we were both resolved to place strong emphasis on the independence and integrity of the police. The challenge of achieving this is comparably difficult in Jersey. In the U.K. and other jurisdictions the authorities may have their problems, but it would be unusual to find any comparable part of the British Isles where suspicion and cynicism regarding those in authority was so ingrained in the popular culture. There are no ACPO guidelines which offer help in dealing with this scenario. Yet it was ever present. It is the "elephant in the room" which had an influence on the enquiry, and the actions of many of its key players.

293. After this conversation I made contact with the Minister for Home Affairs, Wendy Kinnard and the Chief Minister Frank Walker. I gave them an update. (Notebook 07/358 page 84.) This was part of a further effort to prepare the island's government for the inevitable increase in media interest. Later that day Lenny Harper issued his media release which refers to the "*potential remains of a child.*" We had not as far as I can recall discussed the wording which would be used in the release. He was a long-serving and experienced police officer who had a style and mind of his own. Nevertheless, I was a bit surprised at the words he had used. Not because they were untrue, because it was believed that they were, but because they were insufficiently precise and capable of wider interpretation. Nevertheless, if we had found a part of a child's skull, then a child was dead. There could not be much doubt about that. Never at any time did I suspect that the original identification by the scientist might be wrong. So far as I was concerned a qualified forensic expert had identified the find, and the police were acting on the basis of what we had been told.
294. This news led to a significant rise in the political temperature, and some high profile appearances in the U.K. media involving the Chief Minister Frank Walker and Senator Stuart Syvret. It was generally felt that Walker did not perform well, and did not succeed in convincing his audience that his government had nothing to fear from the enquiry. I make this point because it is my recollection that it was the political exchanges as much as the police investigation which was driving media interest. Journalists were becoming focussed on the political debate as much as anything which was said or done by the police. The news of the find also fitted a wider agenda of "Island of Secrets" with hidden money, hidden bank accounts, hidden abuse and now hidden bodies. Over the days which followed, I was busy in discussions with government, visits to the scene and related issues. I was concerned that Jersey's government was not handling things well, and this was feeding media interest. I spoke to the Chief Executive Bill Ogley and encouraged him to form a small crisis management team which should meet every morning. He did this and included the Home Affairs Minister Wendy Kinnard along with a group of other Ministers. I do not know the full composition of the group but I believe that it included the Chief Minister Frank Walker, the Health Minister Ben Shenton, and the Education Minister who I believe was Mike Vibert. Wendy Kinnard only attended the first few meetings. She told me that at every meeting she had come under attack from the other Ministers because of her responsibility for the police. This was a constant theme in her discussions with me during the enquiry. On more than one occasion she told me that whatever Ministers were saying in public, in private they did not support the enquiry and just wanted it to go away.
295. I also had a direct discussion with Frank Walker in the presence of Bill Ogley. According to my notes this appears to have been on 26<sup>th</sup> February 2008. (Notebook 07/358 page 86.) I told the Chief Minister directly something he already knew, namely that he was performing badly in the U.K. media, and that this was damaging to the island. He was not used to dealing with a hostile media and was finding the whole experience traumatic. I offered some suggestions. I said that he needed expert advice, or he should start listening to the advice he was being given. I then offered some advice of my own. I pointed out that he repeatedly appeared in outdoor interviews, in a long dark coat and dark glasses. He looked, and sometimes sounded, like a Mafia Godfather. He needed to address that image. I was conscious that the political pantomime was attracting media attention to the enquiry and encouraging sensationalist reporting. The media were releasing interviews with victims, or people who said that they were

victims, and the whole agenda was escalating. The Chief Minister made some changes to his approach in consequence of the advice given to him by myself and others. Nevertheless, the media performances of Frank Walker and other local figures continued to constitute a "media magnet" which had consequences for the coverage of the enquiry.

296. A few days earlier I had heard some news which created further challenges in respect of media management. I discovered that the Dean of Jersey, The Very Reverend Bob Key had arranged a Church service which would be attended by local dignitaries, and anyone else who wished to take part. This was in the Church at Gouray, close to HDLG. I forget what the official reason for the service was, but in the media and the public mind it seemed to assume the status of a communal act of remorse or something of that nature. I should say that I have not the slightest doubt, that this was arranged for the very best motives and with hindsight some move of this nature was probably inevitable. It did however constitute a further enhancement of potential media interest. I have a note that on 25<sup>th</sup> February I telephoned the Dean and we discussed the service. (Notebook 7/358 page 85.) I was concerned that the whole thing was spiralling upwards and that public perceptions were being driven by what the media were alleging, rather than what the police were saying. I told Bob Key our position was that we did not know if any crime had been committed, and that contrary to reports there was no murder enquiry. I suggested as best I could, that he tone his words accordingly.
297. I discussed the Church service with Lenny Harper, who immediately said that he would have nothing to do with it. It would inflame media interest, and his presence would only make matters worse. I agreed, but as Chief Officer of the Force I did not think I had the luxury of choice. I had to attend. To do otherwise would have created yet another story. Accordingly, appropriately dressed in my best uniform, I attended the service on the evening of Tuesday 26<sup>th</sup> February 2008. (Notebook 07/358 page 87.) When I arrived at the church, I was surrounded by cameras and microphones, and when I left the church, I was blinded by spotlights, and again surrounded by the media. I gave a significant number of media interviews on that occasion, as I did on a number of subsequent occasions. I will now go on to address what our approach to the media was at the time, our respective roles in dealing with the media, and the key messages we tried to emphasise.
298. From the beginning we agreed that we would try to be as transparent as the circumstances allowed. This was to build confidence in the enquiry and to encourage anyone with evidence to come forward. The media frequently contrasted this with the "secrecy culture" which they perceived to exist in the governance of the island. There was no suitable place at HDLG to hold a conventional style press conference. Lenny Harper decided to give his interviews in the road outside. This was a style which suited his general approach. I have seen many police press conferences on television. These are usually carried out from behind a table and accompanied by attempts to manage the questions. Some are good. Many are wooden and laden with police-speak. Few have the feel of being genuine or personal. It was never likely that Lenny Harper would be comfortable in a formal conference setting. He was up close, direct and personal. It was his natural style. He was also good at it. He could face the world's media without a script and answer any questions without notice. Few police officers can do that.
299. We divided our responsibilities and agreed "lines." I would concentrate on the strategic questions, and he would deal with the operational aspects. There was bound to be overlap, but I was resolved not to get into operational detail. In some discussions with politicians, I was occasionally asked if I could also cover the details of the enquiry itself, and effectively combine

the two roles. This was suggested as some people felt Lenny was the cause of the intense media interest, which some in government found uncomfortable. In my assessment, the main causes of much of the interest were the number of people giving detailed accounts of abuse to the media, (described in HWG first report paragraph 8), and the bumbling attempts of some politicians to address media questions. Additionally, I did not have the command of detail which Lenny had. He was engaged in the enquiry full time. I was attempting to concentrate on the running of the force, and, in accordance with the policy described earlier in the HWG reports, acting as a buffer between the enquiry and external distractions. I note from the statement of the Force Media Relations Officer, Louise Journeaux (paragraph 3) that in the early days of the enquiry she believes I had about ten interactions with the media. This would be consistent with my recollection. I know that from the commencement of the enquiry up to the appointment of David Warcup I gave interviews on a regular basis. After David Warcup was appointed I deliberately pulled back so that he could take the lead.

300. Sometimes the media interviews I gave were specific to the enquiry, but frequently they were an aside to other matters. As Chief Officer of the force I had a high profile and would give media interviews on request at almost any time. I do not remember ever turning down a request for an interview by the local media on any policing issue. During Rectangle these interviews might be about operational events, crime statistics or some other relevant topic. There was an understanding that when I had spoken on the main theme of an interview I would answer a few general questions about Rectangle (this approach is touched upon in the HWG second report in reference to Recommendation 13.) I see that in the notes provided to me it is suggested that some people think I did not do enough in my dealings with the media. This is plain nonsense, and needs no counter-argument from me. The record speaks for itself.
301. Our media lines were consistent and well co-ordinated. They can be confirmed by accessing the recordings made at the time. We would stress that we were investigating serious allegations of abuse. We were searching at HDLG because there were reports of suspicious incidents, and scientific indications which we had a duty to investigate. There may be foul play, or there may not. Everything which had been found could have an innocent explanation. We were not investigating a murder. In his early briefings Lenny Harper said *"We have no allegations that anyone died or was murdered here."* (Media Review. M. Tapp. Page 22.) The HWG reviewed the media strategy and said *"The SIO has retained an open mind with regard to the piece of skull that was recovered. He acknowledges that it could be quite dated and not from a murder."* (HWG first report paragraph 8.)
302. As part of the disclosure process, I have been provided with a report by a P.C. Dunwell-Smith which reviews some of Lenny Harper's media broadcasts. The document speaks for itself. The following are representative comments which are consistent with my recollection of what was being said to the media:..... *"28/02/08 ...SKY...'Must stress that there may be an innocent explanation for what the dog may have found.' ..... 'Journalist asks about 'shackles'.....LH states that they haven't found any shackles in there and thinks they relate to a statement given by a builder in the last couple of days. An 'item' was found in the cellar, making enquiries into this.'..... 'LH emphasises that there is no evidence that anyone was murdered or died at HDLG in these rooms but there is evidence of abuse there."*
303. My own media work was in a similar vein, but less specific. I emphasised that we were dealing with serious allegations of abuse. I said that these types of allegations were hard to investigate. Sometimes in enquiries of this nature there would be cases which people might

think should go to court, but which were not prosecuted. That was because historical cases were recognised as difficult, but we would nevertheless do our best. Anyone with evidence was encouraged to come forward. The police were working independently of any political interference and Lenny Harper was doing a good job trying to thoroughly investigate what was alleged.

304. On some occasions I was drawn into more specific comment. Some of this happened after the Church service, and will be on record. I recall one exchange because it typified the yawning gap which was emerging between what the police were saying to the media, and what the media were reporting. This was a frequent source of tension with Ministers and other politicians. They would read something sensational in the press and just assume this was what Lenny Harper had said. I repeatedly had to point out that he had said nothing of the sort. At times I had the feeling that some politicians were stepping beyond reasonable challenge and criticism, and were seeking to demonise Mr Harper as the source of all of the problems. I had to remind them that the cause of the problems was the historical abuse, and the apparent failure to confront it over many years, not the person who was trying to discover the truth and bring closure to the situation. In this context I recall being asked during a media interview about the number of locations which were being searched within the HDLG complex. I said that we were searching about 6 locations. We were doing this because we had been given scientific advice that these were locations which merited investigation. I recall saying that "*we might find something or we might find nothing.*" I said all we could be sure of was that these were locations which, as professional investigators, we had a duty to explore and try to find the truth one way or another. The following day I saw a headline which said "*Police Search for Six Bodies.*"
305. I monitored Lenny Harper's interviews through Sky News, and in our regular meetings the media strategy was discussed. We talked of the advantages and disadvantages of scaling down media interest. We knew that it was difficult and expensive for the U.K. media to operate in Jersey. We felt that if we slowly reduced the number of briefings they would effectively grow hungry for news elsewhere and gradually drift away. Running counter to this was Lenny Harper's view that the media coverage was opening doors, and bringing in new evidence. From time to time he would point to the number of calls which had followed a particular broadcast. I checked this out for myself. When on "walkabout" I would talk to the staff operating the dedicated phone lines for victims and witnesses. We had published the numbers of these lines in the press and on the internet, and repeated the numbers during the media broadcasts. The staff I spoke to provided anecdotal evidence of interviews with Mr Harper which, when broadcast, had resulted in a surge of calls, necessitating the deployment of extra staff and overtime. This anecdotal evidence should now be capable of objective assessment. The Investigating Officer may see value in a linear chart indicating the number of calls over a period of time and an analysis of whether any surges appear to be related to a particular media event.
306. By mutual agreement we began to scale down the release of news, and as anticipated most of the media drifted away. We then faced the task of putting the record straight, and shifting the perceptions created by misleading reporting during the initial phase of the search at HDLG. I will return to this aspect later in this statement.
307. I will now turn to some of the specific aspects I have been asked to address. I have been asked to comment on the media strategy. Following the initial work at HDLG the pressure of events appear to have impacted on the preparation of a written media strategy. I note that the



Force Media Officer, Louise Journeaux says in paragraph 27 of her statement that a written strategy was produced with help from Devon and Cornwall Police, but that this work was not finished until 1<sup>st</sup> March 2008, and later updated. I have seen a copy of the media strategy. I see nothing exceptional in its contents, and note that it relates to the investigation of offences of historic sexual abuse. It does not refer to the investigation of any other crimes. I have also seen the comment on media policy in the first report of the HWG section 8 which refers to the attempts by the SIO to respond to media speculation and "minimise sensationalism."

308. I have also been asked to comment on ACPO and NPIA guidance in relation to media strategy. I cannot claim to be well acquainted with either. The Investigating Officer has helpfully provided a copy of the ACPO Media Advisory Group Guidance Notes. They constitute a formidable document, and no particular area is highlighted. I have seen nothing in the document which runs contrary to my recollection of the media policy during Rectangle. I have also been provided with a Home Office research paper entitled "*The Effective use of the Media in Serious Crime Investigations.*" It appears to offer advice on best practice based on research. I note that it makes the following comments:

*"Getting information out allowed the investigation to take the lead in press handling at an early stage, while allowing the rest of the investigation to progress. Furthermore, it was argued that early initial communication with the press limits the degree to which they formulate their own accounts of what happened and begin their own 'investigations' "*

*"Finding 'unknown witnesses' was the most frequently stated objective for press appeals."*

*"The media can be an important mechanism for generating valuable information from the general public."*

*"providing more detailed information to the general public can increase the likelihood of generating additional valuable information."*

This advice appears to be entirely consistent with the approach taken to media management during Rectangle.

309. I have also been asked to comment on "*an abuse of process argument, the damage to the reputation of the SOJ and the loss of ability to identify new genuine complainants by corroboration of their statements with investigative discoveries.*" I will deal with the "*abuse of process*" issue first. It is my understanding that some of the accused who were charged as a result of the enquiry claimed that there had been media releases which constituted an abuse of process. I also understand that their claims were subject of a hearing before the Royal Court. I have been told that after hearing the evidence the Court ruled that no abuse of process had occurred. Accordingly I see no need to comment on this issue.

310. I am not sure what is meant by "*damage to the reputation of the SOJ.*" Taken literally this means damage to the reputation of the Island's parliament and government. I am not sure I accept that the preservation of the reputation of political institutions is necessarily a priority for a police force. I rather think that the principle of policing "without fear or favour" takes precedence over other considerations. However, if there was evidence of any reputational damage, I would be more inclined to attribute this to the media performances of the former

Chief Minister Frank Walker, rather than any actions of the police. I notice that Mr Ogley alleges damage to tourism and business, but offers no data in support of this. I have seen nothing which provides evidence of damage to the island's interests as a result of Rectangle. On the other hand, there is evidence that the enquiry enhanced confidence in the island's criminal justice system. This is demonstrated by the substantial increase in the number of reports of historic abuse. I have referred previously to the one statistic which I have seen, namely an increase of 152% in the number of historic abuse reports. This was reported in statistics published by the Force in late 2008. The Investigating Officer may wish to satisfy himself that this figure reflects a general trend. I do not think that there is any more I can offer on this topic.

311. The comment regarding *"the loss of ability to identify new genuine complainants by corroboration of their statements with investigative discoveries,"* is not a matter on which I can offer any detailed comment. It is clearly an issue of investigative tactics. Lenny Harper was an experienced detective of Chief Officer rank. He was advised by André Baker who was recognised as a leading expert in the investigation of serious crime. I did not question, nor was I qualified to question, the operational judgement of either on matters of detail.

312. It might be appropriate at this stage to make reference to the apparent views of Wendy Kinnard as Minister for Home Affairs during the peak period of media interest in HDLG and Rectangle. As described earlier, she was our single line of political accountability. There is no Home Affairs Committee and no Police Authority. Just one Minister to whom we are accountable. The views of Wendy Kinnard as Minister for Home Affairs in respect of Mr Harper's performance are therefore significant. They are particularly significant because the stance she took at that time constitutes the position of the person to whom the force was politically accountable during that period. It appears that other people have subsequently taken Ministerial office, who have a different view. That might be the case now, but they were not in office at the relevant time. During the key period of the enquiry we responded to the political lead we had. There was no other political lead for us to respond to. Throughout this period Wendy Kinnard expressed support for Lenny Harper's media management and leadership of the enquiry. She was frustrated by the criticism made by political colleagues, and discussed how she could do more to support Mr Harper's efforts. At some stage she decided that she wished to award him a Ministerial Certificate of Commendation for his media management and leadership in the enquiry. I have a note that this award was presented on 21<sup>st</sup> April 2008 (notebook 08/95 page 20.) I recall that the decision to make the award was taken by Wendy Kinnard some weeks previously, and my P.A. [REDACTED], was tasked with producing the framed certificate. During the course of the Haven enquiry I have asked the current Minister for Home Affairs, to provide me with a copy of the certificate in order that I can produce evidence of the award. He has refused.

313. Finally in the general section of this topic, I see that I have been asked to comment on the media issues relating to the arrest and the release of [REDACTED] 279, 281. I believe this has been covered fully in the section which relates to the working partnership with the Law Officers. I cannot think of anything further I can add on this issue.

314. Issues concerning the "first find."

I have been asked to comment on *"The facts surrounding the 'skull' find and your efforts to establish the truth in light of questions being raised in the media and the SOJ."* The initial

"find" and the announcement which followed have been described earlier in this statement. During our regular meetings Lenny Harper told me that the dating of the layer in which the first find was made had placed it outside of the parameters of the enquiry, and that accordingly it was no longer of evidential significance. At no time in our discussions did he ever suggest that there was any doubt regarding the nature of what had been found.

315. On 30<sup>th</sup> April I received an email from Senator Jim Perchard, who at that time was the Assistant Minister for Health, which asked me to confirm that the "*piece of bone*" had been confirmed as human. His enquiry did not ring any bells at the time. I had heard nothing which had cast any doubt on the nature of the first find. Before I replied to Senator Perchard I corresponded separately by email with Lenny Harper, and I took his response to be confirmation that nothing had changed. I have since re-read his email and note that it is less specific than it could have been. It could even be said that it "avoids the question," by referring to problems which had arisen in dating the item, then saying "*other than that there is nothing to add.*" Nevertheless, it is fair to say that his message does not alert me to the possibility that the fragment might not be bone. Accordingly I responded in good faith to the enquiry from Senator Perchard, and told him that nothing had changed in relation to our knowledge of the item. I responded to the Senator on the basis of the information I had been given, and I had no reason to believe that anything I said to him was untrue. That was the only basis on which I would respond to a legitimate enquiry. If, for example, an enquiry related to a matter which was operationally sensitive, then I might say that for operational reasons I was not able to comment. If I decided that I could comment, then I would only offer the truth.

316. I recall that I had just arrived in the Isle of Man for a meeting, when someone told me that there was a news story which claimed that the first find was a piece of coconut. This would be on 20<sup>th</sup> May 2008. (Notebook 08/95 page 34.) The report came as a total "bolt from the blue." Nothing had prepared me for this news. I spent the next couple of days in phone calls speaking to Lenny Harper and Wendy Kinnard. I sought more information, and advised on "holding lines" to take with the media and others. (Notebook 08/95 page 34.) On 23<sup>rd</sup> May 2009 I had returned to Jersey when I received a phone call from a journalist called David Rose. (Notebook 08/95 page 34.) Our conversation was brief. Some time previously, another journalist from a respected newspaper had warned me to be wary of Rose. I was told that he was a good investigative journalist, but for some unknown reason had built up a history of attempting to undermine abuse enquiries. I did however listen to what Rose had to say. He wanted to question me about whether I had told the truth to Senator Perchard. Significantly, he read out to me details of the earlier email exchange between myself and the Senator. It was clear that he had been given a copy of this correspondence. I think we discussed this, and he did not make a clear admission, but the inference was that he had obtained it from the Senator. I told Rose that he was "just a voice on the end of the phone" and I could not discuss the matter with him. I see from the above notebook entry that following the conversation with Rose I sent a note to Lenny Harper and Louise Journeaux. The Investigating Officer may see value in attempting to trace this document.

317. By then the political and media interest in the issue was rising. I had a number of discussions with the Minister for Home Affairs Wendy Kinnard, and Lenny Harper. (Notebook 08/95. Pages 34-36.) I asked Mr Harper directly about the doubts concerning the first find. He said that there had been confusing messages from the lab in relation to the matter, and he

would "take full responsibility." About that time he did a live media interview on the subject. I remember thinking this was rather brave in the circumstances but typical. As I recall, he said that the scientific evidence was inconclusive, but apart from that, the age of the sample put it outside the parameters of the enquiry. I remember that he was challenged as to why he did not report the doubts earlier. He said that he did it to protect the victims, because he knew that if the doubts became public some Jersey politicians would use the opportunity to attack and undermine the victims and witnesses. This was hardly diplomatic, but I do not remember hearing anyone deny this.

318. I discussed with Wendy Kinnard, and also the Chief Executive Bill Ogle, how we should deal with the matter. I recall that I gave strong advice. I said that we should bring the issue within a formal accountability process, and seek to close down further discussion meanwhile. I pointed out that the Minister had the authority to require a report on any matter of concern, and that she should do this. She should then refuse to give any further comment on the basis that she was awaiting a report, and she would decide on any further measures when this had been studied. Accordingly, I asked Lenny to submit a report on the whole issue. He did this. I then attached a covering letter, and sent the report and the letter to the Minister for Home Affairs. (I am 80% sure that it was a letter. It may have been done by email but I think not.) My covering letter set out the options available to the Minister, and I also discussed the matter with her. I pointed out that she might have concerns regarding the conduct of Mr Harper. She might also have suspicions that I had not told her the truth. If she felt this, then the proper thing to do was to ask for an investigation headed by an appropriate senior officer from an outside force. I had no difficulty with that. I also added however, that any enquiry should also be asked to address the question of the apparent leak to David Rose, and whether Senator Perchard, or another person, had committed any offence under the Data Protection Laws by leaking the contents of the email. The report and my covering letter were given to Wendy Kinnard and I believe they then went to the Council of Ministers. After that I heard nothing more about the matter. I was not surprised. While some Ministers would have welcomed the opportunity to initiate an investigation into myself or Mr Harper, they would have less interest if it affected one of their political colleagues. They would have to wait their chance another day.

319. Some Brief Issues on "media lines."

In paragraph 111 of his statement David Warcup describes a matter which occurred after he had been sworn in as D.C.O, on 8<sup>th</sup> August 2008. I believe that at this time Mr Harper was still officially a member of the Force, but that he had taken some leave prior to his retirement date, and had effectively left the service. It is even possible that he had left the island. There had been a newspaper report which claimed Mr Harper had made some negative comments regarding the prosecution process. I consulted the Attorney General and we agreed that he would provide any response which was required. I then communicated a "line to take" to David Warcup.

320. In his statement, (paragraph 111) David Warcup places a negative interpretation on the line I was suggesting. He says that he was surprised to see a comment from me which said "*A good time to keep our heads down if possible.*" He then goes on to say "*I did not feel it was a 'good time to keep our heads down' as the matters concerned needed addressing not avoiding.*" In light of this it is worth examining what was actually said and done in more detail. To begin with:

- The Attorney General had agreed that he would respond to any matters implying criticism of his department. It was my view that in light of this we should avoid getting involved in a triangular exchange which would allow the media to look for differences in the tone or content of our response, and thereby imply that there were further unseen issues.
- David Warcup is quoting only part of the relevant section of the email. When the rest of the text is seen the meaning is different. What the email actually says is (my emphasis.) *"A good time to keep our heads down if possible."* *"We are aware that a number of files relating to suspects are currently under consideration by the law officers department. As these relate to current investigations it would not be appropriate for the force to comment at this time."* In other words I am offering a clear media "line" as to what we should say. I am saying that we should make use of the fact that cases had entered the prosecution process, and try to "close down" media discussion. This was a good tactic. Nothing was to be gained by re-visiting old tensions. This line was also copied to the force Media Relations Officer Louise Journeaux. My practice of suggesting media "lines" in difficult situations has been described earlier in this statement.
- I now turn to his comment that *"the matters concerned needed addressing not avoiding."* The *"matters concerned"* related to the relationship between the force and the Law Officers Department. David Warcup and I had first discussed this in February 2008, and in the months before his appointment we had agreed that he would take the lead in establishing a new working partnership. We had discussed this directly with the Attorney General and the necessary changes had already commenced. Nothing was being avoided.

321. In order to demonstrate consistency in my approach I offer one further example. Following further alleged comments by Mr Harper after his retirement, I sent an email to Andrew Lewis on 16<sup>th</sup> September 2008. As part of that email I say *"I suggest a 'straight bat' at this time."* *"we should not prolong the debate by adding to it. Comment would give rise to further questions and so on. Also given that prosecutions and arrests are pending then any comment from the force could cause legal problems. I understand that the A.G. has issued a statement in consultation with David, this might be the one you have, and I suspect that our view is that this is enough said for now."*

322. This was a consistent line which I followed in the period in question and one which I encouraged others to follow. It might be that another person would have taken a different line. That is not the point. The point is that I decided on the position we would take and communicated that position to those who needed to know. The decision on the "lines to take" fell entirely within the parameters of matters I was entitled to decide, and I took the decision.

323. "Putting the Record Straight" in July 2008.

I have described earlier in this statement how, following the events surrounding the arrest of 279, 281 in late June 2008 I had less contact with Lenny Harper and for most of the time worked directly with Detective Inspector Alison Fossey. I was also in regular touch with David Warcup. There was however one matter which Mr Harper and I periodically discussed. This was the need to "put the record straight" after the misleading media coverage earlier in the

year. I have stated previously how we had become concerned at the gap between what we were saying to the media, and what the media were reporting, and how our concerns were compounded by the difficulty which some people in government had in distinguishing between the two. Some of the misleading reporting was a consequence of journalist seeking out and interviewing victims and witnesses, but some seemed to be pure invention. There had been repeated attempts at the time to communicate a more accurate line, but success had been limited. For example, I note that in his statement Frank Walker refers to an announcement that a full homicide enquiry could not be justified, which was made on 18<sup>th</sup> April 2008. (Statement Frank Walker paragraph 21.) Other similar announcements were made around that time but did not seem to receive adequate exposure.

324. The calmer atmosphere of this period allowed Lenny Harper to give a number of media interviews which served two purposes. Firstly, he was able to give updates on the forensic finds, and describe the emerging forensic picture. Secondly, he could make a further attempt to dispel some of the wilder stories.

325. The Investigating Officer may wish to do his own research. However, I have viewed a report of an interview dated 31<sup>st</sup> July 2008 on the B.B.C. website which appears to me to be representative of some of the media work done at the time. In the interview Mr Harper makes it clear that there is no murder enquiry as a result of the investigations at HDLG, and he gives an analysis of the forensic findings up to that date. He then offers the conclusion that there is no basis for a murder enquiry to commence. The B.B.C. website summarises the item as "Jersey murder inquiry 'unlikely.'" The Investigating Officer may wish to contrast the calm, balanced and professional manner in which Mr Harper deals with this subject, with the sensationalist style in which the same news was presented again by Mr Warcup and Mr Gradwell almost four months later on 12<sup>th</sup> November 2008.

326. The Build-Up to the Events of 12<sup>th</sup> November 2008.

The publicity which had accompanied Mr Harper's retirement soon faded away, and I do not recall any significant media reports concerning him in the months which followed. I made media comment on Rectangle from time to time. This would rarely be during an interview concerned entirely with the enquiry. Most commonly it would be tagged-on to the end of an interview about other issues. A large number of media interviews in Jersey are structured this way. My consistent "line" was that the enquiry was progressing in a calm, thorough and professional manner and that I could not comment on matters of detail, as a number of cases were now being considered for prosecution.

327. Mr Gradwell did not start work as the S.I.O. until 8<sup>th</sup> September 2008 and for reasons I have given earlier I did not have a great deal of contact with him during his settling-in period. I did however have regular contact with David Warcup from the date of his appointment. Occasionally we would talk about the media aspects of Rectangle. I remember there were occasions when I thought that his beliefs about what the force had said during the enquiry were too heavily influenced by some of the media reporting. This was understandable during the phase when he was still familiarising himself with the details of the enquiry. From time to time I emphasised the difference between what the force had said, and what had appeared in the media. He spoke of recent forensic results and how a clearer picture was emerging. He said

that on his reading of the forensic results to that time, there was no basis for commencing a murder enquiry. This was consistent with the earlier findings and media interviews of Lenny Harper during July 2008 and the preceding months. It was clear that Mr Warcup was not an admirer of Mr Harper's style of policing. They were different personalities with different professional backgrounds. I did however point out that Lenny Harper appeared to be no longer active in the media and that we should now concentrate on achieving a seamless transition from the old management arrangements to the new. I made it clear that I would not be party to any deliberate "rubbishing" of Lenny Harper's work. That would be counter productive. It would re-ignite old issues, and distract from the calm and evolutionary changes which were now taking place. It also had to be remembered that Lenny Harper had a loyal following among victims and witnesses, whose commitment could be undermined by any visible rift. I recognised there would be a need for further changes in the style of the enquiry, and anticipated these would follow the receipt of the report of the review of the investigation, which was being prepared by the Metropolitan Police.

328. In his statement David Warcup refers to "Operation Adrian," which relates to an investigation into the leak of a police document. This was a report by Mr Harper into aspects of the arrest and release of [REDACTED] 279, 281. The report came initially to me, and I forwarded it with a covering letter to the Attorney General. I note from his statement that the contents of Mr Harper's report featured in an article in the "Times" newspaper on 14<sup>th</sup> August 2008 and it later appeared on the internet "blog" of Senator Stuart Syvret. I think it is fair to say that from the beginning it was suspected that the leak had come from Lenny Harper. Most people seemed to suspect that he had retained a copy of the report, and leaked it after his retirement. That does not mean these beliefs are true. It was however the case that many people believed it. I thought that it was the most probable explanation, but I had no evidence to support that belief.

329. My attention was drawn to the Times article by means of a phone call from the Attorney General (notebook 08/95 page 78.) I recall that shortly afterwards I discussed the matter with David Warcup. This would have been during one of the frequent discussions on Operational and Professional Standards issues recorded in the subsequent pages of the same notebook. I was very clear that this was something which needed to be independently investigated. I said that he should ask a U.K. force to investigate the matter. I also commented that he should bear in mind that I may have to be interviewed, as the report had crossed my desk on its way to the Law Officers. He said that he did not think that would be necessary. I see from Mr Warcup's statement that Inspector David Birmingham was asked to make some enquiries within the force relating to the matter. My recollection of this is not precise, but I believe that David Warcup and I agreed that it was necessary to preserve evidence, and prepare an internal audit trail of the preparation and movements of the report. We also needed to know whether anyone else had accessed the report on the relevant I.T. system. I offer this information because it seems to be implied in Mr Warcup's statement that he was acting on his own initiative in this matter, and I was in some way an absent figure. That was not the case. I remember being particularly strong in my insistence that if Lenny Harper was a suspect for the leak then an enquiry by an outside force was the only way to address the issue. To date, I have not been interviewed about the alleged leak of the by from Lenny Harper, or asked for a statement about when I received it and what I did with it.

330. I see from my notebook that during August and September I conferred from time to time with David Warcup on the progress of the enquiry. It was during this time that our views began



to differ. From my perspective he had an inappropriate focus on "picking faults" with the work of his predecessor. I have mentioned earlier in this statement that, unusually for a person of his rank, David Warcup had no experience of moving from one force to another. Virtually his entire working life had been in Northumbria Police. In my own career I have moved force and taken up new positions, several times. In my experience it is normal for a new appointee to want to do things a different way from his or her predecessor. This is quite normal. The skill which is required in these situations is to achieve the necessary changes in a seamless and non-disruptive manner. Rubbishing the work of someone who has retired is a "cheap shot," and counter productive to the smooth working of an organisation. I tried to encourage Mr Warcup to concentrate on moving matters forward rather than focussing on the past.

331. At some stage during this period David Warcup floated the idea of a press conference to "put the record straight" regarding then enquiry. I definitely saw this as a bad idea. I was aware of nothing significant which had not already been addressed during the final weeks of Lenny Harper's service. If subsequent forensic results were changing the picture, as it could be expected that they would, then my recommended approach was to gradually feed these into the public domain through a series of short statements and interviews, possibly tagged on to other media issues. We had spent months restoring calm to what had been a difficult situation, much of which had not been of our making. It was not the time to set the whole issue alight all over again. There was another reason I was against David Warcup engaging in the type of press conference he envisaged. I did not think that he had the necessary skills. I thought that he would be comfortable reading a prepared statement, but he would struggle to cope well with challenging questions under pressure. I think the transcript of the actual media briefing shows I was right in that assessment.

332. On 1<sup>st</sup> October 2008 I had a conversation with the Chief Executive Bill Ogle as an aside to a meeting of the Corporate Management Board. This was after I had been in the U.K. for a few days on police business, and I was still catching-up with developments. I was surprised that he seemed to be better informed than me regarding David Warcup's intentions in respect of the media, and quite set in his own mind that there should be a press conference at which the police would "admit to mistakes" in respect of the investigation. This was the first indication I had that "something was going on behind my back." It was clear that Bill Ogle had been engaged in discussions regarding the matter with Mr Warcup, probably during my absence, and that he had a strong line to which he was committed. Following this conversation I sent an email to David Warcup asking to discuss the issue. My notes indicate that this discussion occurred on 2<sup>nd</sup> and/or 3<sup>rd</sup> October 2008. (Notebook 08/95 pages 91-92.)

333. I said that I thought the best way forward was for me to take responsibility for the whole matter and to do the job myself. I suggested I do this by way of further questions during planned media interviews on unrelated issues in November 2008. (Statement of David Warcup paragraph 256.) I had no anxieties regarding this. I have no difficulties with the local media and am quite comfortable with live interviews on policing issues. This is normally regarded as one of my strengths. Mr Warcup did not seem to take this suggestion seriously. I said that I would need a brief from him on any new information he wanted me to put into the public domain, but he seemed reluctant to provide this. I was also concerned that in spite of being in the post for over two months he did not seem to have a full grasp of the facts. He still seemed to think that the force had claimed there had been murders at HDLG, and that this was something which needed to be corrected. (Statement of David Warcup paragraph 257.) I

encouraged him once more to look at what Lenny Harper had actually said. If he thought that Mr Harper's statements in July and at other times, making it clear that there would be no murder enquiry, had not taken hold in the public perception, then it would be proper to undertake further media work which "drew attention" to what had been said already. I came to a point where I did not think that I was making any progress in these conversations, and began to think about what would be the best way forward.

334. It was against this background that on 8<sup>th</sup> October 2008 I met with Mr Matt Tapp who was introduced to me as a media consultant. (Notebook 08/95 page 94). I rarely employ consultants, believing that Chief Officers should be competent in their roles without the need to be supported by expensive advisors. I am aware that others think differently. I met with Mr Tapp at the request of David Warcup. The meeting did not begin well. He said we needed a plan to announce the fact that "*the murder investigation had finished.*" (Statement of Matt Tapp paragraph 14.) Given that there had never been a murder investigation, and that the decision there was not going to be one had been announced over two months previously, this was not a good start. I was beginning to see his "sales pitch." He was talking up a crisis, then presenting himself as the person who could resolve it, no doubt for a large fee. I thought about ending the discussion there and then, and with hindsight it is clear that it would have been better if I had. Instead I spent some time trying to improve his understanding of the position. I now see that this was futile. His mind was closed and he did not absorb what I was telling him.

335. I told Mr Tapp that most of the news he was referring to was already out in the public domain. All that appeared to remain was some adjustment in consequence of recent forensic results, and, in some cases, to draw attention to information which had been released previously but which might not have fully registered. I explained that the police were treading a difficult line in trying to hold together an alliance of opposing factions for the general good of the investigation. We had to maintain a working relationship with the Law Officers and the Jersey Establishment, while at the same time maintaining the confidence of the wider community, many of whom shared a common perception that there was widespread corruption and cover-ups in relation to child abuse and other issues. It was one thing to say the evidence did not support the view that there were murders. It was quite another to say we did not believe that there had been any murders. Beliefs are a personal matter, and it was probable that many people would believe that murders had occurred, but had accepted the assurances from the force that the evidence did not enable the relevant lines of enquiry to be taken further. This delicate balance had to be treated with care if unnecessary tensions were to be avoided. I repeated the course of action I had urged David Warcup to support, which was to release incrementally those things which we needed to release, and where possible decline further comment on the basis that prosecutions were now pending. I agreed that the public had been misled, but pointed out that we had not been responsible, and had in fact done much to put the record straight. Misleading and sensationalist media reports had raised expectations and a great deal of hard work had already been done to restore calm and reality. The situation would not be improved by provoking the resurrection of the "media circus" which had followed the behaviour of politicians, and other events associated with the early forensic work at HDLG. By the end of this conversation I felt that Mr Tapp and I were not going to agree and I wished him a pleasant journey. I see from his subsequent statement that he has not reacted well to my reluctance to engage his services.

336. Over the following days, by various direct and indirect means, it became apparent that David Warcup had built up a broad alliance in favour of the major media conference event which he favoured. This is corroborated by the statement of Matt Tapp, who describes how, following his meeting with me, he networked with, and briefed a number of key figures including the Chief Executive Bill Ogley and the Chief Minister Frank Walker. This was on 8<sup>th</sup> October 2008. I also became aware indirectly that the Attorney General was committed to the Warcup line. I therefore gave the matter more thought. By then it was approaching mid-October. I had some leave pending in the near future and my last working day was 5<sup>th</sup> November 2008. This leave had been arranged so that I could attend to some urgent family matters in the U.K. which could not wait. I came to the view that whatever I said or did, my absence on leave would be used as an opportunity to press ahead regardless of my wishes, and that this was a course of action which would be supported by the Attorney General and Ministers. I was also conscious that David Warcup had been appointed to his position on the understanding that he would take the strategic lead in Rectangle, and that it was intended that he would provide continuity for the enquiry after I had retired. I therefore took a decision. I told David Warcup that I would not stand in the way of the press conference, but wanted a chance to influence the content, in the hope that the damage which I anticipated it would cause could be reduced. This was in the second half of October. David Warcup passed this news to the other relevant parties. (Statement of John Edmonds paragraph 30.)

337. In spite of repeated requests, I was given nothing by way of material for the press conference during the rest of October, or the first four days of November. Considering that Mr Warcup had been determined to stage the event for some weeks, he gave the impression that he had done little preparation. I was eventually given a draft script and other papers on 5<sup>th</sup> November 2008, literally a few hours before the commencement of my leave. I was concerned with the nature of the content, which appeared to be poorly thought through, confrontational with the media, and too ready to be definite in respect of some evidence which remained ambiguous. Additionally, it did not provide a sufficient line of retreat should further evidence emerge which indicated that there had been murder or similar crimes. In one respect however it was encouraging. It contained a definite statement that "It has never been suggested by the States of Jersey Police that child murder took place at Haut De la Garenne." This was entirely consistent with the line which Lenny Harper, and myself, had been taking for months. I took this statement as an indication that Mr Warcup had by then achieved a better grasp of the true nature of the media statements made on behalf of the Force. Other encouraging aspects included confirmation that the police were not behind the story regarding the "shackles," and a reiteration of the earlier police statements to the effect that everything which had been found could have had an innocent explanation. Emphasis was also given to the fact that the media had been given access to the "cellars," and therefore by implication, nobody had been misled regarding their size and nature. (It is also of note that after the Chief Minister Frank Walker had visited the scene with his wife, and viewed things for himself on 31<sup>st</sup> March 2008 he was content in addressing the States, to describe the areas he had viewed as "cellars.") (Statement of Frank Walker paragraphs 19 and 20.)

338. The papers and notes accompanying the draft, which I not unreasonably took to be part of the intended briefing material, also contained references to the fact that the Force received scientific opinion on 7<sup>th</sup> March 2008 apparently confirming that the first find was a piece of skull and that it was not until 29<sup>th</sup> March that the first doubts emerged. By that time the item had

been ruled out of the enquiry on the basis that the layer in which it had been found pre-dated the parameters of the investigation. The briefing notes indicated that the precise identity of the item remained unknown. A section of the notes dealing with the teeth, made reference to the local expert opinion given at the time that *"they were unlikely to have been shed naturally."*

339. In the very limited time available to me I made some hurried notes in the margins of the draft. I discouraged the use of confrontational statements such as *"We hope that the presentation of these facts will enable members of the Media to report accurately about this ongoing case in the future."* I also encouraged language which presented a message of an evolving forensic picture, in which earlier statements to the media were being amended as more detailed scientific findings came to light. I passed all of this back to David Warcup and left to make arrangements to travel to the U.K

340. While I was in the U.K. I received one phone call from David Warcup. He reminded me of when the media briefing was taking place, and I said that I was aware of the date. I do not think that we had a great deal of conversation about the subject. At some point I would have asked him if there was anything else of interest as I always do when contacted. He did not tell me of anything other than the media conference. In particular he said nothing of his intention to provide a briefing to Ministers and others the evening before the media conference. This was clearly a matter which affected my interests. At no time was it mentioned to me by David Warcup or anyone else until after it had happened. Even after the passage of time, and the opportunity to reflect on whatever motives may have influenced the actions of Mr Warcup and others, I can only regard the failure to inform the Chief Officer of the Force of the briefing to Ministers on the evening of 11<sup>th</sup> November 2008 as a deliberate act of deceit.

341. On Tuesday 11<sup>th</sup> November 2008 at some time not long after 5-30p.m. I was at home having arrived on the Clipper ferry from the U.K. The fact that I was at home at that time was an unusual thing. The Clipper usually travels from the U.K. to Jersey via Guernsey, and arrives in Jersey after 7p.m. For some reason on this date it sailed directly to Jersey, and so I arrived home a couple of hours earlier than would be normal. I received a call on my mobile phone from Andrew Lewis, who was then Minister for Home Affairs. He said that he was sorry to be ringing me when I was on the ferry, but he wanted to see me the following morning. I said that I was not on the ferry I was at home. The first time I said this it did not seem to register, and he made another reference to the ferry so I repeated that I was at home. He seemed taken aback by this information. I could not work out why at the time. He had obviously taken some interest in my travel arrangements, but had not spotted the unusual change to the timetable. I wondered why he was apparently unsettled by the fact that I had arrived home early. I realise now that Andrew Lewis had expected I would be at sea when the briefing to Ministers was being held, and the fact that I was at home took away any excuse for me not being asked to attend the briefing to Ministers and others. He asked me to meet him in the office of the Chief Executive at 11a.m. the following day. He said that this was in consequence of a briefing which he and others had received. This was the first I had been told of any briefing. To complete this part of the account, it is now a matter of record that I attended the office of the Chief Executive as requested and was suspended from duty. This occurred without notice of the purpose of the meeting, without a hearing, and without representation. I now move on to what I know about the media conference, which was held at Police Headquarters, while my suspension meeting was taking place elsewhere.

342. Before leaving home on the morning of 12<sup>th</sup> November 2008 I watched Sky News. There was extensive advance coverage of the press conference. I now know that this was in consequence of advance information which had been put out by the Force ahead of the scheduled media briefing. The media coverage was high profile, sensationalist, and contrary to almost all of the assurances I had been given by David Warcup. I have since seen the advance media release issued on his direction, it states *"Statements which were issued by the States of Jersey Police suggested that serious criminal offences had been perpetrated against children and also that there was a possibility that children may have been murdered, bodies had been disposed of and buried within the home."* This statement is almost the exact opposite of that contained in the draft script I had been shown before I departed for my leave. Equally, it later emerged that the actual release had changed significantly the presentation of information in relation to the cellars, the teeth and the alleged shackles. On the evidence available I can only conclude that I was seriously and deliberately misled by David Warcup as to the intended content and style of the media conference on 12<sup>th</sup> November 2008.
343. Unsurprisingly the media were enlarging on what was being released by the Force. I heard a reporter on Sky News refer to something along the lines of "previous police claims of mass murder and burial." As recently as about three weeks ago, I heard a report on Channel News which referred to "previous police claims of mass murder" or words to that effect. As I have discovered more about the press conference on 12<sup>th</sup> November 2008, the more it is evident, that it was deliberately sensationalist, intended to gain maximum coverage, and designed to portray Mr Warcup and Mr Gradwell as the "good guys" putting right the failings of their predecessors.
344. Before attending the meeting with the Minister I went briefly to my office to deal with correspondence and other routine tasks. I saw that the police main car park was full of satellite vehicles linked to major media organisations. For the rest of the day, and on the days which followed, the story filled the news. Journalists were not likely to admit that they had previously exaggerated the situation, or that they had fabricated stories in order to compete with one another. It was more comfortable for them to claim that they had been misled by the police, and that became their consistent line. I had spent months moving the investigation into a position from which it could progress in a calm and low profile manner. I saw it all undone in a single morning. Jersey was once again world news.
345. In the weeks and months which followed, the delicate coalition of views and interests which had been held together in 2008 began to break apart. Senator Syvret has moved from being a supporter of the enquiry to being an outspoken critic, thereby bringing a negative influence to bear on potential witnesses. There have once more been allegations of "cover ups." Mr Harper, who had retired to the West of Scotland, and by November 2008 had become inactive with the media, appears to have felt sufficiently provoked to make a number of public statements criticising the integrity of the Jersey system of justice. I have seen at least two articles in "heavyweight" newspapers which imply a lack of impartiality and integrity in the island's justice system. Political wounds have been re-opened, and the enquiry is once again the subject of angry exchanges in the island's Parliament. My own suspension has proved to be high profile and divisive. I was told by reliable sources that in the days which followed my suspension a number of victims contacted the enquiry team and expressed concerns that the independence and commitment of the investigation was being undermined. The chances of Jersey convincing the world that these matters have been investigated and resolved in a fair and politically impartial manner have diminished, as have the chances of achieving final closure of

these events. It may take Jersey a number of years to recover from the consequences of the media conference of 12<sup>th</sup> November 2008. As Chief Officer of the Force I accept a degree of responsibility for this. In my defence I point out that I was seriously misled by David Warcup as to the intended content and style of the media briefing on 12<sup>th</sup> November 2008 and accordingly, could not have anticipated the damaging consequences which would follow.

346. I expect operation Haven will discover that on some occasions the Police made mistakes. That may be so. The Attorney General William Bailhache, has accepted that lawyers may have made mistakes. It is probably beyond dispute that Politicians made mistakes; and it is highly likely that some people in senior positions have failed in their duty to protect vulnerable children. I led the organisation that tried to get to the truth, and tried to achieve closure. Throughout the investigation I was managing against a background of political tensions and controversy, and doing so without the protection of the checks and balances which apply to the political governance of policing in comparable Jurisdictions. I am the only person suspended. I am the only person who has been subjected to a disciplinary investigation. I deny that I am guilty of any misconduct of any kind, or of any serious failings in my professional duties. I will continue to defend my reputation and integrity by all legitimate means.

Signed in the Parish of St Helier,

Jersey, on Thursday 30<sup>th</sup> July 2009.

Graham Power. Q.P.M.

Chief Officer of the States of Jersey Police.

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP19

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**S.R.16/2011 – ISSUES SURROUNDING THE REVIEW OF FINANCIAL MANAGEMENT OF OPERATION RECTANGLE**

**RESPONSE FROM THE MINISTER FOR HOME AFFAIRS**

**Response due: 28<sup>th</sup> December 2011**

**To Council of Ministers: 15<sup>th</sup> December 2011**

**Introduction:**

Because this is my formal response to the Scrutiny Review SR 16/2011, it is relevant for me to record that I had cause to question the membership of the sub-panel. It was my contention that the chairman had pre-judged the outcome of the sub-panel's work in comments he had made previously in report and proposition P116/2011 and in a letter to me. I also expressed concern over the balance of the Sub-Panel because three out of four members had been critical of my handling of the related disciplinary proceedings. Notwithstanding my stance on these matters, I nevertheless made the point to the chairman that I, and my staff, would co-operate fully with the review. I should also record that the auditors, BDO Alto, gave every assistance to the sub-panel and in fact incurred considerable expense in preparing the required submissions.

**Findings:**

1.1	<p><b>1. To examine the instructions under which BDO Alto Limited was engaged to review the financial management of Operation Rectangle and their methods for gathering evidence for this review.</b></p> <p>Under the Public Finances (Jersey) Law 2005 the Chief Officer of Home Affairs is legally responsible for the expenditure of the States of Jersey Police. All concerned now agree that the decision to place accountability for the States of Jersey Police budget with the Home Affairs Accounting Officer was a mistake. This arrangement made it unnecessarily difficult for the Chief Officer of Home Affairs to ensure effective oversight of expenditure on Operation Rectangle which was an event of unprecedented complexity.</p>	<p>Agreed. Arrangements are being made to enable the Police Chief to become an Accounting Officer with effect from January 2012. The draft States of Jersey Police Force Law, 201- contains a provision which will formalise this arrangement.</p>
1.2	<p>The terms of reference for the review of financial management during Operation Rectangle were drawn too narrowly. They directed BDO Alto to focus solely on the internal Police arrangements and the use of</p>	<p>It is agreed that the wording of the terms of reference could have made it clearer that my intention was always that the review should include looking at the role of the Accounting</p>

	resources.	Officer and the Home Affairs Department. Nevertheless, section 3 of the Review does deal with this issue. The whole purpose of the BDO Review was to scrutinise the amount and type of expenditure to examine whether it represented the efficient and effective use of resources. The BDO report was commissioned to provide the Minister and the Accounting Officer with an assurance that resources had been used efficiently and effectively.
1.3	As a result, the review conducted by BDO Alto promoted a perception that the high levels of expenditure in the investigation were caused by a lack of management control by senior police officers whereas there was in fact a much broader failure by States systems to provide adequate and timely monitoring of the way financial resources were being used, which has not been acknowledged or examined.	This was not merely a perception but a fact borne out by the Wiltshire Police Finance Report (see paragraph 5.2.38 7 of the 'Particulars' section of the Wiltshire Police Finance Report (page 97). In my view, the Scrutiny Sub-Panel's report has failed to give sufficient weight to the Wiltshire Police Finance Report.
1.4	The examination of governance arrangements in section three of the BDO Alto report is incomplete as it does not take into account evidence from Mr. Power, the Chief Officer of Police at the time.	The Wiltshire Police Finance Report does take into account Mr Power's evidence. The examination of governance arrangements in the BDO Review needs to be read alongside paragraphs 1.1 to 1.15 of the Wiltshire Police Finance Report. The conclusions drawn are consistent.
1.5	An opportunity to include a more strategic examination of how Jersey runs and funds policing and lines of accountability, both professionally and politically, was missed.	No. These matters have been examined thoroughly and new provisions incorporated into the new States of Jersey Police Force Law, 201- which was lodged in November 2011 for debate by the States in early 2012. The most relevant of these are the Police Authority and Accounting Officer provisions.
1.6	The appointment of a Finance Manager seems to have fallen between two stools. BDO Alto review did not examine why Home Affairs did not appoint a finance manager at an early stage to work closely with the Police.	If the Scrutiny Sub-Panel had researched the relevant source document – the Guidance on Major Incident Room Standardised Administrative Procedures (MIRSAP) 2005 – they would have ascertained where the responsibility lies for appointing a Finance Manager for a major incident, namely with the Police force. The guidance is produced on behalf of the Association of Chief Police Officers by the National Centre for Policing Excellence and provides the Police with clear information and guidance on the above procedures.

		<p>Section 1.2.1 states that 'the Senior Investigation Officer (SIO) has responsibility for the investigation of the crime. This includes ensuring, in liaison with other senior officers as necessary, that an incident room with appropriate resources is set up.'</p> <p>Section 1.5 sets out the role of the Finance Manager: 'This role coordinates all administration and financial issues regarding staff, vehicles, accommodation, refreshments and equipment thereby relieving the SIO and Office Manager of all administrative matters not connected with the investigation itself.'</p> <p>The guidance goes on to say that the Finance Manager should be appointed immediately and is key in the setting up of a major enquiry.</p>
1.7	The Minister for Home Affairs should have ensured that the BDO Alto review fully examined the implications of the flawed structure for monitoring and challenge.	No. This finding results from the failure of the Scrutiny Sub-Panel to properly consider and give due weight to the Wiltshire Police Finance Report.
1.8	Operation Rectangle had significant unbudgeted consequences for the States of Jersey as a whole. However, it is not clear whether the senior management in the States had any established procedures for identifying and managing the risk. This aspect was not examined by BDO Alto as it was outside their terms of reference.	The Chief Minister's Department has been consulted on this finding. That Department now maintains a Strategic Risk Register which links into departmental risk registers with the object of identifying key risks early. This includes an escalation process where immediate action is required to treat or mitigate these risks. The potential impact of the Pandemic Flu outbreak in 2010 is a clear example of how a major Strategic Risk to the Island was escalated quickly to the Chief Minister's department and an appropriate senior management team was convened from across the States to provide strategic management of the risk.
1.9	The review of an issue as highly sensitive as the Police use of resources in Operation Rectangle should not have been commissioned and overseen by the States department which had responsibility for the Police budget.	The BDO Review was a review specifically commissioned to provide the Minister and The Accounting Officer with an assurance that resources had been used efficiently and effectively. The primary investigation into the management and supervision of the HCAE by the Chief Officer of Police

		was carried out by the Wiltshire Police and their findings published in their Finance Report. The BDO Review was not unlike any similar audit commissioned by the Department, in consultation with the Chief Internal Auditor, into other areas of its business.
1.10	A completely independent body should have commissioned this review in order to provide a more transparent, comprehensive and rigorous challenge to the financial monitoring arrangements in place between the Home Affairs Department and the States of Jersey Police.	The comment at paragraph 1.4 applies. In my view, the Sub-Panel's review could have benefited from greater reference back to the Wiltshire Police Finance Report which was a report prepared by a "completely independent body".
1.11	In the highly charged atmosphere about the Historic Child Abuse Enquiry and the way it was handled it was inevitable that narrowly drawn terms of reference and the way the report focussed on specific expenditure decisions and less on wider issues of governance and control would be seen by some as less than objective and a deliberate attempt to discredit the HCAE.	The suggestion that there was a deliberate attempt to discredit the Historical Child Abuse Enquiry is very strongly denied. Not only is this incorrect but also there is a complete absence of cogent evidence to support this. At all times, the HCAE was treated very seriously by both the States of Jersey Police and myself. At no time did any relevant party wish to discredit the enquiry. However, the Wiltshire reports indicate that there were very serious failings on the part of the most senior officers.
	<b>2. To clarify the connection between the BDO Alto review and the review separately commissioned by the Acting Chief Officer of Police</b>	
2.1	Mr. Kellett was originally employed by the States of Jersey Police to undertake an internal review, commissioned by Mr. Warcup, relating to the overall conduct of the HCA investigation by the police.	This was not known by me but is apparent from the evidence.
2.2	Mr. Kellett, however, was not made aware of this intended task and was given separate instructions which required him to work closely with the BDO Alto review on the use of financial resources. These different instructions were given by Mr. Gradwell and had not been seen or authorised by Mr. Warcup.	This was not known by me but is apparent from the evidence.
2.3	Mr. Gradwell's instructions to Mr. Kellett caused confusion about the police consultant's role. Mr. Warcup initially praised Mr. Kellett's work	

	<p>but subsequently decided that it was inappropriate for him to be working on a joint review with BDO Alto on the grounds that it was inappropriate for anyone working for the States of Jersey Police to be investigating matters which were connected to the disciplinary enquiry being conducted by Wiltshire Constabulary.</p> <p>The long delay in bringing the Wiltshire disciplinary enquiry to a conclusion had important consequences for the BDO Alto review as it led to Mr. Warcup's decision to prevent Mr. Kellett from interviewing Mr. Harper regarding his expenditure decisions during the course of the BDO Alto review.</p>	<p>This was not known by me but is apparent from the evidence.</p>
2.4	<p>Despite the significant limitation imposed on the BDO Alto review by his decision, Mr. Warcup did not convey his concerns to the Minister for Home Affairs. The Minister was therefore unable to resolve the problem.</p>	<p>Agreed.</p>
2.5	<p>Due to Mr. Gradwell's widely known negative views on the management of Operation Rectangle by his predecessor it was not appropriate for him to be directing the police consultant's work on the financial review. This undermined the independence of the BDO Alto review.</p>	<p>It is relevant to record that Mr Gradwell's credentials in relation to the management of major incidents were impeccable to the extent that he could take an objective view of the management of Operation Rectangle. There was therefore no reason, at the time, to anticipate a difficulty. I accept that Mr Gradwell's subsequent behaviour gives rise to a serious risk that the outcome of the BDO Alto Report may have been influenced by Mr Gradwell's view.</p>
	<p><b>3. To identify the reasons why the Senior Investigating Officer for Operation Rectangle was not interviewed during the review and was not given the opportunity to respond to the report's findings</b></p>	
3.1	<p>It is self evident, and all parties agree, that BDO Alto should have interviewed the key witness so that his evidence could have been included and evaluated in their report. Natural justice requires no less.</p>	<p>Although BDO Alto were aware of Mr Harper's position on a number of issues, it was implicit in the terms of reference that key witnesses should be interviewed. If the difficulties in relation to this had been brought to my attention then I would have ensured that this occurred.</p>
3.2	<p>The failure to provide Mr. Harper with the opportunity to respond to the findings of the BDO Alto review was also, in our view, a significant error and inevitably undermines the credibility and fairness of that</p>	<p>I accept that the failure weakens the strength of some conclusions. However, some conclusions were independently confirmed by the Wiltshire Police Finance</p>

	review.	Report and, in other cases, the position of Mr Harper was known and it is unlikely that the response of Mr Harper would have led to a different conclusion.
3.3	Given that it was surely obvious that not to interview the Senior Investigating Officer in Operation Rectangle would leave the review open to criticism of being fundamentally flawed, BDO Alto should have brought this problem to the attention of the Home Affairs and insisted that some solution be found.	The BDO Review was carried out by professional auditors and based upon documentary evidence. The factual findings in relation to expenditure are accurate. The BDO Review makes it quite clear that the content had not been discussed with the former SIO. I refer back to my comments on 3.1.
3.4	No one involved in the review brought to the Minister's notice the fact that there were apparent obstacles in the way of interviewing Lenny Harper.	Agreed, and I have already commented on that.
3.5	The terms of engagement for BDO Alto should have made clear that their review would be subject to public scrutiny.	It was clear to BDO at an early stage that their report would be placed in the public domain.
	<b>4. To clarify the liaison between the review of financial management and the Wiltshire Police Investigation, in particular the references in the BDO Alto report to the Senior Investigating Officer's statements to Wiltshire Police</b>	
4.1	BDO Alto stated that the references to Mr. Harper's statement to Wiltshire were included in their report in order to add some support to Mr. Harper's approach to certain financial issues.	Agreed.
4.2	The three references briefly made in the BDO Alto report actually concern contentious issues which deserved a much fuller explanation of Mr. Harper's position.	See comment to finding 3.3. Where opinions were expressed by the SIO, such as the relevance of Home Office procedures to Jersey, then an explanation of his view would have been helpful.
4.3	In our view, the justification given for referring to Mr. Harper's statement in fact supports the argument that he should have been contacted to establish his point of view across the whole review of financial resources.	I have already commented on that.
	<b>5. To investigate how details of the review into the financial management of Operation Rectangle came to be published in a</b>	

5.1	<p><b>national newspaper in October 2009</b></p> <p>The evidence we have received points to Mr. Gradwell as the person responsible for leaking information from draft sections of the work which Mr. Kellett had prepared for the BDO Alto review.</p>	Agreed.
5.2	Neither BDO Alto nor Mr. Kellett were responsible for the leak of information to the Mail on Sunday.	The Department was confident from the outset that no leaks had been made by Home Affairs Department staff or those carrying out the BDO Review.
5.3	Mr. Gradwell's action in releasing prematurely to the media draft sections of an uncompleted report would have been a serious disciplinary matter for the Police. However, no action could be taken against him by the SOJ Police as Mr. Gradwell had completed his secondment and left the Island.	Agreed.
5.5	Mr. Gradwell's reasons for taking such an unprofessional step are not clear to us as he refused to participate in the Scrutiny review.	Agreed. Mr Gradwell did explain his behaviour in a telephone call to me in late 2009 or early 2010, but this was not included in my evidence as I was not asked about this.
	<p><b>6. Media coverage</b></p> <p>6.1 The emphasis on alleged misuse of taxpayers' money in instances of media reporting risks implanting the impression in the public mind that the entire expenditure on Operation Rectangle was badly managed.</p>	When I made a press statement in relation to the Wiltshire and BDO Reports regarding the Historical Child Abuse Enquiry, I read out a detailed and balanced statement before answering questions on details. I was not able to control the reporting of this. Some of the reporting was fair and balanced but some was unbalanced and sensational to the extent of wrongly giving the impression that the entire expenditure on Operation Rectangle had been mismanaged.
6.2	In our hearing with him on 25 <sup>th</sup> August 2011, the Minister was sympathetic to our concerns about the way negative messages about Mr. Power and Mr Harper had been spun in the media and he offered to make a joint statement to this effect with the Sub-Panel. We believe that this would be a positive step.	The Minister has followed through on this offer, eg: Radio Jersey interview on the 15 <sup>th</sup> November 2011 with the Minister and the Sub-Panel Chairman. In addition to this, I now offer the following further statement (see Appendix 1)
6.3	Our primary concern about the premature leaking of details of the review of financial management relates to issues of fairness in the way these leaks are reported in the media without an adequate	Agreed.



	opportunity for an alternative perspective to be considered.	
6.4	It is essential that the Chairmen's Committee give serious consideration to establishing a Scrutiny Panel which could undertake a review which will look specifically at the kind of issues we have identified in this report.	This is not within my remit as Minister for Home Affairs.

### Recommendations:

R.1	<p>The Council of Ministers should report to the States on whether it believes that its procedures for the identification and management of major financial risks are adequate. If they think they are adequate, they should explain why, in the light of two successive failures <sup>1</sup> when major unprecedented risks were not well managed. If they think they are not, how they have made the procedures fit for purpose.</p>	<p>The Minister for Treasury and Resources has accepted the view that the fact that the Chief of Police was not an accounting officer may have contributed to difficulties in managing the financial aspects of Operation Rectangle. He will therefore appoint the Chief of Police as accounting officer with effect from 1<sup>st</sup> January 2012. However, he regards this as an isolated and exceptional example of the accounting officer arrangement not working effectively.</p> <p>When the new Public Finances Law came into effect in 2006 the previous General Reserve was no longer available to fund unforeseen expenditure. From 2006 such unforeseen and large items have been brought in an open and transparent manner to the States' attention via a request for additional funding under Article 11(8) of the Finance Law. Any such expenditure approved has then been separately managed by the Treasury with any unspent funds not required for that explicit purpose being returned to the consolidated fund by ministerial decision. Recent examples of such returns happening include funding allocated for pandemic flu, Williamson and Social Security costs.</p> <p>The Council of Ministers regards the two examples quoted by the sub-panel as being particular and not evidence of a systematic weakness in the identification and management of financial risks. The Historic Child Abuse Enquiry was largely unforeseeable but the Article 11(8) approach outlined above allowed this cost to be managed. The EFW</p>
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<sup>1</sup> The negotiating of a major contract with a French company with regard to the construction of the incinerator, and the running of a major crime investigation into historic child abuse, and possibly child homicide.

		<p>matter had a number of contributory causes which have been well documented but this was not an unidentified risk, rather one where the mitigation process was unsatisfactorily managed. Aside from isolated Article 11(8) requests to the States all other capital and revenue expenditure has been contained within States-approved limits and is managed by a combination of accounting officer vigilance and regular reporting on income and expenditure to the Council of Ministers, where any corrective action can be discussed and agreed. The Council of Ministers therefore has confidence in its assurance framework.</p> <p>Notwithstanding the basic soundness of the processes described above a number of improvements have been made that include:</p> <ul style="list-style-type: none"> <li>• Improved quarterly revenue and capital reporting to the Corporate Management Board and Council of Ministers – any potential difficulties are identified and discussed on an “early warning” basis.</li> <li>• Identification of major spending pressures towards year end for the forthcoming year to the Council of Ministers. These are then discussed and funding agreed if appropriate. If funding is not available departments will be expected to manage within existing approved expenditure limits.</li> <li>• The availability of Central Reserves/Contingency to meet any genuinely unplanned pressures. These have been approved by the States. An outline of a transparent process for managing this expenditure will be published in January 2012.</li> <li>• Six-monthly reports to the States showing all approvals made for changes to States-agreed spending and income by the Treasury and Resources Minister under his Finance Law delegations. This ensures States Members are made aware of any changes in use of funding they have approved.</li> <li>• A strengthening of the Audit process and the Audit Committee. This is now more focussed and has more independent members.</li> </ul>
R.2	Reviews of exceptional matters of public interest such as Operation Rectangle should be commissioned, their Terms of Reference set, and supervised in a completely transparent and independent way. The Council of Ministers must report to	The Home Affairs Department’s objective was to commission an audit into the efficient and effective use of resources. The Council of Ministers believes that it is possible for a Department to set Terms of Reference and supervise in a transparent and independent way.

	<p>the States on how this is to be achieved.</p>	<p>However, in future, it commits to considering such matters as part of its regular review of financial performance and, either jointly or through the Minister for Treasury and Resources, commissioning internal or external reviews where it feels this would be appropriate. It does not consider that a report to the States would be of any benefit as each case must be treated on its own merit</p> <p>For any other exceptional and large occurrences which are likely to result in significant additional expenditure the Council of Ministers commits to considering financial arrangements early in such a process. At the same time the Council of Ministers is concerned that the accounting officer concept is not weakened and that legal responsibilities cannot be avoided by the Council of Ministers or Minister for Treasury and Resources taking over such responsibilities. The accounting officer for a department committing expenditure remains legally accountable for that expenditure.</p>
R.3	<p>The Chairman's Committee should establish broadly-based Scrutiny Panel to undertake a review to examine issues relating to the media coverage which we have raised in our report.</p>	<p>This is a matter for the Chairman's Committee.</p>

**Conclusion:**

The findings of this report are a mixture of accurate statements and inaccurate or only partially accurate statements. Insufficient weight was given to the independent and well-researched Wiltshire Police Finance Report. However, because of the exaggerated nature of some of the press reporting in this area I have produced a press statement in order to seek to correct the exaggerated criticism of both Mr Power and Mr Harper.

**Press Release from the Minister for Home Affairs in relation to the financial management of the Historical Child Abuse Enquiry**

During the Review that was recently conducted in relation to the BDO Alto report into financial management of the part of the Historical Child Abuse Enquiry which related to Haut De La Garenne, I was reminded of the exaggerated nature of some of the reporting in this area and agreed, in fairness to Mr Power and Mr Harper, to make a press statement to seek to correct the worst exaggerations.

These exaggerations included allegations that most of the cost of the Historical Child Abuse Enquiry was wasted and that digging should never have started at Haut De La Garenne. Some of the reported criticism of the Historical Child Abuse Enquiry has wrongly led some people to the conclusion that, in some way, the whole enquiry had been discredited.

The definitive reports in this area are the two reports of the Wiltshire Police. Those reports conclude amongst other things:

- 1) That the Historical Child Abuse Enquiry was appropriately managed in its early stages.
- 2) That issues of serious concern did arise in relation to the financial management and other aspects of the investigation in relation to Haut De La Garenne.
- 3) That the decision to start digging at Haut De La Garenne was not so clearly wrong as to give rise to a disciplinary issue.

In my press conference in July 2010, I indicated my view that, once a piece of material had been wrongly identified by an anthropologist as being part of a child's skull, it was reasonable that the digging at and around Haut De La Garenne should continue, but that once the forensic experts indicated that the item was not human skull, the reason for continued digging ceased.

I also now wish to affirm and confirm that the Historical Child Abuse Enquiry was much wider than the Haut De La Garenne investigation, and that this enquiry led to a significant number of successful prosecutions as well as to the discovery of significant other allegations of physical and sexual abuse which did not, for a variety of reasons, lead to successful prosecutions.

The Enquiry continued until 2010 and I am satisfied that the Police investigations were fully and properly concluded in relation to the various allegations of abuse which were made.

Ian Le Marquand  
Minister for Home Affairs

January 2012

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP20

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**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS  
BY DEPUTY T.M. PITMAN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 5th MARCH 2013**

**Question**

Can the Minister inform members whether, in the early stages of the historic child abuse investigation, both a current States Member and an individual still employed by the States and himself facing a number of allegation relating to abuse, went to Haut de la Garenne and attempted to gain access past the Police cordon stating that they needed to collect/remove personal material?

**Answer**

The States of Jersey Police have no formal record of any such visit by either party and with the passage of time, there is no-one still serving within the States of Jersey Police who is able to confirm that any such visit took place.

However, I am aware that Deputy Kevin Lewis was very familiar with the building because of the time that he had spent there during the production of the Bergerac series. The premises were used for the Bergerac series for about 7 years after they had ceased to be used as a Children's Home.

When mention was made in the press of a large bath on the premises, he contacted the States of Jersey Police in order to offer them assistance. His offer was accepted and he met the then Deputy Chief Officer Harper and, without entering the building, showed him from the outside the area where the bath was situated.

I am also aware that one ex-officer has a recollection of a suspect turning up at Haut de la Garenne, as did other parties throughout the early stages of the Haut de la Garenne part of the investigation, but that no attempt was made by the suspect to enter the site.

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP21

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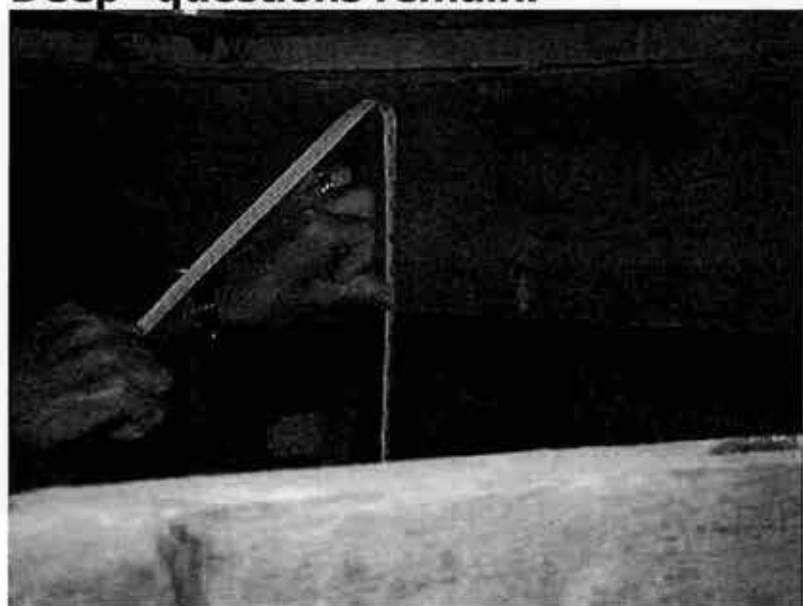
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Thursday, 22 April 2010

## "Deep" questions remain.



On the 12th November 2008 Mick Gradwell and acting Chief Police Officer David Warcup issued a press release, which was re-produced on [VFP](#) .

The said Press Release was mentioned by Chief Police Officer Graham Power in his letter to PPC, not that the Chairman of PPC Constable Juliette Gallichan told her Committee anything about the letter, indeed the first some PPC members heard of the letter was when they read it here on [VFC](#). and the reply he got [HERE](#). CPO Power, among other things, had this to say about the Gradwell and Warcup Press Release. *"The media script was then subjected to significant changes (I believe that "sexed up" is a popular term used to describe this type of process)"*

Sometimes it is important to note what ISN'T in a Press Release just as much as what IS in it. Acting Chief Police Officer David Warcup and Mick Gradwell, when referring to the "Cellars" or "Voids" had this to say about them.

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Home Affairs Minister, Senator Ian Le Marquand, in an answer to an oral question on Tuesday 20th April 2010 from Deputy Bob Hill, said the Cellars/Voids were 1.4 metres deep, because that's what he has been told, presumably by David Warcup. The Senator added that he believes they could get deeper as a building slopes (or words to that effect) but he wasn't told that by David Warcup and it *wasn't* in the press release.

Also during questions on the same day Senator Le Marquand told us that THIRTY alleged victims had claimed to have been abused in these Cellars/Voids, (which wasn't in the press release) yes that is THIRTY! Were those THIRTY claims dismissed because in the words of Mick Gradwell and David Warcup *"it is impossible for a grown person to stand up straight in the floor voids under Haut de la Garenne."*?

Or were the Cellars/Voids just that little bit deeper than 1.4 metres (4'7 and a half inches)???????????? Even if they were only 1.4 metres would that stop a child abuser committing his/her crimes down there?

Posted by voiceforchildren at 15:57

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39 comments:

[voiceforchildren](#) [22 April 2010 at 16:30](#)

E-mail from Deputy Hill to all States Members and Media.

Dear Colleagues,

You will recall that on Tuesday I asked the Home Affairs Minister what the depth was of the deepest void/cellar at Haut de la Garenne and how many allegations of abuse in that area had been received. The reason for the question was because it had been claimed by the Acting Chief Police Officer that there were no cellars but only voids. This could imply that no abuse could have taken place under the floor boards and those claiming to have been abused were misguided. Also the States Police should not have wasted any time investigating the allegations.

It seems almost unbelievable that the police and forensic experts would have spent thousands of pounds and countless man hours investigating large areas under Haut de la Garenne unless there was sufficient evidence in the first place, yet all that time and expense can be

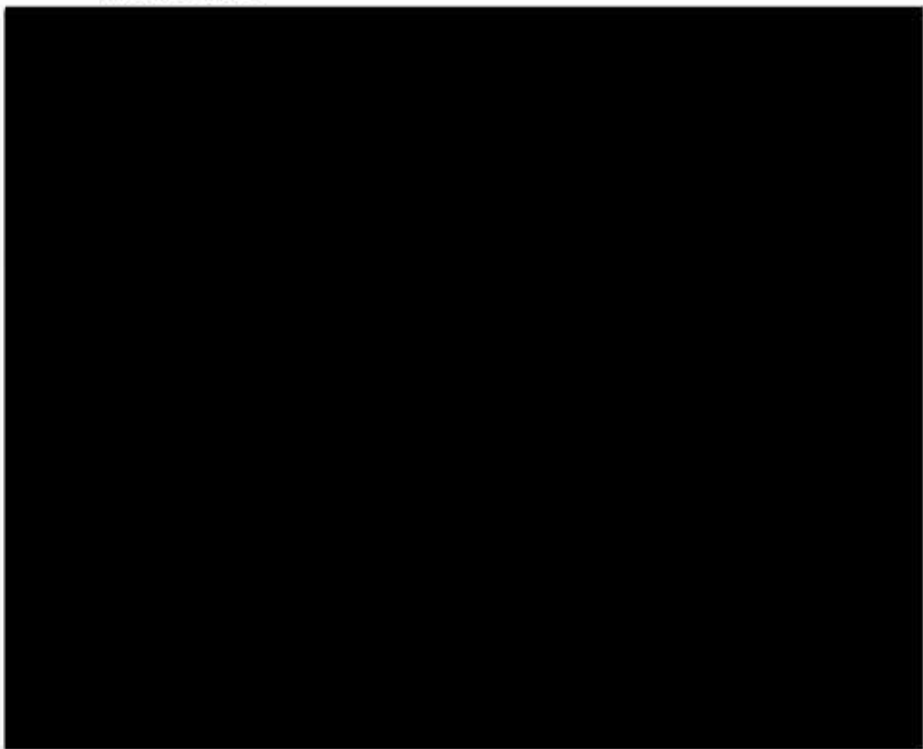
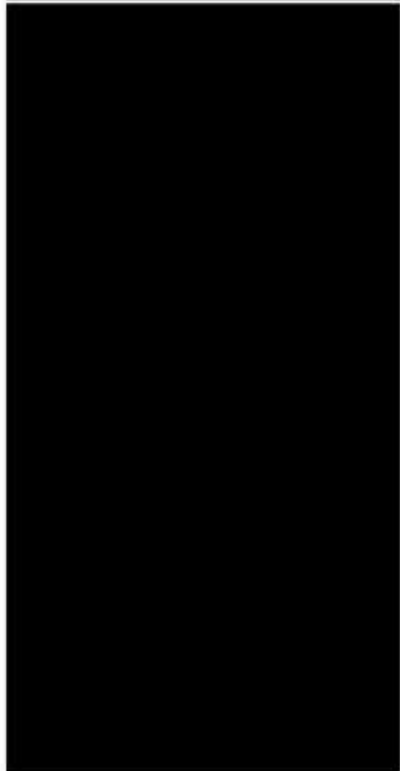
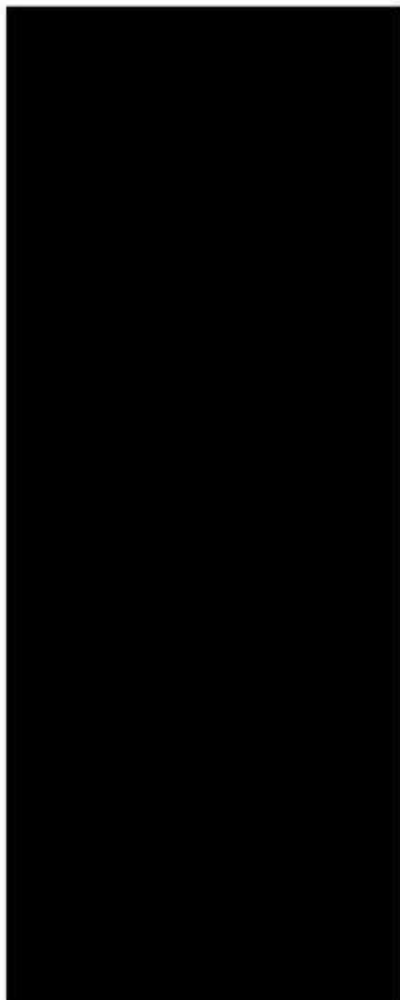
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As mentioned in the States on Tuesday I visited HDLG last week and measured and photographed the underfloor areas. It is correct to state there are some areas which are around 3 feet deep, however as one moves further down the building the areas do get much deeper and as the Home Affairs Minister stated on Tuesday some are at least 1.4 metres deep. As one can see from this link <http://www.youtube.com/watch?v=aq6X8QAtkog> that one (void?) is around 7 feet deep.

If some of the areas under HDLG are as deep as 7 feet and 30 victims have alleged that they were abused down there, it would be interesting to know how the claim that there are no cellars but only voids under HDLG was so readily accepted by the former Chief Minister and Home Affairs Minister who apparently visited the under floor areas and also witnessed investigatory work being undertaken. They of course along with the Acting Police Chief all played a part in the suspension of Graham Power.

One should also note that over £3.7 million pounds has spent on the historic abuse investigation since the retirement of Mr Harper, plus near on a million pounds to cover the suspension of Mr Power yet no one at the Chief Minister's Department or at Home Affairs seems to be concerned.



Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP22

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**Trevor Pitman, Deputy of the States of Jersey**

St. Clement, Jersey

3,689

Supporters

Leah McGrath Goodman is an American investigative journalist, author and former UK resident **who was banned from the UK** after launching an investigation into the alleged **mass abuse, torture and possible murder of children** on the island of Jersey – a British Crown Dependency and **one of the world's leading offshore tax havens**.

The largest of the island's scandals made international headlines in 2008 at the **Jersey orphanage Haut de la Garenne** when nearly 200 victims alleged that the government had turned a blind eye to **horrific crimes against defenceless children for decades**. Evidence taken from the orphanage included the **exhumed teeth, blood and bones of children**. Then, in short order, our island's chief of police was **illegally suspended**, our health minister was **thrown out of his job** and evidence of children's remains were **irreversibly compromised** as Jersey's government scrambled to shut down the investigation at all costs.

After succeeding in doing so, Jersey's government, to this day, squanders millions from the public purse to try to silence and discredit its critics and, most appallingly, shield the accused from being brought to justice, a number of who **remain in high-ranking positions working closely with the island's children – free to strike again**.

**With the help of this international petition, we demand Ms. Goodman's Tier-1 UK visa be restored so she can complete her urgent investigative work.**

The people of Jersey are being denied the democracy they deserve. This should outrage not only members of the island's public, but everyone in the international community who **cares about truth, justice and the freedom of the press**.

We are in need of a major overhaul of our troubled system if we are ever going to effect change. **Please sign this petition to if you believe in the principles of a free and open democracy**. We need a government that will work to protect our children and bring justice to the victims – not oppress them. **On behalf of the people of Jersey, this is quite literally an S.O.S.**

Every day that goes by without this problem being fully addressed potentially exposes our children to further abuses.

– Trevor Pitman, Member of Parliament, States of Jersey

*"Author and journalist Leah McGrath Goodman watched the investigation and digging at Haut de la Garenne from her U.S. home with interest. As the national and international TV cameras turned away from the story, she remained interested and decided to write a book on the subject. She began making trips to Jersey to research allegations of cover-ups...She set up a meeting with the Immigration Service and says it was all going well until she told them what she was writing about..."*

– BBC

Read more:

Witness Name : Trevor Pitman  
Statement No : First  
Exhibits: TP1 – TP23  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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EXHIBIT TP23

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Thursday, 9 April 2015

## Former Jersey Opposition Politician and "The Jersey Way."



Last month at his inauguration as Bailiff, former Attorney General William Bailhache, a man who like his brother Sir Philip bears responsibility for so many unanswered questions on child protection failings, told the Jersey Evening Post how he wanted to 'reclaim' the 'Jersey Way'. According to William Bailhache, the term had been hijacked to falsely portray something negative and even suggest 'corruption'.

In the short interview (below) former three-times elected St. Helier Deputy Shona Pitman, an outspoken critic of the 'Jersey Way', when in office, offers disturbing and highly compelling new evidence into how, for those who dare to stand up against apparent judicial corruption, and the type of State-concealed abuse now being confirmed in the Independent Care Inquiry, on an almost weekly



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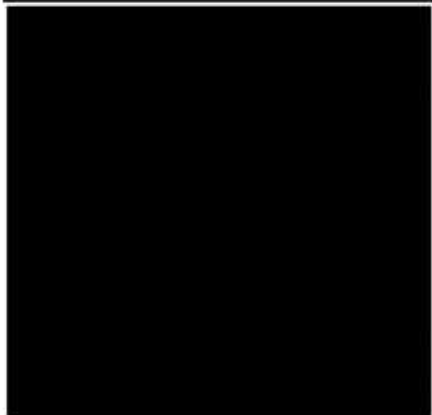
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driver's admittance of responsibility and three independent witnesses confirming this - after months of inexplicable procrastination, she was finally informed by Mr Mike Bowron's States of Jersey Police would not be prosecuting the driver.

Incredibly the reason given was that there apparently 'wasn't enough evidence' to charge an individual whose excuse had been that the angle of the sun had prevented him seeing what colour the traffic lights were! In the words of the Police Officer 'some things are just accidents'. The driver 'had tried to stop' so the Officer said. Which in his Sergeant's view meant there wasn't enough evidence to charge him with driving without due care and attention!

All shocking enough in itself one might suggest. Particularly when many readers will still recall the contrasting response from the Police in the case of a young woman driver, prosecuted and convicted just a month after an incident having narrowly missed colliding with a mother and baby buggy on a pedestrian crossing in St. Helier!

Yet for former Deputy Pitman this deeply disturbing treatment at the hands of the Jersey Police did not end there. A full six months on, she has still been denied the insurance details of the driver who knocked her down and even a copy of her own Police statement. Indeed, having promised he would return with the insurance details 'within a couple of days' the Police Officer, reportedly, simply never bothered to return.

By her own admission, former Deputy Pitman is just pleased to have been lucky enough to have escaped serious injury. She was nevertheless left with painful bruising, stiff muscles and wholly understandable psychological symptoms manifesting as anxiety as a consequence of the driver knocking her down. Team Voice find the action (or lack of ) on the part of the Police as incredible, as it at first appears to be inexplicable.

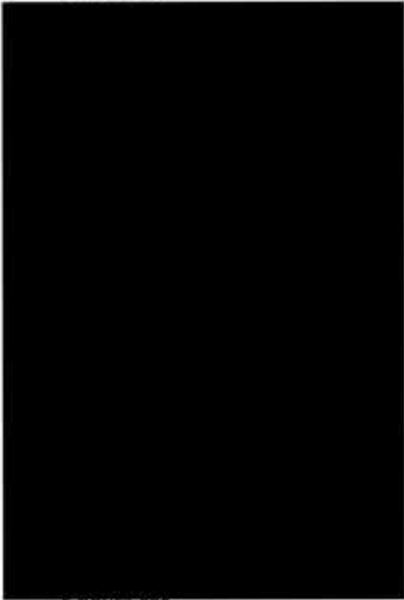
However, when one considers the evidence the former Deputy flags up of just some of the treatment she and her husband have experienced as a consequence of challenging the Jersey Establishment over recent years, perhaps the real motivation behind otherwise inexplicable action becomes somewhat clearer?

As a States' Deputy, Shona Pitman did of course bring the first ever Vote of No Confidence in a Bailiff - then Sir Philip Bailhache - for his appalling child protection failings including both the Roger Holland affair, and the now infamous Liberation Day speech which so offended the child abuse survivors and others. As readers will recall, she was then rapidly prosecuted by Bailhache's Attorney General brother William. Dragged through the Royal Court along with a solitary colleague (the only other Deputy who voted for her proposition) for her having assisted two elderly and disabled

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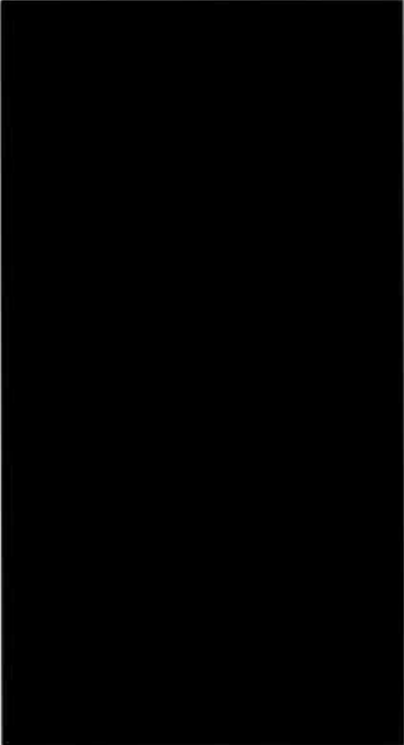
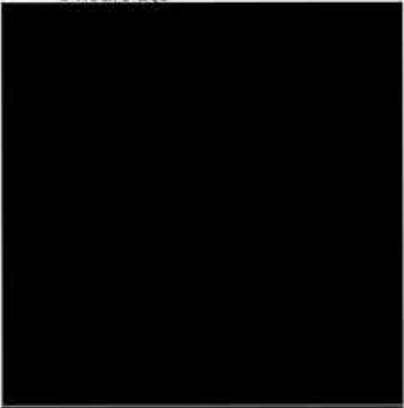
Jersey's ...  
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her husband at the hands of the Jersey justice system have of course been numerous. Suffice to say that when one listens to the interview and tries to marry up the Police behaviour one has to conclude that if Bailiff William Bailhache really wants to reclaim the 'Jersey Way' as something positive he has rather a lot of work to do...

## Former Jersey Opposition Politician and "The Jers

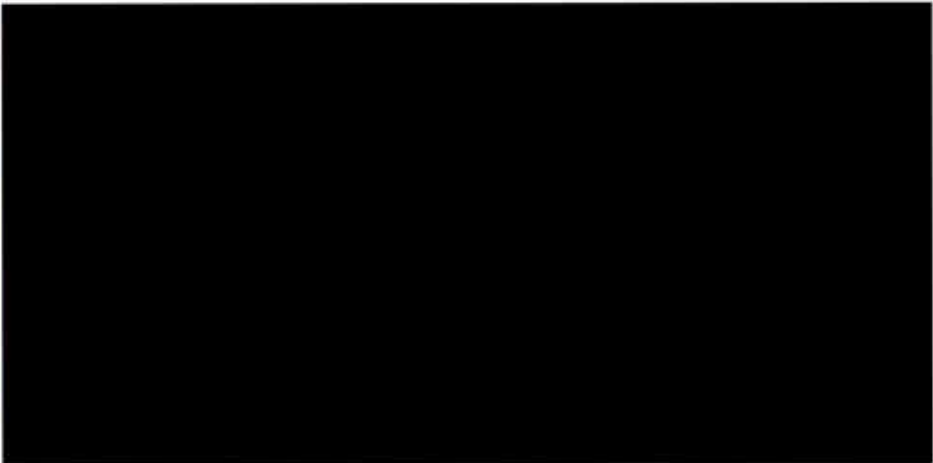
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Posted by voiceforchildren at 08:21

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Labels: Philip Bailhache, Shona Pitman, SOJP, The Jersey Way, William Bailhache



Witness Name : André Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated : 5 October 2015

## THE INDEPENDENT JERSEY CARE INQUIRY

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### Witness Statement of André Bonjour

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I, André Bonjour, will say as follows:-

1. I was born and raised in Jersey.
2. In this statement I describe my experience as a serving Police Officer with the States of Jersey Police ('SOJP') between 1981 and 2013. More particularly, I will describe my career history, my time spent as Head of Crime Services at the SOJP and an investigation that was carried out by the South Yorkshire Police Force.
3. Where in this statement I refer to having been asked about a particular matter or being shown particular documents, I refer to questions put to me or documents shown to me by Solicitors to the Inquiry in an interview conducted on 26 August 2015.

#### **Background and career history**

4. I joined the SOJP in March 1981 and started my career as a uniformed officer, undertaking secondments to CID in 1982 and 1986. In 1987, I moved to join the Special Branch Ports Unit, which was based at Jersey airport, and was selected in 1988 to be the SOJP's first Police National Computer Trainer, carrying out the required training at Durham Constabulary.
5. I was promoted to Sergeant in January 1989 and returned to work as a uniformed officer until October 1989, when I joined the SOJP's Research and Development Department. I returned to uniformed duties after two years and

was selected in 1992 to run the Western Substation, which I did for two years.

6. I was promoted in July 1994 to Acting Inspector and managed what was then known as the Task Unit, having responsibility for planned and unplanned policing events; the Licensing Unit; the Force Control Room; and Major Incidents. I was made a substantive Inspector in September 1994 and remained in that post until I joined the Complaints and Discipline Department in January 1998, which investigated both internal and external complaints made against members of the SOJP.
7. In 1999, I was seconded to the Police Staff College at Bramshill and worked on the staff of the National Operations Faculty attached to the Critical Incident Team. My role while there was to assist in reviewing the impact of the imminent coming into force of the Human Rights Act 1998 in England as to police use of firearms.
8. I was promoted to the rank of Chief Inspector in August 2000 and spent four weeks with the Kent and Greater Manchester Police Forces before taking up my position with Uniformed Operations in December 2000, around the same time that Graham Power joined the SOJP as Chief Officer, and I remained there until January 2003 when I became the Chief Inspector for Crime Services.
9. During my time as Head of Crime Services, I spent six weeks with the Metropolitan Police working with a Crime Manager for two weeks and with the Specialist Crime Directorate Murder teams for four weeks.
10. Following my time spent with these other forces, I found that there were more similarities than differences between the UK and Jersey forces – all Police Forces appear to suffer from the same issues for example regarding types of crime and resourcing, but there were no differences in terms of professionalism. The main difference, however, is one of experience; it can be difficult, due to Jersey's size, to provide junior officers with exposure to serious crimes – we are lucky that historically, serious crime in Jersey is rare. Efforts are made to send officers on secondments to UK forces to bolster experience, and occasionally officers joined from the UK, so were able to bring their experience with them.
11. I remained Head of Crime Services until May 2007, making me the then longest serving Head of the Department. Upon leaving Crime Services, I

became the Chief Inspector for Community Safety with responsibility for, amongst other things, the Criminal Justice Unit, Emergency Planning and Major Incident Planning. I moved in 2009 to become Director of Intelligence before returning in June 2010 to head up Crime Services as the Acting Superintendent, a position which was made substantive in June 2011. I retired from the SOJP and my position as Superintendent on 28 February 2013, having served for 32 years.

12. While it may appear on first glance that I moved around a lot during my career, between departments, it is not unusual to do so in Jersey. Jersey is a small island and as a result Police Officers in the SOJP tend to change roles every 2-3 years. This enables SOJP officers to gain a much broader understanding of police work than their UK counterparts and leads, in my opinion, to a more rounded officer. While there are benefits, I appreciate that the movement between departments does create issues around retention and consistency of staff, and the development of specialist knowledge and expertise.
13. In terms of my series of promotions within the SOJP I confirm that this was via a formal process, and I sat exams as part of my promotion to Sergeant and Inspector, which I passed at my first attempt, and was interviewed by an Appointments Board as part of my promotion to Chief Inspector and Superintendent. In my experience, most roles and vacancies were advertised, but there were instances when people would be moved for organisational needs – as I was when asked to join the Complaints and Discipline Department in 1998.
14. In terms of training and development, I received a lot of training during my career as a Police Officer. Over my service, I received around 30 weeks' worth of training in Jersey and over a year's worth of training off island in the UK or USA, including 3 months spent attending the Federal Bureau of Investigation's National Academy Course.
15. In the early days, all officers would undertake a basic detective training course, but there was certainly not the specialist training available that there is now for each of the individual specialist teams. As happened with me, there was a practice whereby officers would go on short term secondments (three to four months) to other teams or jurisdictions, in an effort to supplement their training and develop their experience and knowledge in

specific areas. The intention was that officers would gain experience and knowledge that they could bring back and apply in Jersey.

### Structure and management of Crime Services

16. Crime Services consisted of seven specialist units when I was in charge. While their names may have subsequently changed, the seven units then consisted of the Joint Financial Crimes Unit, Special Branch, Crime Management, the Joint Intelligence Bureau (which I understand is now known as the Force Intelligence Bureau), the Scenes of Crime Unit, the Reactive Investigation Team (which would be CID to most people), the Proactive Investigation Team and the Public Protection Unit (which was previously known as the Family Protection Team – I refer to it in the main as 'PPU' in this statement).
17. With the exception of the PPU and the Scenes of Crime Unit ('SCU'), each of the teams were run by an Inspector. The PPU Team was run by a Sergeant who reported to the Inspector in charge of the Reactive Investigation Team ('RIT') and SCU was led by a civilian officer.
18. I held a weekly meeting with the units' Inspectors, or Sergeants if a unit's Inspector was on leave, to discuss resourcing, current workloads and any news or information that needed to be cascaded down to the officers within each of the units. Due to the nature of its remit, RIT's workload was more urgent and extensive than the other units, and I therefore had a separate weekly meeting with RIT's senior officers, normally on a Tuesday, to discuss their specific workloads in more detail. In addition to the formal meetings, as all of the units were based in the same building as me (except the Joint Intelligence Bureau and SCU), I would also walk around the units and speak with the officers in charge and staff to receive updates.
19. The SOJP has a pyramid structure and I would pass any pertinent information that I received from my teams/officers up to the Superintendent, to ensure that the Deputy Chief Officer and Chief Officer were briefed on any issues that they needed to be aware of. As the Chief Inspector of Crime Services, I would attend Operational Management Meetings with the Superintendent and the two other Chief Inspectors to discuss any relevant operational issues, principally resources and welfare issues.
20. In terms of broader management meetings, there was a Force Management Board and an Executive Strategy Group which sat above it. The Force



Management Board was attended by the Chief Officer, the Deputy Chief Officer, the Superintendents or Chief Inspectors, Performance Review Manager, Human Resources Manager and the Heads of the Facilities and IT departments to discuss issues which affected the Force as a whole. The Executive Strategy Group, which considered strategically important issues, consisted of the Chief Officer, the Deputy Chief Officer, the Superintendents, Performance Review Manager and Human Resources Manager. As Head of Crime Services, I would therefore only attend these meetings if I was required to give a specific briefing or to discuss a particular issue, or in the absence of the Superintendent.

21. In terms of meetings with Ministers of other States' Members, ultimately the Chief Officer is responsible to the Home Affairs Minister and I am aware that they would meet, to discuss political / strategic issues. However, I am unable to comment upon how frequently they may have met together. The Chief Officer would also meet with the Deputy Home Affairs Minister in the Minister's absence as well as other politicians who might wish to discuss a matter of specific concern.
22. As a Chief Inspector I did not meet regularly with the Home Affairs Minister, and if I did, it was only upon invitation. I recall that I did meet with the Minister on a few occasions when it was thought that I was best placed to brief the Minister on a particular issue, such as the proposed expansion of the PPU team - which I describe in more detail below.

#### **The Public Protection Unit (also known as Family Protection Team)**

23. As explained above, PPU was one of the criminal investigation units within Crime Services that fell under my supervision and control. At the time I took over as Head of CID, PPU reported in to me via the Inspector of RIT; the most senior officer in charge of PPU until 2006 was in the rank of Sergeant. There had been a number of Sergeants in relatively short succession, DS Fossey, later DI Fossey, was the last OIC under my tenure. Alison Fossey had joined the SOJP from the UK, with experience of working in the matters dealt with by PPU from her previous post.
24. The work undertaken by PPU covered three areas: domestic violence, which made up the majority of PPU's cases; child abuse and sexual offences.
25. At the start of 2006, RIT was being run by a newly appointed and relatively young Inspector (who needed space to learn and grow into the role) and the



work being undertaken by the PPU team was an area of growth, as we were seeing an increasing number of referrals. This led to concerns regarding the resourcing of PPU, which I discuss in more detail below.

#### Funding and resourcing of PPU

26. Funding and resourcing are and always will be, issues for any public body. This is not a problem that is particular to Jersey, nor to the SOJP, it is a problem throughout public services in the UK as well.
27. That said, when Graham Power took charge of the SOJP in December 2000, funding was not a problem. That position changed in 2002/2003 following the completion of a fundamental spending review by the States of Jersey, which very much brought a focus on the reduction of budgets and more controlled spending.
28. Budget cuts are difficult to manage in the public sector and particularly difficult within a police force when there is no less police work to be done; the demands are the same and the public wants to see a visible police force with officers on the street. While difficult to manage, budget cuts force you to be more efficient and intelligent with the money that you have. Effectively you have to do more with less, which at a practical level tends to mean that workloads go up and people are placed under greater pressure than before.
29. The PPU team was no exception; as with many of the other Crime Services units, it suffered from the budget reductions and scarcity of resources, and Alison Fossey voiced her concerns in respect of PPU resourcing with me on a number of occasions. I produce as my **Exhibit AB1** a copy of two emails that Alison sent me, the first in June 2006 and the second in August 2006, together with my responses.
30. The first of Alison's emails, which she sent me on 6 June 2006 at 10.56am states that she believes 'resourcing levels in the department need urgent reviewing'. Alison goes on to state that the number of referrals that the unit deals with are high compared to the UK average and explains the impact that a standard referral has on the team in terms of meetings to be attended, reports to be written etc. Alison also notes that the team is receiving more requests to undertake interviews with children, in the light of increased awareness of the ABE (Achieving Best Evidence) guidelines which governed the interviewing of children and in which the PPU team were trained. Alison then states that a policy decision needs to be taken to decide 'what [PPU]

will/will not get involved in', before offering to attend an Operations Management Meeting to plead her case.

31. The second of Alison's emails was sent to me on 8 August 2006 at 9.33am. In her email Alison informs me that the unit is 'continually fire fighting' with the result that 'many cases are growing old with little or no progress being made on them' and that Officers are stressed and overworked. I responded to Alison's email later that morning at 09.58am. I explain in my email that despite the resourcing issues they are suffering, the FPT is the only department fully up to strength and RIT have '9 pages of serious jobs they have on the go', JFCU, have a backlog of '600 Suspicious activity reports' JIB have a back log of '100 intel reports to action' and there is a two month backlog in vetting matters. I go on to state that work will need to be prioritised and offer to assist Alison in setting priorities if necessary, before explaining that the current group of probationary officers will be available to free up resources in 8 to 9 weeks' time. However, Alison did not take me up on this offer; she responded to my email at 4.05pm the same day stating 'no need to discuss I just wished to make you aware. I know the difficulties you have'. I do not recall her coming to me at any time after that, for assistance with prioritisation.
32. I would like to make clear at the outset – my response to Alison was not to be dismissive of the issues she raises; at that point in time, the SOJP as a whole was suffering from chronic resourcing issues, not just PPU; PPU was in fact the only team to be fully staffed at that time. RIT was operating with a 25% vacancy rate and the Joint Financial Crimes Unit ('JFCU') had recently been criticised following a review by the International Monetary Fund ('IMF') for having less than adequate staff levels. Given the strategic importance of the finance industry to Jersey and its economy, additional funding was provided by the States of Jersey to the SOJP to be used specifically for the recruitment of staff to the JFCU, in light of the scrutiny by the IMF. That is not to say that PPU never received additional resources – it did, firstly with Alison's promotion to Inspector, and secondly when Sergeant Beghin joined from RIT to assist with the Powell and Romeril investigation (to which I refer in greater detail below).
33. I have been asked to comment on the following points raised by Alison in her emails to me:

34. First, in relation to the impact of the number of referrals impacting on the case loads of the officers: I was aware that there had been an increase in the number of referrals that the team was receiving and that this, together with the introduction and increased awareness of the ABE guidelines (as mentioned above), was having an impact on resourcing levels within the unit. The issue of referrals was one which grew over time. However, there was little that could be done about this; we had no option to increase resource further, and the cases still need investigating, but had to be prioritised – hence my offer to Alison to assist in that regard. At about this time other issues were reverberating through Childrens' Services with allegations being made at political level which I think led to officers in States departments or in the police becoming fearful of making decisions. It was easier to simply refer a particular matter on than look at the facts and make a sensible decision.
35. Secondly, in relation to the offer made in my August email for Alison to attend the Operations Management Meeting, she did attend this meeting in order to explain the position to the team. From the handwritten note in my day book, attached as my **Exhibit AB2**, I believe she attended the meeting held on 9 June 2006. However, as explained above, resourcing was a Force-wide issue and there were no additional resources which could be made available to her at this time.
36. Finally, in relation to the issue of priorities and Alison's comment that cases were 'growing old with little or no progress being made on them', given the position that Alison describes, there was a clear need to prioritise work and priority was always given to live or current cases, where children were at risk of harm. While this did mean that historic cases and some referrals were not progressed as quickly as they ought to have been, the priority had to be on protecting children who were at risk of harm at that time. Live cases would always be considered a priority for investigation and prosecution, where offenders were known and could be apprehended before committing further offences, over older cases which may require much more detailed investigation. There was an awareness across the board that this was the effect of the resourcing issues the PPU faced, and I had already acknowledged something needed to be done.



## Expansion of the PPU team

37. In response to Alison Fossey's concerns, and to lighten the RIT Inspector's workload, I decided in June 2006 to seek approval for the creation of an Inspector's position within the PPU team.
38. I prepared a paper for the Executive Strategy Group in June 2006, which sought approval for the appointment of an Inspector to head the PPU team on a short term, 12 month basis. I sought approval for a short term appointment, rather than a long term appointment, as I felt that I was more likely to obtain approval for a short term appointment, but knowing that if this was approved, the long term position would follow as the merits of the position would soon be appreciated and the benefits that derived from it realised. I attach a copy of this paper as my **Exhibit AB3**.
39. The paper highlights a number of points, including that:
  - 39.1 the recently appointed Inspector to the RIT role has 'limited operational Detective experience' and that they would experience a 'strong developmental learning curve during the next 12 months';
  - 39.2 there are three important matters that will need addressing within the next year within the FPT (PPU) area:
    - 39.2.1 the introduction and implementation of the Association of Chief Police Officers (ACPO) guidance on the Investigation of Child Abuse, the Safeguarding of Children and the Investigation of Domestic Violence;
    - 39.2.2 the implementation of the Sexual Offenders Law in late 2006 or early 2007; and
    - 39.2.3 the introduction of a national intelligence system, IMPACT, following the recommendations made in the Bichard Report into the deaths of Holly Wells and Jessica Chapman.
40. I ultimately had to present my proposal to Senator Kinnard, the Minister for Home Affairs, for approval, but knowing that the Senator was in favour of tackling sexual abuse and domestic violence issues, I was confident that she would approve the proposal; which she did.

41. Alison Fossey had a significant amount of experience within the PPU arena, and had recently passed the Inspector assessment centre. I felt she would provide the PPU team with the leadership and stability that it needed; the unit had been headed up by four or five different Sergeants in the preceding two to three years, and so consistency of experienced senior staff had been an issue. I therefore proposed that Alison take the Inspector role within the PPU team, which was agreed, and she began in the post before the end of 2006.
42. I have been asked whether more could have been done in relation to additional resource necessary for PPU. I had already done this when I put forward the proposal for an Inspector to head up the unit, and this had already increased the headcount by one senior staff member. It is unlikely that we would have been awarded further funding if we had gone back to the States to ask for more; as noted above, additional funding had also been given to Crime Services in order to increase staffing levels in JFCU as well, which I understood to be ring fenced owing to the importance for Jersey's finance industry of compliance with applicable IMF standards. Funding was being stretched across all departments.
43. When discussing the issue of resourcing, I think it is important to understand two other aspects of SOJP. First, staff turnover. The SOJP is not a large organisation - there are just over 220 Officers at the moment and at its peak there were just around 240, assisted by 90 civilian personnel. There have always been vacancies within the SOJP, but during the early 2000s, due to natural wastage, there was a dip in officer numbers as we were losing 13 to 18 officers a year. There was a large recruitment drive in the late 1970s, early 1980s and those Officers were coming up for retirement en masse in the 2000s. While there were some exceptional years when more were recruited, we would generally recruit seven to eight probationary officers per annum. The fact that there is also a nine month lead-in time from the point that a new recruit is taken on to the point they are fit for independent patrol, which does not include the additional time it takes for them to become effective at their roles, also means that departures/retirements have an impact on resourcing levels generally.
44. The second factor is the impact of serious crimes. While thankfully instances of serious crimes are rare on Jersey, when they do occur, they require immediate large-scale resourcing and usually result in a protracted and complex investigation. While most police forces will have a Major Investigation Team that have a constant stream of cases they are dealing

with, the SOJP is not geared up in that way. Instead, as and when a serious crime occurs, resource will be taken from across all units – as happened with the murders that took place in 2000 and 2004. Fortunately the murder investigations were concluded relatively quickly, but if they had been protracted and resource heavy there would be an impact on the wider crime teams and a pressure to transfer people out of their teams to assist. Uniformed Officers would be the first port of call, but officers could also be drawn upon from other teams, including the PPU, to assist.

45. I have been asked if Operation Rectangle had a specific impact on resourcing levels within PPU or any of the other units. While I was not directly involved in Operation Rectangle, I can say that it had an effect across the Force, although the resource impact was mitigated by arrival of officers seconded from UK police forces pursuant to a mutual assistance request. All SOJP officers were conscious of the publicity that Operation Rectangle sparked and the high profile nature of the investigation.

#### **Training given to PPU Officers**

46. I have been asked about specific training given to officers working in PPU, for example in relation to child protection investigations. I do not recall there being much in the way of specialist training in general before 2004/2005. In terms of training specific to the PPU, I remember having discussions with Alison Fossey in 2006/2007 about ABE (Achieving Best Evidence) training in how to interview children. However, as noted above, the ABE initiative put greater pressure on the PPU team as whenever officers from other units would be dealing with an interview of a minor, they would tend to push for officers within PPU to carry these out.
47. When Alison was appointed as Inspector of the PPU she was responsible for driving through a number of changes and I believe she provided training to the PPU officers on dealing with issues such as domestic violence and sexual offences, which were also part of PPU's remit, together with child protection.

#### **Work with external agencies**

48. I have been asked to describe the extent to which the PPU worked with external, third party agencies. As one would expect, the PPU worked very closely with Childrens' Services, but they also worked with other agencies such as the Education Department, if there were issues with young people in

a school context, and the Probation Service as necessary. I do not believe there was any particular formality or structure to the way they worked however – I believe this was just on an as-needed basis.

49. Alison Fossey, in her capacity as Inspector in PPU, together with the Head of Crime, would also have attended meetings of the Jersey Child Protection Committee ('JCPC'). I attended JCPC meetings when I was Head of Crime Services, but I cannot specifically recall how often we met, although my best recollection is that we met quarterly. Nor can I now recall the specific issues discussed at JCPC meetings. I expect that Alison Fossey will be able to expand on the JCPC and their work in more detail.
50. In addition to the above, while Chief Inspector of Crime Services (in and around 2004/2005) I was a Committee member of The Bridge in St Saviours. The Bridge was intended to be a multi service provision for families and young people which provided access to a range of amenities, both statutory and voluntary, in one place. It was there to support parents or help develop parenting skills with the long term aim being that early intervention would prevent issues developing in later years. The SOJP had placed two officers at The Bridge as part of the Youth Action Team, which was a multi-disciplinary office, comprising police, Childrens' Services and Probation Services working together with a preventative remit and to manage youth offending behaviour.
51. Generally, I would say that, from the Police's point of view, inter-agency relationships worked well on a day to day basis, but there was certainly room for improvement. There will always be issues when different teams, departments or agencies are working together, as each will have different priorities and a different way of working.
52. In terms of the PPU's interactions with the Children's Service specifically, my view was that the officers in PPU worked well with the regular Child Care Officers insofar as daily interaction was concerned, but there were problems with dealing with issues on a longer term basis (which I describe in further detail below). It was also sometimes felt that Childrens' Services were not taking action when we thought they could and should; it often seemed as though they were relying on the Police to do their job for them. As I describe below, specific concerns were raised in relation to our working relationship with Childrens' Services and I attended meetings in an effort to resolve these.



### Alison Fossey's concerns with Childrens' Services

53. Alison Fossey raised a number of concerns in 2006 in relation to her interactions and experience with Childrens' Services. While Alison will be able to explain the nature of her concerns more fully, my recollection is that they essentially boiled down to a concern that there was a lack of action on the part of Children's Service to apply for care orders when it was obviously necessary for them to do so, and a general feeling of inaction in progressing cases.
54. While I cannot recall how Alison's concerns first came to my attention, I know that I attended a meeting to discuss these together with Alison, Bridget Shaw (from the Law Officer's Department) and the then Solicitor General on 6 June 2006. I have been asked why we attended a meeting with the Solicitor General initially, rather than taking the concerns directly to senior officers within the Children's Service. If I remember rightly, while Alison expressed concerns initially, she raised them with Bridget Shaw who was one of the Force Legal Advisors and she in turn raised them with Stephanie Nicolle, the Solicitor General. I believe it was felt that in order to avoid damaging the relationship between Childrens' Services and the Police, it was better to have a third party present to help steer the conversation.
55. While I cannot remember the content of the meeting in detail, I have had reference to the entry in my day book regarding the meeting, and have also been shown a copy of the file note that I prepared following it – both of which I attach as my **Exhibit AB4**.
56. My day book notes that there was a 'lamentable lack of action re: conditions [that] children [were] living in' and that Childrens' Services were 'not confident re criteria for care orders'. These were views expressed at the meeting rather than my personal views.
57. The file note goes on to record matters in more detail, including the following:
- 57.1 a couple of individual examples where it was thought that Childrens' Services had failed to apply for a care order when they had grounds to do so (as previously mentioned);
- 57.2 that Alison Fossey had prepared a report on her concerns. I do not remember this report after this many years, but assume that we discussed the issues that it raised in the meeting with the Solicitor General;

- 57.3 that it was thought that, if Childrens' Services were to be subjected to a Part 8 Review (which I believe is essentially a Safeguarding/Serious Case Review), it was probable that they would be found at considerable fault. I do not think there was a concern that a Part 8 Review would be initiated but rather that if one were to be carried out Childrens' Services would come out of it very poorly;
- 57.4 that the issues we were encountering appeared to relate solely to the long term team and not the broader Childrens' Services' teams. More specifically, that cases seemed to 'disappear when forwarded' to them and 'rather than taking action themselves, the question was always asked, "what actions are the police taking?"';
- 57.5 that there was a discussion regarding Danny Wherry, who somebody appears to have said 'might not be impartial to the demands of the long term team'. I cannot recall what this meant due to the passage of time, but I believe this comment may have related to case management conferences that PPU members had attended where Danny Wherry had given an indication that he had already made up his mind about whether or not to take particular children into care before listening to the attendees' views. I had previously met but did not really know Danny Wherry. I did know that he was a Police Officer before I joined the SOJP and subsequently left for Childrens' Services. I had an impression that Danny Wherry did not like policemen, for whatever reason, but I cannot say whether this may have affected his working relationship with us;
- 57.6 that I was concerned with ensuring that Alison was distanced from any discussions that the Solicitor General may have, so as to safeguard her and the PPU's working relationship with Childrens' Services which obviously had to continue; and
- 57.7 that Bridget Shaw commented that she was having to 'prosecute cases where if the right action had been taken earlier, it may not have been necessary to do so'. I have been asked to comment on what Bridget may have meant by this statement. While Bridget would obviously be best placed to answer that question, my recollection is that she felt she was having to prosecute cases so that some action was being taken, but where she felt it would not have been necessary if Childrens' Services had taken appropriate action at an earlier stage.

58. As is noted in my file note, it was decided that a meeting should be held with Marnie Baudains of Childrens' Services to raise the issues we had discussed with her. That meeting took place at a later date (I cannot recall specifically when) and was attended by myself, Bridget Shaw and Tony Le Sueur. I do not have a file note of that meeting, but I do have a note of it in my day book and I attach a copy of relevant extracts from it as my Exhibit AB5. It is clear from my notes that a number of specific cases were discussed and that discussion centred on the Child Protection Register ('CPR') (also known as the 'At Risk' register). As the notes state, there appears to have been some uncertainty as to what it meant for a child to be on the CPR; how long they were meant to stay on it for and whether it was appropriate for some children to be on it.
59. In relation to PPU's role with the CPR, we had access to it via the Force Control Room and would check whether a child was on it as and when any cases or concerns arose. I have been asked if the Police would take a particular course of action or treat a case differently if the child was listed on the CPR. I would say that concern levels were obviously higher when dealing with a child that was on the CPR, but you would not necessarily treat them any differently or take any special steps, apart from being more aware of and alive to any warning signs of abuse and to take this into account when investigating. Our remit of investigating any potential offences regarding the children remained the same.
60. In relation to the CPR, one of the issues that we faced was the fact that while police officers are on duty 24/7, Children's Officers are not funded nor expected to be. This presented difficulties, especially where a child was on the CPR and officers sought information on a child that they had had an interaction with at two in the morning, by way of example. While there would be a duty Child Care Officer on-call, they would not always be responsible for the child that had been brought in and often could not provide operationally useful background information to the PPU officers dealing with the child. If it were an urgent matter, the duty Child Care Officer could attend their office to access file notes, which did occur on occasion.
61. I do not recall what happened after this series of meetings, and whether the situation was resolved to Alison's satisfaction. I do not recall being involved in any further meetings to discuss the issue, however.

## The broader Police Force and the justice system

62. In terms of the staffing structure within SOJP, Sergeants act as the operational leads and make operational decisions on the cases that they are either running (as a result of resourcing issues) or supervising. If a serious crime is being investigated, it would normally be supervised by the Inspector in charge of the department, who would maintain a policy book to record strategy and any decisions that are made during the course of the investigation. The use of policy books 10/15 years ago was not as widespread as it would be now and I expect that not everybody maintained one. There was certainly a policy book for use in murder investigations, as I used one when I led the investigation of one of the murders that occurred in 2004.
63. The SOJP adopted the National Intelligence Model for policing in the mid 2000s. Superintendent John Pearson was appointed to spearhead the Force's adoption of it. This model essentially required that all investigations must be intelligence-led – which meant that policing should target the offenders themselves, rather than the particular crime, and should involve the formulation of a strategy to arrest and convict the offenders. The model necessarily requires there to be intelligence relating to the suspect as a first port of call.
64. In terms of legal advice, the SOJP has its own legal advisors who assist officers with their cases and advise upon prosecutions, as well as providing legal advice to management. While based in the same building, the legal advisors were answerable to the Attorney General's office, which was separate from the SOJP.
65. We have little interaction with the Courts, as we are not the prosecuting authority; our role is to gather the evidence. I did have some limited interaction with the Courts in my role as Chief Inspector for Community Safety in 2007/2009, when I attended a focus group, along with serving magistrates and lawyers, to look into record keeping and administration within the Court system. Disclosure was a real issue at that time, as it was a very time intensive exercise. While I cannot recall the detail, I believe there was a change to the guidelines on disclosure in the early 2000s and we were dealing with the practical implications.

## The Honorary Police

66. As I am a Jerseyman, I have always accepted the existence of the Honorary Police and their role within Jersey. However, I know that officers coming in from the UK found their position difficult to understand, often questioning how Centeniers, with no formal training could be responsible for making decisions on charging.
67. I have been asked whether there were ever any issues or tensions between the SOJP and the Honorary Police, particularly when it came to the investigation of the sorts of crimes dealt with by PPU. While I personally always thought that the system worked well, I recall there being a few issues in the late 1990s and early 2000s around the change in policy and approach to dealing with domestic violence cases and getting Centeniers to appreciate the move to arresting and removing offenders from the home environment. Sadly it was all too common for the victims of domestic abuse to visit the police station the next day and refuse to cooperate and provide witness testimony. As Centeniers knew the people within the parish, they would often deal with matters informally, and although they could refer cases for a Parish Hall Inquiry, the principal sanctions that could be imposed were either a fine, or caution. Alternatively, the Parish Hall could give words of advice, which do not amount to a sanction. None of the measures available to the Parish Halls were sufficient to deal with issues such as domestic violence or other types of abuse. I do believe that this came to be understood by the Honorary Police and there was a much better appreciation of these issues in the later years of my service.
68. I have been asked whether there were ever any instances of Centeniers refusing to charge against the advice of SOJP officers. I would say that this did happen, but rarely. When it did happen, it normally meant that we, as in the SOJP, needed to carry out some further work and obtain further information/evidence to persuade the Centenier to charge. That said, there were instances when a Centenier refused to charge individuals when we thought that there was sufficient evidence for them to do so and in those cases an appeal could be made to the Parish Constable and flagged with senior officers internally who could take the matter up with the Attorney General's office; the Attorney General being the titular head of the Honorary Police. I would say that in most cases when an appeal was made to them, the law officers would overturn the decision of the Centenier and direct that the individual should be charged. That said, I am afraid I cannot recall any

specific examples. I am sure there were also instances when the Attorney General would agree with the Centenier – although again I cannot recall any specific examples.

69. I generally did not view the charging system as being a problem. As I say, if a Centenier disagreed with our line of enquiry, it was usually for reasons relating to the evidence rather than due to any general resistance, and usually meant we had to go and gather more evidence; we were not precluded from going back to the Centenier at a later point and asking them again to charge the individual for the same offence.
70. The position in relation to Centeniers having responsibility for charging did change in later years, when the Attorney General's legal advisors would make recommendations to the Centeniers, whether to charge or not. The Centeniers were in effect told by the Law Officer's Department to turn up at a specified time and date to charge an individual with a particular offence. This practice became more prevalent particularly in the prosecution of child abuse and sexual offences crimes and did lead to some confusion initially as to who was making charging decisions. As time went on, for such investigations we would liaise primarily with the Force Legal Advisors, and it would be they who would give us directions regarding charges to be brought.

#### Impartiality

71. Jersey is a small island of approximately 100,000 people, and naturally many people know one another. It also means that many citizens have a close relationship with States' Ministers, senior police officers, and those that hold positions of power in a way that people in the UK do not. At one stage I probably knew all of the States' Members by face and name and many will have known me. In the UK, very few constituents will know their senior police officers or MPs personally. Given this sort of environment, impartiality is a difficult thing to manage in Jersey.
72. That said, from a Police perspective, I have never come across any issues with impartiality. While there is no specific guidance or policy on the issue of impartiality, as far as I am aware, it comes down to common sense, integrity and professionalism.
73. Officers are expected to act honestly and with integrity in accordance with the Discipline Code and in accordance with their oath as a constable which reads as follows: "*You swear and promise before God that well and faithfully you*

*will exercise the office of a Member of the States of Jersey Police Force, that you will faithfully serve Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, and that you will carry out your duties with courage, fairness and integrity, protecting human rights and according equal respect to all people. You will to the best of your ability uphold the laws and usages of Jersey, cause the peace to be kept, prevent offences against people and property and seek to bring offenders to justice according to law".* This wording is derived from Schedule 1 to the Police Force (Jersey) Law 1974 as amended.

74. In terms of myself, I can say that I was never actively involved in any cases that I had a personal connection or involvement in – I would always declare a conflict of interest and remove myself from any such situations. The Inquiry will have seen evidence of cases where I did this. I would report the matter to my immediate supervisor so that they were apprised of the position. Personally, I had no qualms with investigating fellow officers - I had investigated fellow officers during my time with the Complaints and Discipline Department and two officers were dismissed as a result of my investigations. It is part of what we are required to do, and everyone should be subjected to the same treatment.
75. I have been asked to comment on the possibility of independence and impartiality within the context of child protection cases specifically. Personally, I believe that the risk of any sort of interference was lower in child protection cases, because, as explained above, those cases were fully considered by legal advisors who made the decision whether or not to charge individuals, so to that extent it was taken out of SOJP's hands.
76. I have been asked by the Solicitors to the Inquiry whether the social positioning of particular individuals meant that they were treated differently or whether this meant that investigations were steered away from those who were well known, or who had links to the Police Force or the States, in order to protect their reputation. I understand there have been suggestions to the Inquiry that such cases would be covered up. I categorically disagree with any such suggestion. I have worked in the SOJP for 32 years and can honestly say that class issues or social status would not stop an investigation, particularly into alleged child abuse. It does not matter what social background an individual comes from, an investigation which warrants an investigation would be carried out. I have no reason to believe that this didn't happen or that any investigations were suppressed.



## Investigations relating to my conduct

77. I have been the subject of complaints during the course of my career, but that is not a surprise to me and should not be a surprise to anyone else. I was a Police Officer for over thirty years and complaints are an occupational hazard – although they are usually as a result of complaints from members of the public. I was never concerned by any of the investigations into me, as I knew I had never done anything wrong. I also knew, from my time with the Complaints and Discipline Department that the vast majority of investigations are unsubstantiated.
78. While the Solicitors to the Inquiry have discussed two separate incidents with me, which I discuss below. I confirm that I was the Head of Crime Services during the relevant time period for both incidents.

### The Thomas Hamon Investigation and subsequent report by DI Hewlett

79. I cannot recall exactly when the Thomas Hamon investigation commenced (although I think it may have been 2004) and how it came about, but it concerned a number of complaints of historic indecent assaults by Mr Hamon on a number of boys in the 1980s while he was employed on a voluntary basis with the St John's Ambulance Service. He pleaded guilty to eight counts of indecent assault on young boys in 2006, but unfortunately died before he could be sentenced.
80. From recollection, this was a sensitive case because one of Mr Hamon's sons was a serving member of the SOJP, and he was also married to a Detective in the RIT. This is a very illustrative example of where integrity and independence had to be maintained; obviously neither of these individuals were allowed anywhere near to the investigation into Mr Hamon, and I do not remember this ever being a problem.
81. During the course of the investigation, I remember walking into the FPT, as it was then known, and seeing DC Brian Carter surrounded by a huge number of files (which I believe were records from Haut de la Garenne ('HDLG') and he made a comment along the lines of 'I bet if we had a look in these we would find some interesting things'. I pointed out to him that that was not what the files were there for and it was beyond the scope of the Thomas Hamon investigation to effectively embark on a fishing expedition into HDLG. There were, at that time, no complainants alleging that they had suffered

abuse at HDLG and we did not have the resources to start reviewing historic paper files on the off-chance that something might be found.

82. In late November 2005 I spent three weeks away, off island, to attend SIO training. While I was not aware of it at the time, it would appear that during the time that I was away DC Brian Carter raised the possibility of instigating a broader investigation into Haut de la Garenne with DI Steve Megaw, the then Inspector of RIT. I understand that Steve then raised it with DCI Shaun Du Val, who in turn raised it with Superintendent Pearson. As I understand it, Superintendent Pearson requested that a scoping report be prepared to identify what the possible scope of any investigation into HDLG may look like.
83. On 4 April 2006, some six months later, I received a report from DI Peter Hewlett, which I understand was intended to be the scoping report requested by Superintendent Pearson. Peter was DC Brian Carter's supervising officer and I expect it is for this reason that the report is in his name rather than Brian's, although I understood it was based largely on work carried out by Brian. I attach a copy of Peter's report as my **Exhibit AB6**. I am confident that I received the report on or about 4 April 2006, as I have an entry from my day book for that day which makes reference to a HDLG scoping report during the course of a meeting with Peter Hewlett. I attach a copy of the relevant extract from my day book as my **Exhibit AB7**. I am aware that Peter has stated that he handed me a copy of the ACPO guidelines on the Investigation of Historic Abuse Complaints. I do not recall Peter handing me any such document at the time of our meeting.
84. I remember thinking at the time that what Peter had provided was not a full scoping report, a point which I go into in more detail below. However, I subsequently passed the report on to Superintendent Pearson – either that same day or in the days following – as I knew that he had initially requested it and had been waiting for it. I recall specifically taking the report to him in his office, and handing it to him in person. I recall we were due to go into a separate meeting – but John and I did very briefly discuss Peter Hewlett's report, and he agreed with me at the time that it was not a scoping report. I am aware that John has a different recollection.
85. As Superintendent Pearson and I were in agreement that no further action was to be taken at the time, I heard nothing further in relation to the report until around November 2007 when an investigation was launched into the handling of the report amid suggestions that I had sat on it and not passed it

on – a suggestion which I categorically deny. I accept, however, that I did not report the decision back to DI Hewlett at the time – I think because I assumed this would all be dealt with by Superintendent Pearson, as the more senior officer of the two of us, and as the person who had specifically requested the report from DI Hewlett. I considered that, after my discussion with Superintendent Pearson, that was effectively the end of the matter as far as I as concerned.

86. I have been asked by the Solicitors to the Inquiry, what a 'scoping report' was, and what it was about Peter Hewlett's report that meant I did not regard it as a scoping report. In short, I expected a scoping report to set out some element of intelligence and indicate numbers of potential complaints and any suspects, with a background substantiated by more than rumours. The report Peter Hewlett actually produced was nothing more than a request to embark on a fishing expedition. There were no named or identified complainants, witnesses or suspects. There was nothing for us to go on. The report also failed to properly scope out what any potential investigation may have entailed. By way of a comparison, a scoping report within the JFCU would include details such as the type/size of business and the number of bank accounts to be investigated – which gives you a sense of the potential investigation's size and scope.
87. I have been asked whether I am aware of any scoping reports being created before April 2006 and whether there were any particular templates or draft scoping reports available to Peter, which he could have used to guide him. I do not recall there being any particular format for such a report but there needed to be sufficient content to warrant an investigation. Scoping reports were common in the context of JFCU investigations, owing to the potential complexity and volume of documentary evidence. I have been pointed towards the ACPO Guidelines on the Investigation of Historic Abuse Complaints, and the section within there regarding Scoping Reports. This is one of 17 publications produced by Centrix in 2005 / 2006 and I was not aware of any such guidelines at the time. I have already stated that I do not recall these guidelines being handed to me together with Peter's report – but that does not change the position that the report itself did not constitute a scoping report and contained sufficient evidence for us to act upon. Notwithstanding, the report still went to Superintendent Pearson as he had previously requested.

88. I am aware that suggestions have been made that I may or may not have presented the report at a Senior Officers' meeting. I can confirm that I did not present it at any such meeting, as I had passed it to Superintendent Pearson and he had agreed that no action was to be taken. I do not know what Superintendent Pearson did with the report after I handed it to him, but I can confirm that he did not request that a more comprehensive scoping report should be prepared.
89. I am aware that some individuals have subsequently stated that, had they received and read a copy of Peter's report in 2006/2007, they would have launched a full scale investigation on the back of it. With respect, I believe that such people are reviewing Peter's report with the benefit of hindsight and against the backdrop of what we now know about HDLG in light of Operation Rectangle. Reading the report again, I have been asked by Solicitors to the Inquiry, whether paragraphs three, five, six and seven suggested that there were other legitimate lines of enquiry in relation to potential victims such that sufficient intelligence may be obtained by speaking to those individuals, and that suspects may have been identified by making those additional enquiries – without the need to review all of the HDLG files. Again, I think you could read it this way, with the benefit of hindsight. However, the report does not contain any allegations or specific complaints and there was in my view insufficient evidence to commence an investigation and all of the resource and funding that would come with it at the time Peter produced his report. It was clear that Peter's report effectively sought to start a wide scale investigation by reviewing the 950 files that DC Brian Carter had pointed me to previously, but you could not and would not start an investigation on such a basis, especially in the light of the intelligence-led model we were working to, and the resourcing issues that existed at that time. Superintendent Pearson agreed.
90. It should also be noted that Thomas Hamon's case had received a lot of public and media attention at that time and it had not led to anybody coming forward to make complaints in respect of HDLG more broadly. If anybody had come forward to make a complaint, those complaints would have been looked into.
91. As explained above, I heard nothing further in relation to Peter's report until November 2007, some 18 months after I had passed it on to Superintendent Pearson. The next that I heard of the report was when Lenny Harper called me in November 2007 to ask what I had done with the report - I informed him

that I had passed it to Superintendent Pearson, as I have described above. Lenny subsequently informed me that the Chief Officer was keen to have the issue investigated, the suggestion being that I had sat on the report. I was not concerned about this at the time, as I knew I had not done anything wrong and that things relating to HDLG were under the spotlight in any event. As a result an investigation by South Yorkshire Police was initiated in January 2008, which I will go on to discuss below.

#### The John De La Haye Investigation

92. In or around July 2006 Alison Fossey was carrying out an investigation into a complaint of serious sexual assault on a young boy. That investigation led to the arrest of two men, Powell and Romeril. As part of Alison's investigation she reviewed the suspects' mobile phones and as I understand it, a text message on one of the phones suggested a possible link between the suspects and a retired SOJP Chief Inspector, John De La Haye.
93. Alison brought the possibility of a link to my attention, simply telling me that John De La Haye's name had been mentioned in a message and that he was therefore possibly linked in some way. I did not know the extent of the possible link at that time and there was no evidence (beyond the text message) of an actual link at that time. Having been given this information, I told Alison to carry on with her investigation and to follow up the suggestions of any link between the suspects and John De La Haye. It was right for Alison to tell me of the possible link, as there would of course be wider implications for the Force if a retired SOJP Officer were found to have aided two suspected child abusers. Given that potential, I reported the matter up the chain of command to ensure the Superintendent and Deputy Chief Officer were also aware of the situation. I attach as my **Exhibit AB8** an entry from my note book dated 18 July 2006 which records me making this report.
94. I have been asked what directions I gave DS Fossey at that point. I did not give her any specific directions – she was the Senior Investigating Officer at the time, and as such I did not need to give her specific instructions as to how to pursue the information; this is something she would be experienced in doing. I simply told her to carry on and follow it up as she usually would.
95. I understand from the investigations that were subsequently carried out, that an application was made by the investigating team to access data from Mr De La Haye's mobile phone, but the wrong mobile phone number was

provided and instead it was his wife's mobile phone that was searched. I was not aware of this at the time, but it appeared that the investigating team took no steps to correct that mistake. I further understand that, again unknown to be me at the time, the investigating team did not interview Mr De La Haye about the text messages or the suggestion of a possible link.

96. I have now had a chance to read the South Yorkshire Police Report following their investigation, and I note that the report criticises the mistake made in respect of the mobile phone search and the failure to interview Mr De La Haye. While I explore these points in more detail below, I would point out that Alison Fossey was an experienced officer; she was used to running investigations, she was paid to run investigations and it was not usually my role to be personally involved in investigations at an operational level.
97. I have been asked by the Solicitors to the Inquiry whether I knew John De La Haye. My only interaction with Mr De La Haye was in work, I had no personal relationship with him outside work. Mr De La Haye had by that point been retired for six years. As I have explained above, I did not have any qualms about investigating fellow officers – that had been my job for three years previously.

#### **South Yorkshire Police Investigation**

98. As far as I was aware at the time, the objective of the South Yorkshire Investigation was to look at the action I had (or, allegedly, hadn't) taken following the Thomas Hamon prosecution and in relation to Peter Hewlett's report into suggestions of historic child abuse at HDLG. I was not aware that they were also investigating a complaint about my role in the John De La Haye investigation until I was interviewed. I have been asked how I felt about being investigated and to be honest, I did not have a problem with it – as Police Officers we know that there is a possibility that our actions and decisions may be investigated, and as I had nothing to hide, I was happy to help.
99. I have been shown a number of witness statements that were taken as part of the South Yorkshire Police investigation and asked to comment on their content. It should be noted that I had not seen these statements until they were made available to me during the course of my interview with the Solicitors to the Inquiry in August 2015. I deal with each of the statements that were shown to me in turn.

DC Brian Carter

100. The first statement that I have been shown is that of DC Brian Carter, dated 5 February 2008, a copy of which I attach as my Exhibit AB9.
101. I note in relation to the Powell/Romeril investigation at paragraph 11, DC Carter states that he drew the involvement of Mr De La Haye to the attention of Sergeant Louis Beghin, who decided that there was insufficient evidence to justify his arrest at that stage. I cannot comment on whether or not DC Carter did raise it with DS Beghin, or upon DS Beghin's decision not to arrest, as I was not involved in the operational management of the investigation, as I have said above.
102. I have been asked whether the threshold to question an individual is different from the threshold to arrest. The thresholds are indeed different, the threshold to question an individual being lower. If the police are investigating an offence, they may question anyone they think may be able to assist them. In terms of where the threshold lies, that depends on the facts of each case and the investigating Officers' assessment as to whether it is necessary and appropriate to question them as part of the investigation. As I have explained above, I told Alison Fossey to do what she needed to do to further the investigation, and that would include deciding whether or not to question Mr De La Haye if she thought it necessary and appropriate to do so. Alison did not need authorisation from me in order to question an individual; if she thought that an individual should be questioned as part of her investigation, she would instruct her team to do so.
103. As regards the Hamon Investigation and Peter Hewlett's Report, I note that at paragraph 20, DC Carter states that he remembers speaking to me about an incident that had a connection with HDLG. He states that I dismissed the possibility of an investigation by saying something like 'they're all dead'. First, I would never have used the phrase 'they're all dead'. Secondly, while DC Carter believes that this conversation took place on the steps of Summerland Police Station, I believe that he is referring to the conversation that I refer to above at paragraph 77. As I have explained above, the context of that conversation was that DC Carter was effectively wanting to launch a fishing expedition to see what may turn up, without any identified complainants or suspects.



### Peter Hewlett

104. The second statement that I have been shown is that of DI Peter Hewlett, dated 4 February 2008, a copy of which I attach as my Exhibit AB10. Peter explains his involvement in preparing the HDLG scoping report.
105. Peter states at paragraph 11-13 that he handed me a copy of the ACPO guidelines relating to the Investigation of Historic Abuse Complaints. I have no recollection of DI Hewlett handing me a copy of any such guidelines; all I can remember him handing me is a copy of his report, which I have attached above as my Exhibit AB7. I have been shown a copy of these guidelines by the Solicitors to the Inquiry and I do not believe I have seen these before. I am aware that there were ACPO guidelines for carrying out a murder investigation, but was not aware at the time in question of the specific Historic Abuse Complaints guidance. This was not something we had ever had to deal with before, hence it is not something of which I would automatically have been aware.
106. While Peter refers to the report he prepared as a scoping report, I did not and still do not regard the report as such (for the reasons I have already explained). I do not recall telling Peter that I would 'take the report to the "Ops Management Team" because of the implications that it had'. However, I may have told him I would be passing it to Superintendent Pearson, as that is what I intended to do, because he had asked for it.
107. Finally, while Peter states at paragraph 20 that he raised the report with me on a number of occasions thereafter, I have no recollection of him doing so. To the best of my recollection, Peter was not posted to Uniformed Operations for some 11 weeks after he handed me the report – during which time he could have raised the matter with me, but I do not recall him doing so. At the time, Peter was handing over to Alison Fossey, so it would have been a good time for him to have drawn the report to her attention.

### John Pearson

108. I attach a copy of Superintendent Pearson's statement, dated 8 March 2008, as my Exhibit AB11.
109. I note that at paragraph 15 Superintendent Pearson criticises the fact that I 'never brought to either the morning briefing or the Friday morning resource meeting, or in fact the tasking and co-ordination meeting, a report composed

by DC Brian Carter, in relation to a care home investigation'. That is correct. As I have explained above, the report was prepared by DI Peter Hewlett, not DC Brian Carter, and I took this straight to John personally, rather than via any of the formal management meetings. Despite what John goes on to state at paragraphs 16 and 17, I stand by what I have said above, which is that John had requested the report personally, and I presented it to him. I am surprised that he states at paragraph 17 that 'having now seen the report' he believes that it 'indicates a need for a full criminal investigation to be commenced'. With respect, that was not the position he indicated in 2006. I also refute paragraph 21, which states that 'there should have been no delay' in dealing with Peter Hewlett's report and that I should have brought it to Superintendent Pearson's attention, as that is exactly what I did do.

110. As regards the John De La Haye incident, Superintendent Pearson states at paragraph 20 that he told me that the 'issue should be fully investigated and the situation regarding the potential association between John De La Haye and the suspect's clarified'. I do not recall Superintendent Pearson specifically telling me this, but, in any event, that is exactly what I expected the Investigating Officers to do.

#### Alison Fossey

111. I attach a copy of Alison Fossey's statement, dated 8 April 2008, as my **Exhibit AB12**.
112. Alison states at paragraph three that there were a number of officers in the FPT who believed there was evidence to justify a criminal investigation into historic abuse at HDLG. As far as I had been made aware, there was no such evidence – only speculation. The report prepared by DI Hewlett did not contain any evidence, complainants or alleged abusers.
113. In relation to paragraph 17, I do not recall the John De La Haye investigation being given the operational name 'Birthday'.
114. Alison goes on to explain, at paragraphs 21 and 22, that Sergeant Beghin took over the investigation while Alison was on leave. Sergeant Beghin was a surveillance specialist (I think he was an SOJP instructor on the topic) and so he would have had a lot of experience with mobile phone surveillance and the procedure by which mobile phone data is interrogated.

115. I note that Alison says she reviewed what had taken place after she returned from leave and that it appeared no connection with John De La Haye had been proven, but that she only noticed that 'the John De La Haye references had never been properly investigated in terms of actually speaking to him in order to clarify whether he had been involved with the suspects' when she reviewed the case papers, after they had been sent to the legal advisors. The Legal Advisor who scrutinised the evidence also did not raise any issue that I am aware of.
116. I have been asked whether I think John De La Haye should have been questioned at the time, as part of the investigation. The question of whether or not he should have been questioned would depend on the context/content of the text messages and the information obtained during the suspects' interviews – I was not aware of this level of detail. Ultimately, John De La Haye was not a serving SOJP Officer and had not been for six years. It would obviously have been of greater concern if he had been a serving officer. Ultimately, however, the decision whether or not to interview him rested with the investigating officers; they are employed to run investigations and make such operational decisions based upon the evidence they unearth.

Lenny Harper

117. I attach a copy of Lenny Harper's statement, dated 9 April 2008, as my **Exhibit AB13**.
118. I note that Mr Harper states at paragraph five that he became concerned at the number of persons in positions of responsibility in respect of children who were being accused of child abuse in Spring of 2006. This must be a mistake, as he makes reference to then contacting 'Inspector Fossey' in relation to those concerns; Alison Fossey was not made an Inspector until much later in 2006. I think Mr Harper's reference to Spring 2006 should be a reference to Spring 2007.
119. Mr Harper goes on to discuss his becoming aware of the DI Peter Hewlett Report and the possible connection between John De La Haye and Romeril/Powell. Again, without wishing to repeat myself, I was not the investigating officer in charge of the investigation into Powell/Romeril; I told the Investigating Officers to do what they needed to do. You must trust your Officers to carry out investigations appropriately and to explore avenues of questioning as they consider relevant. I was running a busy crime

department, had oversight of seven different units and did not have the time or capacity to be involved in each investigation at an operational level. It was also not my job to micro-manage investigations; you have a chain of command and appoint Inspectors and Sergeants to run operations.

120. In relation to Mr Harper's comments regarding the Peter Hewlett report, they are Mr Harper's views, but as I have now stated on a number of occasions, this was passed up the chain of command to Superintendent Pearson for him to make a decision.
121. I have been shown a second statement prepared by Mr Harper, dated 8 September - the year is not recorded. I attach a copy of this statement as my Exhibit AB14.
122. I note that Mr Harper begins his statement by confirming that his reference in his first statement to becoming concerned with instances of suspected child abuse in Spring 2006 was incorrect and that he became so concerned in Spring 2007.
123. Mr Harper goes on to state that Alison Fossey told him that I had instructed her not to interview John De La Haye and that she effectively had no say in the matter. This is quite simply wrong and I note that Alison does not make this accusation in her own statement. I did not at any point in time instruct Alison not to question Mr De La Haye; I told her to do what she needed to do and to follow the investigation as she thought appropriate. Alison Fossey had, on at least two or three occasions, previously bypassed the usual chain of command to raise concerns. She would therefore have had no concerns with doing so again if she thought that I was sitting on anything or telling her to take action she deemed inappropriate. If anything had come out of the text messages and the interviews, I would have expected her to investigate the connection further and question Mr De La Haye if she thought she needed to. I also would have expected her to come back to me to raise and discuss any further issues, if she needed to.
124. Mr Harper goes on to state that he recalls me informing him that I had spoken to either DI Fossey or Superintendent Pearson about Peter Hewlett's report. I did not present the report to Alison, but as I have stated previously, I did present the report to Superintendent Pearson and we agreed that it did not give rise to a need to take further action.

## The South Yorkshire Police Report

125. In terms of my involvement in the investigation, I was interviewed under caution in Summer 2008. I have been asked whether I was surprised to be interviewed under caution and I would say that I was not. I had been interviewed under caution before as part of previous investigations and disciplinary proceedings. There are always formal protocols to be observed.
126. I have been shown by the Solicitors to the Inquiry a copy of the report produced by the South Yorkshire Police after concluding their investigation. This is the first time that I have seen the report and had opportunity to review it; I attach a copy of the report as my **Exhibit AB15**. This is not unusual; individuals who were the subject of an investigation/complaint did not receive a copy of the report following its conclusion, they were just told the finding of the investigation.
127. I have been directed by the Solicitors to the Inquiry to a number of passages from the report and asked to comment on them.
128. At page 48, paragraph 8.4.6, the report notes that I thought it 'was acceptable, in the circumstances, to leave this issue [John De La Haye's potential connection to the suspects] with Detective Inspector Fossey. Furthermore, he did not feel the need to make further enquiries into this issue, or update the Deputy Chief Officer or the Superintendent'. I stand by this statement. The individuals in charge of the investigation were experienced officers and I trusted them to run it as appropriate and update me as necessary. As I received no updates, I assumed that nothing had come of the possible connection. In relation to updating my superiors, I informed them of the issue initially, but as I received no further updates, there was no need to further update them. As a passing comment, I would say that, if that was the case, the same accusation about making further enquiries could also be levelled at my superiors.
129. Paragraph 8.9 of the report records an initial issue that arose regarding the date of DI Peter Hewlett's report. From a review of the SOJP's computer system, I found a copy of the report, but it was dated 7 June 2006, rather than 4 April 2006. While I am not aware what an 'O' Drive is, I understand that the later date was recorded on the system as it was the date that DI Hewlett placed it on the FPT's computer system. 4 April 2006 aligns with my day book entries for that date which, as I have referred to above, records that

I met with DI Hewlett in relation to the report on that date. We either spoke of the need for the report or he provided it to me on that date.

130. Paragraph 9.4 states that I had overall command of Crime Services and the FPT during the relevant period during which the scoping report and the John De La Haye issues arose, which is correct. However, I disagree with the conclusion that there was a 'catastrophic failure' in terms of my supervision and decision making in respect of both investigations. In terms of the comments regarding supervision, the same must also be said of my superiors, whom I briefed on the De La Haye issue. In relation to the Hewlett Report, as I have said numerous times, I made my supervisor aware of the report, handed him a copy and we mutually agreed that no further action was warranted on the basis of it.
131. The South Yorkshire Report concludes at paragraph 9.5 that it was unacceptable for me to leave decision-making to junior officers and that doing so constituted a failure to perform my duties to the required standard. I disagree with this statement. Alison Fossey and DS Beghin were experienced investigative officers in the SOJP and were perfectly capable (and authorised) to make such decisions themselves. It should be noted, however, that the SOJP is a much smaller force than those in the UK and there are accordingly fewer senior officers. This results in officers of apparently junior rank having more responsibility than their UK counterparts; they effectively have greater responsibility than their rank alone might have suggested to the officers from the South Yorkshire constabulary.
132. Moving to section 10 of the report (Points to Assist), paragraph 10.2 states that clear concerns were being expressed both privately and publicly, both in police and political circles at the time, in respect of allegations of wide scale child abuse in Jersey. I cannot agree with this statement. I am a Jerseyman and I was not aware of any allegations of wide scale child abuse in Jersey until the investigation into HDLG was made public. The ensuing publicity and the campaign waged by Stuart Syvret and others date from after this time insofar as I am aware.
133. Paragraph 10.7 of the report states that the FPT (PPU) was made up of a core of officers, supplemented by a number of short-term attachments and that the officers were under a lot of pressure and stress. I accept both of these points. As I have described above, there were Force-wide resourcing issues, but the FPT (PPU) was the only team at full strength. In any event,

Police Officers in Jersey are very good at getting on with the job that is in front of them. I accept that there could have been more training, but again there were widespread issues of resourcing at that time. These issues were not specific to the FPT (PPU) team.

134. Paragraph 10.23 states that a review of the text messages, concerning John De La Haye's alleged involvement, shows that they did not amount to an interference with the enquiry. It goes on to state that had I read the text messages at the time it is difficult to see why it could not have been dealt with by a direct enquiry to Mr De La Haye. With respect, the same must be said of Alison Fossey and the Investigating Officers; they would have been experienced in coming to the same conclusion and did not need me to tell them to interview John De La Haye. If during the course of their investigation they thought it necessary to interview him, they would have.
135. I move now to consider the recommendations that the report makes (section 11). Despite the suggestion, made at paragraph 11.4, that the decision made by myself and Superintendent Pearson that the report was a 'fishing expedition' is difficult to accept, that is what happened. I appreciate that other people may find it difficult to accept now with hindsight, but that was our view.
136. I note the report's comment, at paragraph 11.8, that I was unsuitable to perform the role of Head of Crime Services. I cannot comment on this perception other than to say that I had been appointed to the post via a formal process, and my supervisors clearly thought that I was capable; they had faith in me and, for someone apparently unsuitable, I went on to hold the position for nearly four years.

### **Consequences of the South Yorkshire Police Investigation**

137. The South Yorkshire investigation lasted around 14 months, during which time I was on notice of potential disciplinary action, from when I was first told about it in November 2007, until its formal conclusion in February 2009. I believe that David Warcup was appointed as Acting Chief Officer in August 2008 and it was around that time that Mr Harper left the SOJP, Mr Power was suspended and Superintendent Pearson had retired in May 2007 (three months earlier than he was due to – although I do not know the reasons for this).



138. I remember getting a text from Acting Deputy Chief Officer Shaun Du Val in December 2008, telling me that David Warcup would speak to me about the investigation later that month, but that I had nothing to worry about. For some reason the meeting with Chief Officer Warcup was pushed back until January, where he informed me that the Attorney General had considered the South Yorkshire Report and concluded that no criminal charges would be brought against me. I have been shown a letter from Mr William Bailhache, then Attorney General, to Chief Officer Warcup dated 22 December 2008 confirming that 'in my view...the evidential test is not passed in relation to these complaints, and that no criminal proceedings therefore are appropriate'. I attach a copy of this letter as my **Exhibit AB16**.
139. Chief Officer Warcup went on to explain that no disciplinary action would be taken either. I attach as my **Exhibit AB17**, an extract from my day book for 13 January 2009, which records my meeting with Chief Officer Warcup. My note records that Chief Officer Warcup said he intended to deal with the matter by way of advice, and that he did not believe 'I did anything deliberate or malicious and if mistakes were made, I [was] not solely to blame as organisational issues arose'.
140. Chief Officer Warcup and I both met again in February, where he provided me with the official 'management advice'. The management advice that he gave me was short, probably around two minutes in length and largely consisted of him telling me that other people had made mistakes and that he was putting structures and systems in place to safeguard against the same issues arising. I think all I was told about the South Yorkshire Investigation was that the complaint against me had been substantiated, but that it was an organisational issue. There was no suggestion that I had done anything wrong. The fact that I was given management advice did not hinder my career; I was subsequently promoted to Superintendent, the third highest rank in the Force, in 2011.
141. I have been shown a copy of a file note, presumably prepared by David Warcup, recording our meeting in February; the meeting appears to have been held on 4 February 2009. The file note accords with my own record that ACO Warcup felt it was appropriate to deal with all issues by way of formal advice. I attach a copy of this file note as my **Exhibit AB18**.
142. I have been asked whether in hindsight I feel that I should have acted differently in respect of either issue. The answer is no. In relation to DI Peter

Hewlett's report, I stand by the decision that Superintendent Pearson and I made at the time. In relation to the John De La Haye issue, I believe that I acted appropriately and responsibly, and again, I would not have acted any differently.

### Operation Rectangle

143. I was not initially a part of Operation Rectangle and had no involvement until 2009. It is my understanding that Operation Rectangle developed out of a suggested investigation into the Sea Cadets; an investigation that I had recused myself from, having being a member of the Sea Cadets for a number of years. I was then excluded from the main HDLG investigation as a result of the on-going South Yorkshire Police Investigation.
144. I have been asked to comment on the extent to which, in my role as Chief Inspector, Operation Rectangle was discussed at any management or operations meetings that I attended. I understand that Operation Rectangle was discussed at Force Management Board level, but I believe only in terms of its resourcing implications, the need for officers to backfill positions and to bring in additional external resources. In terms of Ministerial involvement, I know that Chief Officer Power was always very keen to stress that he was the operational decision maker and not the politicians, despite any interactions between the two, but I cannot comment further than that.
145. Following the completion of the South Yorkshire Police Investigation in February 2009, I became involved in Gold Group meetings (meetings of senior officers in respect of Operation Rectangle), in my capacity as Chief Inspector for Community Safety. A Gold Group is a meeting designed to add value to the police response to an internal or external incident, crime or other matter. This involves bringing together appropriately skilled and qualified internal or external stakeholders who can advise, guide or otherwise support the management of an effective response to the identified incident, crime or other matter. The purpose of any Gold Group should be to ensure the effectiveness of the on-going police response and, if confidence issues exist for the alleged victims/victims' families and/or the community, to resolve or prevent the escalation of their impact. Gold Groups have a strategic as opposed to operational nature.
146. I was not operationally involved in Operation Rectangle or the prosecution of any suspects; my involvement was limited to assessing the operational

impact of the investigation on the wider community – for example dealing with any community fallout from searches or prosecutions relating to the investigation. I do not know anything more about the operational detail of Operation Rectangle, nor when it concluded.

147. I carried on in my role as Chief Inspector for Community Safety until 2010, when I returned to Crime Services as Acting Superintendent. In June 2011, I was made a substantive Superintendent and moved to take on the role of Head of Uniformed Operations. I retired from the SOJP and my position as Superintendent on 28 February 2013.

#### **Evidence given to the Inquiry by Lenny Harper**

148. I have been shown a redacted copy of witness statements provided to the Inquiry by Mr Harper and there are a few points within his statement that I feel obliged to respond to. I attach a copy of Mr Harper's statement as my Exhibit AB19.
149. Paragraph 90 of Mr Harper's statement relates to an investigation carried out by the SOJP into the Jersey Sea Cadets which resulted in the arrest of an individual called Paul Every. Mr Harper goes on to state his belief that Mr Every was tipped off that he was going to be arrested and while he does not directly accuse me of doing so, the implication is such, and I would like to make it clear that I did no such thing.
150. Mr Harper states at paragraph 92 that on a date in 2007 I notified him that I was 'staying out' of the investigation into the Sea Cadets. That statement is correct, as I have explained above, I recused myself from the investigation as a result of my connection with the group. Similarly, in the Paul Every case which arose as a result of Operation Ore in 2005, I recused myself due to the fact that I knew Paul Every, as he was commanding officer of the sea cadets.
151. At paragraph 124 of his statement, Mr Harper repeats his belief that Alison Fossey had told him that I had told her not to question John De La Haye. Without wanting to repeat myself, that just did not happen.
152. I also do not recall telling Mr Harper that the reason why Mr De La Haye's wife's phone was searched was because we could not find his phone at the time. Mr Harper makes this statement at paragraph 127. I do not believe I was ever made aware of the issues with the phone search.

153. At paragraph 131 Mr Harper states that in his eyes I was a 'corrupt detective who instead of protecting victims...was more interested in covering up the abuses they had suffered'. I obviously vehemently deny such an accusation. Despite what he suggests, the South Yorkshire Police was clearly not a 'career changer' for me, given my subsequent promotion.

#### **Reflections for the Inquiry**

154. The Solicitors to the Inquiry have asked me what recommendations or comments I would like to offer the Inquiry for consideration.

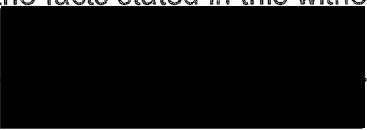
155. The first recommendation that I would make is that the States should make more resources available to the SOJP. However, having said that, I am aware of the economic constraints that the States have to operate within. The States must accept that there will be operational implications as a result of funding issues.

156. The second recommendation that I would make, is regarding support for officers involved in child abuse and domestic violence cases. Those officers are required to deal with some horrendous issues and it is only right that they should be properly supported in terms of counselling and their wellbeing safeguarded.

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

#### **Statement of Truth**

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

Signed ...  .....

**André Bonjour**

Dated ... *5 October 2015* .....

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB1

---

Bonjour, Andre

From: Fossey, Alison  
Sent: 06 June 2006 10:56  
To: Bonjour, Andre  
Subject: FPT Resources.

Came to OM meeting  
9/6/6

Dear Sir,

Further to my report and discussion with you last week I send this e mail to highlight a few points for you prior to the meeting on Friday.

I think the resourcing levels in the department need urgently reviewing. I don't know when they were set but I suspect it was before joint working in the true and proper sense came into practice.

In the UK the national average is 40 referrals/officer/year. If the current deluge of referrals and joint investigations continues here I would estimate that we will deal with 180 this year and that is an average of 60/officer.

The number of officers in Child Abuse Investigation Units is 1/14,000 population, which translates to 6.5 officers in Jersey (child protection only). Personally I don't put much stock by head of population because it depends on the quality of your population !

All units in the UK are now headed up by an Inspector and generally cover child protection, domestic violence, vulnerable adults as well as sex offenders and internet sex offenders. They also have civilian administrative staff.

Every referral we receive is risk assessed, subject to a strategy meeting between myself and CS management and then subject at the very least to a joint visit and more often a full investigation, including video interview and suspect interview. Every video interview requires 2 officers, which leaves me one to respond to any new referrals coming in. With annual leave, training etc that usually translates to no-one. It is then that I will call upon the domestic violence officer if free to help out with child protection enquiries. If we are reduced to one dv officer as planned on 3rd July that flexibility will go. In addition to the referrals a large amount of time is spent on case conferences. Every case conference we attend requires a written report with full details of police involvement past and present. This is time consuming and can take up to 2 hours to prepare and that is before you even get to the conference.

With regard to video interviews the number of interviews being requested from shift is also increasing as officers become aware of the requirements of the ABE guidelines. Basically we should video every person under 14yrs who is victim or witness to an assault and every person under 17yrs who is victim or witness to a sexual offence, unless there is a good reason not to. Shift often deal with bullying incidents or indecent exposures which fall into this category.

We have currently also had an officer on light duties which has been a great help. She has maintained all our databases which is a vital post bichard and the implementation of INI. She has also helped with video interviews doing the cameras and freeing up an officer. She is due to finish on 23rd June.

In short, whilst I appreciate that Ops Management must balance the needs of the different areas of the force, we are simply fire fighting here just now and cases are lying and not getting the attention they deserve because something new comes in. If we are unable to resource the unit properly then there is a need for some policy decisions to be taken as to what we will/will not get involved in. Such decisions obviously have both political implications and implications for our partner agencies and would need to be made at a management level.

Alison

PS I am happy to come and speak at the meeting if you think it would help.

Bonjour, Andre

---

From: Fossey, Alison  
Sent: 08 August 2006 16:05  
To: Bonjour, Andre  
Subject: RE: Workloads

Thanks. No need to discuss I just wished to make you aware. I know the difficulties you have.

Alison

-----Original Message-----

From: Bonjour, Andre  
Sent: 08 August 2006 09:58  
To: Fossey, Alison  
Cc: Pearson, John; Du Val, Shaun; Minty, David  
Subject: RE: Workloads

Alison,

I know from recent discussions we have had that you are up to speed with what we are trying to do to alleviate some of this. You now have Sgt Smith appointed and after tomorrow morning I will confirm her move which Ops Management intend will be this week.

We will know tomorrow about the additional PC to work alongside Brian Carter. You have had Nick Cunningham since last week assisting with the proof reading on Brian's job. I am trying to resolve the issue of Kim Bolton being required for Acting.

I will be speaking with the DI's this morning over the issue of assisting from within CID for a couple of weeks but you also need to be aware as I showed you the other day that FPT are the only Department fully up to strength. All the others are below.

The CO is aware of the need in FPT from the Powell / Romeril job and has mentioned resources to me again this morning. We will get there but we do have to juggle everywhere.

I am just about to meet with RIT and discuss their 9 pages of serious jobs they have on the go. JFCU have a back log of 600 Suspicious activity reports. JIB have a back log of a 100 intel reports to action. The CO recently called Kevin McKerrel and myself up to discuss the two month backlog in vetting matters. PIT are down to half strength. Drugs are preparing for two serious cases before the Court whilst also working on two potentially substantial live operations.

By all means come and discuss the specific workloads. If you need authority to prioritise then I have already told you that that is what we must do. I am content to confirm your priorities with you.

I copy in Ops Management for info so we are all aware of the current position. We have 8 to 9 weeks to go before we benefit from the current group of probationers being solo and then we can start to move people properly which will give us more options. Please keep me updated on the welfare concerns raised.

Andre

-----Original Message-----

From: Fossey, Alison  
Sent: 08 August 2006 09:33  
To: Bonjour, Andre  
Subject: Workloads

Sir,

Without wishing to go on and on about the need for more staff in the department and in full acknowledgement of the pressures the force is under in all areas, I feel I must



at least draw to your attention the position here. I have today reviewed all the officer's case loads and prioritised their work for them. We are continually fire fighting here with the result that many cases are growing old with little or no progress being made on them. This will inevitably lead to complaints and possibly the legal advisers taking the decision not to prosecute due to the passage of time.

Officers are stressed and I have today spoken to Mark Lamer ton to see what assistance he can provide. Confidentially I am told that [REDACTED] is drinking excessively every night although he certainly is never late for work or smells of drink. [REDACTED] calls or texts me often in the evening to say that she is struggling with the pressure. [REDACTED] was in tears yesterday. They are all very conscientious workers who are doing the very best they can under extreme pressure.

I am aware of the position with regard to resources but feel I must draw this to your attention. It may be that this is a particularly busy spell and that it will ease off but I need recognition from management that delays are inevitable and many cases will take months to progress. This is obviously not desirable in any area of work but it has potentially serious consequences when we are dealing with child protection matters.

Please be assured that I am doing my best with the resources I have and I will always ensure that no child is left in a position of risk until we have someone free to progress the enquiry and conduct video interviews etc.

Alison

PS I am at the Law Officers all day but will drop back to the office at some point if you wish to discuss.

Detective Inspector Alison Fossey  
Public Protection  
States of Jersey Police  
Tel: [REDACTED]  
[REDACTED]

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB2

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~~071~~

071 Correspondence - Dockets,



1155

OM Meeting

	<u>FPT</u>	3
Alicia Forsay :- Re FPT. Resources,	<u>DV</u>	1
National AV.. 40 CP referrals.	<u>SO</u>	1
SOTJP is 20 over national use.		

Case Conf. - written Report.

Videos Ints - ABE Achieving Best Evidence.

Impacts for CSB

Crosshall - CSB temp.

Hawlett - Acta E.

FPT.

Feeling pressure.

Case conference



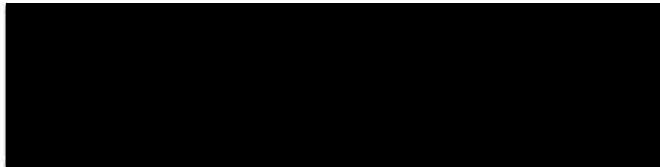
Historic sexual Abuse Case . 1989.



coming from ~~South~~ Canada.

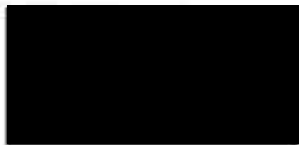
Friend of father - 10 yrs

CID  
Routes

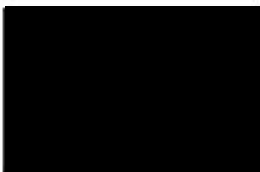


CID  
Money

JFCU



Complaint is number of



Week of Copying.

FSC - notice of Closure to WT:

Interviews, re Mtd Order, of Director

£1,000.

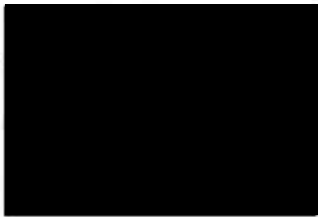
FPT.

Op



& victims potentially.

Carte

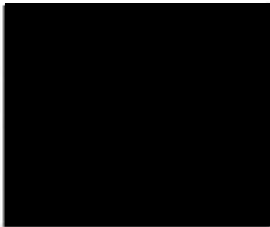


had Assault

had. Theft

had images.

JEM



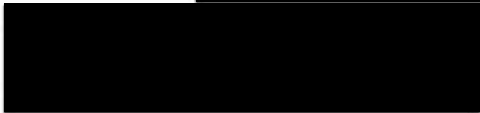
Neglect

Neglect

had Ass.



- Baby -  
Mamie Bandans.



- ? Does missing - Child on  
at risk register.

Police force Law

Domestic Violence Guidelines -



JFCU-

- Potential Guilty - Sentence  
Consider all other aspects.

~~\*~~

-

-



FF in notice is

- Financial Fraud Invest Network  
Goes to all Law Enforce.

- in Bank yesterday.

7 days notice to have account.

Stan - Any update.

RIT.

- Intel re Finances.

Future Targets

Hope + Nando Interview + Charged

Licensing Side. Being looked at.

- Repe.

Abduction - Nothing to support it.

Descriptive Potted person on site?

Training?

Appointed Day 10/12/06

10/12/06 RPL

Comparison on grading criteria -

level 2 matter - We are aware of what you can do,  
- what would be impossible.

The AFI's are achievable but stretching.

### Constables

SB	1		
RIT.	1		
DRUGS	<del>1</del> 2	P. Ryan	J. Wilman
PIT	<del>1</del> 4	Boards next week	4.
JFCU	1		
JIB	<del>1</del> 2	M. Le Basse	
FPT.	1		1

### Sgt

JIB 1 D. Broomingham

Frank Jeyard Placement - FR.

Faith Shalima - Temp Replacement.

Nick Troy - Barry Gauderer.



Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB3

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19 June 2006

EXECUTIVE STRATEGY GROUP PAPERDetective Inspector RIT / FPT Proposal1. INTRODUCTION

- 1.1 This paper is intended to make recommendation for a short term 12 month change of responsibilities within the CID Detective Inspector coverage within the Reactive Investigation Team / Family Protection Team.

2. BACKGROUND

- 2.1 The current Force position in relation to Detective Inspector cover within CID is that there are 5 Inspectors covering the roles of RIT/FPT; JFCU; Drugs; JIB; & SB/Crime Management.
- 2.2 The Force has undergone some change at Detective Inspector level brought about through internal promotions and retirements during the past year. As a consequence, the level of experience within the CID is relatively low in four of the five departments, the exception being the Joint Financial Investigation Unit.
- 2.3 More recently, there has been an appointment of a new Detective Inspector to the RIT/FPT role. The successful candidate has limited operational Detective experience and whilst fully capable of assuming the responsibilities of the role, there is a strong developmental learning curve during the next 12 months as a serious and series crime manager and investigator. The requirements are such that there will be significant periods of UK courses and potential secondments to attend in order that the candidate is properly trained and equipped for this important role.
- 2.4 Additionally, in the coming year there are three important matters that will require addressing within the FPT area. The first is the Association of Chief Police Officers (ACPO) introduction of good practice doctrine relating to the work of Family Protection and Domestic Violence i.e Guidance on the Investigation of Child Abuse and Safeguarding of Children and the Guidance on the Investigation of Domestic Violence. There is much work to be done to ensure that States of Jersey Police are match fit in relation to the recommendations within these documents and the demands placed upon the FPT as a result of them. This will require strategic oversight and drive to ensure any change is driven through and should fall to an Inspector rank to deliver.
- 2.5 Secondly, the much awaited Sexual Offenders Law is hopefully to be implemented in the latter part of 2006 or early 2007. There are resource implications with this as well as the setting up of a new role, i.e. the Sex Offenders registration officer. This again will require high level intervention and liaison with UK counterparts and given the importance of this, it is appropriate that a Detective Inspector be tasked with the responsibility of implementation.
- 2.6 Thirdly, following the recommendations in the Bichard Report into the deaths of Holly Wells & Jessica Chapman at Soham, UK forces are pursuing the introduction of a national intelligence system, IMPACT, into which the States of Jersey Police will have access and contribute. This will be operated from within the FPT department

and again requires drive and oversight responsibility at Inspector level to implement and ensure relevant standards and procedures are adopted.

- 2.7 There has recently been an assessment centre for promotion to Inspector and a number of successful candidates. This provides opportunity to recommend short term change to the CID management structure that will facilitate developmental learning within the RIT portfolio and the implementation of the matters referred to above within the FPT portfolio. It will also ensure that the operational resilience of the CID is maintained through a busy transitional period.
- 2.8 The current FPT Sergeant postholder was one of the successful candidates at the Inspector assessment centre and could fulfil a Detective Inspector role whilst undertaking the functions outlined above. Additionally, that officer is heavily engaged in the law drafting process for the new Police Force Law and given the level of responsibility for driving any legislative change through the organisation with the requisite training etc it again is appropriate that this should be at Inspector rank.
- 2.9 The current CID structure at Inspector level sees the provision of a call out rota for major crime out of hours and throughout the weekend and with the impending training commitments of the newly appointed RIT Inspector, there will be a need to cover training absence and leave to a greater extent than previously for the foreseeable future. The appointment of a DI FPT for 12 months would provide that resilience.

### 3. **PROPOSALS**

- 3.1 In order to facilitate the learning and experience of the newly appointed DI RIT/FPT, it is proposed that for a period of 12 months the dual role of DI for both RIT and FPT is split.
- 3.2 The FPT department is currently run by a Detective Sergeant who is responsible directly to the Detective Inspector RIT/FPT. Therefore the proposal to split the current DI role would require the appointment of a second DI to assume full responsibility for the FPT department during the 12 month period and it is proposed that the current Detective Sergeant be substantively promoted within the FPT department and maintain that position for a 12 month period, reporting directly to the Head of CID for strategic direction.

### 4. **CONSULTATION**

- 4.1 This matter has been discussed with the Operational Management Team.

### 5. **HUMAN RESOURCES AND TRAINING**

- 5.1 There are no specific training implications relating to this short term proposal. The DI RIT is already programmed into relevant courses and the FPT role does not require any additional training at this time.

### 6. **MARKETING**

- 6.1 The Force will need to be advised of the proposal if agreed and this can be done through the medium of Force Orders and through direct briefing to relevant departmental heads for cascading.

7. **LEGAL IMPLICATIONS**

7.1 None specific to the proposals.

8. **OTHER RESOURCE IMPLICATIONS**

8.1 The promotion of the FPT Detective Sergeant into a Detective Inspector role to provide the strategic lead on change within FPT will require the backfilling of the Sergeants role. This provides the opportunity for an FPT Sergeant's vacancy to be advertised a suitable candidate appointed and trained whilst benefiting from a mentoring process with the current post holder. It is ultimately part of the succession planning within the FPT.

9. **FINANCIAL IMPLICATIONS**

9.1 The financial implications are limited to the salary differential between a Police Constable and Inspector amounting to approx £13,000. The Force has recently seen the resignation of three officers whose departure will lead to a salary saving for the 7 remaining months of 2006 and the early part of 2007. This saving will be well in excess of the £13,000 identified to fund this proposal. The cost can therefore be met from existing budgets.

10. **OPTIONS FOR JOINT WORKING**

10.1 None.

11. **DIVERSITY ISSUES**

11.1 This is an organisational requirement for a short term change and is limited to the current post holder as a result of knowledge and experience currently held. The position is not permanent and at the 12 month conclusion the Inspector will return to operational duties. The Sergeant replacement in the interim will be advertised in accordance with current policy for vacancies.

12. **RECOMMENDATION**

12.1 That the Detective Inspector RIT/FPT is no longer responsible for the FPT role for a 12 month period.

12.2 That a Detective Inspector be appointed for a 12 month period to have direct responsibility for FPT and the implementation of three essential areas of business.

**A Bonjour**  
**Detective Chief Inspector**

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB4

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200 million was paid.

Supt. Malaysia - S.A. police

26th June, 3 months trial

World Bank caring - Thursday.  
JFSC. 1 hour. Friday afternoon.

19th June - Royal Court.

Bang & N.A. re Civil Court.

A had load of jobs.

- SG / ~~SG~~

B. Shau

A. Fossey

Ref Children's Service Report:

B. Shau - gave background re FPI. recent history.  
with AF arrival started to see some drive.  
lamentable lack of action re conditions children living in  
History of saying it is down to Police.  
CS not confident re criteria for care order.  
Example of [redacted] family & EPO.

██████████ - Charged with USI 2 years ago  
3 new jobs. Released. Existing girlfriend, ██████████

As soon as he was released, started ██████████

CS warned ██████████ - Didn't believe he was a risk.  
But what else?

SG - Want to take up with ██████████ Want to work  
with them not against them.  
They have had finger lateral. ██████████ family.

Concern by me re part 8 reveal -  
distraction abuse.

Don't want to be entrenched & defensive.

BS - ██████████ incident. No notification to Police?

Questions about qualification.

BS I'm having to prosecute when it shouldn't be necessary.

Scr. - Human Rights evasion. Far too far.  
Courts expect birching of resources to make it work.



What is the purpose of the at risk register?

Discuss with Tony the Sinner.

BS Mother re ██████████ - Example re AR Risk Register.  
Once CS have given advice child comes off register.



File Note

Meeting with SG re Children's Service Concerns

Tuesday 6<sup>th</sup> June 2006 – 1400 hours

Present: Solicitor General (SG)  
Mrs B Shaw (BS)  
DCI Bonjour (AB)  
DS Fossey (AF)

The meeting opened with BS giving background re recent history involving FPT / Children's Service and the view that there was in some longer term cases a lack of action on the part of Children's Service to action care orders when it was obviously necessary. The SG commented on the apparent friction this could create.

An example relating to the [REDACTED] family was given and how the Children's Service had applied for an Emergency planning order once it was realised that the Police were going to prosecute, but this had been rejected. There had however been sufficient grounds to apply for a care order but this had not then been pursued. Similarly with the [REDACTED] family where there were three Schedule one offenders within the family and again it had come down to police having to prosecute for Neglect. Again there had been, in the view of BS, ample grounds for a care order and this had been heightened still further when the mother had refused to co-operate with Children' Service despite knowing of abuse. Nothing had been done.

The SG agreed that there appeared to be differing standards and referred back to the [REDACTED] case which had resulted in a judgement by V Tomes identifying that care proceedings could have been instituted.

BS then referred to the appendices to a report compiled by DS Fossey and the obvious history of neglect and abuse contained therein in respect of three specific families. If anything were to happen to any of the children in those families and the Children's service were subjected to a Part 8 Review, it was probable that they would be found at considerable fault.

The SG queried whether the difficulties were endemic within the Children's Service and was assured by AF that this pertained solely to the long term team. The Emergency Team worked very well with FPT but she felt that there was a need for the long term team to review their options. It seemed that issues disappeared when forwarded and rather than action themselves, the question was always asked, "what action are the police taking".

It was the SG's view at this point that there was a need to raise this at Children's Service management level, i.e. Marnie Baudains. Specific reference was made to Danny Wherry who had been standing in on the long term team and there was a view that he might not be impartial to the demands of the long term team given his predominant responsibility for resources generally and the Homes into which at risk children might / could be placed.

There were further examples cited of lack of Children's Service action, i.e. [REDACTED] who was now to be prosecuted for another round of abuse on a young 13 year old girl over two years.

This it was felt had been a preventable action if the appropriate support and action had been taken when he was released from prison following his previous conviction for similar offences.

The SG stated that she would take up these concerns with Marnie Baudains and wanted to work with her to resolve matters and not against the Children's Service. There was a need to be diplomatic. The SG did express the view that previously the Children's Service had had their fingers burned when dealing with one specific family and were perhaps now unclear as to way forward when there was insufficient for police action.

AB spoke of the SG's comments re friction and diplomacy. He felt it was important that the concerns had been raised but that there was also a need to ensure that AF was distanced from any comment in the SG's initial interaction with Marnie Baudains to safeguard the working relationship between FPT and Children's Service. AB also referred to the potential for a Part 8 review if there were a tragedy with one of the families at risk and that in that case he did not think, having reviewed the family histories the meeting had viewed, that the Children's service would come out of it very well. He also raised an issue of impartiality in respect of any review and felt it would clearly not be appropriate for any such review to be undertaken by the Children's Service locally. Therefore Jersey would have to invite in a review team.

The SG concurred with the above views and certainly did not want Children's Service to become entrenched or defensive when concerns were raised.

BS re-iterated that she was in a position where she was having to prosecute in cases where if the right action had been taken earlier, it may not have been necessary to do so.

The SG made comment on Human Right Law erosion relating to the manner in which such cases were dealt with and that there was perhaps an expectation from the Courts that the authorities could do more to make things work before care proceedings needed to be implemented.

In conclusion, the SG agreed to write to Marnie Baudains and set out the concerns and invite discussion with both SG and those present, excepting AF. She felt it would be good to discuss matters and ensure there was no compartmentalisation or lack of focus generally.

The meeting concluded at 1435 hours

**A Bonjour**  
**Detective Chief Inspector**

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB5

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1106

SG. - SG. houses a intervention.  
 Maurice Baudain - MB  
 Tony the Swan. - TS  
 Bridget Shaw - BS

Overviews given by BS.

Different understandings of what action can be taken.

Children on "At Risk" register. - Understanding of why they are on register. Do they come off too soon?

Need for understanding from long term team e.g. [redacted] case.

Police at fault recently re [redacted] job.

Reference to History: Problem families. Repeated evidence of child at risk but no care proceedings.

TS - New management team 99/00

Assessment framework - looking at families over 40 day period.

600 open cases. Put in place for new cases. [redacted] - 54 page chronology. Decisions made with Multi Agency involvement.

[redacted] families to Royal Court - challenged by defence lawyers etc.

CP Register - changed to take in UK best practice.  
 Criticism in UK that child goes on and stays there.  
 Indicators - length of time - frequency of registration,  
 e.g. [redacted] - keeps plugging up - when in  
 Court can present positive evidence.  
 Tried + tested in UK. Working here. Every Tuesday  
 management meeting, monitoring + review.

[redacted] case. [redacted]  
 looking at it now. [redacted] you old doesn't want to know.  
 [redacted] yr old in care.  
 Turns - All family get excitable.

Childrens Services - What have we got grounds for.  
 [redacted] - 16 point plan. If progress made  
 then child may come off register.

[redacted] - Open for years with little effect.  
 Sep. 05 - reviewed open case. meeting analyzed case  
 + agreed close. If it comes back - back into  
 front of our system - triggers core assessment.

I'm comfortable with any of this.

BS

Police understanding of what CP Register is for.  
 When police go to conferences - View of Chair is made  
 at the outset.

MB.

JCP has laid down guidelines re CP Register in identification  
 of children etc.

CS following guidelines laid down by JCPC.  
These needs to be broader discussion.

Police perception is the way they relate to how  
CPR managed up to late 20's.

TS

Chronologies do not have every detail in. Significant  
events drawn out during review of files.  
Hence difference between these Chronologies &  
[REDACTED] incident.

Have 30 families that are of concern.

BS

Concern of Police was that it was resource led.

MB

Danger, but we do need to consider the resources  
side. We don't balk at taking decisions.  
Two separate unfunded units for 1 1/2 years now  
for some children. [REDACTED]

12th December - Back in Court with [REDACTED] as  
family resistant to what CS are doing.  
children started at 4, now 6.

TS

Partner agencies don't understand the complexities  
of what we have to deal with.

MB.

Issues emerging - what CPR is for & how managed.  
CS diving through its opinion & views.  
Roles are laid down in Guidelines.



CS do not have a truly independent chair.  
We do sometimes have to use CS Managers.

If child is taken into care they will come off  
the register.

BS Example - [redacted] case. Chair had been case officer  
previously.

TS Fundamentally, Jersey need independent reviewing chair,  
but who & where from?

BS Police report that often in Case Conferences, police are  
only dissenting voice.

MB The register is not an At Risk register. It is  
a child protection register.

TS [redacted] Family ~ CPR.  
[redacted] Family ~ CPR.  
[redacted] Family ~ CPR.

MB Police need to come to me in TS if there are  
concerns.

Need to ensure we have lines of communication open  
at right levels to ensure change, policies etc  
can be discussed.

BS Police getting fed up CS that legally ~~are~~ they could do nothing.  
[redacted] hesitant to go to Court.



BS

[redacted] case example. Mother [redacted]  
 [redacted] paedophile in house. [redacted] report  
 identifying high risk.

TS

Rarely that simple. [redacted] case. [redacted]

MB

clearly there were interventions that occurred.

SS

Have we reached a stage where we can agree who does what.

list of persons responsibility.

TS

Steve Mc Veigh to be involved in meeting with [redacted]

\*

- 1) Supply structure to Childrens Service.
- 2) Circulate everyone with current Guidelines.
- 3) No requirement for formal structure.

1225

Conclude meeting.

1225

Robert Moor

\*

Review now all Royal Court cases re Defendants.

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB6

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**RESTRICTED**  
DOCUMENT RECORD PRINT

## Officer's Report

TO:	SIO	Number	[REDACTED]
STN/DEPT:	OPERATION RECTANGLE	REF:	
FROM:	DI HEWLETT, PETER	REF:	
STN/DEPT:		TEL/EXT:	
SUBJECT:	CARE HOME INVESTIGATION	DATE:	04/04/2006
TITLE:	HEWLETT N1459 REPORTS ON ALLEGATIONS OF ABUSE FROM RESIDENTS AT HDLG		

Sir

1. The recent historic investigation conducted by Detective Constable Brian CARTER of the Family Protection Team, into the conduct of Thomas HAMON whilst employed on a voluntary basis at St Johns Ambulance has raised a number of issues.
2. All victims in this enquiry were subjected to varying degrees of sexual abuse during their childhood years. Some of the complaints were residents of the now defunct Haut de la Garenne Children's Home. It is worthy of note that Mr HAMON and his wife were indeed 'Wardens' of that establishment for a period of time.
3. The Thomas HAMON investigation has taken two years to complete and will draw to a conclusion upon sentencing on Monday 10<sup>th</sup> April 2006. A number of victims in this enquiry have highlighted the link between St Johns Ambulance and Haut de la Garenne, where they claimed the abuse was indecent.
4. Rumours have been rife within the island for many years that Haut de la Garenne was notorious for the sexual, emotional and physical abuse, allegedly handed out to the residents, the majority of whom were in later in life to become involved with the police on a regular basis. It is also a fact that many have taken their own life as they struggled to cope from a day to day basis.
5. Aside from the HAMON investigation there have been a number of individual investigations related to the home. A couple of years ago [REDACTED] 195 [REDACTED] was arrested and charged with [REDACTED] of [REDACTED] 264 [REDACTED] whom it was alleged had regularly abused [REDACTED] 195 [REDACTED] during the 1960's.
6. It is believed that many victims were too afraid for one reason or another to come forward and make official complaints. However as a direct result of the HAMON investigation one of the victims has sought and received Legal Aid Certificate. It is this person's ambition to instigate Civil proceedings against Education and Social Services for the treatment not only to him but also to others whilst resident at Haut de la Garenne.
7. DC CARTER has built up a tremendous rapport with the victims of his investigation. Many have urged him to press for a full police investigation, hence the purpose of this report.



**RESTRICTED**  
DOCUMENT RECORD PRINT

8. Research conducted into Haut de la Garenne indicates that it may have opened in or around the 1920's. A photograph has been viewed with the date apparent. There are twenty plus boxes of files currently stored at Overdale Hospital (access via Children's Service), from a brief inspection it would appear that the files only commenced around the 1950's. The home ceased to function in its intended capacity during the 1980's. Therefore any investigation would span a 30 – 35 year period.
9. In totality there are in the region of 950 files, as previously alluded some residents will now be deceased. Some children were placed into foster care outside the island and others may not be able to be traced due to the many years that have elapsed. These files will be critical as they may have original evidential material pertinent to any enquiry. Additionally they will have dates of birth, next of kin and General Practitioner information.
10. Having read the ACPO guidelines on Investigation of Establishments I would envisage that certainly to begin with we concentrate only on Haut de la Garenne. We may end up opening a whole can of worms and branch off to other homes, i.e. La Preference.
11. I have no doubt that a number of complaints will be forthcoming, whilst specific details have not been divulged victims of HAMON have indicated that they would furnish particulars of individuals who were subjected to abuse.
12. In the initial phase I would advocate that our indices are checked followed by personal contact to all living residents. Strategies will obviously be required to be in place in terms of outside agency support, in particular Victim Support.
13. The ACPO guidelines are specific in terms of parameters. They advise that only where specific complaints are made relating to an Establishment that an investigation commences against that Establishment.
14. The fallout from HAMON is unknown. Many victims have indicated their desire to speak anonymously to the media giving their respective accounts and how it has affected their lives. Without doubt we, the States Police, will be asked to comment on why there has not been? Or dependant on the decision being requested in this report, why there will not be a full and thorough investigation once and for all?
15. Whilst I appreciate that we are unaware at this stage of prospective suspects, it may also be in the case that they are still in similar related agencies, thereby highlighting even greater concerns.
16. DC CARTER had indicated his wish to be involved should the decision to commence an investigation be positive. Due to the victims he is currently dealing with and the trust he has built up over the past two years he is a involvement irrespective of my deployment at the time.
17. I respectfully submit this report for your information and consideration.

Peter HEWLETT

Acting Detective Inspector

Reactive Investigation / Family Protection Team

**RESTRICTED**  
DOCUMENT RECORD PRINT

**RESTRICTED**

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB7

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0930

Pete Newlett



1) Mappa - Wash up from trip.  
Legislation not in place.

SGG view only a couple would attract  
high level Mapper requirement.

Paper from SGG & MC re .5 post for CMB  
& onwards.

2) Du Fou - Images report.

3) Haut de la Garenne.  
Scoping Exercise - Paper. ←

4) ' - - - Robbery May 05.

5) ' - - -

EPI - ' - - Nothing further

' - - assaulted his daughter - teenagers.

' - - Now La Preference.

✓



Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB8

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1140 Home DI Garden re same  
 ongoing job.  
 1215 off duty.  
 1315 On Duty  
 2330 off duty.  
 MONDAY, 5th JUNE 2006  
 TOUR OF DUTY, 0800-1600  
 0730 On Duty PMQ.  
 0830 AM Meeting  
 0900 CO Briefing,  
 from hours re weekend.  
 1040 ME. Startlat re SOCO.  
 1200 Office  
 1400 Re DDA.  
 1440 J.I. Patient. Disclosure bundles re  
 1530 CS re  
 Plan, amendments.  
 1545

1615 office.  
 1700 off duty.  
 TUESDAY, 6th JUNE 2006  
 TOUR OF DUTY, 0800-1600  
 0730 On Duty PMQ.  
 0830 AM meeting.  
 0900 co. Briefing  
 0950 JI. RIT. Weekly met.  
 1050 CID Management meeting  
 1200 Bridget Shaw - A Forensic report  
 to SC re Childcare Services.  
 1400 SC. Home Home. FPTS memo  
 1440 Review with SF memo re Tork.  
 1625 Cilla. Police & Disclosure files  
 re to N. Davidson.  
 1850 off duty.  
 WEDNESDAY, 7th JUNE, 2006  
 TOUR OF DUTY, 0800-1600  
 0950 On Duty PMQ.

0830	AM Meeting.	
0900	CO Briefing.	
1400	To : <u>Rayne</u> Suite re Colposcopy.	
1615	Office.	
2035	Off Duty. TUESDAY, 8TH JUNE 2006 TOUR OF DUTY, 0800-1600	
0430	On Duty PMQ.	
0830	AM Meeting.	
0845	To : <u>Open CR</u> exam re prebexure.	
0925	Office.	
1130	with Supt. MRI meeting.	
1205	Conclude meeting.	
1300	MRI - lunch. Informal discussion.	
1400	1520 office. Sgt Whelan. Copy of photo album re - provided.	
1835	off duty.	

		FRIDAY, 9TH JUNE 2006 TOUR OF DUTY, 0800-1600
0730	On Duty PMQ.	
0830	AM Meeting.	
1145	OH Meeting.	
1350	DS Evening. Pre-meal re CS.	
1400	CS with DS Evening. Tony la Sauer re duty case collection	
1500	PMQ.	
1540	Close CR exam	
1650	off duty.	SATURDAY, 10TH JUNE 2006 TOUR OF DUTY, 0800-1600
		SUNDAY, 11th JUNE 2006 Rest Day.
		Rest Day.
		MONDAY, 12th JUNE 2006 TOUR OF DUTY, 0800-1600
0335	on duty PMQ.	

0830	AM meeting.			
0855	CO. Dugart verbal authority re Paper: need to locate suspect to present any further offense + detect any possible evidence. Suspect is fully aware of police interest but refuses to provide location.	0725	On Duty P.M.	TUESDAY, 13TH JUNE 2006
	Copy of OFER report #410655116/2006 01/5. passed to CO for endorsement of authenticity given.	0830	AM Meeting OH	TOUR OF DUTY, 0800-1600
0920	CO. Paper. re Op	0900	AM Meeting CO.	
0930	Charter Application re CAPS. CO.	0945	Meeting with CO + Minister	
1125	CO. Paper re [REDACTED]	1000	Off Duty	
1400	with [REDACTED] + Pleasance Tames re Colposcope.			
1500	Officer			
1700	Off Duty			

WEDNESDAY, 14TH JUNE 2006

TOUR OF DUTY, 0800-1600

On Duty P.M.

AM Meeting

CO Briefing

Meeting with CO + Minister

Officer

1100

Off Duty



	52	Sleeping. Docs	1435		See board re
1445		shipment of CS.	1530	Off Duty.	
1655		Off Duty.	1920	On Duty.	People Appeal Com
		TUESDAY, 18th JULY, 2006	2045	Off Duty.	
		Tour of DUTY, 0800 - 1600		WEDNESDAY, 19th JULY, 2006	
				Tour of DUTY, 0800 - 1600	
0730		Pm Duty 7HQ.			
0830		AM Meeting.	0720	On Duty 7HQ.	
0940		cc. Report of	0830	AM Meeting.	
			1100	Conference Room. Re Lt. Governor.	
			1150	Spec with Mr Governor.	
1030		cid management meeting.	1220	office.	
		D's Williams, Paskley & Conway.	1245	Internet check re	
1120		Conclude meeting.			
1200		FNB.			
1280		briefing file to CD re chief Min.	1315		
1240		DCO + Supt advised re FPS	1435	Sgt Cunningham. Internal interview	
		postscripting meeting + relationship			
		patternally to J. De La Hays.	1645		
1430		CO. Report re		Off Duty.	
				THURSDAY 20th JULY 2006	



Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB9

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# STATES OF JERSEY POLICE

## WITNESS STATEMENT

### Article 9 Criminal Justice (Evidence and Procedure)(Jersey) Law 1998

Statement of: **BRIAN ROBIN CARTER** Age (under 20 only)

Recorded by: **DETECTIVE INSPECTOR CRICK**

Commenced at 11:00 hrs on 05/02/2008 and Concluded at 11:10 hrs on 05/02/2008

"This statement (consisting of 3 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 willfully stated anything which I know to be false or do not believe to be true".

Date: **05/02/2008** Signed:

***When an injury results from an incident, the following should be completed***

"In the event of the victim of this crime claiming compensation through the Criminal Injuries Compensation Board, I hereby authorise the States of Jersey Police to release a copy of my statement to the board."

Date: **05/02/2008** Signed:

***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 <JOB TITLE OR PROFESSION> at <NAME OF COMPANY>. As such, part of my responsibilities includes making witness statements on behalf of <NAME OF COMPANY>. I do so from my own knowledge and experience and from information obtained by me from the business records of <NAME OF COMPANY>. 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 <NAME OF COMPANY> 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."

Date:           Signed:

1. I am currently a Civilian Investigator employed by the States of Jersey Police.
2. On 18<sup>th</sup> August 1988 I joined the States of Jersey Police as an Officer and served with the Force until my retirement on 30<sup>th</sup> April 2007.
3. Approximately six years prior to my retirement I was posted as a serving Officer to the 'Child Protection Team. This Unit is currently known as the Public Protection Unit.
4. Whilst serving in the above Unit I undertook an investigation into allegations against one David POWELL and one Paul ROMERIL.
5. The allegations against these two men involved the sexual abuse of a male who at that time was 14/15 years of age.
6. I believe my involvement in this investigation began on or about the 26th May 2006, when I attended at Les Quennevais School, where I spoke to the complainant.
7. I became the 'Officer in the Case' (OIC) for the investigation.



## STATES OF JERSEY POLICE

8. During the investigation a number of SMS 'text' messages were recovered from the mobile telephone's identified as belonging to the victims.
9. A number of these messages made reference to ROMERIL having spoken to a Police Officer who had retired from the Force and who was named by ROMERIL as "John De La Haye".
10. From reading the messages I formed the impression that by mentioning John De La Haye ROMERIL was seeking to allay POWELL'S fears at a time when both men believed their victim had reported their activities to the Police. I have to say I have no evidence to substantiate this theory.
11. I do remember bringing the involvement of De La Haye to the attention of the then Senior Investigating Officer, Detective Sergeant Louis Beghin, who decided there was insufficient evidence to justify the arrest of the retired officer.
12. As a result of this information I was tasked with obtaining Production Orders to obtain records pertaining to the mobile and landline telephone numbers relating to retired Chief Inspector De La Haye.
13. Although it is now some time ago, I believe from memory that I was supplied with the numbers for these telephones by Detective Inspector Alison FOSSEY. I do not know where she obtained the numbers. Whilst I cannot now remember those numbers, I do know that it subsequently transpired that the 'mobile' number I was given actually related to a telephone owned or used by Mrs. De La Haye.
14. I completed the covering report following conclusion of the Inquiry. I have been shown a copy of this report, dated 9<sup>th</sup> August 2006, by Detective Inspector CRICK of the South Yorkshire Police Professional Standards Department and can certify it is an accurate copy as submitted by myself. The final paragraph on page 4 and the first paragraph on page 5 of the report make reference to the inquiries carried in respect of Mr. De La Haye.
15. In submitting the file for legal advice I also included a 'File Note'. Item 4 of that 'Note' also makes reference to Mr. De La Haye and seeks advice on the necessity, or otherwise, of interviewing him. As far as I remember I never received any written advice on this point.
16. I have it in mind that I did receive some verbal advice on this point in the nature of, "Do whatever you feel is right" but I cannot now state the circumstances in which this advice was given or who gave it.
17. Some time prior to my investigation into the allegations against ROMERIL and POWELL I conducted an investigation into allegations of sexual abuse against one Thomas HAMON. As a result of this investigation and also a great deal of other information coming into the Unit I approached Detective Inspector Peter Hewlett with a view to instituting a large scale investigation into historical allegations of 'child abuse' at the Haut De La Garenne Children's Home.
18. I am aware that DI Hewlett compiled a report detailing my concerns regarding the Children's Home and indeed he allowed me sight of this report prior to its submission. I believe DI Hewlett submitted the report to Detective Chief Inspector BONJOUR but I do not know whether he handed it to the officer personally or submitted it to him in another manner.
19. I did not hear any more about the report or the possibility of an investigation into Haute De La Garenne being launched. I was disappointed about this because I had hoped such an investigation would allow me to remain in the Force for a few years longer.
20. Whilst I cannot remember a time or date, I do remember briefly speaking to DCI BONJOUR about an incident which I cannot recall in any detail that had a connection with Haute De La Garenne on the steps of Summerland Police Station. He seemingly dismissed the possibility of an investigation by

**STATES OF JERSEY POLICE**

saying something like "*they're all dead*"

Continuation Statement of \_\_\_\_\_

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB10

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# STATES OF JERSEY POLICE

## WITNESS STATEMENT

### Article 9 Criminal Justice (Evidence and Procedure)(Jersey) Law 1998

Statement of: **PETER JOHN WARD HEWLETT** Age (under 20 only)

Recorded by: **SELF RECORDED**

Commenced at 12:00 hrs on 04/02/2008 and Concluded at 16:45 hrs on 04/02/2008

"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 willfully stated anything which I know to be false or do not believe to be true".

Date: 04/02/2008 Signed:

*When an injury results from an incident, the following should be completed*

"In the event of the victim of this crime claiming compensation through the Criminal Injuries Compensation Board, I hereby authorise the States of Jersey Police to release a copy of my statement to the board."

Date: Signed:

*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 <JOB TITLE OR PROFESSION> at <NAME OF COMPANY>. As such, part of my responsibilities includes making witness statements on behalf of <NAME OF COMPANY>. I do so from my own knowledge and experience and from information obtained by me from the business records of <NAME OF COMPANY>. 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 <NAME OF COMPANY> 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."

Date: Signed:

1. Will state, that I am the above named person. I have served in the States of Jersey Police since October 1985. I am currently seconded to the Reactive Investigation Team within the Criminal Investigation Department and I currently hold the rank of Detective Sergeant.
2. I was seconded to the Reactive Investigation Team as Detective Sergeant on 23 November 2003.
3. In August 2005, my line manager at that time, Detective Inspector Steven Megaw, made a request that with effect from the beginning of September coinciding with my return from a period of annual leave to December 2005 inclusive I would be moving to the role of Detective Sergeant, Family Protection Team. Both roles fall under the supervision of Detective Inspector Reactive Investigation Team.
4. Detective Chief Inspector Andre Bonjour was in overall charge of all crime services at that time. This would have included responsibilities for both the reactive and proactive elements of criminal investigation.
5. In late December 2005, and whilst on a period of annual leave I was asked by Mr Bonjour to perform the role of Acting Detective Inspector upon my return, with a specific responsibility for the Reactive Investigation and Family Protection Teams. This deployment would be effective from 2 January 2006.

## STATES OF JERSEY POLICE

6. Within the time I served as the Sergeant of the Family Protection Team and latterly as their Inspector the unit had a number of resource issues combined with a high volume of investigations.
7. One such investigation was being conducted by Detective Constable Brian Carter. This was a protracted investigation into Historic Abuse within the Jersey Branch of the St. John's Ambulance Brigade.
8. All the victims of this investigation were subject to varying degrees of sexual abuse during their childhood years with some of the complainants being former residents of Haut De La Garenne Children's Home, which is no longer in existence.
9. This was a complicated, extremely sensitive and exhausting investigation. A number of these victims highlighted a link between Haut de La Garenne and St Johns Ambulance.
10. Combined with age old rumours concerning physical, mental and sexual abuse of residents, and a number of former investigations, there was now a clear need to conduct a full investigation. This had been raised with the previous Detective Inspector, Steve Megaw. However due to other operational commitments no progress had been made on the submission of this report when I arrived as the Acting Inspector in January 2006.
11. I therefore gathered the basic details for submission of a report to DCI Bonjour. In preparation for presenting this report I researched the ACPO guidelines relating to the Investigation of Historic Abuse Complaints.
12. I obtained a copy of these guidelines for the benefit of DCI Bonjour, to hand to him with my report and assist with his decision making.
13. Once I completed the report I recall physically handing DCI Bonjour the final version and the accompanying file covering the ACPO guidelines for such an investigation. The reasoning behind this was in order that I may explain my findings, the issues faced and answer any potential questions he may have had at that time.
14. It would never have been my intention to submit a report of this nature and sensitivity through internal mail. Therefore by hand delivering the file, accompanied by a verbal briefing, would have placed a greater emphasis on the importance of the need for such a decision.
15. In my role as Detective Inspector I had regular and weekly meetings with DCI Bonjour to discuss current and ongoing investigations being conducted by those departments under my command. I cannot recall whether the discussion in respect of this matter was discussed on one of those days or a separate occasion, indeed I have no personal record.
16. However, I do recall discussing with DCI Bonjour the fact that Detective Inspector Megaw for other operational reasons could not complete the scoping report and I had therefore taken responsibility.
17. On completion of the scoping report which is now produced and identified as South Yorkshire Police exhibit reference PH/01/SYP/08, I met with DCI Bonjour. The meeting would have taken place either on or around the date it was printed. This is recorded as being 8 April 2006.
18. I do recall discussing the report with DCI Bonjour at the time I handed it over with the ACPO guidelines attached. Whilst I cannot obviously remember the exact conversation I do recall DCI Bonjour responding to the effect that he would need to take it to the "Ops Management Team" because of the implications it had. By this I presumed he was referring to the perceived enormity of the task.
19. Previously I had sight of a list of names relating to children that had been resident at Haut De La Garenne. Whilst I would have informed DCI Bonjour of its existence and that it contained nearly 1000 names and that some names were clearly people who have had troubled lives, I cannot recall whether he was shown a copy. Nevertheless I believe that I informed him of some that were regularly in trouble with the Police and others who had committed suicide.

## STATES OF JERSEY POLICE

20. I do remember that over the following few weeks and perhaps months I asked DCI Bonjour on a number of occasions if any decision had been made. I was obviously interested in the final outcome of my report. I did expect that an investigation would be called for as in my opinion there were clear grounds to do so.
21. A few months after submitting this report and still without any feedback, I was posted to Uniformed Operations with effect from 1 July 2006, as a shift Duty Officer (Acting Inspector) where my area of responsibilities had obviously changed.
22. Given my re-deployment and new first line manager I did not feel that it was appropriate to continually enquire as to its current status and indeed expected that the appropriate decision could be left to DCI Bonjour and the management team. I would have expected that any decision made would have been forwarded to the relevant Detective Inspector.
23. It would be some 16 months later that I remember media coverage of an issue raised in a "States" sitting by a Senator questioning a lack of action in respect of abuse allegations. These allegations were aimed at Social Services employees and their perceived lack of care and/or action. It was my opinion that some of these victims were ex-residents of Haut De La Garenne, although the care home to my recollection was not specifically named.
24. Shortly after this, on 16 August 2007, I was spoken to by the Deputy Chief Officer Mr Harper in relation to my report, and in particular any result/decision that I may have been told by DCI Bonjour. To reiterate, I was never given any such decision.
25. Having worked with DCI Bonjour many times over the years he has always conducted himself in a very professional and dedicated manner. Regularly he would be in work before me and often leave after me. Indeed on occasions I saw him in work during evenings and weekends when he was not the duty Chief Inspector.
26. On the occasions I had needed to visit him in his office his desk always seemed full of paperwork and it appeared he was always very busy. That said he always found time to speak with me about a variety of topics and give advice and guidance where necessary.
27. As previously indicated I do not know what happened to the original report once I had delivered it to DCI Bonjour.

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB11

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# STATES OF JERSEY POLICE

## WITNESS STATEMENT

### Article 9 Criminal Justice (Evidence and Procedure)(Jersey) Law 1998

Statement of: **JOHN PEARSON** Age (under 20 only)

Recorded by:

Commenced at      hrs on      and Concluded at      hrs on 08/03/2008

"This statement (consisting of 8 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 willfully stated anything which I know to be false or do not believe to be true".

Date: 08/03/2008 Signed: John Pearson

*When an injury results from an incident, the following should be completed*

"In the event of the victim of this crime claiming compensation through the Criminal Injuries Compensation Board, I hereby authorise the States of Jersey Police to release a copy of my statement to the board."

Date:      Signed:

*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."

Date:      Signed:

- 1 I am the above named person and now retired from the States of Jersey Police.
- 2 I have 30 years Police service, prior to joining the States of Jersey Police having served in both provincial Forces, but mainly in the National Crime Squad:
- 3 I retired from the National Crime Squad around April 2002, and then undertook an interview and was recruited to the States of Jersey Police in August 2002.
- 4 I joined the States of Jersey Police as the Head of Criminal Investigations as a Detective Superintendent, and remained with them, in that rank for 5 years until the 1<sup>st</sup> July 2007.
- 5 It was around late 2003 or early 2004, when the then Deputy Chief officer retired, when Lenny HARPER, who had also been recruited to the States of Jersey Police at the same time as me, changed his role. This then resulted in myself becoming the Uniformed Superintendent, and Head of Operations, effectively the third in command.
- 6 Whilst I was in this role I ensured that proper structures were in place for morning briefings, tasking and coordinating under, or aligned to, the National Intelligence Model, and then also, on the morning briefings each Friday, this included forward planning for the next week and discussions on resourcing.

## STATES OF JERSEY POLICE

- 7 The Friday meeting was often involved with each of the three Chief Inspectors presenting and discussing their needs for staff. Clearly with a small island Police officer establishment, there are constant issues over resources, particularly in personnel, and decisions had to be made over priorities, what we could achieve and what we would not be able to achieve.
- 8 It was important to me to ensure all the management team discussed and decided what we could do, plan effectively, and where we were not able to meet a need, to fully record the decision making, rationale and alternatives available.
- 9 The meeting schedule over a week for myself with the three Chief Inspectors was, each morning, around 8.30am, a daily briefing to discuss all operational issues over the last 24 hours, or the weekend, and also what was happening over the next 24 hours in pre planned events.
- 10 On Wednesday, initially every week, but after a short time this became bi-weekly, the tasking and co-ordination meeting. This was a full NIM model meeting where priorities were decided on the available intelligence.
- 11 The Friday morning daily briefing which included, as I have previously mentioned, the more in depth discussions over personnel and resource issues.
- 12 The three Chief Inspectors who attended these briefings, included Shaun DUVAL, Andre BONJOUR, who was, certainly from the time he became the head of CID (at the time my role moved to the head of operations) the fairly constant representative at the meetings for criminal matters, and then a number of other officers who acted up on a regular basis, such as Dave MINTY and Kevin MCKERRALL.
- 13 During 2005 and 2006, specifically DCI Andre BONJOUR was the head of CID, and attended my meetings to present issues from the Criminal Investigation Department.
- 14 DCI BONJOUR was, in my opinion, meticulous in his record keeping and used a daybook to record briefing notes and during the meetings to note agreements and actions.
- 15 I can say without any doubts that DCI BONJOUR never brought to either the morning briefing or the Friday morning resource meeting, or in fact the tasking and co-ordination meeting, a report composed by Brian CARTER, in relation to a care home investigation.
- 16 On the 8<sup>th</sup> March 2008, I was shown by Chief Superintendent VAREY, the two page report outlined in 15, above. This is the first time I have seen the report.
- 17 Having now seen the report, I react by stating, that the contents are such that to me, from my Policing experience, the contents indicate a need for a full criminal investigation to be commenced.
- 18 From the date of the report, 8 April 2006, I believe this should have been brought to the management team's attention, immediately by DCI BONJOUR, and this is clearly not the case.
- 19 I can also recall, in relation to another issue regarding a criminal investigation into serious sexual offences, that the name of a former S.O.J.P. Chief Inspector, this being John DE LA HAYE, came up through mobile phone text messages.
- 20 I clearly recall advising DCI BONJOUR that this issue should be fully investigated and the situation regarding the potential association between John DE LA HAYE and the suspect's clarified, and appropriate action taken.
- 21 Finally, having seen the report on the care home investigation by Brian CARTER, I have to say in my opinion that positive action should have immediately been considered and discussed by senior members of the S.O.J.P.

## STATES OF JERSEY POLICE

- 22 There should have been no delay in dealing with them and there was a clear responsibility for DCI BONJOUR to have brought it to my attention, or failing this, and if I was not there for any reason, to the attention of the officer in charge of operations and the operations management team.
- 23 During the time I was in post, I kept a diary. However, I did not return these on leaving the S.O.J.P, and they are not available to assist.
- 24 The lack of diary however, does not poreclude me from clearly stating that DCI BONJOUR never raised the HAUT DE LA GARENNE investigation scoping report. I was never aware this was an issue and if I had been aware an investigation would have been resourced and commenced.

<DETAILS>

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB12

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# STATES OF JERSEY POLICE

## WITNESS STATEMENT

### Article 9 Criminal Justice (Evidence and Procedure)(Jersey) Law 1998

Statement of: **ALISON FOSSEY** Age (under 20 only)

Recorded by:

Commenced at 10:00 hrs on 08/04/2008 and Concluded at 12:00 hrs on

"This statement (consisting of 15 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 willfully stated anything which I know to be false or do not believe to be true".

Date: 08/04/2008 Signed: **ALISON FOSSEY**

#### *When an injury results from an incident, the following should be completed*

"In the event of the victim of this crime claiming compensation through the Criminal Injuries Compensation Board, I hereby authorise the States of Jersey Police to release a copy of my statement to the board."

Date: Signed:

*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 <JOB TITLE OR PROFESSION> at <NAME OF COMPANY>. As such, part of my responsibilities includes making witness statements on behalf of <NAME OF COMPANY>. I do so from my own knowledge and experience and from information obtained by me from the business records of <NAME OF COMPANY>. 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 <NAME OF COMPANY> 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."

Date: Signed:

1. I am a Detective Inspector in the States of Jersey Police, currently posted to the Family Protection Team.
2. I was appointed to the States of Jersey Police in July 2002.
3. I was first posted to the Family Protection Team in January 2006 as a Detective Sergeant and at that time Peter HEWLETT was the Acting Detective Inspector in charge of that Team.
4. Around the period I was first posted to the FPT a protracted investigation in relation to Thomas HAMON was coming to close. From this investigation, as well as a number of other investigations, there were a number of officers in the FPT who believed there was evidence to justify a criminal investigation into historic abuse at the Haut de la Garenne Children's Home.
5. Peter HEWLETT prepared a short 'scoping' report on this subject and I do recall researching the ACPO guidelines in relation to investigating child abuse cases.
6. Peter HEWLETT left the team shortly after this report was prepared and I do recall that at the time he left the unit he handed over, in electronic form, all the outstanding paperwork in relation to ongoing matters.



## STATES OF JERSEY POLICE

7. These papers included a copy of the 'Care Home Investigation' report and it was my understanding that this matter had been raised with DCI Andre BONJOUR and was being considered at the appropriate level.
8. At the time Peter HEWLETT left the team it would have been July 2006 and this is when the FPT became a separately managed entity. I became the FPT Detective Inspector and there was now a further Detective Inspector in charge of the reactive CID.
9. The FPT had been historically under resourced and a number of recent investigations had become protracted in nature and exposed the resource weaknesses even more. There were also problems with the movement of staff and supervision. We had reached a state where we were constantly calling in resources from other departments and this was affecting the teams morale.
10. So at the time I took the role as Detective Inspector in charge of the team I was aware of these issues and made a point of raising the problems with the then head of CID this being DCI Andre BONJOUR.
11. I have to say this was an ongoing theme and again, around this time a further investigation was starting to affect our resources as it was in relation to a complaint of serious sexual assault on a young boy.
12. This case, as it turned out, led to the arrest of two men in July that year and involved a policing operation, again where we had to call on resources from outside of the team in order to effect arrests and searches, but also, at an earlier stage, to complete the background intelligence and analysis, particularly in relation to mobile phone data.
13. It was during this investigation and in relation to the mobile phone analysis that the name of a former SOJP Chief Inspector, John De La HAYE was used.
14. As the Senior Investigating Officer (SIO) in this investigation I took into use a Major Crime Policy File. This policy file was handed by me to DCI Rhodes on the 8 January 2008, and can be produced in evidence if required, exhibit reference AF/1.
15. The officer in the case for this investigation was Detective Constable Brian CARTER.
16. On the 14 July 2006, and in relation to this investigation I attended a meeting with Police Sergeant BERTRAM and DCI BONJOUR, during which we discussed the mobile phone text data.
17. I have a brief record of this meeting in a Day Book which I commenced on that date, with the initial entry providing the Operational title 'Birthday'. The following notes of the meeting include that a decision was made by DCI BONJOUR to continue processing the texts the following Monday 17<sup>th</sup> July before deciding a plan of action. I have also noted, in relation to this same meeting, that I informed DCI BONJOUR that the text message data had identified a retired SOJP Chief Inspector, John De La HAYE as giving advice to the two suspects.
18. On the 8 January 2008 I handed this Day Book to DCI RHODES and it can be produced in evidence if required, exhibit reference AF/2.
19. Further entries in the Day Book indicate that I continued to update DCI BONJOUR during the course of the investigation and that on the 20 July 2006, when we were still having difficulties identifying the suspect Dave; I had a number of meetings with DCI BONJOUR.
20. Initially he advised that unless there was immediate threat to the safety of the victim we should continue gathering intelligence and arrest when both male suspects had been identified. Amongst

## STATES OF JERSEY POLICE

other actions on that date I authorised a production order on the home and mobile phone of John De La HAYE.

21. Later that same day I met DCI BONJOUR to discuss surveillance options and request a sergeant take over as SIO during my imminent leave.
22. I had a further meeting with DCI BONJOUR, Sergeant BERTRAM and Sergeant BEGHIN, with the later performing the function as 'tac'-advisor. The agreement from this meeting was that a number of warrants would be executed at premises associated with the identified suspect the following morning.
23. An entry in the Major Crime Policy File for that same date also notes this decision to arrest suspects. There are no further entries in either Day Book or Policy File making reference to any decision or discussions we had in relation to John De La HAYE, I do however recall that the subject was raised and discussed at the meeting Sergeants BERTRAM, BEGHIN and myself had with DCI BONJOUR on the 20 July.
24. Day Book entries for the following date refer to the arrest and process of the suspects and the recovery of certain exhibits. I have also noted my meeting with DCI BONJOUR where I provided him with the update on the initial arrest and warrant execution, then handed the SIO role to DS BEGHIN.
25. I started my leave on the Friday afternoon on the day of the arrests, when DS BEGHIN as the SIO in my absence, oversaw the suspect interviews.
26. Though I was not present, on returning to work after my leave, I do recall confirming that the suspects interviews included questions intended to clarify the John De La HAYE references and through review of the interview transcripts I confirmed that this was the case.
27. It was clear that one of the suspects had no idea who John De La HAYE was. The suspect who actually named John De La HAYE in text provided a reason for doing so which appeared to clear John De La HAYE from involvement.
28. The results from the home and mobile phone numbers for John De La HAYE showed no connection between the suspects and himself.
29. The prosecution papers and consultation with legal advisors was completed by the OIC, Brian CARTER.
30. It would be around May 2007 when Dave MINTY became the DCI and head of CID in place of Andre BONJOUR.
31. It was shortly after this that, as a result of the serious case review into the investigation involving the sexual assaults on the young boy, we were asked to provide a number of case papers.
32. Whilst this review was essentially focussed on the Social Services and the Health Services Involvement, the criminal investigation case papers obviously held valuable information to assist the case review.
33. It was whilst reviewing the case papers that I became aware that the John De La HAYE references had never been properly investigated in the terms of actually speaking to him in order to clarify whether he had been involved with the suspects.
34. The Deputy Chief Officer who was obviously aware of this serious case review had asked me for the relevant papers. Because I had identified this issue within these papers, I informed DCO HARPER of the situation.

Continuation Statement of \_\_\_\_\_



## STATES OF JERSEY POLICE

35. Having raised this issue there followed a number of requests from DCO HARPER for clarification and enquiry from him if there were any other outstanding issues.
36. I enquired if he was aware of the report submitted by Peter HEWLETT regarding the 'Care Home Investigation' and when he indicated he was not, provided him with a copy of that report.
37. Shortly after this, and on the 3 August 2007, I was involved in a number of email exchanges with DCO HARPER.
38. The first was a received email from DCO HARPER at 8.20 am that date, which made reference to the report (DC CARTER) and asked a number of questions. I have reviewed a copy of this email, the contents of which can be produced as evidence if required, exhibit reference LH/1a.
39. I received a further email from DCO HARPER at 8.51 am the same date and again this has been reproduced in printed form and can be produced in evidence if required, exhibit reference LH/2a.
40. At 9.23 am that same date I sent a response email to DCO HARPER. I have reviewed a printed copy of this email which can be produced in evidence if required, exhibit reference LH/3a. I have retained the original which can be produced in evidence if required, exhibit reference LH/3.
41. At 10.01 am the same date I received a further email from DCO HARPER. I have received a printed copy of this email which can be produced in evidence if required, exhibit reference LH/4a.
42. At 11.33 am the same date I sent a further response email to DCO HARPER. I have produced a printed copy of this email which can be produced in evidence if required, exhibit reference LH/5a. I have retained the original email which can be produced in evidence if required, exhibit reference LH/5.
43. On the 30 August 2007, in company with DS 6407 SMITH, I interviewed John De La HAYE, under caution, after he attended at Summerland Police Station, Jersey, on a voluntary basis.
44. During this interview he denied any knowledge of the suspects and there was no evidence to indicate he had been involved in any criminal behavior. No further action followed that interview.
45. I would like to add that in all my dealings with Andre BONJOUR I have found him to be honest and straightforward and I would never suspect him to be involved in any corrupt practice.

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB13

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# STATES OF JERSEY POLICE

## WITNESS STATEMENT

### Article 9 Criminal Justice (Evidence and Procedure)(Jersey) Law 1998

Statement of: **LEONARD HARPER** Age (under 20 only)

Recorded by: **DCI RHODES**

Commenced at        hrs on        and Concluded at        hrs on

"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 willfully stated anything which I know to be false or do not believe to be true".

Date: 09/04/2008 Signed: **L HARPER**

*When an injury results from an incident, the following should be completed*

"In the event of the victim of this crime claiming compensation through the Criminal Injuries Compensation Board, I hereby authorise the States of Jersey Police to release a copy of my statement to the board."

Date: 09/04/2008 Signed: **L HARPER**

*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 <JOB TITLE OR PROFESSION> at <NAME OF COMPANY>. As such, part of my responsibilities includes making witness statements on behalf of <NAME OF COMPANY>. I do so from my own knowledge and experience and from information obtained by me from the business records of <NAME OF COMPANY>. 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 <NAME OF COMPANY> 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."

Date: 09/04/2008 Signed: **L HARPER**

- 
- 1 I am the Deputy Chief Officer of the States of Jersey Police having been promoted into this rank on 1<sup>st</sup> September 2003.
  - 2 I was first appointed to the States of Jersey Police as a Superintendent in May 2002.
  - 3 Prior to my appointment with the States of Jersey Police I had served in a number of UK Police Forces and had 28 years experience including the Metropolitan Police, the Royal Ulster Constabulary, and Strathclyde Police.
  - 4 In my role as the Deputy Chief Officer I have a responsibility for overseeing all Professional Standards matters.
  - 5 In the spring of 2006, along with other officers and a legal adviser based at Police Headquarters, I became concerned at the number of persons in positions of responsibility in respect of children who were being arrested and/or charged with offences relating to child abuse and pornography.
  - 6 As a result I made enquiries with Detective Inspector Alison Fossey, the officer in charge of the Public Protection Unit (PPU). The PPU have a responsibility to investigate, or oversee investigations into allegations involving domestic violence or serious sexual assault, particularly in relation to children or

## STATES OF JERSEY POLICE

young persons.

- 7 As a result of my contact with DI FOSSEY, I reviewed a copy of a covering report from a recent criminal investigation and subsequent prosecution in relation to serious sexual offences against a young boy. This covering report was prepared by Detective Constable Brian CARTER who had been the officer in the case. It contained reference to text message data recovered from one of the suspects mobile phone which indicated that a former States of Jersey Chief Inspector, John DE LA HAYE, had been involved in providing advice on police procedures.
- 8 From further reading of this covering report it was apparent that this issue had never been fully investigated. There was no indication in the report that John DE LA HAYE had been interviewed, either formally or informally, in order to clarify his relationship, if any, with the suspects at the focus of the criminal activity under investigation.
- 9 On the 3 August 2007, at 8.20 am, I sent an email to DI FOSSEY with reference to this report. I asked a number of questions and expressed concerns over the fact that John DE LA HAYE had not been interviewed. I have printed a copy of this email which can be produced in evidence if required, exhibit reference LH/1a.. The original message is retained and can be produced in evidence if required, exhibit reference LH/1.
- 10 At 8.51am the same date I sent a further email to DI FOSSEY asking her ourcome of the 'production orders', this question again was in reference to DC CARTER's covering report. I have printed a copy of this email which can be produced in evidence if required, exhibit reference LH/2a. The original message has been retained and can be produced if required, exhibit reference LH/2.
- 11 At 9.23 am that same date I was sent a response email by DI FOSSEY. I have printed a copy of this email and can produce this in evidence if required, exhibit reference LH/3a. I have retained the original which can be produced in evidence if required, exhibit reference LH/3.
- 12 At 10.01 am the same date, as a result of this email from DI FOSSEY and my further considerations over DC CARTER's covering report, I sent a further email, this direct to Chief Inspector Andre BONJOUR, Inspector BEHIN and also DI FOSSEY. Again I asked a number of questions in relation to the John DE LA HAYE aspect of this investigation. I have printed a copy of this email which can be produced in evidence if required, exhibit reference LH/4a. I have retained the original which can be produced in evidence if required, exhibit reference LH/4.
- 13 At 11.33 am the same date I was sent a further response email by DI FOSSEY. I have printed a copy of this email which can be produced in evidence if required, exhibit reference LH/5a. I have retained the original received email which can be produced in evidence if required, exhibit reference LH/5.
- 14 Also on that same date, at 11.59 am I was sent a response email by Chief Inspector Andre BONJOUR. I have printed a copy of this email which can be produced in evidence if required, exhibit reference LH/6a. I have retained the original of this received email which can be produced in evidence if required, exhibit reference LH/6.
- 15 At 12.11 pm the same date, I responded to Chief Inspector BONJOUR by further email, again asking a number of questions and for some clarification. I have printed a copy of this email which can be produced in evidence if required, exhibit reference LH/7a. I have retained the original email which can be produced in evidence if required, exhibit reference LH/7.
- 16 At 12.31 pm the same date Chief Inspector BONJOUR sent me a response email. I have printed a copy of this email which can be produced in evidence if required, exhibit reference LH/8a. I have retained the original received email which can be produced if required, exhibit reference LH/8.
- 17 I sent a further email on this subject to Chief Inspector BONJOUR at 12.44 pm the same date. I have

## STATES OF JERSEY POLICE

printed a copy of this email which can be produced in evidence if required, exhibit reference LH/9a. I have retained the original received email which can be produced if required, exhibit reference LH/9

- 18 At 7.44 am on the 7 August 2006, I was sent an email by Inspector Louis BEGHIN. This email was a response to my email to him outlined in point 12 above. I have printed a copy of this email which can be produced in evidence if required, exhibit reference LH/10a. I have retained the original received email which can be produced if required, exhibit reference LH/10
- 19 At 8.25am the same date I was sent a further email from Inspector BEHIN on the same subject and again I have printed a copy of this email which can be produced in evidence if required, exhibit reference LH/13a. I have retained the original received email which can be produced if required, exhibit reference LH/13.
- 20 I have also discussed the matter with John DE LA HAYE reference within the text messages sent by Paul ROMERIL to David POWELL with the legal advisor in the case, this being Laurence O'DONNELL.
- 21 It is apparent to me that the appropriate action to investigate the possible John DE LA HAYE involvement in providing advice to suspects in an ongoing criminal investigation was not concluded properly.
- 22 I therefore advised DI FOSSEY to conclude this aspect of the investigation and as a result John DE LA HAYE was interviewed under caution after voluntarily attending at Summerland Police Station in Jersey on the 30 August 2007, this more than a year after the primary investigation.
- 23 As the Deputy Chief Officer I can say that I believe that an effective and efficient investigation did not take place in respect of John DE LA HAYE.
- 24 There was a clear indication that this former SOJP Chief Inspector had been advising suspects involved in serious sexual offences against a young boy and by so doing interfering with the course of justice. The potential links should have been fully explored to determine John DE LA HAYE's guilt or innocence and this was not done.
- 25 Further to this it was clear that, at an early stage in the investigation, there was an application for mobile phone data correctly completed and submitted, leading to the recovery of data on John DE LA HAYE's wife's mobile.
- 26 From even a basic scrutiny of this data it should have been apparent that the data collection was on the wrong mobile phone number. Action could have quickly been taken to ascertain John DE LA HAYE's own mobile phone number and have this data appropriately applied for and obtained.
- 27 This could have then assisted in determining, or even eliminating any possible links between John DE LA HAYE and Paul ROMERIL/David POWELL at an early stage in the investigation.
- 28 The potential for further offences to have been detected is clear, but aside from this, the failure to ensure this line of enquiry was completed effectively and an apparent lack of attention to the management of this investigation, reveals a failure somewhere in management supervision.
- 29 I am aware that DCI BONJOUR was involved in regular briefings/debriefings during the course of this criminal investigation.
- 30 During my enquiries into this matter I was handed (by DI FOSSEY) a copy of a two-page report which appeared to have been prepared by Acting Detective Inspector Peter HEWLETT on the 8 April 2006.
- 31 This report had the subject heading 'Care Home Investigation'.
- 32 On reading this report I was immediately concerned in that there was a clear case presented within the contents for a criminal investigation to be commenced in respect of allegations of child abuse at the former



## STATES OF JERSEY POLICE

Care Home, Haunt De La Garenne, in Jersey.

- 33 I was also very concerned that I had no previous knowledge of this report or its contents.
- 34 As the Deputy Chief Officer in the period the report appeared to have been prepared and submitted, I would expect, given the gravity of the issues, that I would have quickly been made aware of the contents and had some involvement in the decision making on how to proceed.
- 35 Again, having reference to the contents of that report, in my opinion there would have only been one decision to have been made that that is how quickly the criminal investigation could be instigated.
- 36 The management structure within the SOJP has the Head of Operations Superintendent in charge of all operational policing issues under the auspices of myself and the Chief Officer. The Head of Operations at that time was John PEARSON, now retired. The Head of Operations Superintendent is responsible for the three Chief Inspectors, these being the Detective Chief Inspector Head of CID, the Uniform Operations Chief Inspector, and the Community Support Chief Inspector.
- 37 The Operations Superintendent holds a daily briefing with the Chief Inspectors, a bi-weekly tasking and co-ordinating meeting, and on Friday morning each week, an Operations Group Meeting.
- 38 I would expect that the report submitted by A/DI HEWLETT would have been taken to the first available meeting, considering the serious nature of the contents, and so that the issues could be quickly brought to the attention of the operations managers. Failing this the matter should have been raised at a weekly Operations Group Meeting, or depending on the timing, at a Tasking and Co-ordinating meeting.
- 39 Whatever the meeting this matter should have been raised with some urgency and at the appropriate level for discussion to be made and resources allocated.
- 40 There should also have been a clear audit trail of the decisions, when they were made and by whom, along with any outcomes.
- 41 As a result of my concerns, having now read the contents of this report nearly 18 months after it appeared to have been first submitted, I contacted Peter HEWLETT.
- 42 As a result of the conversation I had with him it was clear that he submitted this report on or around the 8 April 2006, to his then DCI, this being Andrew BONJOUR.
- 43 DS HEWLETT advised me that after he presented the report to DCI BONJOUR during a face to face meeting, he was provided with no feedback from him on what action had been taken or decided upon.
- 44 I made further enquiries to establish that there was no record of any action taken as a result of this report being submitted and there certainly had been no criminal investigation initiated.
- 45 I therefore took no action to initiate such an investigation, which is now ongoing.
- 46 I am of the opinion that the failure to take action in response to the detail contained in Peter HEWLETT's report is a failure of management responsibility by someone.
- 47 The management responsibilities mentioned above should have included the briefing of senior officers on the resource and other implications of the potential enquiry.
- 48 There should have been an investigation initiated immediately.
- 49 This issue should have been taken to the Operations Group and a full briefing of the issues given to them, gaining agreement and resources where necessary.

## STATES OF JERSEY POLICE

- 50 As the Deputy Chief Constable under the Chief Officer, I should also have been informed and fully briefed on the contents of this report and the action to be taken. I would also have had opportunity to have some involvement in the decision making and resource allocation.
- 51 As a result of my concerns over this issue I have referred the matter for investigation.



Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB14

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## STATES OF JERSEY POLICE

### WITNESS STATEMENT

#### Article 9 Criminal Justice (Evidence and Procedure)(Jersey) Law 1998

Statement of: **LEONARD HARPER** Age (under 20 only)

Recorded by: **SELF**

Commenced at **1130** hrs on **8<sup>th</sup> Sept.** and Concluded at **1155** hrs on **8<sup>th</sup> Sept.**

"This statement (consisting of        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 willfully stated anything which I know to be false or do not believe to be true".

Date: **8<sup>th</sup> Sept.** Signed:

*When an injury results from an incident, the following should be completed*

"In the event of the victim of this crime claiming compensation through the Criminal Injuries Compensation Board, I hereby authorise the States of Jersey Police to release a copy of my statement to the board."

Date: **8<sup>th</sup> Sept.** Signed:

*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 <JOB TITLE OR PROFESSION> at <NAME OF COMPANY>. As such, part of my responsibilities includes making witness statements on behalf of <NAME OF COMPANY>. I do so from my own knowledge and experience and from information obtained by me from the business records of <NAME OF COMPANY>. 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 <NAME OF COMPANY> 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."

Date: **8<sup>th</sup> Sept.** Signed:

I have been asked to submit this statement in respect of duties which I carried out as the Deputy Chief Officer of the States of Jersey Police. It is a supplementary to my previous statement and is intended to clarify a number of matters.

The first matter I seek to clarify is in relation to the 'covert' phase of Operational Rectangle. This was not, as the JEP reporter seems to infer, in relation to Haut de la Garenne. The operation actually commenced because of our concerns over the Jersey Sea Cadets and this first covert phase was concerned almost totally with that organization. During those enquiries I became concerned over what I saw as connections with other past investigations and I re-examined those files. None of these were connected to HDLG either. During the examination of those files I became alerted to the fact that the police actions did not appear to have been as they should. I also became aware that a number of the victims were telling investigating officers that they should be looking at HDLG. When I enquired into this, I found that in fact the investigating officers had reported the matter to Chief Inspector BONJOUR but

## STATES OF JERSEY POLICE

that there appeared to have been no action taken. This was around the time that we went public. It is therefore incorrect to say that we were looking at HDLG a year before, and the press release I have been shown from Diane Simon of 26 November does not relate to HDLG in respect of the covert enquiry.

I did not hold Detective Inspector Alison FOSSEY responsible for the failure to interview the former police officer DE LA HAYE. She had told me that she was under instructions from Chief Inspector BONJOUR not to interview him and that effectively she had no say in the matter. From the enquiries I made I was satisfied this was the case. I certainly did not give her words of advice in respect of not interviewing DE LA HAYE as that would have implied I believed her at fault. This was not the case in any way.

One other thing I recall is that when I asked Chief Inspector BONJOUR what had happened to the report on HDLG, he told me that he thought that he had spoken to either Detective Inspector FOSSEY or Superintendent PEARSON. However, he had no clear recollection and could not say if he had spoken to either with any certainty. It was, he said, "only an impression." Both Detective Inspector FOSSEY and Superintendent PEARSON denied that he had spoken to them.

# STATES OF JERSEY POLICE

**D O N O T D I S C L O S E**

Name of Witness: **LEONARD HARPER**

Address (home)

House No: <b>1b</b>	House Name: <b>FAIRPORT MEWS</b>
Street: [REDACTED]	
District/Village:	
Parish/Town: [REDACTED]	
Island/County:	Postcode: [REDACTED]
Tel No. Home:	Tel No. Mobile:

Address (work)

House No:	House Name:
Street:	
District/Village:	
Parish/Town:	
Island/County:	Postcode:
Tel No. Work:	

Date of Birth: [REDACTED]/1952 Place of Birth: Londonderry

Occupation: RETIRED

I have been told about the VSS service and would --- to be referred

BLOCK OUT DATES NOT AVAILABLE

INCONVENIENT DATES

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1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
5	6	7	8	5	6	7	8	5	6	7	8	5	6	7	8	5	6	7	8	5	6	7	8
9	10	11	12	9	10	11	12	9	10	11	12	9	10	11	12	9	10	11	12	9	10	11	12
13	14	15	16	13	14	15	16	13	14	15	16	13	14	15	16	13	14	15	16	13	14	15	16
17	18	19	20	17	18	19	20	17	18	19	20	17	18	19	20	17	18	19	20	17	18	19	20
21	22	23	24	21	22	23	24	21	22	23	24	21	22	23	24	21	22	23	24	21	22	23	24
25	26	27	28	25	26	27	28	25	26	27	28	25	26	27	28	25	26	27	28	25	26	27	28
29	30	31		29	30	31		29	30	31		29	30	31		29	30	31		29	30	31	

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB15

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Bf 18/12/08.



Confidential Report

Re South Yorks

Police.

**RESTRICTED (when complete)**

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**CASE SUMMARY**

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**1 THE ALLEGATIONS**

- 1.1 This investigation commenced on the 7 January 2008. Due to the nature of the investigation, it was necessary to visit Jersey to determine the extent of the enquiries to be conducted and examine the case papers which form the basis of concern.
- 1.2 This report together with the attached witness statements, documentary and other exhibits refers to an investigation following concerns by the Deputy Chief Officer, Leonard HARPER, of the States of Jersey Police.
- 1.3 Deputy Chief Officer HARPER was concerned over aspects of an investigation conducted by members of the Family Protection Team, of the States of Jersey Police, into sexual abuse of a 14 year old boy. These concerns did not emanate from the investigation itself, which led to the convictions of the two offenders, but specifically to an issue of alleged involvement of a retired Chief Inspector of the States of Jersey Police.
- 1.4 This investigation resulted in two men appearing at Jersey Royal Court charged with serious sexual offences against the young boy involved.
- 1.5 The two accused men David POWELL, born [REDACTED] 1964, and Paul ROMERIL, born [REDACTED] [REDACTED] 1968, were both residents in Jersey and spent all of their lives on the Island.

Exclusion order  Compensation  Forfeiture/Destruction order  Proceeds of crime case

(✓) if required



**RESTRICTED (when complete)**

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- 1.6 David POWELL was ultimately sentenced to 3½ years imprisonment for the offences and is still currently detained in Her Majesty's Prison, HMP La Moye on the Island of Jersey.
- 1.7 Paul ROMERIL whilst awaiting sentence for the offences committed suicide within the confines of HMP La Moye.
- 1.8 The offences required delicate and detailed enquiries into the activities of the two men and the contact they had with the victim.
- 1.9 A feature of the investigation involved obtaining mobile telephone communications data from the telephones of both the accused and that of the victim.
- 1.10 During this phase of the investigation hundreds of text messages between all three parties were recovered and analysed. A sequence of eight text messages between ROMERIL and POWELL concerned a retired Chief Inspector of the States of Jersey Police by the name of John DE LA HAYE. ROMERIL indicated that he knew DE LA HAYE and stated that he would advise them of the police procedures involved in such an investigation.
- 1.11 This aspect was investigated by the Family Protection Team and both suspects were interviewed specifically about the text messages and their relationships with the retired police officer.

Exclusion order  Compensation  Forfeiture/Destruction order  Proceeds of crime case

(✓) if required

**RESTRICTED (when complete)**

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- 1.12 POWELL declined to answer any questions about his involvement in the sexual offences, the text messages and any knowledge of, or involvement with the retired officer.
- 1.13 ROMERIL stated that he had knowledge of DE LA HAYE, and had met him socially whilst playing bridge. ROMERIL said that he mentioned the officer because POWELL was pressurising him to gain information. He went onto say that he had not contacted the retired officer and was effectively using this as an excuse to placate POWELL.
- 1.14 Notwithstanding ROMERIL's account the investigating officers wished to further progress this line of enquiry and obtained telecommunications data from the home telephone of the retired officer and what was believed to be his mobile phone.
- 1.15 The investigating officers attempted to pursue this line of enquiry, but ultimately it was not progressed, due to the fact it was not considered there had been any contact with the retired Chief Inspector. However it must be stressed that this did not have any impact on the subsequent sentence received by POWELL.
- 1.16 As a direct result of this investigation and the surrounding circumstances the Jersey Child Protection Committee (JCPC) conducted a Serious Case Review of the investigation and the various parts played by the agencies involved.

Exclusion order  Compensation  Forfeiture/Destruction order  Proceeds of crime case   
 (✓) if required

**RESTRICTED (when complete)**

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- 1.17 Whilst preparing the police submission in respect of the Serious Case Review it was ascertained that the involvement of the retired Chief Inspector had not been fully explored during the investigation.
- 1.18 The Head of the Family Protection Team brought this issue to Deputy Chief Officer HARPER's attention who made enquiries to identify any other outstanding matters.
- 1.19 The Head of the Family Protection Team also uncovered a report dated 8 April 2006. This report was from the previous officer in charge of the Family Protection Team and detailed allegations of historic abuse within a former children's home at Haut De La Garenne on the Island of Jersey.
- 1.20 This report outlined concerns regarding the activities of a male who had connections with the former children's home and who had previously been convicted of abusing children in his care. It was discovered that no action had been taken in respect of this report.
- 1.21 Deputy Chief Officer HARPER was alarmed by the contents of the report and the failure to investigate fully the allegations involving the retired Chief Inspector, and commenced a review of the circumstances involving both issues.
- 1.22 The common denominator in both instances was Detective Chief Inspector Andre BONJOUR, Head of Criminal Investigation Department of the States of Jersey Police.

Exclusion order     Compensation     Forfeiture/Destruction order     Proceeds of crime case

(✓) if required



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- 1.23 The results of the review by Deputy Chief Officer HARPER indicated that Detective Chief Inspector BONJOUR, in his role of Head of the Criminal Investigation Department, had failed in his duty to properly supervise both these investigations.
- 1.24 Due to the sensitive nature of these issues and the seniority of Chief Inspector BONJOUR, together with the limited resources of the States of Jersey Police it was decided that an outside Force should investigate these allegations.
- 1.25 After consultation with Her Majesty's Inspectorate of Constabulary, South Yorkshire Police were invited to conduct the investigation.
- 1.26 This report contains allegations of criminal conduct and may require consideration by the Law Officers' Department.

**2 POTENTIAL CRIMINAL OFFENCES****2.1 Criminal Allegation 1**

Between 7 April 2006 and 31 August 2007, at Jersey, with intent to pervert the course of public justice, did a series of acts which had a tendency to pervert the Course of Public Justice in that having received a report from Acting Detective Inspector HEWLETT, on or about 8 April 2006,

Exclusion order  Compensation  Forfeiture/Destruction order  Proceeds of crime case

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concerning allegations of historic child abuse at the former Haut De La Garenne Children's Home, you failed to carry out or cause to be carried out an investigation into those allegations.

Contrary to Common Law

## 2.2 Criminal Allegation 2

Between 7 April 2006 and 31 August 2007, at Jersey, while acting as a public officer, namely a Detective Chief Inspector in the States of Jersey Police, wilfully misconducted yourself in that having received a report from Acting Detective Inspector HEWLETT, on or about 8 April 2006, concerning allegations of historic child abuse at the former Haut De La Garenne Children's Home, you failed to carry out or cause to be carried out an investigation into those allegations.

Contrary to Common Law

## 2.3 Criminal Allegation 3

Between 1 July 2006 and 31 August 2007, at Jersey, while acting as a public officer, namely a Detective Chief Inspector in the States of Jersey Police, wilfully misconducted yourself in that having received a briefing from Detective Inspector FOSSEY in relation to allegations that John DE LA HAYE, a former States of Jersey Police Officer, was named as providing advice on police tactics in text messages between two suspects in a child abuse enquiry, you failed to carry out or cause to be carried out an effective investigation into the involvement of John DE LA HAYE.

Exclusion order  Compensation  Forfeiture/Destruction order  Proceeds of crime case

(✓) if required

**RESTRICTED (when complete)**

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Contrary to Common Law**3 POTENTIAL DISCIPLINE BREACHES****3.1 Discipline Breach 1**

Between 7 April 2006 and 31 August 2007 being a member of the States of Jersey Police, breached the Discipline Code in relation to Performance of Duties by not conscientiously and diligently performing your duties, in that having received a report, dated 8 April 2006, from Acting Detective Inspector HEWLETT, concerning allegations of historic child abuse at the former Haut De La Garenne Children's Home, together with a copy of the Association of Chief Police Officer guidance on The Investigation of Historic Institutional Child Abuse, you:

- i) failed to carry out or cause to be carried out an investigation into those allegations; and/or
- ii) failed to bring those allegations before the Force Operations Group meeting; and/or
- iii) failed to report those allegations to Superintendent John PEARSON; and/or
- iv) failed to report those allegations to Deputy Chief Officer HARPER; and/or
- v) having formed the view that Acting Detective Inspector HEWLETT's report did not amount to a 'scoping' report failed to carry out or cause to be carried out any further enquiries into the issues raised; and/or

Exclusion order  Compensation  Forfeiture/Destruction order  Proceeds of crime case

(✓) if required



**RESTRICTED (when complete)**

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- vi) failed at any time to inform Acting Detective Inspector HEWLETT about any decisions made concerning the investigation of those allegations

Contrary to the Police (Complaints & Discipline Procedure) (Jersey) Order 2000, Schedule 1, Article 2 (1), Paragraph 6

### 3.2 Discipline Breach 2

Between 1 July 2006 and 31 August 2007, being a member of the States of Jersey Police, breached the Discipline Code in relation to Performance of Duties by not conscientiously and diligently performing your duties, in that having received a briefing from Detective Inspector FOSSEY in relation to allegations that John DE LA HAYE, a former officer in the States of Jersey Police, was named in text messages between two suspects in a child abuse enquiry as providing advice on policing tactics, you failed to:

- i) carry out or cause to be carried out an investigation into the involvement of John DE LA HAYE; and/or
- ii) ascertain the precise nature of the text messages concerned; and/or
- iii) ascertain the outcome of enquiries made into John DE LA HAYE's involvement.

Contrary to Police (Complaints and Discipline Procedure) (Jersey) Order 2000, Schedule 1, Article 2 (1), Paragraph 6.

Exclusion order  Compensation  Forfeiture/Destruction order  Proceeds of crime case

(✓) if required



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**4 THE INVESTIGATING OFFICER**

4.1 On 13 December 2007, Chief Superintendent VAREY Head of the South Yorkshire Police Professional Standards Department, was appointed to investigate this matter. The officer's contact details are: -

Telephone: [REDACTED]

Fax: [REDACTED]

E-mail: Robert.Varey@southyorks.pnn.police.uk

4.2 Chief Superintendent VAREY has been a Detective Officer for the majority of his 34 years service. This has included performing the role of Senior Investigating Officer (SIO) for all types of major crime enquiries within South Yorkshire Police. The officer has previously investigated, on behalf of the Independent Police Complaints Commission (England & Wales), potential criminal and disciplinary offences of police officers outside his home force. For the past three years has been the Head of the Professional Standards Department of South Yorkshire Police, supervising allegations of criminal and misconduct against police officers and members of police staff.

**4.3 Chief Superintendent VAREY:**

4.3.1 Has no social financial or other connection, whether or not within the working environment with the person whose conduct has been investigated which could, on an

Exclusion order  Compensation  Forfeiture/Destruction order  Proceeds of crime case

(✓) if required

**RESTRICTED (when complete)**

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objective appraisal of the material facts give rise to a legitimate fear as to whether the investigation could be carried out impartially.

4.3.2 Does not work directly or indirectly under the management of the person of whose conduct is being investigated.

4.3.3 Is not a member of the same Police Service as the senior officer under investigation.

**5. TERMS OF REFERENCE**

5.1 The terms of reference for the investigation were set as follows:

**5.2 Introduction**

5.2.1 The States of Jersey Police reviewed a number of historical child abuse files as part of an ongoing investigation.

5.2.2 As a result of that Chief Superintendent Robert VAREY of the South Yorkshire Police Professional Standards Department, has been appointed to investigate the circumstances of the decision making process, in respect of an initial failure to take appropriate action by an officer within the States of Jersey Police.

Exclusion order  Compensation  Forfeiture/Destruction order  Proceeds of crime case

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5.3 The Terms of Reference for that Investigation

5.3.1 To investigate the circumstances of the decision making process of Detective Chief Inspector Andre BONJOUR, in respect of an allegation that a retired former officer of the States of Jersey Police may have been involved in some way in advising two persons who were charged with serious sexual offences against a young boy, in respect of police investigation techniques and processes.

5.3.2 Further that Detective Chief Inspector BONJOUR failed to take appropriate action in respect of a report submitted to him by Detective Sergeant 176 P. HEWLETT of the States of Jersey Police.

5.3.3 With a view to ascertain if there is any breach of the Police Discipline Regulations or criminal offences disclosed.

5.3.4 During the course of the investigation should evidence come to light, which would indicate systemic failures, rather than an isolated incident any further action should only be embarked upon after consultation with DCO HARPER.

5.3.5 This investigation is to be supervised by the Jersey Police Complaints Authority and the nominated officer is the Chair, Mr Leslie MAY.

Exclusion order  Compensation  Forfeiture/Destruction order  Proceeds of crime case

(✓) if required



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**6. THE CIRCUMSTANCES**

- 6.1 In May 2002 Leonard HARPER was recruited to the States of Jersey Police as a Superintendent. This appointment followed his service within the Metropolitan Police Service, The Royal Ulster Constabulary and Strathclyde Police.
- 6.2 In August 2002 John PEARSON was recruited to the States of Jersey Police as a Superintendent, this appointment followed his service within Nottinghamshire Police, and the National Crime Squad, which was the predecessor of the current Serious & Organised Crime Agency.
- 6.3 On 1 September 2003 Leonard HARPER was promoted to Deputy Chief Officer of the States of Jersey Police. John PEARSON became the Operations Superintendent with responsibility for both Criminal Investigation and Uniformed Operations within the States of Jersey Police. This effectively made Superintendent PEARSON the third highest ranking officer in the force.
- 6.4 On taking over the role of Superintendent Operations John PEARSON instigated a number of meetings, both strategic and tactical, for the purpose of ensuring the senior officers under his command were informed and prepared for effective deployment of resources, ensuring that the States of Jersey Police were compliant with the National Intelligence Model (NIM).

Exclusion order  Compensation  Forfeiture/Destruction order  Proceeds of crime case

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6.5 These meetings consisted of;

- Daily briefings on each week day
- Bi-Monthly Tasking & Co-ordinating Group
- Weekly extended briefing to include personnel and resource issues, referred to as the Operations Group Meeting

6.6 These meetings were chaired by Superintendent PEARSON and the membership consisted of the three Chief Inspectors within the States of Jersey Police.

6.7 It is important at this point to outline the structure of the States of Jersey Police in order that the nature of policing in Jersey and the resources available can be taken in context.

6.8 The States of Jersey Police has around 240 officers. The Force is commanded by a Chief Officer who has a Deputy Chief Officer. A Superintendent of Operations commands three Chief Inspectors as follows, Chief Inspector Uniformed Operations, Detective Chief Inspector and Chief Inspector Community Safety. To assist in understanding the structure and the roles involved an organisational chart is contained within the exhibit bundle of these papers.

6.9 At the time of compiling this report with the exception of the Chief Officer and Deputy Chief Officer, all other senior officers within the force had been promoted through the ranks. All joined the States of Jersey Police as Constables, and are life long residents of the island.

Exclusion order  Compensation  Forfeiture/Destruction order  Proceeds of crime case

(✓) if required

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- 6.10 Members of the Force are largely drawn from and reflective of the island's population.
- 6.11 There had been a number of sensitive and protracted enquiries conducted by the Family Protection Team (FPT) of the States of Jersey Police into recent and historical child sexual and physical abuse.
- 6.12 One such enquiry was into the activities of a man by the name of Thomas HAMON, who had abused children over a number of years. It was suspected but never proved that his wife was also involved in the abuse of children. Both had previously been employed at a former Children's Home, Haut De La Garenne.
- 6.13 It is also clear that concerns in respect of this former children's home had been a topic of conversation as early as February 2003. It had apparently been the subject of rumour and speculation prior to that date.
- 6.14 Certainly the first indication that the enquiry encountered regarding this was from Detective Sergeant Louis BEHGIN who on 27 February 2003, whilst investigating other offences, had occasion to record concerns relating to Haut De La Garenne. However, due to the circumstances this was not progressed at that time.

Exclusion order     Compensation     Forfeiture/Destruction order     Proceeds of crime case

(✓) if required



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- 6.15 On 10 November 2005, Detective Inspector Steve MEGAW, the then Head of the Family Protection Team, raised the concerns again in a brief conversation with the then Chief Inspector, now Superintendent Shaun DUVAL. Shaun DUVAL advised the officer to submit a scoping report in respect of his concerns,
- 6.16 It should be noted that various witnesses in this enquiry use the term 'scoping report' on a number of occasions. It is apparent that the expected content of such a report was not understood by some of the officers involved (as per ACPO guidelines on the Investigation of Historic Institutional Child Abuse). This report is not in the view of the Investigating Officer a scoping report it merely gives background information and an outline of the circumstances of some concern. It is intended to refer to this document throughout as the Care Home Report.
- 6.17 Due to a number of personnel changes and resource issues, this Care Home Report was subsequently submitted to Detective Chief Inspector Andre BONJOUR by Detective Sergeant HEWLETT, who was at that time was performing the role of Acting Detective Inspector with specific responsibility for the Reactive Investigation and Family Protection Teams. The actual date of the submission of this report cannot be ascertained with absolute certainty, but the evidence available indicates that it was on or about the 8 April 2006.
- 6.18 Detective Sergeant HEWLETT states that he personally handed the Care Home Report together with a copy of the Association of Chief Police Office Guidelines relating to the Investigation of Historic Institutional Child Abuse Complaints to Detective Chief Inspector

Exclusion order     Compensation     Forfeiture/Destruction order     Proceeds of crime case

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BONJOUR during a meeting between the two officers. It is important to note that Detective Sergeant HEWLETT is adamant that the guidelines were submitted with the report, but, as will be seen, this is denied by Detective Chief Inspector BONJOUR.

- 6.19 The enquiry team has been unable to locate the original report, but a copy has been obtained. The document is entitled 'Care Home Report', and can be found in the exhibit bundle (Exhibit SYP/8).
- 6.20 Detective Sergeant HEWLETT recalls Detective Chief Inspector BONJOUR mentioning that he would need to take the report to the Operations Group Meeting because of its implications, presumably a reference to the enormity of the task.
- 6.21 Detective Sergeant HEWLETT was content at that time to leave the issues involved with Detective Chief Inspector BONJOUR. He recalls that on a number of occasions over the following few months he enquired with Detective Chief Inspector BONJOUR whether any decision had been made to progress the matter.
- 6.22 Detective Sergeant HEWLETT was posted to Uniformed Operations on 1 July 2006, given his redeployment and new responsibility he made no further enquiry in respect of the progress of the report believing that the appropriate decision to progress the issues involved would be made by the Operations Group.

Exclusion order Compensation Forfeiture/Destruction order Proceeds of crime case 

(✓) if required

**RESTRICTED (when complete)**

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- 6.23 On leaving the Family Protection Team Detective Sergeant HEWLETT briefed his successor Detective Inspector Alison FOSSEY regarding ongoing issues including the Care Home Report. Detective Inspector FOSSEY understood the original report had been passed to Detective Chief Inspector BONJOUR to progress and was being considered at the appropriate level.
- 6.24 Some 16 months later Detective Sergeant HEWLETT became aware of media coverage questioning the lack of action by the States of Jersey Police in respect of child sex abuse allegations. It was shortly after this that Deputy Chief Officer HARPER contacted him to enquire about the Care Home report.
- 6.25 Detective Sergeant HEWLETT was not aware of the JCPC serious case review (described at paragraph 1.16 above).
- 6.26 Whilst preparing the police submissions to the Serious Case Review of the POWELL and ROMERIL case, Detective Inspector FOSSEY identified that the telephone data obtained in respect of former Chief Inspector DE LA HAYE had not been fully explored.
- 6.27 Whilst it was apparent that telephone data on the retired Chief Inspector's home and mobile telephones had been obtained, little or no research had been undertaken to evaluate this data, nor had he been interviewed about the alleged contact with ROMERIL.

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- 6.28 Although the text messages do not amount to proof that John DE LA HAYE advised ROMERIL, the issue should have been progressed by at least making enquiries with the retired Chief Inspector. It is worthy of note that the investigating officers, in the ROMERIL and POWELL case considered the messages to be so significant that they discussed them with Detective Chief Inspector BONJOUR and put specific questions about them to POWELL and ROMERIL during their criminal interviews.
- 6.29 It was also significant that the involvement of the retired officer was specifically discussed with Detective Chief Inspector BONJOUR who, because of the nature of the contact and concerns which would possibly impact on the States of Jersey Police, recorded this in his pocket note book and brought it to the attention of his senior officers.
- 6.30 It is clear that Chief Inspector BONJOUR had been involved in the early decision making process in the investigation into POWELL and ROMERIL during this time. From the initial information being passed to him, Detective Chief Inspector BONJOUR did nothing more than to ask a question of Detective Inspector FOSSEY about the progress of the enquiries into the retired officer, and when he was given the reply that there had been no contact this satisfied him.
- 6.31 Whilst there is no doubt that the officers had obtained the correct data from the home telephone line of former Chief Inspector DE LA HAYE a fundamental error had been made in

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that the mobile telephone data had been obtained from the retired officer's wife's mobile telephone number and not his own.

6.32 These issues were brought to the attention of Deputy Chief Officer HARPER, as a result of which the retired Chief Inspector was interviewed by Detective Inspector FOSSEY under caution on 30 August 2007.

6.33 Due to the ongoing political issues being raised at that time in Jersey, Deputy Chief Officer HARPER asked Detective Inspector FOSSEY if there were any other outstanding issues relating to criminal investigations particularly into child abuse that had not been addressed. It is at this time that the Care Home Report emerged and it was discovered it had not been dealt with.

**7 WITNESS EVIDENCE**

7.1 During the course of the enquiry witness statements were obtained from serving officers of the States of Jersey Police, retired officers and non-police witnesses.

7.2 It is proposed to précis the witness evidence in the following terms

**7.3 Significant Witnesses**

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7.4 Leonard HARPER – Deputy Chief Officer – States of Jersey Police

7.4.1 Leonard HARPER is the Deputy Chief Officer of the States of Jersey Police and has overall responsibility for Professional Standards matters within that force.

7.4.2 In the spring of 2006 along with a number of other senior officers, legal advisors and politicians he became concerned at the numbers of persons in positions of responsibility being arrested or charged with offences relating to child abuse.

7.4.3 As a result of this concern he made an enquiry with the Head of the Family Protection Unit, Detective Inspector FOSSEY. He reviewed a copy of the covering report from the ROMERIL and POWELL investigations and was concerned that no apparent action had been taken to resolve the issues around the possible involvement of retired Chief Inspector John DE LA HAYE. Further information was requested on this issue from Detective Inspector FOSSEY, Detective Sergeant HEWLETT and Detective Chief Inspector BONJOUR.

7.4.4 This request for further information is documented through e-mail correspondence with the respective parties. He also sought information from Lawrence O'DONNEL, the legal advisor in the POWELL and ROMERIL case.

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- 7.4.5 From this he instructed that John DE LA HAYE be interviewed under caution about his involvement in the POWELL and ROMERIL case, albeit that this was now more than a year after the initial investigation.
- 7.4.6 On receipt of the Care Home Report, prepared by Detective Sergeant HEWLETT in 2006, Deputy Chief Officer HARPER formed the view that given its contents the matter should have been progressed. He would have anticipated that this would have been presented to the Operations Group Meeting. The issues involved should have been raised with some urgency at that level for decisions to be made and resources to be allocated. He enquired into the circumstances of the submission of the report and was satisfied that no criminal investigation had been initiated.
- 7.4.7 As Deputy Chief Officer he should have been informed and fully briefed on the contents of the report and any proposed actions. He would also have had the opportunity to be involved in the decision making and resource allocation.
- 7.4.8 As a result of the interviews with Chief Inspector BONJOUR a further statement was requested from former Deputy Chief Officer HARPER. In the statement Mr HARPER clarifies the sequence of events leading to his initiation of the Haut De La Garenne investigation.

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7.4.9 This sequence illustrates that it would be incorrect to infer from Dianne SIMON's press release of 26 November 2007, that the covert investigation over the last year, could be attributed to the Haut De La Garenne investigation which had just commenced.

7.4.10 Mr HARPER also explains that in no way does he hold Detective Inspector FOSSEY responsible the failure to interview John DE LA HAYE and he had not given her words of advice.

7.4.11 Mr HARPER recalls that when he asked Chief Inspector BONJOUR what had happened to the Care Home Report, the officer said that he thought he had spoken with Detective Inspector FOSSEY or Superintendent PEARSON, but had no clear recollection.

## 7.5 Alison FOSSEY – Detective Inspector – States of Jersey Police

7.5.1 Alison FOSSEY was appointed to the States of Jersey Police in July 2002, she had previously served with Strathclyde Police.

7.5.2 She was first posted to the Family Protection Team (FPT) in January 2006 as a Detective Sergeant, at which time Peter HEWLETT was the Acting Detective Inspector.

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- 7.5.3 Around this time a protracted investigation in relation to the accused Thomas HAMON was coming to a close. This, and previous investigations, led a number of officers in the FPT to believe there was evidence to justify a criminal investigation into historic child abuse at the Haut De La Garenne Children's Home.
- 7.5.4 Detective Inspector FOSSEY recalls Peter HEWLETT preparing the Care Home Report and she herself researched the ACPO Guidelines in relation to investigating historic child abuse cases. It was her understanding that Peter HEWLETT handed the report and the ACPO Guidelines to Detective Chief Inspector BONJOUR.
- 7.5.5 In July 2006 she was promoted to Detective Inspector and placed in charge of the FPT.
- 7.5.6 She was involved, initially as the SIO, in the ROMERIL and POWELL investigation, and was aware that text messages from one of the suspect's mobile phones named a former Chief Inspector John DE LA HAYE and implicated him in providing advice on police procedures.
- 7.5.7 As SIO Detective Inspector FOSSEY took into use a Major Crime Policy File and Day Book.
- 7.5.8 She records, and recalls, a number of briefings with Detective Chief Inspector BONJOUR concerning the investigation, including a meeting on 14 July 2006, to

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discuss recovered text messages, where Detective Constable BERTRAM was also present. Detective Chief Inspector BONJOUR made the decision to continue processing the text messages the following Monday (17 July) before deciding a plan of action. She further records that she informed Detective Chief Inspector BONJOUR of the John DE LA HAYE reference within some of the already analysed text data.

7.5.9 On the evening of ROMERIL and POWELL's arrest Detective Inspector FOSSEY commenced pre-planned leave, leaving Detective Sergeant BEGHIN as SIO.

7.5.10 On return from leave, Detective Inspector FOSSEY confirmed that the suspect interviews had included questioning on the John DE LA HAYE references within the mobile texts.

7.5.11 One suspect (POWELL) clearly had no idea who John DE LA HAYE was, whilst the other (ROMERIL), who had used his name in text messages, provided an explanation which appeared to clear John DE LA HAYE of any involvement.

7.5.12 Detective Inspector FOSSEY had no involvement in the submission of case papers or subsequent prosecution.

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7.5.13 It was around May 2007, as a result of reviewing the case papers in preparation for a submission to the Serious Case Review, that Detective Inspector FOSSEY realised that the John DE LA HAYE issue had not been properly investigated or resolved.

7.5.14 Detective Inspector FOSSEY informed Deputy Chief Officer HARPER of her concerns. When asked by Deputy Chief Officer HARPER if there were any other outstanding matters she related details of the Care Home Report to him.

7.5.15 Detective Inspector FOSSEY then became involved in a number of e-mail exchanges with Deputy Chief Officer HARPER.

7.5.16 Detective Inspector FOSSEY subsequently conducted a tape-recorded interview with John DE LA HAYE who attended voluntarily at Summerland Police Station, Jersey. He denied any knowledge of ROMERIL and POWELL. There was no evidence to implicate him in any criminal behaviour and no further action was taken against him.

7.6 Peter HEWLETT – Detective Sergeant – then Acting Detective Inspector – States of Jersey Police

7.6.1 Peter HEWLETT had concerns based on his own experiences in dealing with a number of former Haut De La Garenne residents as well as historic and recent criminal investigations involving child abuse.

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7.6.2 These concerns were shared by a number of his colleagues.

7.6.3 In agreement with Detective Inspector MEGAW, who he succeeded as the Acting Detective Inspector with responsibility for the Family Protection Team, he submitted a Care Home Report along with a copy of the ACPO Guidelines relating to the Investigation of Historic Abuse Allegations to Detective Chief Inspector BONJOUR, on or around 8 April 2006.

7.6.4 He handed the report and the ACPO Guidelines personally to Detective Chief Inspector BONJOUR. He chose to hand over the report in person in order to explain his findings, the issues faced and answer any questions raised by Detective Chief Inspector BONJOUR. The officer states that the report was too sensitive to send through internal mail and personal delivery, accompanied by a verbal briefing, would have placed a greater emphasis on the importance of the need for a decision.

7.6.5 After discussing the contents of the report he recalls Detective Chief Inspector BONJOUR saying he would need to take it to the 'Operations Management Team'.

7.6.6 The report was left with Detective Chief Inspector BONJOUR.

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7.6.7 Over the next few weeks and months Detective Sergeant HEWLETT recalls asking Detective Chief Inspector BONJOUR on a number of occasions if any decision had been made, regarding the content of the report.

7.6.8 On 1 July 2006 Detective Sergeant HEWLETT was posted to Uniform Operations.

7.6.9 He believed that the Haut De La Garenne issue would be appropriately dealt with by Detective Chief Inspector BONJOUR.

7.6.10 He believed a criminal investigation was necessary and would be initiated.

7.6.11 He also left a copy of the Care Home Report in electronic format, with Detective Inspector FOSSEY who succeeded him, but now with the specific role of Family Protection Team Manager.

7.6.12 Detective Inspector FOSSEY had been in the FPT as Detective Sergeant immediately prior to being promoted and had been aware of the Care Home Report submission to Detective Chief Inspector BONJOUR.

7.7 John PEARSON – Retired Superintendent – States of Jersey Police

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- 7.7.1 John PEARSON was the Superintendent Operations in 2006 and chaired daily briefings, bi-monthly Tasking & Co-ordinating meetings and the Friday morning Operations Group Meeting.
- 7.7.2 At no time did he have sight of the Care Home Report relating to the former Childrens Home.
- 7.7.3 He was not aware of the concerns raised by junior officers, including the historic abuse issues highlighted by Detective Sergeant HEWLETT.
- 7.7.4 As he was not aware of such an issue he had no cause to and is certain he did not at any time ask Detective Chief Inspector Andre BONJOUR where the Care Home Report was.
- 7.7.5 Detective Chief Inspector BONJOUR did not report or raise any such matter with him on a one to one basis or in any meeting at which he was present.
- 7.7.6 Having seen the two-page report submitted by Detective Seargeant HEWLETT he can say that there was a clear need, based on the contents, to initiate a criminal investigation and that the report should have been immediately brought to his attention or referred the Operations Management Team.

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7.7.7 As a result of the interviews with Chief Inspector BONJOUR a further statement was requested from Superintendent PEARSON. In this statement Superintendent PEARSON clarifies his position and categorically states that he never approached Chief Inspector BONJOUR requesting the Care Home Report, in addition Superintendent PEARSON states he does not have possession of any day books from his service in the States of Jersey Police service.

7.8 Brian CARTER – Civilian Investigator & Former Detective Constable – State of Jersey Police

7.8.1 Brian CARTER a former Detective Constable and the Officer in the Case for the Paul ROMERIL/David POWELL investigation.

7.8.2 He refers to the mobile phone text messages naming a retired State of Jersey Police officer Chief Inspector John DE LA HAYE.

7.8.3 He believed these had been sent by Paul ROMERIL to David POWELL to allay his fears as they both had suspicions the complainant had reported their activities to the police.

7.8.4 He submitted a covering report at the conclusion of the investigation and included a Note for File seeking advice in relation to John DE LA HAYE.

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7.8.5 He never received written instructions, but recalls he received verbal advice along the lines 'do whatever you feel is right'. He cannot recall when he received this advice or from whom.

7.8.6 He recalls having a conversation with Peter HEWLETT over the need to instigate an investigation into allegations of historical child abuse at the former Haut De La Garenne Children's Home.

7.8.7 He is aware that Peter HEWLETT compiled a report on this subject and believes he submitted it to Detective Chief Inspector Andre BONJOUR.

7.8.8 He heard nothing more about the report and was disappointed when no investigation was launched as he hoped to be included in any such investigation, and thereby have an opportunity to postpone his retirement, in order to be involved in the investigation.

7.8.9 Whilst not recalling the time or date, he does remember that during a conversation with Detective Chief Inspector BONJOUR concerning the possibility of the Haut De La Garenne investigation. Chief Inspector BONJOUR's response was something along the lines of 'they're all dead'.

7.9 Louis BEGHIN – Detective Sergeant – States of Jersey Police

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- 7.9.1 Louis BEGHIN in July 2006 was serving in the States of Jersey Police Drug Squad and became involved in the Paul ROMERIL/David POWELL investigation.
- 7.9.2 He recalls attending a briefing with Detective Inspector FOSSEY, Detective Sergeant Alan BERTRAM and Detective Chief Inspector Andre BONJOUR on the afternoon of 20 July 2006. This briefing was in relation to tactical options.
- 7.9.3 At this meeting he recalls mention was made of SMS text messages making mention of a retired Chief Inspector, John DE LA HAYE.
- 7.9.4 He was appointed Deputy Senior Investigating Officer for the investigation.
- 7.9.5 The following day he became the SIO during the arrest and interview stage.
- 7.9.6 As SIO he instructed the interview teams and gave them specific instructions to question the suspects closely on the John DE LA HAYE matter.
- 7.9.7 Whilst POWELL made no reply during interview ROMERIL stated he didn't actually know John DE LA HAYE, but had mentioned him to POWELL to 'get him off his back'.
- 7.9.8 Having supervised the arrest/interview stage he returned to his Drug Squad duties.

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7.9.9 He had no involvement in the initial enquiries regarding John DE LA HAYE's mobile phone data.

7.9.10 He subsequently reported his involvement in this investigation and recollections to Deputy Chief Officer HARPER during e-mail correspondence in August 2007.

7.10 David MINTY – Chief Inspector – States of Jersey Police

7.10.1 David MINTY in 2005 was Acting Chief Inspector responsible for the Criminal Justice Department.

7.10.2 As such he was part of the Operations Management Team, with the Operations Superintendent being John PEARSON.

7.10.3 He describes the meeting structure put in place by Superintendent PEARSON and which is still in place today.

7.10.4 He was a regular attendee at these meetings and as such had a good knowledge of what was happening, in policing terms, on the island.

7.10.5 In February 2006 he was confirmed as a Chief Inspector.

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7.10.6 In May 2007 he succeeded Detective Chief Inspector BONJOUR as the Head of Criminal Investigations.

7.10.7 He was not aware at any time of issues identified either verbally or through report form in relation to suspected historical child abuse at the former Haut De La Garenne Children's Home.

7.10.8 Such an issue was never raised at any of the meetings he attended.

7.10.9 He records important issues in a Day Book.

7.10.10 He has checked his Day Books for the period around 2006 and there is no note relating to Haut De La Garenne.

7.10.11 Had such an issue been raised he is sure he would have recalled this and he would certainly have made a record had it been raised in any of the meetings.

7.10.12 In May 2007, on becoming the Head of CID, he asked all the unit heads under him for detail of outstanding issues.

7.10.13 Shortly after he was made aware by Detective Inspector FOSSEY of the Care Home Investigation report.

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7.10.14 As a result, in company with Detective Inspector FOSSEY, he met with Deputy Chief Officer HARPER and the current investigation was initiated.

7.10.15 On 6 April 2008 he was shown a copy of the Care Home Investigation report by Chief Superintendent VAREY of the South Yorkshire Police and stated this was his first sight of that report.

7.10.16 On reviewing the contents of that report he was of the opinion that, as Head of CID, he would take such a matter to the Operations Management Team.

7.10.17 His opinion was that such a report would require an initial investigation, set action plans and the appointment of a Senior Investigating Officer. The objective initially to determine whether the contents had substance.

7.10.18 Albeit with the benefit of hindsight his opinion is that this report required action to be taken, decisions to be made, and a record to be made of all decisions relating to it.

7.10.19 The management structure in place at the time this report appears to have been submitted, i.e. April 2006, was such that an issue of this nature should have been discussed by the Management Team and a decision made and recorded as a team effort.

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7.10.20 Whilst he was aware of the investigation involving the text messages naming former Chief Inspector John DE LA HAYE, he had no involvement with that investigation.

7.10.21 He has known Detective Chief Inspector Andre BONJOUR all his service and regards him as trustworthy and reliable. He is also aware of how meticulous he is in record keeping and decision making.

7.10.22 Whilst there are occasions when as part of a Management Team one or other managers might be excluded from certain decisions, the nature of the Care Home Investigation report was not such an issue and he would have expected to have been aware.

7.11 Shaun DUVAL – Uniform Operations Superintendent – State of Jersey Police

7.11.1 Shaun DUVAL in 2006 was one of the three Chief Inspectors in the State of Jersey Police.

7.11.2 He was at that time Chief Inspector Operations.

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7.11.3 At that time Detective Chief Inspector Andre BONJOUR was the senior officer in charge of the Criminal Investigation Department.

7.11.4 Both would attend the morning briefings, Tasking & Co-ordinating meetings and Friday morning Operations Group meetings along with the third Chief Inspector and the then Superintendent, John PEARSON.

7.11.5 Whilst he cannot recall a discussion with Detective Inspector Steve MEGAW in relation to the Haut De La Garenne Children's Home, having checked his day book confirms an entry clearly relating to such a conversation. Dated 10.11.2005 at 16:15 hours this entry reads 'Mtg Steve MEGAW re operation (H, De La G) scoping'.

7.11.6 This clearly indicates that he advised Steve MEGAW.

7.11.7 He does not recall any other conversation regarding the former children's home.

7.11.8 He had recently spoken to Detective Chief Inspector BONJOUR regarding a meeting with South Yorkshire Police officers.

7.11.9 During that conversation Andre BONJOUR mentioned a meeting he had with Superintendent PEARSON around April 2006.

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7.11.10 Superintendent DUVAL cannot remember any such meeting and has no relevant Day Book entries.

7.11.11 He describes Detective Chief Inspector Andre BONJOUR as meticulous in both his record keeping and memory.

7.12 Steve MEGAW – Detective Inspector – States of Jersey Police

7.12.1 Steve MEGAW was the Detective Inspector in charge of the Reactive Team, which included the Family Protection Team, in 2005/2006.

7.12.2 Along with members of the FPT had concerns regarding Haut De La Garenne.

7.12.3 Undertook some research and discussed his concerns with Chief Inspector DUVAL who advised him to submit a scoping report.

7.12.4 Shortly afterwards was advised he was to be posted to a different department and so discussed the Haut De La Garenne scoping report with Peter HEWLETT who agreed to prepare and submit it.

7.12.5 Makes reference to a Paul EVERY investigation where Detective Chief Inspector BONJOUR declared a possible compromise through his shared Sea Cadet involvement

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with the accused and as such removed himself from any decision making or other involvement.

7.13 Further Witnesses

7.14 A number of witnesses have been seen during the investigation who's evidence, whilst not considered key are included for information and background

7.15 Alan Robert BERTRAM – Retired Sergeant – States of Jersey Police

7.15.1 Alan Robert BERTRAM was a Detective Sergeant in the States of Jersey Police, retiring in April 2007.

7.15.2 Whilst serving he was involved in the investigation into ROMERIL and POWELL and was present at a meeting with Chief Inspector BONJOUR and Detective Inspector FOSSEY when there was discussion in respect of the obtaining of telephone data from telephones owned by retired Chief Inspector John DE LA HAYE.

7.16 David POWELL - Co-Accused

7.16.1 David POWELL was co-accused of Paul ROMERIL (now deceased) who states that he does not know John DE LA HAYE.

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7.16.2 Although Paul ROMERIL had mentioned John DE LA HAYE in text messages he later (when in prison) informed POWELL that although he knew him, he hadn't mentioned their case to him.

7.17 Laurence O'DONNEL – Legal Advisor

7.17.1 Laurence O'DONNEL is a Legal Advisor employed by the States of Jersey Law Officers Department.

7.17.2 He would have advised the Officer in Charge in the ROMERIL/POWELL investigation at various stages throughout that investigation.

7.17.3 He may well have provided verbal advice to him on the issue of John DE LA HAYE, though does not recall these occasions or the advice given.

7.17.4 He advised Deputy Chief Officer HARPER that had he given advice regarding the text messages he would have probably been against arresting John DE LA HAYE.

7.18 Helen MILES

7.18.1 Helen MILES was the Research & Information Manager within the Jersey Probation Service.

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7.18.2 She is currently seconded to the States of Jersey Police as head of Criminal Justice Unit, and she gives information regarding retention of pocket note books taken into use by police officers in her force.

7.18.3 Helen MILES made a search of the archives of the force with the view to finding any day books or pocket books belonging to John PEARSON.

7.18.4 Produces the policy re retention of pocket notebooks within the force.

7.19 Cosette Rolland DESVERGEZ

7.19.1 Was secretary to Superintendent John PEARSON during his service with the States of Jersey Police. She gives details of her duties and searching the offices vacated by John PEARSON for any day books or pocket books.

7.20 Alan John GUY – Police Officer – States of Jersey Police

7.20.1 Alan John GUY is currently Training Manager for the States of Jersey Police. He gives details of the structure of the force, and produces a wiring diagram in support of that

7.21 Background Information Concerning Paul ROMERIL

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7.22 Throughout the investigation enquiries were made to corroborate the version of events given by Paul ROMERIL when he was interviewed. A number of statements were obtained with a view to establishing this and they are as follows:

7.23 David Roderick KIRCH

7.23.1 David Roderick KIRCH is a property developer, a resident of Jersey and a former associate of Paul ROMERIL.

7.23.2 He gives details of his association with ROMERIL together with details of playing bridge and an association with John DE GRUCHY. He does not know and has never played bridge with John DE LA HAYE.

7.24. John Francis DE GRUCHY

7.24.1 John Frances DE GRUCHY is a retired police officer of the States of Jersey Police, is involved in the bridge playing community in Jersey and regularly partners David KIRCH when playing.

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7.25 Robert John DE LA HAYE

7.25.1 Robert John DE LA HAYE is the owner of a boat yard in Jersey and is the first cousin of retired Chief Inspector John DE LA HAYE, he gives background details.

7.26 George Alfred ROMERIL

7.26.1 George Alfred ROMERIL is a retired man and is the father of the deceased Paul ROMERIL, he gives background information on his sons life.

7.27 Alvin John RUAUX

7.27.1 Alvin John RUAUX is currently unemployed and was the partner of Paul ROMERIL from October 1995 up to his death in January 2007. He gives background information in respect of the lifestyle of Paul ROMERIL.

7.27.2 He does not know and has never heard of John DE LA HAYE.

7.28 Roberto MICHEILLI

7.28.1 Robert MICHEILLI is the proprietor of an antiques shop in Jersey, he too gives background information in respect of Paul ROMERIL.

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- 7.29 Throughout this investigation enquiries were conducted with a view to establishing any contact between the retired Chief Inspector John DE LA HAYE and the deceased Paul ROMERIL. The six witnesses mentioned above form the basis of those enquiries, and from their content it would appear there was no contact between the deceased Paul ROMERIL and John DE LA HAYE.
- 7.30 Significantly in those statements is Alvin John RAUAX a long-term partner of Paul ROMERIL prior to his death. Had there been any overt contact between ROMERIL and John DE LA HAYE it is likely that he would have known about it.
- 7.31 What cannot be established is why ROMERIL mentioned John DE LA HAYE, the text message mentioning him is quite explicit; it mentions him by name and includes the fact that he was a retired Chief Inspector.
- 7.32 The enquiry was 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 Paul ROMERIL.
- 7.33 During the course of the investigation all efforts were made to establish whether there was any evidence of a link. As a result it was brought to the attention of the enquiry team that Anton CORNELISSEN a serving States of Jersey Police Officer had previously been involved in a

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dispute with John DE LA HAYE. At the time John DE LA HAYE was a Detective Inspector and had responsibility for the Family Protection Team.

- 7.34 Anton CORNELISSEN was attached to the team, and involved in an investigation into staff at Victoria College on the island of Jersey. This investigation was predominantly into the activities of a teacher at that establishment by the name of JERVIS-DYKES, and it was considered by CORNELISSEN that John DE LA HAYE was obstructive whilst he was conducting that investigation.
- 7.35 In order to establish the circumstances it was considered necessary to obtain a statement from CORNELISSEN in an effort to ascertain whether there was a link between DE LA HAYE and ROMERIL.
- 7.36 Resulting from the statement submitted by CORNELISSEN a further statement was obtained from former Detective Inspector Barry FAUDEMÉR. Whilst a Detective Sergeant he was in overall charge of the JERVIS-DYKES investigation and the immediate line manager of CORNELISSEN. Barry FAUDEMÉR gives a different perspective of the issues mentioned by CORNELISSEN. In some respects it gives an opposite view of the situation, in particular that retired Chief Inspector DE LA HAYE was instrumental in obtaining evidence from a local Yacht Club. Whilst the issues involved in the JERVIS-DYKES case were outside the terms of reference of this enquiry after a meeting with Chief Officer Mr POWER it was agreed that this

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issue should be investigated but only to the extent with a view to establishing any link between ROMERIL and retired Chief Inspector DE LA HAYE.

7.37 The issue of the JERVIS-DYKES case is one where politicians have been involved and are keen to investigate the circumstances of that enquiry at Victoria College. This political involvement is as a result of the ongoing investigation into Haut De La Garenne. The statements are attached to the file and are included with a view to eliminating concerns regarding a potential motive for John DE LA HAYE to be involved with Paul ROMERIL.

7.38 A precise of those statements follows:

7.38.1 Anton CORNELISSEN is a serving officer in the States of Jersey Police, he gives details of his enquiries into an investigation into the activities at Victoria College, and difficulties he encounters specifically in respect of the involvement of the then Detective Inspector John DE LA HAYE.

7.38.2 Barry Kenneth FAUDEMÉR is a former Detective Inspector of the States of Jersey Police and was formerly a Detective Sergeant within the Family Protection Unit of the States of Jersey Police. He is without doubt a very experienced investigator of child protection issues and was instrumental in the formulation of the Jersey Child Protection Committee. He gives a differing account to that of Anton CORNELISSEN in respect of the involvement of the retired Chief Inspector John DE LA HAYE.

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**7.39 Further Witnesses**

7.39.1 Kevin McKERRELL is a retired Chief Inspector of the States of Jersey Police and currently the Force Information Compliance & Security Manager. He gives details of his duties and the fact that the Children's Home Haut De La Garenne was never mentioned at any meeting he attended during the time he was a Chief Inspector.

7.39.2 Robert PARKER is a Detective Constable within the States of Jersey Police and is currently employed within the Intelligence Bureau. He gives information in respect of an investigation he conducted into internet pornography involving a man by the name of Paul EVERY, and details of how Detective Chief Inspector BONJOUR distanced himself from that enquiry because of his knowledge and association with EVERY at the Jersey Sea Cadet Corps.

**8: PRECIS INTERVIEWS WITH CHIEF INSPECTOR BONJOUR**

8.1 Chief Inspector BONJOUR was interviewed under caution, on the 18 and 19 June 2008, this series of interviews necessitated further enquiries as a result of which a concluding interview with the officer was conducted on the 14 July 2008.

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8.2 Throughout the interviews Chief Inspector BONJOUR was accompanied by his Federation 'Friend' Detective Inspector Gary PASHLEY.

8.3 Throughout the course of all interviews Chief Inspector BONJOUR co-operated totally and gave his version of events in what can be termed as a very full and frank manner.

8.4 John DE LA HAYE

8.4.1 In relation to the text messages involving John DE LA HAYE he recalls being made aware of them by Detective Inspector FOSSEY, and then raising it as a potential issue with Deputy Chief Officer HARPER and Superintendent John PEARSON.

8.4.2 Significantly he made a pocket book entry of discussing it with the two senior officers, that is dated Tuesday 18 June 2006, and timed at 1240 hours. This appears to be the only comprehensive note that the officer has in relation to this issue, but clearly at the time he considered it important enough to make that entry.

8.4.3 He agreed that his decision was that further intelligence work should be completed, and production orders made on the suspects mobile phones.

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- 8.4.4 Whilst he was aware that there was a reference to John DE LA HAYE he did not question the content of those text messages, nor did he take any other advice other than to note that they mentioned the retired officer.
- 8.4.5 He left that part of the enquiry under the management of Detective Inspector FOSSEY, and anticipated that should there be more detail or indication of a more detailed involvement by the retired officer he would have been informed, effectively leaving the decision making to Detective Inspector FOSSEY. As the enquiry unfolded and because he was not advised otherwise he believed that there was no further connection or suspicion around the involvement of the retired officer.
- 8.4.6 It was his opinion that it was acceptable, in the circumstances, to leave this issue with Detective Inspector FOSSEY. Furthermore he did not feel the need to make further enquiries into this issue, or update the Deputy Chief Officer or the Superintendent.
- 8.4.7 A further significant issue is that it would appear that his first sight of the text messages was when he received pre-interview disclosure for this investigation.
- 8.4.8 Effectively Chief Inspector BONJOUR did nothing more in respect of the potential involvement of the retired officer.

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8.5 The Care Home Report

8.5.1 Chief Inspector BONJOUR acknowledged that he had seen the Care Home Report, but was unsure when the report was submitted to him or in what circumstances.

8.5.2 After he consulted his diary, and whilst this cannot be precise, it would appear that he received the report on the 8 April 2006. The officer could not recall any detail of the meeting but had a slight recollection of it taking place. He went on to say that the Association of Chief Police Officers Guidelines into investigation historical abuse were not with the report.

8.6 Chief Inspector BONJOUR recalled Superintendent PEARSON asking him on several occasions about a scoping report. It is significant to note that Chief Inspector BONJOUR does have an entry in his day book dated the 4 April 2006, relating to Acting Detective Inspector Peter HEWLETT and Haut De Garenne this would be four days prior to his receipt of the report.

8.7 Nothing further is recorded in relation to this issue in any of the pocket books or relevant day books completed by Chief Inspector BONJOUR.

8.8 In the interview he gave a detailed description of the conversation he had with Superintendent PEARSON regarding the Care Home Report, including the content of the report.

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- 8.9 During the course of the interviews the officer produced a number of exhibits, which are in the main file, but for ease of reading it is proposed to give a brief resume of those documents.
- 8.9.1 Off Screen Print States of Jersey Computer System. This relates to an off screen print from the States of Jersey computer system which Chief Inspector BONJOUR obtained after the service of the Regulation 9 Notice on him. He states he came across it whilst preparing for the interview and the date on the print is the 7 June 2006. This caused him concern because the report is dated the 4 April 2006. This issue was resolved to the satisfaction of all parties concerned with the assistance of the IT department of the States of Jersey Police. It would appear that when Detective Sergeant HEWLETT moved from the Family Protection Team he moved this document into the 'O' Drive of the Family Protection Team, hence the date of 7 June when it was moved and not when it was created.
- 8.9.2 Family Protection Monthly Report dated 11 July 2006. This is a report that updates the Command Team of the current workload of the Family Protection Team.
- 8.9.3 E-mails from Detective Inspector FOSSEY to Chief Inspector BONJOUR. These e-mails were produced and give details of the staffing levels and concerns of Detective Inspector FOSSEY regarding the current workload and the welfare of the Family Protection Team.

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8.9.4 Report Entitled Child Protection. This is a report compiled by Detective Inspector FOSSEY to fully appraise the Command Team of the current trends of work within the Family Protection Team.

8.9.5 Duty Rota Chart. This is a duty rota which gives duties of Chief Inspector BONJOUR, Detective Inspector FOSSEY and Detective Inspector HEWLETT, it highlights the dates when the officers were on duty on particular dates, giving the overlap of those duties.

8.9.6 Global Response to an Abuse Enquiry. This report gives detail of the current investigation at Haut De La Garenne Childrens Home. The enquiry which was under the command of Deputy Chief Officer HARPER, and that covert enquiries had been underway for the previous 12 months.

8.10 All of these documents are produced by Chief Inspector BONJOUR in an attempt to mitigate his involvement in the decision making process for the progression of the enquiries in 2006 into the allegations of potential sexual abuse at the Haut De La Garenne Childrens Home.

8.11 Whilst accepting they give some background information and clearly outline the difficulties of staffing and resources within the Family Protection Team, it is considered that they have little

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relevance to this investigation and as stated are submitted by Chief Inspector BONJOUR in mitigation for his failures.

**9: CONCLUSIONS**

**9.1 Criminal Breaches**

9.2 There are three potential criminal offences outlined in Section 3 of this report. These matters may be for consideration by the Law Officers' Department.

9.3 In view of the evidence available it is considered by the Investigating Officer that there is insufficient evidence upon which to base a prosecution in respect of any criminal matter.

**9.3 Discipline Breaches**

9.4 During the course of his involvement with the 'scoping' report concerning the former Haut De La Garenne Children's Home and the text messages naming former Chief Inspector DE LA HAYE Detective Chief Inspector BONJOUR had overall command of the Criminal Investigation Department including the Family Protection Team. Both matters had clear and obvious lines of enquiry to be followed. That those lines of enquiry were not followed amounts to fundamental and catastrophic failures by Chief Inspector BONJOUR in terms of his overall supervision and decision making.

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- 9.5 There were clear failings on the part of Chief Inspector BONJOUR in respect of the initial examination of the text messages relevant to the Chief Inspector. This is to the extent that he did not know their content or context during the initial investigation, it follows he failed to ask any further questions in relation to them. This is despite the fact that initially it was a feature of the enquiry which he chose to record in his pocket book and bring to the attention of senior officers.
- 9.6 Whilst it is accepted that the role of Senior Investigating Officer fell to Detective Inspector FOSSEY and Detective Sergeant BEGHIN. There can be little doubt that Chief Inspector BONJOUR had overall responsibility for the supervision of that investigation and it is considered his assertion that the appropriate level of decision making was left to junior officers is unacceptable and constitutes a failure to perform his duty to the required standard.
- 9.7 In respect of the Care Home Report it is not disputed that Chief Inspector BONJOUR was Head of the Criminal Investigation Department or that he received the report, what is disputed is what Chief Inspector BONJOUR did with the report.
- 9.8 It is clear this report was never submitted to the Operations Management Group for appropriate consideration or that this report was ever taken to any other forum or his senior officers for consideration.

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- 9.9 It is also clear that Chief Inspector BONJOUR did not discuss this further with Acting Detective Inspector HEWLETT despite on several occasions being asked by that officer.
- 9.10 The clearest evidence in support of this is that submitted by retired Superintendent PEARSON, who had not seen the report until this investigation, and on reading its contents states categorically the position he would have adopted had that report being submitted to him.
- 9.11 In conclusion the two breaches of failure in relation to Performance of Duty on both occasions are substantiated against Chief Inspector BONJOUR.
- 9.12 This report is submitted for your information and attention in order that you may consider any appropriate sanction against the officer.

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**10: POINTS TO ASSIST**

- 10.1 This enquiry came to light as described in the Case Summary, but has to be taken into context with the sensitive situation regarding allegations of child sexual abuse in Jersey at this time.
- 10.2 There were clear concerns being expressed both privately and publicly both in police and political circles at this time, in respect of allegations of wide scale child abuse in Jersey. Whilst it is accepted that the police have a pivotal role in investigating these allegations. The States of Jersey Police were facing competing demands and the allocation of resources to those investigations, due to the size of the force, would have been extremely difficult to balance.
- 10.3 It must be stressed that the current investigation into the events of Haut De La Garenne have attracted world wide publicity, and this was at a time when the issues involving Chief Inspector BONJOUR came to light.
- 10.4 It therefore follows that the investigation into the allegations faced by Chief Inspector BONJOUR should not be prejudiced by the impact or influence of that current investigation.
- 10.5 It is entirely possible that the issues contained in the Care Home Report may have led to an earlier investigation into Haut De La Garenne.
- 10.6 In view of the structure of the States of Jersey Police, the resources available at the time, coupled with the sensitive investigations already undertaken into perhaps less high profile, but nevertheless complex enquiries of a similar nature the Force has achieved some outstanding results.

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- 10.7 The Family Protection Team was made up of a core of officers, supplemented by a number of short-term attachments. The officers were working under such pressure and stress. They were a very dedicated and committed team, working within the delicate and sensitive area of child protection. Some officers had received only work place training, which is considered inadequate for the nature of work involved.
- 10.8 This type of investigation requires training and expertise which is built up over a number of years, it requires close agency working with Education, Social Services and Health Care professionals.
- 10.9 It is noteworthy that these issues were being addressed and in particular are mentioned in the witness statement of retired Detective Sergeant FAUDEMÉR. Further evidence of this which outlines the workload of the Family Protection Team is the report by Detective Inspector FOSSEY dated 11 July 2006, which was provided by Chief Inspector BONJOUR during the course of his interview.
- 10.10 Additionally the difficulties faced by the Family Protection Team is highlighted in the e-mails dated 6 June and 8 August from Detective Inspector FOSSEY and produced in interview by Chief Inspector BONJOUR.
- 10.11 As a result of the e-mail from Detective Inspector FOSSEY dated 6 June 2006 that officer prepared a report on child protection issues. This clearly relates to the situation at that time. Due to the size of the States of Jersey Police, it must be the case that the situation has not dramatically altered.
- 10.12 The investigation into the issues concerning Chief Inspector BONJOUR were managed by way of paper actions, all the enquiries and results are recorded, a copy of those actions are attached in the non sensitive bundle of this file.

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- 10.13 A copy of the ACPO Guidance on the Investigation of Historic Institutional Child Abuse is not included in the exhibit bundle. This document is widely available and should disciplinary proceedings be brought against Chief Inspector BONJOUR a copy should be served on the officer as part of the case against him.
- 10.14 Some statements were drafted from notes taken during meetings with witnesses. In these circumstances the drafts were submitted to the witnesses for correction or alteration prior to being signed. The draft statements and notes are included in the non-sensitive bundle.
- 10.15 All original case material is retained by South Yorkshire Police Professional Standards Department. Arrangements for its transfer to the States of Jersey Police can be made through the Investigating Officer.
- 10.16 During interview, Chief Inspector BONJOUR produced a press release (Exhibit SYP/64). The Investigating Officer takes the view that this is a further attempt by the officer to justify his neglect in dealing with the issues raised in the Care Home Report. An additional statement has been obtained from the now retired Deputy Chief Officer HARPER, which gives the rational for the press release and its content.
- 10.17 Some difficulty was experienced obtaining this statement, as following his retirement Mr HARPER took an extended holiday out of the country, and this has delayed submission of the file.
- 10.18 This enquiry encountered some difficulty due to the lapse of time since the events. The accounts given rely heavily on individual witness recollection of those events. The lack of any record to corroborate those individual recollections leaves some of the evidence in doubt.

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- 10.19 Throughout the enquiry the investigating officers encountered no resistance whatsoever. It is considered that all the serving police officers and those who had subsequently retired gave great thought to their evidence and were extremely open and honest at all times. There can be no suggestion that any of the witnesses were being less than honest, had anything to hide or were in collusion with others.
- 10.20 During the course of the investigation no link could be found between Paul ROMERIL and retired Chief Inspector DE LA HAYE. This aspect still gives rise for concern and perhaps an indication why the enquiry should have been progressed at a much earlier stage by Chief Inspector BONJOUR.
- 10.21 Excerpts from the transcripts of ROMERIL's original interviews are contained in the exhibit bundle (SYP/26 and SYP/27). Only those pages containing questions about John DE LA HAYE are produced.
- 10.22 At the direction of Deputy Chief Officer HARPER, DE LA HAYE was interviewed under caution at Summerland Police Station on the 30 August 2007. That interview gives no indication of any relationship between the two men.
- 10.23 When reading the text messages in context it will be seen that John DE LA HAYE's alleged involvement was minimal and would have not amounted to any interference with the enquiry. Had Chief Inspector BONJOUR read the text messages at the time it is difficult to see why it could not have been dealt with by a direct enquiry with DE LA HAYE.
- 10.24 In respect of the mobile telephone data of DE LA HAYE it cannot be ascertained why the original enquiry mistakenly arrived at his wife's mobile telephone number, or if at the time the police were in possession of DE LA HAYE's own mobile telephone number. The error

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was only discovered when Deputy Chief Officer HARPER began his enquiry into the incident.

10.25 As stated in this report there were concerns expressed about Haut De La Garenne by Detective Sergeant BEGHIN in 2003. This issue was brought to the attention of the investigating officers by Detective Inspector PASHLEY, Federation Friend to Chief Inspector BONJOUR. It is obviously an attempt to focus some doubt on the evidence provided by retired Superintendent PEARSON, when he denies any conversation in respect of the Care Home Report.

10.26 A further statement was requested from Detective Sergeant BEGHIN to explain this issue. It appears his concern emanates from an enquiry relating to a man named [REDACTED] who had been involved in a previous sexual abuse enquiry. It is unknown to what extent [REDACTED] had given verbal information about Haut De La Garenne but in any event [REDACTED] was unwilling to make any formal written statement in respect of Haut De La Garenne and therefore not surprisingly, the matter was not pursued by Detective Sergeant BEGHIN.

10.27 It is obvious that Detective Sergeant BEGHIN did not discuss this matter with Superintendent PEARSON or any other person for that matter.

10.28 Owing to the passage of time no other enquiries were made in respect of that second statement submitted by Detective Sergeant BEGHIN.

10.29 Retired Superintendent PEARSON also provided a second statement to the enquiry this was as a result of the interviews conducted with Chief Inspector BONJOUR. This statement clearly reinforces the fact that at no time during his service did Superintendent PEARSON have sight of the Care Home Report or discuss any issues involved with Chief Inspector BONJOUR. In addition Superintendent PEARSON confirms that he did

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have a day book which he maintained but he believed he had not removed the books from his office upon his retirement.

- 10.30 It is unfortunate that the day books which Superintendent PEARSON kept at the time have not been recovered. What is clear is that Superintendent PEARSON does not have possession of them. Searches of the archives of the States of Jersey Police and his office have failed to reveal them. Any form of speculation as to why this is the case would not be beneficial to this report, but there is nothing to suggest that there was a deliberate or mischievous act to dispose of the day books.
- 10.31 The issue of Superintendent PEARSON's day books was raised in interview by Chief Inspector BONJOUR. Initially he had made an enquiry with Deputy Chief Officer HARPER as to if the day books were available as they may provide some evidence of his contact with Superintendent PEARSON regarding the Care Home Report. After initially making this enquiry he did not take any further action to recover the books.
- 10.32 It is of note that after service of the Regulation 9 Notice in January 2008 Chief Inspector BONJOUR began researching for the interviews, which took place in June and July 2008. This preparation included searching the 'O' Drive of the computer of the Family Protection Team where he discovered the Care Home Report. This led him to question the date of the creation of that report. That issue was resolved by the IT Department of the force.
- 10.33 Whilst he was given no specific instruction in terms of research for the interviews it seems a somewhat strange course of action to take as it would appear that there was no dispute that the report was created and it was handed to him.
- 10.34 It will be seen in Superintendent Shaun DUVAL's statement that he was initially spoken to by officers from South Yorkshire Police prior to discovering the entry in his day book in respect of Haut De La Garenne.

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- 10.35 The discovery of this entry by Superintendent DUVAL was as a result of a subsequent conversation with Chief Inspector RHODES. It will be seen that Superintendent DUVAL had a discussion with Chief Inspector BONJOUR about his meeting with Detectives from South Yorkshire Police. To clarify this matter, the reference was to a meeting yet to take place. During that later meeting his witness statement was provided to South Yorkshire Officers. Whilst Superintendent DUVAL's actions did not impact upon the overall investigation it could be viewed unprofessional for a potential witness in an ongoing investigation to discuss the matter with the officer who he knew was the subject of that investigation.
- 10.36 Detective Inspector MEGAW is mentioned in the day book entry in respect of Haut De La Garenne, he confirms this and the reason for his concern was generated by the enquiry into the conduct of Thomas HAMMON, in his statement he refers to that person as Brian HAMMON. This is obviously an administrative error on his part.
- 10.37 In respect of the statement of Anton CORNELISSEN, as mentioned in this report. It came to light as a result of attempting to prove a link or contact between retired Chief Inspector DE LA HAYE and ROMERIL.
- 10.38 This statement contains some serious allegations of interference with the investigation, into Andrew JERVIS-DYKES. Undoubtedly these issues were examined by the States of Jersey Police at the time. It is clear that his concerns did not affect the case against JERVIS-DYKES. It was not for this investigation to further enquire into the circumstances of that, it was merely to establish any possible links between the retired Chief Inspector with ROMERIL.
- 10.39 Former Detective Inspector FAUDEMÉR addresses some of the concerns of CORNELISSEN. Former Detective Inspector FAUDEMÉR gives details of the investigation and

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that both he and Anton CORNELISSEN received commendations for their work on this case.

- 10.40 Former Detective Inspector FAUDEMER mentions that DE LA HAYE had a very abrasive management style, and whilst not seeking to minimise CORNELISSEN's concerns, he goes onto give an alternative view in that DE LA HAYE was instrumental in securing evidence in the JERVIS-DYKES enquiry.
- 10.41 The JERVIS-DYKES investigation is a subject of political concern in Jersey. Undoubtedly JERVIS-DYKES was an extremely dangerous paedophile and had been subject to rigorous investigation.
- 10.42 Unfortunately some of the alleged offences were committed outside the jurisdiction of the Jersey Courts. This was the only reason they were not pursued.
- 10.43 The statement of the former Detective Inspector FAUDEMER unequivocally sets out his position in that enquiry, and it follows this must have reflected the views of the States of Jersey Police.
- 10.44 In respect of the journalist mentioned in that statement due to the sensitive nature of the ongoing concerns surrounding the JERVIS-DYKES case the journalist was not interviewed.
- 10.45 In any event it would appear that the journalist would have supported the version of events given by former Detective Inspector FAUDEMER.

Exclusion order

Compensation

Forfeiture/Destruction order

Proceeds of crime case

(✓) if required

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11. RECOMMENDATIONS

- 11.1 It is considered that the Performance of Duty breaches alleged against Chief Inspector BONJOUR are, in the view of the Investigating Officer substantiated. This is despite his version of events and the fact that he maintains he acted with integrity throughout his dealings in both cases.
- 11.2 It is difficult to come to the conclusion on the evidence, that the Care Home Report was seen by Superintendent PEARSON. Superintendent PEARSON on two occasions denies any knowledge of seeing the report or having any conversation regarding its contents.
- 11.3 This view is supported by the other officers who were part of the Operations Management Group at that time, they too had no knowledge of the report.
- 11.4 All those officers would have expected such a report to be brought to that forum for consideration. Clearly it never was, the proposition that, as a result of a conversation with Superintendent PEARSON the report was dismissed as a 'fishing expedition', as claimed by Chief Inspector BONJOUR in interview, is difficult to accept.
- 11.5 It is clear that the report was in the possession of Chief Inspector BONJOUR on or about the 8 April 2006. The original report has never been recovered by the initial enquiry, of the Deputy Chief Officer HARPER, or this investigation.
- 11.6 Owing to all the circumstances the Care Home Report would have been a difficult issue to address at any time. Nevertheless it should have been brought to the attention of Senior Officer. Even if the circumstances described by Chief Inspector BONJOUR are accepted, as Head of CID he had a responsibility to at least make further enquiries. He should have required an appropriately constructed scoping report was completed and resubmitted in order that a more informed decision could have been made.

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- 11.7 Whilst any sanction will be an issue for the States of Jersey Police it is recommended that these breaches can be appropriately and proportionately dealt with by the Deputy Chief Officer.
- 11.8 It is also the view of the Investigating Officer that Chief Inspector BONJOUR was unsuitable, in light of his training and experience to perform the role of Head of the Criminal Investigation Department. It is difficult when the three Chief Inspectors of the States of Jersey Police are rotated in the three roles, but consideration should be given to this particular role in terms of training and experience.
- 11.9 Should the force do so it will better equip them for subsequent serious investigations and the resilience for this post should come from suitably qualified and trained Detective Inspectors.
- 11.10 In respect of child protection issues within the States of Jersey Police, it is acknowledged that throughout the time the Family Protection Team had been operating. It has been staffed by dedicated and hard working officers. This is undermined by the rotation of officers in charge of the department and causes concern, particularly in light of the current investigation into Haut De La Garenne consideration should be given to a formal review of the terms of reference, resourcing, line management and responsibility for the Family Protection Team.
- 11.11 In respect of resources available to the States of Jersey Police, it appears to this investigation that the number of officers within the force, both in uniform and in specialist units has remained static for a number of years. There have been many complex issues affecting the police in Jersey over a number of years.

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- 11.12 In view of the appointment of a new Deputy Chief Officer, who is the Chief Officer designate on the retirement of Mr POWER, it may be an appropriate time to review the establishment of the States of Jersey Police.
- 11.13 This lack of resilience and resource should not be seen as criticism of the quality of the investigation into the offences committed by ROMERIL and POWELL.
- 11.14 The Senior Investigating Officer designated was Detective Inspector FOSSEY. However due to her pre-planned annual leave, the officer was replaced by Detective Sergeant BEGHIN performing the role as Acting Inspector.
- 11.15 This change of Senior Investigating Officer, at that critical time would not have been in the interest of the enquiry, and is not good practice when undertaking such a potentially protracted and sensitive investigation.
- 11.16 It is obviously apparent the resilience within the whole of the Criminal Investigation Department is stretched to the limit. This causes disruption to investigations and amongst staff. It undermines moral and will ultimately impact on the confidence of the public of the States of Jersey Police.
- 11.17 There is a policy, which relates to the retention of pocket books by officers of the States of Jersey Police. It is clear this policy is not being adhered to, and as such this should be reinforced with all staff.
- 11.18 In respect of the day books or diaries kept by Senior Officers in the States of Jersey Police. In this case it caused some confusion, and the books have never been found. Whilst this issue, has implications across all Police Forces it has been highlighted in this enquiry as an area of concern. In particular in respect of which type of book should be kept, their content and the retention, especially when an officer retires.

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11.19 It is clear that such books will always be the property of the States of Jersey Police. Guidance needs to be robust in terms of which particular type of book is kept by officers and a strict regime of archiving and retention should be implemented by the States of Jersey Police.

11.20 National Intelligence Model – States of Jersey Police.

11.21 Retired Superintendent PEARSON makes reference to the implementation of processes aligned to the National Intelligence Model (NIM), within the States of Jersey Police. This followed his posting to Operations Superintendent in early 2004. Specifically stating that he ensured that proper structures were in place for morning briefings, tasking and co-ordinating, and that the morning briefings on each Friday is referred to as the Operations Management Meeting.

11.22 He goes onto outline weekly meetings under that process including a daily morning meeting with the three Chief Inspectors to discuss operational issues over the previous and subsequent 24-hour period.

11.23 The Tasking & Co-ordinating meetings which were initially held each Wednesday and then subsequently bi-weekly where priorities are decided based on the intelligence available.

11.24 The Friday morning meetings, (Operations Management Group), is where the three Chief Inspectors discussed their staffing requirements for the forthcoming week. This meeting also touches on personnel issues.

11.25 It will be seen from this report that Detective Sergeant HEWLETT considered that Detective Chief Inspector BONJOUR was to take the Care Home Report to the Operations Management Group for consideration.

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- 11.26 This indicates the importance of that group in relation to criminal investigations or policing operations in terms of prioritisation and resource allocation.
- 11.27 Despite the move by Superintendent PEARSON towards the use of the National Intelligence Model, it is clear that the structures described are not fully NIM compliant.
- 11.28 There is no reference to a six monthly strategic tasking and co-ordinating meeting, which if supported by a strategic assessment of the key policing challenges for Jersey and its communities would allow for the publication of a Control Strategy.
- 11.29 The Control Strategy would then set the priorities based on strategic intelligence and input from key stakeholders.
- 11.30 It is the Investigating Officer's view that the Deputy Chief Officer should chair the strategic tasking and co-ordinating meeting.
- 11.31 From this and the resulting control strategy an intelligence requirement should also be published to inform officers, staff and partners of where gaps exist in the overall intelligence picture, this would allow intelligence assets to focus on addressing these areas.
- 11.32 A NIM compliant Control Strategy and intelligence requirement should then be the source document for the daily morning tasking meeting which would allow the Superintendent Operations to ensure that resources are aligned to the key priorities of the States of Jersey Police. The attendance at this daily meeting should be reviewed. Having only Chief Inspectors and above present gives it a much too strategic focus, and may not allow for the focus of any tactical delivery.

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- 11.33 Clarity around the bi-weekly tactical tasking and co-ordinating meeting should be sought. This meeting should be informed by a tactical assessment which considers crime series, emerging issue, seasonal factors, the previous two weeks data and projected threats over the next two weeks, all these should be considered against the Control Strategy priorities. The issues involving resources should also be considered.
- 11.34 It is the Investigating Officer's view that NIM compliance centres around empowering the chair of this bi-weekly meeting, to allocate resources in order to address the threats identified.
- 11.35 The Operations Management Group is outside the NIM model and appears to be too strategic to deal with the movement of resources, which should be considered at a tactical level alongside a properly prepared tactical assessment.
- 11.36 If it is considered that the bi-weekly meeting is too infrequent to consider resourcing and other key issues at a tactical level, then a bi-weekly emerging issues meeting could be introduced, this would be on the week between the tactical tasking and co-ordinating meeting in order that resources are correctly aligned, and significant threats do not emerge prior to the next bi-weekly meeting.
- 11.37 It is recommended that compliance with the National Intelligence Model within the States of Jersey Police is reviewed.
- 11.38 The National Intelligence Model is a 'Model for Policing'. It is the Investigating Officer's view that full adoption of the systems, process and document of NIM would make the States of Jersey Police more efficient. It would allow for the more effective deployment of resources and would ensure that the issues subject of this investigation are captured and tasked at the appropriate level.

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11.39 It is the Investigating Officers view that the bi-weekly Tactical Tasking and Co-ordinating Meeting should use a properly prepared Tactical Assessment as its source document. This document should be prepared by a trained tactical analyst, but presented and owned by a trained and accredited intelligence manager of at least Detective Inspector rank.

11.40 The Tactical Assessment document would always include as a matter of course emerging issues, in this case the Care Home Report. As actions are tasked and resources allocated to address an emerging issue by the Chair, then they can be captured and presented in the next Tactical Assessment. This then allows the Chair to hold individuals and departments to account and ensures that significant issues like those subject of this investigation are not overlooked and are sufficiently resourced.

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Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB16

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H. M. ATTORNEY GENERAL  
WILLIAM J. BAILHACHE Q.C.  
H. M. SOLICITOR GENERAL  
TIMOTHY LE COCQ Q.C.



LAW OFFICERS' DEPARTMENT  
MORIER HOUSE  
ST HELIER  
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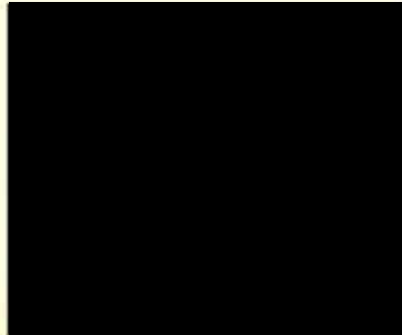
Direct dial number: +44 (0) (1534) 441225  
E-mail : w.bailhache@gov.je  
Fax: +44 (0) (1534) 441299

Your Ref:

Our Ref: POLCOMA-080 WJB/PW

22nd December 2008

Mr. D. Warcup,  
Acting Chief Officer,  
States of Jersey Police,  
Rouge Bouillon,  
ST. HELIER.



Dear Acting Chief Officer,

Chief Inspector Bonjour

I have received the report of Chief Superintendent R. H. Varey of the South Yorkshire Police into the complaints made against Chief Inspector André Bonjour concerning:

1. A possible charge of intending to pervert the course of public justice in that, having received a report from Acting Detective Inspector Hewlett on or about 8<sup>th</sup> April 2006 concerning allegations of historic child abuse at the former Haut de la Garenne Children's Home, Chief Inspector Bonjour failed to carry out or cause to be carried out an investigation into those allegations.
2. An allegation that between 7<sup>th</sup> April 2006 and 31<sup>st</sup> August 2007, Chief Inspector Bonjour acted with wilful misconduct in public office in that, having received a report from Acting Detective Inspector Hewlett concerning allegations of historic child abuse at Haut de la Garenne, he failed to carry out or cause to be carried out an investigation into those allegations.
3. An allegation that between 1<sup>st</sup> July 2006 and 31<sup>st</sup> August 2007, Chief Inspector Bonjour wilfully misconducted himself in public office in that, having received a briefing from Detective Inspector Fossey in relation to allegations that John de la Haye was named as providing advice on police tactics in text messages between two suspects in a child abuse case. This communication may contain legal advice which is confidential and/or privileged. It should not be forwarded or copied to anyone else without the prior permission of the author.



enquiry, he failed to carry out or cause to be carried out an effective investigation into the involvement of Mr. de la Haye.

I have received a report from Mr. John Edmonds in connection with possible criminal proceedings, which I have considered.

I am quite clear in my view that the evidential test is not passed in relation to these complaints, and that no criminal proceedings therefore are 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 of course is entirely a matter for you.

Yours sincerely,

A large black rectangular redaction box covering the signature of the Attorney General.

Attorney General

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

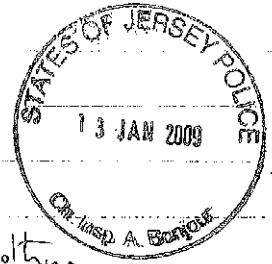
**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB17

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809



For AM meeting

12/1-844

- 1) Threats against child - 3rd Party  
talk of estranged father taking 9 yr  
old daughter [REDACTED], Nothing  
to substantiate. School & both Parents seen by CID/PPV,  
- to be seen
- 2) Amnyc, - thirakeri, [REDACTED] [REDACTED]
- 3) Gas leak - [REDACTED] [REDACTED]
- 4) 10/18 - [REDACTED] [REDACTED]

0830

AM meeting - - DM/CB/LJ/ल्प Barnes.

- 1) Spots of theft - Update - no real progress.  
A couple of other reports.
- 2) [REDACTED] - Arrest re 2011 theft etc - Release pending.
- 3) Re threats against child, as above.
- 4) Use of interpreters - Agree on language  
skills officers to take stats etc.
- 5) Bubbling puddle.
- 6) Gas leak - Georgetown.
- 7) Fire Van - RTC.

1000

A/co Waseup - Personal meeting.

Re complaint - advises he intends to deal with this in  
next week by way of advice. Does not believe  
I did anything deliberate or malicious & if mistakes  
were made, I am not solely to blame as organisational  
issues arise. Then we can move on.  
Also stated that others also made mistakes.

Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB18

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FILE NOTERe Internal Investigation – IC/02/08 Chief Inspector Andre Bonjour

I refer to the Investigating Officer's report from Chief Superintendent R H Varey, South Yorkshire Police, in relation to the above investigation.

At 3.30 pm on Wednesday 4 February 2009, I met with Chief Inspector Andre Bonjour in order to finalise the complaints issues following the investigation by South Yorkshire Police. Details of the background to the complaint are set out at paragraphs 1.1. to 1.26 of the Investigating Officer's report. Sections 2 and 3 of the report highlight the potential criminal and disciplinary offences in relation to Chief Inspector Andre Bonjour. In respect of all alleged criminal matters there is insufficient evidence to proceed.

Having reviewed the report by the Investigating Officer I concluded that in respect of the discipline breaches contrary to the Police (Complaints & Discipline Procedure)(Jersey) Order 2000, that the breach that Chief Inspector Andre Bonjour failed to carry out or cause to be carried out an investigation into allegations of historic child abuse at the former Haut de la Garenne Children's Home, and failed to carry out an investigation into the involvement of John De La Haye in respect of a child abuse investigation, are substantiated.

In reaching my conclusion I accept the findings of the Investigating Officer that 'the report', dated 8 April 2006 from Acting Detective Inspector Hewlett concerning allegations of historic abuse at the former children's home, Haut de la Garenne, was in the possession of Chief Inspector Andre Bonjour.

I also concur that the report should have been brought to the attention of a senior officer or that some form of formal action should have been taken to ensure that some type of further action or investigation would follow. I do not find that there are matters of integrity on the part of Chief Inspector Andre Bonjour and consider therefore that it is appropriate to deal with all issues by way of formal advice.

In respect of the Discipline Breach 2. I also find that Chief Inspector Andre Bonjour failed to carry out or initiate proper investigation in respect of John De La Haye.

I have also taken into account the interviews conducted with Chief Inspector Andre Bonjour in June and July 2008 and the explanation provided.

In accordance with the above provision I have given formal advice to Chief Inspector Andre Bonjour in relation to these matters.

David Wardup  
Acting Chief Officer



Witness Name : Andre Bonjour  
Statement No : First  
Exhibits: AB1-AB19  
Dated :

**THE INDEPENDENT JERSEY CARE INQUIRY**

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Exhibit AB19

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Witness Name: Leonard Harper

Statement No: First

Exhibits: LH1-LH48

Dated: 2<sup>nd</sup> November 2014

## THE INDEPENDENT JERSEY CARE INQUIRY

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Witness Statement of Leonard Harper

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I, Leonard Harper, will say as follows:-

1. I make this statement to the Inquiry in my personal capacity, in order to give my account of my relevant experiences and observations whilst Head of Operations, and later Deputy Chief, of the States of Jersey Police ('SOJP'). I will provide evidence on the lead up to Operation Rectangle, the matters that came to light during the operation, and the difficulties with securing prosecutions.
2. At **Exhibit LH1** is an Affidavit that I produced for a Solicitor involved in a London court case. To my recollection, the case was brought by Senator Stuart Syvret, who was requesting that the UK Government intervene in Jersey's Justice System. Where matters stated within my Affidavit are relevant to the Inquiry, I have repeated or referenced those matters within this statement. There are many matters within my Affidavit which probably go beyond the Inquiry's terms of reference.



## Background

3. I have been a police officer for many years, having joined the Metropolitan Police Force in 1974. Before moving to Jersey in 2002, I had been stationed in many different locations, and many different police departments, throughout the UK, including Northern Ireland, some of which I mention below.
4. One thing I should say from the outset is that throughout my career as a police officer, and otherwise, I have always valued honesty, integrity and professional discipline and I have always sought to tackle issues such as bullying and corruption head on.
5. In 1979 I moved out to Northern Ireland and served a period with the Royal Ulster Constabulary. I am Northern Irish by birth, having been brought up as a Protestant in Londonderry although my wife, Christina, is a Roman Catholic. Our mixed marriage is illustrative of the fact that I do not settle with convention and I am a firm believer that a man must make his choices in life early. In both my career, and personal life, I have chosen to help the good and prevent the bad.
6. Following my stint as a detective in West Belfast in Northern Ireland, I moved back to London and served in the CID in Soho and other posts, before becoming the Head of CID at Peckham. In 1991 I joined Strathclyde Police Force and, during my 10/11 years at Strathclyde, I held a number of roles including Deputy Commander, Superintendent and Deputy Head of the Traffic Department. It was at Strathclyde that I would need to tackle issues of HR, diversity and bullying head on, especially during my role as Deputy Head of the Traffic Department. By this point in my career, I was less involved in operational policing matters and more involved in dealing with personnel, promotions and personal development although I continued to lead and oversee matters involving corruption and other serious internal issues.
7. When I joined the Traffic Department at Strathclyde, the team consisted of around 650 people, with only 12 of these being women. Many of these women were off work with stress related illnesses. I immediately realised

that the department had a problem with its treatment of women and this is something I sought to tackle straight away. When I left Strathclyde, I had increased the number of women to just under 100. This was partly due to my tough stance against bullying where, on one occasion, I actually transferred a known bully to a post in one of the worst police locations in the force area and, suffice to say, he only lasted one night before reporting sick and eventually resigned. By the time I left the force, there were also younger officers being brought through the ranks of the department who supported female officers and encouraged change.

8. In 2002 I applied for the role of Head of Operations with the SOJP. I was aware that Jersey was a small and beautiful island and I therefore did not expect to be faced with the same issues of diversity and bullying that I had experienced previously in my career. However, as I will explain in this statement, I hugely underestimated the job in hand.
9. My main reasons for applying for the Head of Operations role were that I wanted to become more involved with the operational side of policing, as being Head of Operations I would need to oversee, and on occasions, direct all operations including criminal investigations of a serious nature. There was also an expectation that, provided all was satisfactory, whoever got the position of Head of Operations was likely to be appointed as the next Deputy Chief of the SOJP. Therefore the role had very good promotional opportunities and I saw no reason not to apply for it.

### **The application process**

10. The Head of Operations application process was very competitive and I recall that there were around 85 applications made to the SOJP in total. There were 12 applicants interviewed for the position, including myself, and the interviews took place at Gatwick Airport. It immediately became apparent to me that the applicants were of a very high calibre, including a Chief Superintendent from the Metropolitan Police with less than ten years' service. There were also many 'Bramshill' applicants, i.e. applicants that had gone through the Police College accelerated promotion training programme.

11. The interviews were conducted by a panel including, from recollection:
  - 11.1 The President of the Jersey Home Affairs Committee - Alastair Layzell;
  - 11.2 The Chief Officer of the SOJP - Graham Power (who was also a Bramshill officer and had been at the SOJP for around two years); and
  - 11.3 The Head of HR from the SOJP – Anne Sugden.
12. Following the interviews, three of us were shortlisted to go through a selection process in Jersey. At the selection process, I again recall that Anne Sugden and Alastair Layzell were in attendance, possibly an individual from Her Majesty's Inspectorate, and also a Centenier from the Honorary Police service in Jersey. I will explain more about the Honorary Police later in this statement.
13. I was subsequently successful in my application and I was appointed as the Head of Operations at the SOJP. Around the same time, John Pearson was offered the role as Head of CID.

### **Arrival in Jersey**

14. I arrived in Jersey in 2002 and I think it is fair to say that I soon realised that my expectation of what the job would entail did not marry up to the reality. Within the first few months of the job, I noticed that there was an outdated culture within the SOJP and that some of the problems I had experienced at Strathclyde were equally present in Jersey, including problems with diversity and bullying.
15. One of my first encounters at the SOJP was being approached by an officer and told that I needed to deal with 'uniform carriers'. A 'uniform carrier' is effectively a lazy police officer. There was no mention of any of these issues at the time I applied for the role, although they are present in every organisation not only the police, and I would have been surprised if they were not present in Jersey. What was perhaps surprising was that it was brought up by a Constable.

16. What I now know is that, at the time I was appointed, Graham Power had warned Alastair Layzell that I might 'ruffle some feathers' in Jersey given my previous background of dealing with matters of HR, diversity and bullying head on, and given my strong stance on police integrity. Therefore, I suspect that Graham was actively looking for someone to take a tough stance on such matters and change the culture of the force. I was not aware of this at the time.
17. One thing I did when I became Head of Operations was to hold forums for the officers of the SOJP to get to know me. At possibly the third forum meeting I held, an officer approached me and asked 'How will you deal with bullying?'. I responded 'mercilessly'. Having been asked this question quite early on in my role, I knew that I would need to use the skills I had gained at Strathclyde to tackle bullies head on. I laid down the boundaries immediately and confirmed that I would not tolerate bullying.
18. A few weeks passed since the incident above and the same officer then approached me again and told me that she had been suffering abuse and bullying at the hands of a particular male sergeant. I was very concerned by what she was telling me so I immediately instigated an investigation. I soon started to realise that police corruption and bullying were happening on a regular basis within the SOJP.
19. When I started to investigate the sergeant, I uncovered a trail of horror and it came to light that on one occasion this sergeant had actually pointed a loaded gun at the head of another younger officer. I also discovered that many inspectors and sergeants knew of the sergeant's behaviour and had not reported it or done anything about it. I felt anger towards these senior officers who had done nothing to protect their colleagues. When I questioned them about it, many of them responded 'If I had done anything, he would have come after me'. It is worth noting that the bully in question was a sergeant and yet even inspectors were too worried to go after him or make a complaint.

20. There was later a second incident which emerged involving the same sergeant where he had arrived at the police station at 06:00am and said that he needed to go and move his car. He left the police station at 06:30am and was not seen again for the rest of the day. When he was questioned about this, it turned out that his car was located in Normandy. This is just one example of how some police officers were taking advantage and abusing their position. This particular officer was sacked following disciplinary action but the Home Affairs Committee later reinstated him. It was at this early stage in my career that I hit the 'brick wall that is Jersey' and throughout my career at the SOJP I would find it very difficult to bring charges against both civilian suspects and people in public office. There was politics at play.
21. On another occasion, I was approached on behalf of a vulnerable member of staff who had reported a domestic assault on herself. The investigating officer, a long serving detective, had asked for her mobile phone number and had given her his 'in case they needed to contact each other.' A couple of evenings later she received a lengthy series of text messages which started with comments about her physical appearance and what she looked like bending over the photo copier, to extremely explicit texts about what the sender would like to do to her. After I obtained transcripts of these messages, I challenged the officer. He first denied it but changed his story. I returned him to uniform but did not discipline him as the victim would have suffered even more from a prolonged drawn out saga.
22. In relation to the responsibility for disciplining members of the SOJP, I soon came to realise that we were up against a major hurdle being that the officers and civilian employees of the SOJP are employed by the States and it is therefore ultimately the decision of the States/Home Affairs Committee as to whether a particular officer should be removed from duty. Therefore, I often found that where the SOJP had taken action to discipline or suspend a particular officer for malpractice etc, they were often reinstated by the States.
23. Quite early on in my career at the SOJP, it was clear that many Jersey politicians did not approve of our efforts to tackle bullying. We were openly

criticised in the media by these people and on one occasion were referred to as the 'politically correct KGB stalking the corridors of police headquarters.'

24. Another issue that I tackled soon after arriving on the island was the issue of firearms, specifically that many residents on the island held dangerous firearms without the appropriate licenses. The Parishes, not the SOJP, were responsible for issuing firearms licenses and accordingly there was little in the way of rational decision making nor proper checks on fitness. We uncovered many cases where people held licenses for heavy velocity weapons who were clearly not suited. Many of these were reported but the Parishes refused to revoke the licence. There was also a particular firing range on the island that was very near the airport/flight path and yet very powerful firearms were being used that had a three mile kill range. I did not think it was at all safe or appropriate for these firearms to be used at this firing range and it was quite clear to me that the firing range was intended for small pistols. Despite some lengthy campaigning by me to tighten up the firearm laws in Jersey, I got nowhere and politicians were unwilling to support the cause.
25. My investigations into firearm misuse on the island also led to the implication of a number of police officers at the SOJP. The SOJP police Firearms Clerk, Norman Woods, was one of those implicated. Woods had been taking in firearms and items such as telescopic sights on the island, as part of an amnesty, and actually passing and selling them on to others. I had received information on Woods from a man I was questioning for the unlawful possession of firearms. I arrested Woods and searched his home address where I recovered a huge number of firearms lying unsecure in a bedroom. These included an RPG7 Rocket Launcher, 7.62 rifles, machine guns, a SEACAT Missile Launcher, and others.
26. Woods was eventually found guilty at a Disciplinary Hearing of unlawful possession of a firearm with ammunition and for falsifying police records. Graham Power sought to remove Woods from duty but the States would not dismiss him and we were forced to take him back. Once Woods was reinstated I had a very curt meeting with him where he said to me 'better men

than you have tried to remove me'. Woods later resigned, following another allegation against him for mis-using police information, but started a campaign backed by several prominent members of the Home Affairs Committee alleging he had been unfairly dealt with. In 2006, I learnt that he was twenty four hours away from being sworn in as an Honorary Police officer and I disclosed all of the above to the Attorney General. His swearing in was postponed but happened at a later date I believe.

27. I also found that other prominent persons on the island were refusing to hand in personally held weapons that were not licensed. We publicly declared that following a 'period of grace' we would begin to arrest and prosecute individuals who were still refusing to comply with the law. I think the period we set down was a month, although it could have been two months. When I tried to charge a number of individuals with such offences, I was met with hostility and quite often I was not allowed to bring charges against the suspects, including Lawyers, police officers and States Members. On the rare occasion that I was allowed to charge, most offenders would plead guilty and the ultimate penalty imposed by the Magistrate was quite often a meagre sum of a £50 fine. A £50 fine for possessing a deadly firearm! I got the immediate impression that many individuals, particularly senior post holders in Jersey, believed they were above the law and there was a degree of arrogance that they could get away with it.
28. Throughout all of this, the SOJP were heavily criticised in the States for trying to interfere in the Jersey way of life and its culture. Politicians and Parish officials were blocking every attempt to try and introduce some control over the possession of firearms which were illegal elsewhere in the British isles. Interestingly, the Magistrate who imposed the small number of meagre fines on offenders was Ian Le Marquand, who later when Home Affairs Minister for Jersey, said in the States that the police had been 'out of control for several years now, acting as if they thought they were a politically independent organisation.'
29. As a conclusion to the firearms issue, it is worth noting that we discovered over 10,000 firearms were held on certificate in Jersey for a population of



around 80,000. Six and a half million rounds of ammunition could be held on certificate at any one time. From 2001 to 2006 of 1843 certifications granted, only three had been revoked and only six applications refused. Of the ten registered dealers in Jersey, three of them operated out of private houses.

30. A third matter which was brought to my attention quite soon after becoming Head of Operations was a matter involving the relationship between a corrupt local businessman named Roy Boschat, who was also an ex Honorary Police officer, and corrupt police officers at the SOJP. Roy Boshchat was a towing/recovery contractor and appeared to be receiving the vast majority of the work emanating from the SOJP. It came to light that Roy Boshchat was paying off a lot of the officers in the SOJP in return for receiving the business. Roy Boschat was also allowing certain police officers to get petrol free of charge. I was very concerned by this and my investigations actually uncovered that Roy Boshchat was backhanding around 10% of the entire SOJP workforce.
31. One particular police officer that I investigated as part of the Roy Boschat matter was officer Sean Osmand. I considered that I had obtained sufficient evidence to charge Osmand with corruption but the Attorney General refused to charge. Osmand, amongst other things, had searched the Police Computer and had provided confidential information to Boschat. Later on in this statement I will confirm who has the power to charge suspects in Jersey, but for the purposes of this example, it should be noted that any charges of police corruption need to be brought by the Attorney General, or made with the Attorney General's approval. I think this is written into Jersey Law. The Attorney General (then William Bailhache, who was Attorney General throughout my time at the SOJP) subsequently refused to charge Osmand as it was allegedly not in the public interest.
32. I did not accept that Osmand should escape liability and I therefore obtained consent from a Centenier of the Honorary Police to charge him with around 45 lesser offences which did not need the Attorney Generals consent. The Attorney General was not at all happy that I had done this. I believe Ian Le Marquand was Magistrate at the time of the Osmand case and that Osmand

was convicted only of three offences, out of around 45. As part of his defence he publicly labelled the owner of a vehicle, details of who he had given Boschat, as a habitual drunk driver. This was totally untrue.

33. The conclusion I was soon reaching, was that I could not get corrupt officers charged as the Attorney General would not agree to do so and the States would reinstate disciplined officers. I do not know what was in it for the Attorney General. I cannot understand why he would not want corrupt officers removed. On one occasion, following an incident where an officer had reported racial abuse by a member of staff and then had his property damaged, I was so annoyed that John Pearson and I delivered a very curt message to the CID team where I confirmed that if unacceptable standards continued, I would disband the entire team and start again from scratch. From this point on, I did see an improvement in the number of officers that would approach me about matters that concerned them. At some point, during my time at the SOJP I did actually disband the Motorcycle unit as John and I had uncovered numerous examples of corruption and unethical practices. I understand that this has now been reinstated.
34. In terms of any actions taken against Roy Boschat, Boschat had stated in evidence that he had asked Osmand to carry out illegal checks of vehicles on the Police Computer. Authority was sought to charge Boschat with inciting a police officer to carry out improper checks and disclose information from police systems. The authority was granted by Laurence O'Donnell, a Legal Advisor working in police headquarters, although one of the Attorney General's staff. However, thirty minutes before Boschat was due to be charged, the Attorney General ordered that he should not be. It emerged that he had been visited by two Politicians who asked for the charges to be stopped. These were Deputy Sarah Ferguson and Deputy Colin Egray. Both of these were associates of Boschat and had served in the Honorary police with him. Both publicly admitted later that they had indeed intervened.
35. The Attorney General did later agree to charge Boschat, but only after I had told Laurence O'Donnell to inform the Attorney General that the press were now asking about the reasons nothing was being done. After Laurence

O'Donnell had told him that the press were on the case, the Attorney General did charge Boschat. However, during my last few months on the island there were a number of inexplicable adjournments in the case, and shortly after I retired the case was thrown out of Court. I believe Ian Le Marquand was the Magistrate on this case also.

36. I cannot recall any occasions where the Attorney General did agree to charge employees of the SOJP in relation to malpractice/corruption. Even where we had caught members of the IT department fraudulently buying computers and recording equipment for their own use at home, use which included taking topless photos of their wives, the Attorney General refused to take action. There was even one occasion where we had CCTV evidence of a particular Special Branch Officer indulging in sexual activity in the Special Branch office with a foreign national, and then letting her look at confidential papers on terrorism, and yet no charges were brought. During this stage of my career, the Attorney General would say that police officers were not subject to the Official Secrets Act. As I will point out later in this statement, the Jersey authorities later changed their position on this when they were accusing me of making disclosures that I allegedly should not have made.
37. All of these matters that I have described above clearly illustrate the immediate challenges I faced. The action I was taking to try and remove police corruption and stamp out bullying were met with criticism and a lack of support by the Jersey Government and Attorney General's Office. All of these matters meant that by the time the historic child abuse investigations started (Operation Rectangle), the Politicians already had me in their sights.
38. One concept I also became familiar with was a behaviour/belief known as 'the Jersey way'. It became apparent to me that telling the truth and following the rules did not matter to some people in authority in Jersey. It appeared to me that anything that could be considered as detrimental to the image of Jersey would simply be ignored and those that stood up to be heard would be criticised. There is clearly a view amongst senior officials in Jersey that they are capable of governing themselves and that the status quo should be maintained. Any challenges or proposals for change are ignored, or if those

offering them up are too persistent, they are crushed. This, I believe, is what is meant by 'the Jersey way'. I became known to the States of Jersey Government as not being an advocate of 'the Jersey way'.

39. Whilst these problems were occurring, and whilst they were hugely of concern to me, I would also like to point out that Graham Power was bringing in a younger and more professional workforce into the SOJP and it was only a small group of officers that were corrupt or abusing their role. I recall that when I joined the SOJP, it was around 250 people strong and I think, at any one time during my period as Deputy Chief, there may have been eight or nine officers that were suspended or were being investigated for some sort of corruption. However, it was a notable point of pride that I was able to investigate serious allegations of corruption using young detectives from the SOJP without having to bring staff in from other forces.
40. I believe that when I joined the SOJP, I underestimated its problems. I underestimated the amount of police corruption. I underestimated the extent of bullying and victimisation and I underestimated the way in which senior office holders in Jersey would oppose any change in law or culture to improve matters.
41. All of these matters that I have mentioned above including bullying, police corruption and specifically the case involving Roy Boschat, are detailed further within my **Exhibit LH1**.

### **The Honorary Police and the SOJP**

42. One issue that is relevant to the evidence I am giving in this statement is the role of the SOJP in comparison with that of the Honorary Police. There are 12 Parishes on the island of Jersey and each Parish has its own police force, known as the Honorary Police. The Honorary Police are largely untrained and only have policing jurisdiction within their own Parish. Although the SOJP are referred to as the 'Professional Police' by most people, some States members and Honorary Police referred scornfully to the SOJP as the 'paid police.'

43. When I accepted the role of Head of Operations, I thought the Honorary Police were effectively special constables, similar to those found in the UK. I found it very difficult to ascertain their exact role or exact powers. However, I soon began to find out that the Honorary Police held much more power than I had originally anticipated.
44. The Honorary Police has the Attorney General as its titular head and is therefore answerable and accountable to the Attorney General. Also, like any other police force, the Honorary Police have a number of ranks. The ranks, from highest to lowest, are:
  - 44.1 The 'Connétable' – who was the head of the Honorary Police within a Parish;
  - 44.2 The 'Centeniers';
  - 44.3 The 'Vingteniers'; and
  - 44.4 The 'Connétable's Officers'.
45. Whilst I am now not 100% sure about the way in which the Honorary Police are selected, my understanding is that there is an election process within each Parish. The Connétable is a publicly elected individual that holds a voting seat in the Government and it is the Connétable that then appoints the Centeniers and Vingteniers, following a local election process. There may be as many as 6 Centeniers in each Parish, depending on the size of the Parish and St Helier would certainly have a higher proportion of Centeniers in comparison to other Parishes.
46. Whilst there is an election process for the appointment of the senior ranks within the Honorary Police, the elections are not well attended and quite often there is simply no opposition to proposed candidates. In fact, even for a position such as Connétable nominations are often not opposed.
47. One matter that caused me some surprise when I joined the SOJP was that officers of the SOJP did not have the power to decide to charge suspects. Instead the decision to charge rested solely with the Honorary Police, namely

a Centenier from the parish where the crime occurred. There would always be at least one Centenier on-call, 24/7, to conduct charging duties.

48. For more serious matters, including allegations of police corruption, the decision to charge would ultimately rest with the Attorney General. I have dealt, throughout this statement, with the difficulties that the SOJP had with this process and in getting the Honorary Police and/or the Attorney General to agree to charge a suspect and the inability of the SOJP to challenge the decision.
49. In terms of the responsibility for prosecuting a suspect, following a charge being brought, this would be the responsibility of the Centenier and the Centenier would have the right to present the case at court, once again despite the fact that they are not legally trained. However, where a case is particularly complex, a member of the Law Officers Department based at Police HQ would likely present the case at court instead.
50. The Lawyers in the Law Officers Department at the SOJP headquarters, were appointed by the Attorney General to provide legal advice to the SOJP. It should be noted that the Honorary Police do not have their own stations/headquarters and remain in their own Parish. I personally had a very good relationship with the Lawyers that were appointed by the Attorney General. I recall that the three Lawyers were Laurence O'Donnell, Robin Morris and Bridget Shaw for most of the time I remained in Jersey. These Lawyers were really the link/liaison between the SOJP and the Attorney General. As well as conducting police work, the Honorary Police also hold what are known as 'Parish Hall Inquiries' which are effectively informal hearings intended for younger offenders who have committed minor offences. The idea behind this is for the individual to get a telling off but not be put through the formal system and through a lengthy prosecution process. There are many people on the island that agree with the concept of Parish Hall Inquiries but I personally believe that the system is flawed and has been widely abused. 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 the members of the Honorary Police presiding over the Parish Hall Inquiry.

### **Concerns/difficulties with the Honorary Police**

51. Throughout my career in Jersey I often found that the SOJP and the Honorary Police had very different views on how crimes should be dealt with. For example, I know from witness testimony that there was one occasion where the Honorary Police did not pursue, test or even question a drunk driver and instead simply took the driver, and her car, home as she had close links with Honorary Police officials.
52. This particular incident took place in St Clements Parish where the woman in question had driven her 4x4 vehicle to a pharmacy, stumbled out of the vehicle into the pharmacy, and then stumbled back into her car. Before driving from the pharmacy, the Honorary Police stopped the women and put her in the police vehicle. Whilst this would lead most people to think she had been apprehended, the officer simply took the lady home and even returned the car to her home as well. This is despite the fact that the women was clearly drunk and driving a vehicle. It always seemed to me that if the suspect was someone that was friendly with a Centenier, or the Honorary Police generally (as was the case here), they would not go through the proper police systems.
53. A further example of the difference of opinion between the SOJP and the Honorary Police related to how crimes of domestic abuse were dealt with. Shortly after I arrived on the island, the SOJP started a campaign to reduce domestic abuse and bring offenders to justice. We made a number of publications to highlight the subject. The SOJP had a Family Protection Unit which dealt with not only child abuse cases but also domestic abuse cases. The Honorary Police did not like the SOJP getting involved in allegations of domestic abuse and they seemed to be of the 'just put up with it' view. As the Honorary Police did not like our domestic abuse campaign, possibly because they would have known the suspects from their own Parish, we often struggled to get any charges brought for domestic abuse offences.



54. As mentioned earlier in my statement, officers of the SOJP are not able to make the decision to charge a particular suspect. In practice that meant that we needed to call in a Centenier to the police headquarters whenever we wished to charge. As previously stated, the Honorary Police have no legal training and yet they are responsible for deciding whether or not to bring charges. I often found that Centenier's would simply rely on what the custody officer told them, when deciding whether or not to charge but there were many occasions where the Centenier would refuse to charge or would receive instructions from the Attorney General's office not to charge. There are many examples of cases where the Attorney General refused to charge, including the case of the Maguires and 279, 281. I will discuss these later.
55. If the SOJP were unhappy with a decision of a Centenier not to charge, we could in theory make a complaint to the Lawyer's Office i.e. to the Attorney General's appointed Lawyers. The Lawyers had the power to exercise the Attorney General's powers and order a Centenier to charge suspects where there were grounds for doing so, although they would not be able to ignore a decision of the Attorney General not to charge.
56. Another pressing concern of mine was that the Honorary Police had no vetting process at all in relation to the appointment of its Connétable Officers. There is quite an infamous case in Jersey where the Honorary Police even allowed a known paedophile to become part of the force. The relevant man was named Roger Holland who had a number of paedophile offences on his criminal record. The Attorney General allowed Roger Holland to be appointed to the Honorary Police despite the fact that concerns were raised about him.
57. I also noticed, when I arrived on the island, that the Honorary Police were using the same police vehicles as the SOJP. It would therefore be difficult for residents to distinguish between the SOJP and the Honorary Police when just looking at the vehicle itself. It is only by them not being in uniform most of the time that often individuals would know they were dealing with Honorary Police and not with the SOJP. On the point of uniform, members of the

Honorary Police would often have only a high visibility jacket which set them apart from the public, and often a mixed and varied range of other clothing and footwear.

58. On a number of occasions during the start of my career in Jersey I was coming across situations of hostility with the Honorary Police. In fact, I recall that some Honorary Police Parishes wanted the SOJP to ask for their permission before coming into their Parish and making an arrest. One particular Parish in the North of the island even wanted us to ask permission to drive through their Parish when training or on routine duties. Of course I ignored this as I did not feel it was appropriate to ask permission to bring in a suspect who was alleged to have committed a crime or for us going about our business of protecting the public. The Honorary Police had been around for hundreds of years and some of them felt that they knew how to police the island better than the SOJP who had only become truly operational in the 1970s.
59. One further area of inconsistency between the SOJP and the Honorary Police related to the making/logging of police complaints. Both the SOJP and the Honorary Police were answerable to the Police Complaints Authority ('PCA') and would need to present a report to the PCA at the end of each year. The PCA was supposedly an independent body that was appointed by, and answerable to, the States of Jersey Government. The PCA consisted of one head and a few assistants.
60. The annual report that both the SOJP and the Honorary Police needed to make to the PCA would include the number of complaints received and the nature of the complaints. The SOJP had a system for logging such complaints but it appeared, year on year, that there were very few complaints made against the Honorary Police. I found this suspicious.
61. My view is that the Honorary Police were not logging any complaints made properly. A reason behind this might be that complaints in relation to the Honorary Police needed to be made to the Connétable, or alternatively to the Attorney General directly. It is my view that if complaints were made to the

Connétable, about his/her own staff, they would not be logged. It became something of an embarrassment that the PCA end of year report would have a minimal amount of complaints about the Honorary Police.

62. A matter that was also brought to my attention pretty soon upon coming to the island was that the Honorary Police seemed to have access to the SOJP radio channel and therefore could hear any announcements being channelled across the radio station. We often found that where a 999 call was made, which would come through to the SOJP, the Honorary Police would often turn up at the scene first as they would have heard the SOJP announcement over the radio channel. By the time the SOJP got to some of the incidents, the Honorary Police had already dealt with them, sometimes with just an inappropriate informal warning. There were also Data Protection concerns in that Parish Officials were hearing sensitive details about matters happening in other parishes and which they had no right, nor indeed, need to hear.
63. As well as having access to the SOJP radio channel, I was also concerned that they had unlimited access to our police files, including information on crimes committed by suspects and even those being investigated. This included full access to the Police Computer. This was a concern to me at the time as it was becoming apparent that information from the police headquarters was being leaked.
64. At that point in time we had a new Data Protection Commissioner in Jersey named Emma Martins and it became apparent that some of the data being leaked out of the police station was being done by members of the Honorary Police.
65. One further issue that came to my attention about the Honorary Police was that some officers were misusing their warrant card. In fact I had heard that one particular Honorary Police officer, who was the son of Deputy Colin Egray I believe, was turning up to major incidents on the UK mainland and flashing his warrant card to get access to crime scenes of serious offences.

This was obviously beyond the jurisdiction of a member of the Jersey Honorary Police force.

### **The need for change**

66. In light of my concerns with the Honorary Police, I decided to take some action. I decided that I wanted to stop the Honorary Police from having access to SOJP systems, particularly the SOJP radio channel. I also wanted to change the SOJP police cars to distinguish us from the Honorary Police.
67. The fact that the Honorary Police had access to the SOJP radio channel caused me concern because each Parish only has limited jurisdiction. The Police Act in Jersey makes it clear that the Honorary Police have no power to investigate serious crime and they only have powers in relation to their own Parish. Therefore they had no business hearing about matters that were happening in another Parish, especially those that were of a sensitive nature. I also considered that more control was needed in relation to the pool of people that had access to police intelligence. The fewer people that held the intelligence, the less chance that information would be leaked.
68. Before taking any action to implement changes, myself and Senator Wendy Kinnard, the new President of the Home Affairs Committee, went around the Parishes to explain to them that we were tightening up the rules in relation to data and that we wanted to give them their own radio channel and deny access to the general SOJP channel. The meetings also mentioned the need to change the SOJP police cars. Needless to say, the Honorary Police were not happy. I recall during one meeting being told by a member of the Honorary Police that whilst I may have come from a big city, and might be a 'city policeman', they had policed the island for hundreds of years and knew how to do it.
69. I also recall another Parish meeting where a particular father and son, both politicians, stood up and challenged me. One of them even said at a later meeting that 'a little corruption never hurt anyone'. I was angry with this statement, as was Wendy Kinnard. When Wendy spoke up at a subsequent meeting with the older politician, I recall that she was told to 'be quiet' as she

was only in the job because 'she was a little girlie'. It was Senator Dick Shenton that had made this comment. This shows the attitude problems that were fairly common among the Jersey establishment and which I came up against whilst on the island.

70. I recall that Wendy Kinnard was not available for one of the Parish meetings I attended, so I instead took Deputy Carolyn Labey. The particular Parish did not understand the rationale for the changes and thought that I was not treating Jersey like an island but I was instead 'treating it like Basingstoke'. I did not really understand what was meant by this, as I have never been to Basingstoke nor indeed worked in it, but what I did understand was that they were unhappy with the changes I was proposing.
71. After visiting all of the Parishes it was clear to me that there was universal disapproval of the changes, save for a few reformers within the Honorary Police who would not stand up publically but would instead whisper support privately in my ear.
72. Despite the fact that the Honorary Police were not happy with the changes I was proposing, I went ahead with them anyway. Whilst I had underestimated the hostility I would get from the Honorary Police, I went ahead with the decision that I thought was right.
73. I gave the Honorary Police forces their own radio channel so that they could broadcast with each other but not have access to the general SOJP radio channel. We effectively blocked them from our channel. I also changed the vehicles driven by the SOJP from white to silver, and I also had some slogans written on them to distinguish us from the Honorary Police.

#### **Promotion and the focus on child abuse**

74. In 2003, I was promoted from Head of Operations to the Deputy Chief of the SOJP. To a certain extent this was in line with my expectation as mentioned earlier in my statement.
75. I appreciate that one of the terms of reference for this Inquiry relates to Operation Rectangle and whether the operation was justified at the time it

commenced. On this point, I would like to clarify that Operation Rectangle was the result of an accumulation of many events, most of which were brought to my attention by colleagues within the SOJP or the Lawyers Office, rather than a 'one off' decision. These events included:

- 75.1 Operation Ore and complaints about the Jersey Sea Cadets;
  - 75.2 The Victoria College Case;
  - 75.3 Cases that came to light as part of my file review;
  - 75.4 Specific complaints about Haut de la Garenne ('HdIG') and the previous request for a child abuse investigation;
  - 75.5 An approach from Birmingham City Council; and
  - 75.6 The case against Jane and Alan Maguire.
76. I will deal with each of the above in turn to show how all of these events evolved and resulted in Operation Rectangle and how, on each new discovery throughout the course of 2006 to 2007, the issue of child abuse on the island of Jersey became progressively more serious.
77. As I was the Deputy Chief of the SOJP from 2003, cases such as indecent assault or even sexual assault would not necessarily pass my desk. Therefore the initial cases that were brought to my attention, and which ultimately led to Operation Rectangle, were brought to my attention by colleagues within the SOJP and/or the Lawyers Office.
78. Tied in with the evolving events listed above, were the overtones of police, Politician and State involvement in intervening in a number of cases involving allegations of child abuse. I was hugely concerned that there was a cover-up happening on Jersey and I was concerned that a lot of evidence was going missing and that witnesses were being intimidated. There was a clear story emerging in my mind and, whilst I may not have used the term 'paedophile ring' which was a term that was often used by Laurence O'Donnell, my view

was certainly that there was a culture emerging in Jersey of systematic child abuse.

### **The relationship between the SOJP and other Government Departments, including the Children's Service**

79. Before I describe the accumulation of events which led to Operation Rectangle, it is important that I comment on the historic relationship between the SOJP and other Jersey Government Departments, including the Children's Service, up until the point Operation Rectangle went public.
80. Prior to 2006/2007 and the changes instigated by John Pearson, mentioned below, there was a real liaison problem between the SOJP and other Government Departments. In fact it appeared that information was rarely being shared between the police and the Children's Service and many of the cases that were coming to light were already known to the Children's Service and yet nothing was being done or reported to the police. However, on the other side of the spectrum, the SOJP was also not liaising with the Children's Service effectively either. Therefore there was a lot to do, and a lot of bridges to build.
81. The SOJP had instigated a number of reviews into the Children's Service and Emma Coxshall, an SOJP Officer, had actually made complaints against the Children's Service as she was seeing a number of abuse allegations brought to her where the Children's Service had known of them previously. Bridget Shaw had also done a report about the shortcomings in Children's Services. I think there were even a few serious case reviews where the SOJP took a real look at Children's Services and Social Services. However, Graham Power was very adamant that the SOJP needed to get their own house in order before they could build a stronger relationship with other Government Departments and services.
82. By 2007 the SOJP had a very good Public Protection Unit, also known as the Family Protection Unit. It was John Pearson, supported by Graham and I, who really pushed and developed this unit. Before 2006, this unit had been a bit of a mess.



83. John Pearson had been the main instigator of change and modernisation in the CID and in the unit. One of the early changes made was to put Alison Fossey right at the centre of the unit. Alison Fossey was very much a modern breed of police officer. She had also come from Strathclyde and we knew she was the right person to take the Public Protection Unit forward.
84. John Pearson introduced a lot of changes during his time at the SOJP, particularly between 2002 – 2007, including the way in which vulnerable victims were dealt with, and the relationship between the SOJP and various Jersey Government Departments, including the Children's Service.
85. John was one of the main advocates for ensuring better liaison between the SOJP and the Children's Service/Social Services. Putting Alison Fossey in the Public Protection Unit was a step in the right direction in this regard. John also pushed for more appropriate venues to be built for vulnerable witnesses to provide their evidence in. Purpose-built venues were subsequently built to allow those who had been abused to come in and give their witness evidence in a more secure and neutral environment.
86. By this point, and up until the commencement of Operation Rectangle, we were really trying to build up the relationship between the SOJP and victims of abuse and sexual crimes in Jersey so that they felt comfortable enough to approach us. Graham was becoming very, very concerned, prior to these changes, that the force was heading for absolute disaster and John Pearson started the reform by ensuring that the right people were in the right positions. Around this time, I was also working with a number of other minority groups on Jersey including Portuguese, Polish and the gay community (Homosexuality was something that was illegal in Jersey up until the 1990s I believe).
87. Despite all of the cases I was reviewing in 2006/2007 as described in this statement, I was sure that we were building up a trusted team to deal with allegations of child abuse.

## **Operation Ore and the Jersey Sea Cadets**

88. In 2005, the Commanding Officer of the Jersey Sea Cadets was arrested as part of Operation Ore. Operation Ore was an investigation instigated by the FBI to identify paedophiles that were accessing internet sites containing indecent images of children, and using their credit cards to do so. The officer's name was Paul Every. Paul Every also worked in the Chief Minister's office.
89. The Jersey Sea Cadets are akin to the Army Cadet Force that is seen in the UK. So effectively youngsters sign up and learn skills, including how to sail.
90. When Paul Every was arrested, we obtained his computer and conducted a sophisticated search for evidence. It became immediately apparent that Paul Every had very sophisticated scrambling software on his computer, leading me to believe that he had been tipped off that he was going to be arrested. Evidence was erased by virtue of this software. I was concerned by this and I knew that a number of senior officials in the Jersey Government and the SOJP were members of the Jersey Sea Cadets, for example, the Head of CID, Andre Bonjour. However, at the time I did not want to believe that a member of the police force, including Andre Bonjour would have been responsible for the tip-off, to the extent that there was one.
91. Despite the scrambling software on Paul Every's computer, we did obtain a large amount of good evidence, including some disturbing material. For example, we found that Paul Every had been conducting internet searches using indecent search terms such as 'naked sea cadets'.
92. On obtaining this evidence, I immediately made a disclosure to the Jersey Sea Cadets, to an administrator named Trevor Raison as well as making a disclosure to the Chief Minister's office. Frank Walker was the Chief Minister at the time. I expected the Sea Cadets to take steps to remove Paul Every, or at least suspend him, but to my horror, no action was taken. I spoke to Andre Bonjour about why nothing was being done at the Sea Cadets to suspend or look into this matter further. Andre said that he was staying out of it, presumably because of his connection with the Sea Cadets.

93. I therefore questioned Raison about the lack of action at the Jersey Sea Cadets and he responded that an individual was innocent until proven guilty. In light of the evidence we had, I did not accept this as a reason for inactivity and I felt that steps needed to be taken to protect children and to prevent Paul Every from having access to the sea cadets. I therefore made a telephone call to the Naval Headquarters in the UK, as I knew that the UK Headquarters financially supported the Jersey Sea Cadets. I spoke to a man with the surname Bonner who did not want to get involved and did not want to intercede in the Jersey Sea Cadets. I later found out that even a member of Bonner's team had just been jailed for sodomising Indian street boys.
94. I therefore went back and told the Jersey Sea Cadets that if they did nothing I would go to their gates and disclose details of all the allegations against Paul Every to every parent that came within the facility. At this threat the Sea Cadets suspended Paul Every.
95. It was a long battle to bring charges against Paul Every as the Attorney General kept sending the file back to us, despite the Lawyer's Office being satisfied that there was evidence to bring a charge. In fact, Laurence O'Donnell was himself quite concerned with the delay in charging Paul Every. Due to the seriousness of the allegations against Paul Every, it was a matter where the Attorney General would have likely needed to personally give permission to charge.
96. One point I would like to make here is that, throughout Operation Rectangle, Laurence O'Donnell would quite often come to me with his concerns about 'do not charge' decisions or delays within the Attorney General's Office. Laurence would often say to me that he did not 'have the bottle' to raise concerns himself, due to the possible repercussions on his career, he was always walking a tight rope. Therefore, Laurence would give me the ammunition. I was the conduit for his conscience I think. Laurence's wife, Sarah, also worked within the Attorney General's Office, and I had a good relationship with both of them. I refer to this later.

97. A year after the arrest, the Attorney General finally agreed that we could charge Paul Every.
98. What became more concerning to me, around this time, was not only the Paul Every case but also that we were receiving a large number of allegations about the abuse of children by members of the Jersey Sea Cadets more generally. Due to the number of allegations I received, I attempted to obtain files from the Sea Cadets but they refused to disclose such files. I therefore went to their base in the UK, by which point Bonner had been removed from post and there was now a full-time naval officer - Lieutenant Commander Bushell, overseeing the Sea Cadet operation.
99. Lieutenant Commander Bushell was shocked that the Jersey Sea Cadets would not allow me to look at their files. He was concerned however that if he ordered them to deliver up the files, they may 'go missing' before I had the chance to see them. We therefore devised a plan/pretence which would allow me to receive the files I wanted.
100. Lieutenant Commander Bushell was due to be in Jersey for Remembrance Day that year and he confirmed that on his arrival he would order the Jersey Sea Cadets to deliver the files to me whilst he was there, which he did. I visited the offices under some pretence and was there when Commander Bushell arrived. I needed these files urgently as complaints had been made against a number of Sea Cadets including a sea cadet named [REDACTED] and also [REDACTED]. One particular female came forward and claimed that she had been indecently assaulted and, whilst she did not want to bring a case herself through fear of retaliation, she did not want it happening to others.
101. Upon investigating claims against the Jersey Sea Cadets, it soon became apparent that four serving officers all had criminal records of a sexual nature, including rape and indecent assault. These were: Roger Pickton; [REDACTED]; [REDACTED]; Paul Every; and, [REDACTED]. I recall that [REDACTED] was even known as 'Officer Pervert'.

102. By this point, Laurence O'Donnell was becoming very concerned that there was a paedophile ring in Jersey, especially within the Sea Cadet community. I was not convinced by this at that point in time, but it did seem that the assault of sea cadets was considered as an accepted behaviour, albeit abhorrent. It was becoming clear, from the testimonies of many victims, that children were being taken out on boats and assaulted, including children in care taken from HdIG.
103. It later transpired, through my investigations, that younger officers had actually looked into possible child abuse within the Jersey Sea Cadets previously but that the investigations had gotten nowhere.
104. The Paul Every case and the wider complaints we were receiving about the Jersey Sea Cadets was really the catalyst for me, and Laurence O'Donnell, to start looking into other historic abuse files. I believe that we started to look at historic files in 2006.

### **Victoria College**

105. One case which was brought to my attention, as part of the file review I was conducting as part of my general concern about abuse, was a matter at Victoria College involving Jervis-Dykes, which had originated from the 1990's. This case had therefore concluded well before my arrival in Jersey. I believe it was Laurence O'Donnell that brought this case to my attention.
106. Victoria College was a very prestigious college that even the Bailhache brothers had attended. Philip Bailhache was also on the Board of Governors. It was an officer called Anton Cornelissen that was running the particular investigation at Victoria College and he was very concerned about the allegations against Jervis-Dykes. I was later to find out that Cornelissen had a nervous breakdown as a result of this case.
107. Jervis-Dykes was a senior teacher at Victoria College and the SOJP had received a number of allegations, by boys at the college, of sexual assault committed by Jervis-Dykes. There were also allegations, and evidence, that

teachers at the college knew of the sexual assaults and had done nothing about them.

108. When I looked at the file, it appeared that a formal complaint against Jervis-Dykes had been made in 1996 and that 13 victims had come forward. The allegations related to assaults whilst on Navy Cadet outings or during sailing trips. A police report was drafted at the time but the allegations were dismissed as rumours.
109. Despite the original allegations being dismissed, Jervis-Dykes was later arrested after a video was retrieved showing him assaulting a number of boys, mainly during school trips. On receiving this video, the SOJP approached the Head Teacher (Jack Hydes) and the Deputy Head Teacher (Piers Baker) of Victoria College and asked them to identify the boys being assaulted on the video. They refused to identify the boys and generally refused to engage with the investigation.
110. More disturbingly, on one occasion Piers Baker apparently said that if Jervis-Dykes had been sexually assaulting pupils it was probably as 'payment for the time he provided in taking pupils sailing'. It was put in terms that sexual abuse was a perk of the job. This series of events is described by Cornelissen in an e-mail he sent Alison Fossey on 06 August 2007, attached as my **Exhibit LH2**.
111. One matter which also came to my attention, on reviewing the case file and speaking to various officers, was that there were SOJP investigating officers that were closely linked to Victoria College including Roger Pryke and John De La Haye. It became clear that Anton Cornelissen had been told to 'back off' from the Victoria College case and that evidence had gone missing.
112. Emma Coxshall, another SOJP officer, corroborates this story and on 16 November 2007 she told me she remembered the Jervis Dykes case and that of the Maguires. She remembered the problems with both cases but they were particularly acute in the Jervis Dykes matter. She told me that she and other officers had faced obstructions from within – exhibits had disappeared from cabinets and case papers were being removed and

shredded. She and two other female officers went to Chief Inspector Kevin McKerrell and informed him of the problems, and she noted the meeting in her official notebook, which she showed me. The record included the reasons for the meeting. She further added that frequently she and other officers would receive allegations of abuse and find that the Children's Service knew of those allegations a year or two previously. On two occasions she had made complaints against the Children's Service. I then asked her to submit a confidential report. Following this I asked Kevin McKerrell about what she had said. He told me he remembered the meeting but denied that he had been told about exhibits going missing. However, DC Coxshall's version of events was corroborated by two officers – Detective Sergeant Mike Shearer and former Detective Inspector Barry Faudemer.

113. Anton Cornelissen was later taken off the Victoria College case, just as all the evidence was coming to light. This would very much appear to be as a result of his attempts to get to the truth and his refusal to back off. The SOJP uniform supervisors of Cornelissen at the time couldn't understand why Cornelissen was taken off this case just as it was getting somewhere. To make a point in respect of their feelings about this, Cornelissen recalls the two Sergeants organising a shift photograph.
114. As previously referenced, on 06 August 2007, Anton Cornelissen sent an e-mail to Alison Fossey confirming what he recalls of the Victoria College investigation in the 1990's, particularly the problems encountered. This e-mail is exhibited as my **Exhibit LH2**. Within the e-mail, Cornelissen confirms that he was prevented by De La Haye from conducting enquiries at St Helier Yacht Club without him being present. Cornelissen confirmed that De La Haye refused to let him see the club log book, and instead viewed the book himself and told Cornelissen the dates Jervis-Dykes had visited.
115. Despite De La Haye not allowing Cornelissen to view the log book, Cornelissen later returned to the Yacht Club where he viewed the log book and found that senior officers had been frequently attending the Yacht Club together. Cornelissen named the senior officers as Roly Jones, Trevor Garrett and De La Haye (as described later, De La Haye was to telephone



Trevor Garrett immediately after being questioned as a suspect on my instructions). These visits, according to Cornelissen, sometimes occurred when Jervis-Dykes was there with students. Within Cornelissen's e-mail, he also explains how he was under pressure to drop the investigation into Victoria College and that he received threats that his career would be hampered.

116. One point also worth noting is that Cornelissen claimed that he had confided in one of his supervisors, Detective Sergeant Pryke, during the investigation, about the comment that had been made by Piers Baker i.e. that if Jervis-Dykes had been assaulting boys, it was probably as payment for the time he had spent with them. It was also discovered the Pryke was a neighbour and personal friend to Baker, who was also a close friend of De La Haye. Pryke denied that he had been informed of what Baker had said. Cornelissen was later sued for libel. Presumably Piers Baker had been tipped off that Cornelissen was telling individuals of this event, most likely by Pryke. The libel action was subsequently dropped I believe. Also interestingly, the widow of Pryke was the politician who attended HdIG early on in our search there and demanded access and updating on what we were doing and what we found.
117. Jervis-Dykes was later prosecuted, which was always going to be the conclusion given that there was actually video evidence of him masturbating young boys. The Board of Governors at Victoria College also started an investigation into the matter, which is what lead to Jack Hydes being dismissed and Piers Baker resigning. Jack Hydes and Piers Baker had supported Jervis-Dykes throughout the investigation, even when the video evidence came to light. Therefore, they had to be removed. Further detail on the Victoria College investigations is also contained within my **Exhibit LH1**.

#### **Other case reviews**

118. Before Operation Rectangle commenced, Laurence O'Donnell also brought me the case of Thomas Hamon for my review.

119. Thomas Hamon worked at HdIG and was also a member of the St John's Ambulance service. The SOJP had received a number of allegations against Thomas Hamon, mainly that he would take children on trips with him to the St John's Ambulance where he would then assault them. The victims were mainly boys from HdIG.
120. Thomas Hamon was convicted of a number of assaults on children but committed suicide whilst awaiting trial. My review of the police file led me to raise questions about the staff at HdIG and how much they knew about these assaults. I was beginning to become increasingly concerned about HdIG as it was a venue which was mentioned not only in the Sea Cadets context but also in others.
121. Following a review of all of the cases mentioned above, I began looking back 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 investigations. One case that caused me concern was the case of David Powell and Rommeril. This was a truly hideous case from around 2006 where the crimes committed by Powell and Rommeril included sodomy, masturbation of young boys and oral sex with young boys. I again recall that one of these offenders committed suicide awaiting trial.
122. This case again had connections with HdIG and the Sea Cadets. One particular boy that came forward had alleged sexual assault and recalls being dangled over the side of a boat by one of the offenders whilst being raped. The boy actually recalled that his head was bobbing in and out of the water. It was a particularly horrific allegation.
123. As part of the investigation into Powell and Rommeril, it appeared from the police file that production orders were made on their telephones. At this point in time there was a worrying turn of events in that the telephone records of Powell and Rommeril implicated police officer John De La Haye. De La Haye was also involved in the Victoria College investigation, and may have been involved in discouraging Cornelissen from proceeding with the case. I was therefore very concerned that a text message from one of the offenders

appeared to be commenting on the investigation and said that De La Haye was 'one of us', so 'everything would be ok'.

124. This was the last mention of De La Haye in the police report so I presumed that there must have been a follow up and that De La Haye must have been spoken to as part of the investigation. It came to my attention that Alison Fossey was the investigating officer for this matter so I questioned her about what had happened with De La Haye. Alison confirmed that De La Haye was never questioned in relation to the matter as Andre Bonjour had asked her not to do so. According to Alison Fossey, Andre Bonjour did not believe there was enough evidence to justify questioning De La Haye.
125. Once I heard this from Alison Fossey I was very concerned and, to protect her, on 3 August 2007 I sent her an e-mail effectively saying that I had just discovered this. Within my e-mail to Alison I asked some very direct questions about the investigation, including whether De La Haye had been interviewed and, if not, why not. I made the questions very explicit. Alison again confirmed that Andre Bonjour had told her not to question De La Haye. There are four emails in all in this exchange with Alison and I produce this series of emails as **Exhibit LH3**.
126. According to the police file, the SOJP had obtained a production order on De La Haye's phone at the time but that the phone records did not implicate him in any way. This appeared to be the reason why Andre Bonjour did not want De La Haye to be questioned as he did not consider there was sufficient evidence. Andre Bonjour confirmed this to me. I thought this a little strange, as there was sufficient cause to at least interview him in light of the comments made. The level of suspicion needed to interview is vastly different from that needed to charge, and I would have thought that a police officer with any sense would have known the criticism that the force may have faced for ignoring the possibility of an officer being involved in serious crime of this nature.
127. As I still felt uneasy about De La Haye being implicated, I checked the mobile phone records and it became apparent that the phone that had been checked

by police was not De La Haye's at all but was in fact his wife's. The police report said nothing about the phone belonging to his wife, and anyone reading the report would assume the phone belonged to the former officer. This therefore raised alarm bells with me. When I spoke to Andre Bonjour about this he said that they couldn't find a phone for De La Haye at the time so therefore the only option had been to search his wife's.

128. However when I conducted my own search, I managed to find a phone number for De La Haye within 20 minutes. I also verified the number by asking a colleague to call it and it was answered by De La Haye within seconds. It transpired that he was in his yacht on the sea somewhere. It also transpired that the phone number in question actually belonged to a phone that had been bought as a present for De La Haye by the SOJP on his retirement. Therefore I find it difficult to believe that any of the investigating officers would not have been aware that this phone existed or that it would have been that difficult to find.
129. When I challenged Andre Bonjour about this he was very vague and appeared unsure of himself. I spoke to another officer who also confirmed that he didn't know it was De La Haye's wife's phone that was checked. I suspected that Andre Bonjour must have known that De la Haye did have his own phone at the time of the investigation. I therefore asked Alison Fossey to bring in De La Haye and question him about his implication in the David Powell and Rommeril matter. Suffice to say, it was a no comment interview.
130. After the interview with De La Haye I checked his phone records and I found that on leaving the police station he had immediately called former SOJP senior officer, Trevor Garrett, one of those senior officers named by Anton Cornelissen in the Victoria College investigation. I think it likely that the call to Trevor Garrett was to discuss the interview we had just had. This caused me to become very suspicious of some former senior officers within the SOJP and there appeared to be an emerging story of police cover-up. It was not only within the police that concerns were being raised. In March 2008 we received a letter from a Jersey lawyer by the name of Timothy Hanson who asked questions as to whether De La Haye (although he didn't name him)

had been interviewed following him being implicated in the Powell and Romeril case. I produce this letter as **Exhibit LH4**.

131. Due to the matters that had been discovered during my file review, I instigated a Professional Standards Inquiry into Andre Bonjour which was conducted by South Yorkshire Police. I understand from their briefings that there was clear evidence found by them of criminal and misconduct matters. However, the investigation was not finished by the time I retired and left Jersey. I know that David Warcup confirmed to Graham Power that the report that had been produced would have been a 'career changer' for Bonjour. The implied message was that Andre Bonjour's career would be finished. However that report would appear to have never surfaced and Andre Bonjour was later promoted to Head of Operations. I cannot understand how Bonjour came to be promoted in light of what I was told were the findings of the South Yorkshire team. De La Haye also received no sanction or further investigation following the Powell and Rommeril discoveries. In my eyes, De La Haye was a corrupt detective who instead of protecting victims as he should have done, was more interested in covering up the abuses they had suffered.
132. Further cases that were brought to my attention, during my case review stage, were the cases of [REDACTED] 264 and [REDACTED] 195 that were from the 2003/2004 period. These were brought to me by a SOJP officer named Peter Hewlett [REDACTED] 264 was a [REDACTED] at HdIG and [REDACTED] 195 had alleged that [REDACTED] 264 had assaulted him, whilst he was at the home. This case also had a [REDACTED] element to it as well, as [REDACTED] 264 brought a case against [REDACTED] 195 for [REDACTED] in relation to the alleged assault. During the Court case, the Court actually took the allegations of assault as being true, although [REDACTED] 264 name was kept confidential. [REDACTED] 195 was convicted of [REDACTED] I knew by this stage, having conducted a review of many historic files, that [REDACTED] 264 had a number of complaints against him, some of which involved him taking boys out of HdIG on boats and assaulting them.

133. All of the above cases led Laurence O'Donnell from the Law Officer's Department to believe that there was a paedophile ring on the island of Jersey and he convinced me that the problem was serious and widespread.

#### **Calls for an investigation at HdIG**

134. One matter that was also brought to my attention, before Operation Rectangle started, was that a number of SOJP officers had requested reviews/inquiries into historic child abuse at HdIG but all these requests were denied or overlooked.
135. Peter Hewlett, a SOJP officer, came to see me in around 2006, and told me that he had submitted a report in 2002/2003, requesting an investigation into child abuse at HdIG. Peter Hewlett confirmed that he had submitted his report to Andre Bonjour and that whilst he did chase it up on one occasion, it never came to anything. Bonjour, at that point in time, was the head of CID. I was concerned by this so I questioned Andre Bonjour about why this wasn't followed up, Bonjour said it was a matter of resources.
136. Peter Hewlett has confirmed to me that his report was sufficiently detailed to scope the investigation. He had also detailed a number of allegations that had been made against staff at HdIG, to justify the investigation, including the case of Thomas Hamon and 264 I do not have a copy of this report but I asked Peter for a summary of what had happened and I produce that as **Exhibit LH5**.
137. Interestingly I also later found out that a drugs squad officer, Steve Megaw, had also reported to the Head of CID in 2005 that HdIG should be investigated. I cannot recall who was the head of CID at that time, but it was starting to become obvious to me that HdIG had been on the horizon for a number of years, and that senior police officers were ignoring the requests from junior officers for an investigation.
138. One matter that also came to light during the investigations leading up to the commencement of Operation Rectangle, was the fact that when children, particularly boys, went missing on the island i.e. had run away from home

and were then found, Parishes would often 'dump' those children into HdIG. However, no records were kept of these incidences. Furthermore, in the lead up to Operation Rectangle I had a number of officers approach me feeling very guilty as they had often returned runaways from HdIG straight back there, despite the fact that some of the children had claimed that they had been abused at the home.

139. Having heard all of the above and knowing the trouble that the SOJP had in charging other suspects of child abuse, alarm bells began to ring. HdIG kept coming up as a recurring feature. I felt that there was every justification for investigating the suggestion of child abuse more thoroughly.

### **Approach from Birmingham County Council**

140. It also came to light that Birmingham City Council had sent children, requiring care, to Jersey in the 1970s and that six of these children had actually become 'lost' to them. The Council did not know where they had been sent when they arrived at Jersey. We were asked to look into the whereabouts of these children, I think, by John Hemming MP. John Hemming sent us the names of the six children. We did manage to locate five boys but one remained missing. It appeared that, within the Jersey Care System, there was no record of these six children having been placed in care. It seemed as though they were farmed out to foster families when they arrived on Jersey.

### **Record keeping**

141. One matter that was a constant hurdle both before Operation Rectangle, and during it, was the lack of record keeping at care institutions, specifically HdIG.
142. In terms of police record keeping, the police held an 'occurrence book' where children coming in and out of the station would be logged. This included where children were taken back to homes such as HdIG. In terms of the record keeping at HdIG, I found that there were no adequate logs or visitors books at all. This often presented a challenge for us as abuse claims being made against staff at HdIG were very difficult to substantiate as it was hard for us to prove that the child in question was at HdIG at the same time as the



alleged abuser. In reality, we would often have testimony from others on this point, such as the parents or witnesses. But, there were no official records. We received reports that children had even been taken to HdIG for the weekend when they were naughty but no records existed of this. All of this made it easier for suspects and sympathetic politicians to argue in such cases that the victims had not in fact been in the homes at the time they were.

143. In terms of the record keeping of the Children's Services, again I often found that there was no adequate record of where children were at any specific time. It appeared that children just came in and out of the care system anonymously. Worryingly, I also found that there were occasions where a parent would allow or arrange for their child to be sent to HdIG for a short period of time if the child was misbehaving. This appeared to be a form of punishment. This conduct was not logged at all and actually I am not even sure the extent to which the State realised that they were paying for this to happen as the Honorary Police seemed to have an informal arrangement in respect of this.
144. One other point worth mentioning here is record keeping in relation to missing children. We often found that obtaining information on missing children was very difficult as no records were actually kept of missing persons in Jersey until circa the 1980s or early 1990s. As previously mentioned, whilst the SOJP started in the mid-50s, it was only in the 70s that the SOJP were truly operational. Therefore, before that time, it was the Honorary Police that dealt with missing persons and no records appear to have been kept.

### **The Maguire case**

145. One very important investigation that spans the periods both before and after the commencement of Operation Rectangle, is the case involving Jane and Alan Maguire. Whilst I have detailed the chronology of this case here, it is relevant to what happened during Operation Rectangle also.

146. Jane Maguire was employed as a House Mother in a care home on Jersey (Blanche Pierre) in the 1980's. Prior to this, she had been employed at HdIG. Her husband, Alan Maguire, whilst not technically employed at Blanche Pierre, effectively took on the post of House Father. Alan Maguire had no qualifications in relation to childcare but Jane had been employed by care homes for a number of years and had built-up experience by the time the complaints were first made against her in/or around the 1990s.
147. In 1997 the police were contacted by Children's Services. This was one of the rare occasions where communication did occur between the SOJP and Children's Services, about a number of complaints that had been received relating to physical abuse by Jane Maguire and possible sexual abuse by Alan Maguire. The allegations were made by a number of young men and women who had been children in their care in the 1980's.
148. It turned out that Children's Services had been receiving complaints for a number of years but reached a point where they believed they should approach the police about it. The police therefore first started looking at the case in the 1990s.
149. This case did not come to my desk for review until the summer of 2007 and, at that point in time, when I reviewed the police file the only notes of abuse claims were those of physical abuse and no mention was made of any sexual abuse claims. The Maguires' file was one of the many files I was looking at around this time to get the bigger picture about allegations relating to child abuse. It was brought to my attention specifically because of the difficulties the team had faced in bringing a prosecution against the offenders and due to the Attorney General's involvement in the ultimate decision to drop the case.
150. It soon became apparent upon investigating the Maguires' case, that an agreement was reached between the police and the prosecutors that any references to sexual abuse would be removed from the police file as the allegations were not corroborated. Therefore, anyone picking up the police file would not know of the allegations of sexual abuse. I know this because

the 'lack of corroboration point' is mentioned in the report drafted by D.C. Holmes on 28 April 2008, **Exhibit LH6**, as referenced later. It is worth noting that neither Bridget Shaw nor Laurence O'Donnell were around at the time of the Maguire case. Neither was I.

151. Looking at the police file, the Maguires were charged with child cruelty offences in the mid 90s and they were committed in June 1998 by a Judge Trott. Advocate Harris was acting in prosecuting and Advocate Lakeman was defending. I presume Judge Trott was a UK Judge because, whilst Jersey cases are heard before the Magistrate, UK Judges do preside over cases where the Magistrate is on holiday etc. I therefore suspect that because Trott is referred to as a Judge, he is actually a UK Judge.
152. In June 1998 both Alan and Jane Maguire were committed for trial. During this period Mr Maguire apparently became ill, and although this did not appear to concern the Judge, there was a memo on the police file from Ian Christmas, a legal adviser to the Attorney General, saying that he was concerned about the way in which the Judge had handled the committal. I only have the first four pages of this memo in my possession but I produce these as **Exhibit LH7**. Ian Christmas was concerned, and believed, that the judge was biased against the Defendants and that, as Mr Maguire was terminally ill, 'compassion' should be a reason to stop the prosecution process. It appears that after receiving this memo the Attorney General dropped the case against the Maguires. I believe Sir Michael Birt was the Attorney General at this point in time. When I looked at the police file there was a 'no prosecution' note.
153. Just to add some further commentary, I personally liked Ian Christmas and got on well with him on a personal level. However, later during his tenure as Magistrate, he was convicted for fraud. I think the allegation was that he was part of some scam which involved defrauding people out of money.
154. Later on in my case review, I received a further memo which noted that Mr Maguire's terminal illness was a significant reason for dropping the case, although this was denied later, which I explain below. This second memo

was from an 'Advocate Binnington' and it appeared that the Attorney General had asked Binnington to review the allegations against the Maguires. Again, I only have the second and final page of this memo and I produce it as **Exhibit LH8**. To my recollection, Binnington had concluded that there was a prima facie case but that there would be sympathy for the Maguires as they were simply disciplining kids. Mention was also made again to the fact that Mr Maguire was terminally ill. This Binnington memo was not on the police file. I instead received this on my desk from a member of the Attorney General's office. I have described later, what the D.C. Holmes report said about the reasons for abandoning the case against the Maguires.

155. In February 1999, Jane Maguire was sacked for allowing physical abuse of children. Alan Maguire could not be sacked as, in theory, he was not an employee of the care home. The Maguires then moved to France, having escaped trial. Therefore, by the time this case landed on my desk for review, the prosecution of the Maguires had long been dropped and they had moved to France.
156. In 2008, Panorama reported on this case and found the Maguires alive and well in France. I was liaising with Robert Hall from the BBC, who had strong Jersey family connections, at this time. Before Panorama got wind of the matter, I had myself detailed officers to try and locate them in France, and it appeared that the Maguires were looking after holiday homes for prominent Jersey residents. Panorama found the Maguires before my officers did.
157. After the Panorama programme, I started looking for evidence that Alan Maguire was ever ill. No evidence ever came to light and I found no trace of any medical record indicating an illness.
158. Around the time of the Panorama report, I placed two officers on the Maguire case, being Kim Newth and Philip Holmes. It was only at this stage that I discovered that many of the allegations against Alan Maguire were actually of a sexual nature, and yet no mention had been made of this on the police file.
159. There were even allegations that the victims, who had alleged abuse, were actually wheeled into a room with the abusers, the police and Attorney

General staff and were threatened. They were told that they were clearly telling lies and they were effectively intimidated to the point in which the sexual allegations were dropped. I found this hugely disturbing. It was my view that this intimidation by some persons within the Jersey establishment was still taking place, and this was confirmed to me when one victim called me to tell me that they had been threatened both personally, and with losing their job. When I heard this I gave a statement to Sky News to make clear that if one more victim was threatened, such people would be arrested, charged and jailed. I would not tolerate this sort of behaviour.

160. When I was conducting my review into the Maguire's case I was concentrating on the original allegations (therefore the ones of a physical nature) together with the allegations that were raised of a sexual nature but not documented on the police file. We did not have the resources at that point in time to consider issues relating to the cover up and the intimidation that had taken place of the witnesses at this meeting. In any event, this was all outside the parameters of the current investigation as it was.

161. On 28 April 2008, D.C. Holmes completed a report on the Maguire investigation. This report, which is at **Exhibit LH6**, set out the background to the Maguire case and listed the individual witnesses that had come forward and alleged abuse, the report includes detail of the allegations as originally made, and whether those accounts changed when the witnesses were re-visited during Operation Rectangle. The witnesses that came forward, and alleged abuse, were:

161.1 [REDACTED] <sup>76</sup> – who alleged physical abuse by Jane and Alan Maguire and sexual abuse by Alan Maguire, namely that he had incited her to commit an act of oral sex on him when she was seven or eight years old;

161.2 [REDACTED] <sup>82</sup> – alleged physical abuse by Jane and Alan Maguire;

161.3 [REDACTED] <sup>88</sup> – alleged physical abuse by Alan Maguire [REDACTED] <sup>88</sup> also alleged serious sexual abuse, sodomy, by Kevin Noel, [REDACTED] [REDACTED]. Noel was convicted of such offences;

- 161.4 [REDACTED] 81 – alleged physical abuse and provided evidence on matters described by [REDACTED] 76. [REDACTED] 81 later made a further allegation of sexual abuse against Alan Maguire, namely that he had her perform oral sex on him;
- 161.5 [REDACTED] 84 - alleged physical abuse, witnessing physical abuse, and made a sexual abuse allegation against Alan Maguire, namely that he would repeatedly put his hand down her knickers and up her top;
- 161.6 [REDACTED] 154 – alleged physical abuse by Alan Maguire and witnessing physical abuse;
- 161.7 [REDACTED] 83 - alleged physical abuse; and
- 161.8 [REDACTED] 199 – who came forward during Operation Rectangle and alleged physical abuse by Alan Maguire and that he was forced to perform oral sex on a female girl, who he believes may have been [REDACTED] 76
162. The report of 28 April 2008 also provided detail on interviews conducted with other members of staff at Blanche Pierre, including [REDACTED] 164 and [REDACTED] 165 who both corroborated some of the allegations against the Maguires. The report provides details of other witnesses either in support or defence of the allegations. Such witnesses included [REDACTED] 90 Anton Skinner, [REDACTED] 316 Richard Davenport (who I believe was also on a list of suspects during Operation Rectangle) and others. The report also details the interviews that had taken place with Jane and Alan Maguire.
163. The report also dealt with the previous committal of the Maguires and the original decision to abandon the prosecution. The report, at page 9, confirms that the decision to abandon the case seems to have been made on the following grounds:
- 163.1 ‘Age of witnesses at time of offence’;
- 163.2 ‘Difficulties caused by passage of time’;
- 163.3 ‘Likely defence witnesses’;

- 163.4 'Possible sympathy for Maguires from Jury'; and
- 163.5 'Character of prosecution witnesses'.
164. Sympathy was also expressed for Alan Maguire's medical condition and the fact that he had stated he did not have long to live. The report, at page 9, comments on the fact that there was no medical evidence to support Alan Maguire's claim that he did not have long to live. At least, nothing was in the case papers.
165. On 29 April 2008, I submitted a file to one of the legal advisers that had been appointed on Operation Rectangle (I will explain this further below). The particular legal representative was Simon Thomas. I sent the Holmes report to Simon Thomas and I effectively wanted extradition of the Maguires so that the SOJP could question them. It is worth noting that by this point we had some fresh allegations against the Maguires, as well as the historic ones. The fresh allegations were of sexual assaults, I believe, and some have been detailed above. The investigators, Deputy SIO, and I regularly asked Simon for updates but they were rarely forthcoming even when he was in Jersey.
166. On 20 May, after frequent attempts to elicit some response, police officers Newth and Holmes were told by Simon that he needed another day, or perhaps a day and a half, before he could start the extradition process. However, nothing was heard, and it was not until the middle of June when I was further chasing matters that Simon told me he and [REDACTED] had almost finished work on the charges. I think he said he had about a day and a half of work left on it. Then, some days later Simon informed me that the Attorney General had asked for a full advice file on the facts and the law. Stephen Baker, after some debate with myself, undertook to have the Attorney General fully advised within seven days. That period expired with no further word and some days later when the investigating officers challenged him about it, Simon Thomas e-mailed back, 'I will answer this question next week.' To me, this answer to a reasonable and sensible question beggared belief.



167. It is worth noting that during this time there were a lot of public eyes on this case and it was becoming somewhat of a landmark case, especially given the Panorama showing of the Maguires in France. I was also quite concerned about the fact that the victims were losing confidence in the system due to the delays that were happening around getting the Maguires extradited. This caused me great concern because I was just beginning to build relationships with those that were coming forward with abuse allegations. Victim trust, if lost, may never be regained.
168. There was also a mention made by Simon Thomas, on 20 May 2008, of the possibility of Jane and Alan Maguire raising an 'abuse of process' argument, should a decision be made to proceed with the charges against them. Holmes and Newth drafted a report on 29 May 2008, following the 20 May 2008 meeting, which will be mentioned later below.
169. On 25 May 2008, Simon Thomas mentioned that he was looking to run not only with the physical abuse allegations but also the sexual abuse allegations. However a few days after this, Simon Thomas said that he was having some trouble with the extradition process and that he did not think they could extradite for the old offences. As I was concerned about this, I spoke to the Lawyer who had drafted the Jersey extradition laws. Unfortunately, I cannot recall his name. He didn't really understand the concerns of Simon Thomas and felt that it would be no problem at all to extradite the Maguires on the grounds we were seeking.
170. I also spoke to Alison Riley, the Head of Extradition at the CPS in London, after Simon had told me that he was having trouble finding anyone to take advice from at the CPS. I had no problem contacting the person concerned. She effectively said to 'slap it all on the warrant', meaning the old offences and the new ones. I therefore gave all this information to Simon Thomas. It then came to light that the Attorney General now apparently wanted a full report on the 'legal and constitutional implications' of extraditing the Maguires from France. When Simon Thomas informed me of this I was a little perplexed as I had understood that extradition, in this case, was going to be a straightforward process. I assumed that the Attorney General must have

known in any event what the constitutional consequences would have been of extradition; any adverse consequences were not at all clear to me. I made it clear to Simon Thomas that if we delayed this any further, it would cause absolute havoc in the level of confidence that victims held in our investigation, and it would damage the reputation of the SOJP and, in my view, the Attorney General's office.

171. As mentioned earlier above, Holmes and Newth had prepared a report following the meeting on 20 May 2008 with Simon Thomas. This report was drafted on 29 May 2008 and set out five specific questions that needed to be researched and considered in relation to the 'abuse of process' point. This report can be seen at **Exhibit LH9**. The five specific points were:
172. Why were the sexual allegations made against Alan Maguire not proceeded with at the time?;
173. What was said to the Maguires in Court about the case being dropped other than what is contained within the letter of discontinuance?;
174. What has changed since the decision was made and was that decision wrong, and if so, why?;
175. What might Maguire say to show he has acted to his detriment once he was told of the decision to discontinue?; and
176. Had any new facts, not known at the time, come to light since the decision was made to discontinue the case?
177. Whilst I do not want to repeat the contents of the 29 May 2008 report, the report did set out detailed answers to each of the five points above and commented on the lack of any medical evidence to show that Alan Maguire was seriously or terminally ill. The report also commented on the credibility of the victims that had come forward and provided detail on the new allegations that had come forward during Operation Rectangle. The report concluded that the Maguires would undoubtedly raise an abuse of process argument, but that the police were of the opinion that the original decision to

discontinue the case was wrong and that the Maguires should be returned to Jersey for proceedings to be recommenced against them.

178. There was then a lot of e-mail correspondence between Holmes and Simon Thomas in late May 2008 - June 2008 about the case and supporting documentation. I have appended this correspondence at **Exhibit LH10**. Around the same time, there was also a lot of correspondence between myself, Stephen Baker, and Simon Thomas about the delay in progressing the extradition of the Maguires from France. I have copies of a series of three emails which started with myself emailing Simon Thomas at 08:07am on 18 June 2008. I copied the e-mail to members of my team and to Stephen Baker. In that e-mail I remind Simon that a week previously he had told me he had a day or two of work left to do on the file. I also confirm that I passed on the information I received from Alison Riley of the CPS in the UK. I also questioned the fact that the Attorney General had asked for full files on the law and the facts. At 12:12pm Stephen Baker replied. He outlined what Simon Thomas had been doing, and confirmed that he and [REDACTED] had been working on drafting the extradition charges.
179. Stephen Baker acknowledged the information I had given them from Alison Riley of the CPS. He stated that there was still a day or two's work to be done. In regards to the Attorney General's request for a fuller file, he undertook to advise the Attorney General within seven days. As can be seen below, this was not met. At 14:26pm I replied to him, clarifying a number of points. The full text of the emails can be read at **Exhibit LH11**. I should also add that as early as the 4 April 2008, I had received an e-mail from [REDACTED] in which he stated that he had already written to the Ministry of Justice in Paris in respect of the extradition. This e-mail is exhibited as **Exhibit LH12**.
180. During this time, I was under significant pressure from the media, and I informed the Attorney General's office that not only were victims and their representatives chasing me for information, but the media were also, Panorama having tracked the Maguire's down and the News of the World also showing interest. I expressed concern that it appeared we were

dragging our feet. Stephen Baker dismissed this, and stated that the case was being progressed in an entirely usual and proper fashion. I could not see that. Nor could I see what the 'extremely difficult and novel points of law' which he referred to were. Extradition to France was not a new phenomenon. Full details of this exchange are found in **Exhibit LH11** above. The Attorney General's Office continued to be very keen to stress that terminal illness was never a reason for the case being dropped, despite the memos in my possession.

181. The Attorney General wanted legal advice about the 'abuse of process' argument. My view, again, was that extradition should not be delayed. I needed to be able to give the victims an assurance that something was being done. Stephen Baker confirmed that they were following standard procedure and that the file would be with the Attorney General by 25 June. I confirmed my view that the Maguires case was a 'flagship case' for the SOJP and for the Attorney General's office.
182. I also confirmed, within my e-mail correspondence, the process that had been agreed with the Attorney General on starting Operation Rectangle, namely that Simon Thomas would be present in the police station and would receive the files of all suspects we were considering before arrest and that Simon would conduct a quick preliminary view of files and advise us on our grounds for arrest. The SOJP agreed to this process because we wanted the legal team's 'buy-in' before we went out and arrested suspects, as we were of the view that arresting suspects, and then releasing them, did absolutely nothing for our relationship with the victims. In most cases Laurence O'Donnell would also recommend the charges and would discuss them with the others in the Attorney General's legal team.
183. The Attorney General's Office wanted full and unfettered access to everything coming into the incident room, including intelligence, by having a lawyer appointed by them actually based in the incident room. I resisted this. My **Exhibit LH13** is a series of emails which sets out the process that was eventually agreed. It is interesting to note, that Graham Power, in the first e-mail on 17 April 2008 at 10:01am refers to the Attorney General's suggestion

that the lawyer would have a specialist background in Child Abuse. In his reply at 16:05 on 18 April 2008, the Attorney General rather fudges the issue of specialism and states that 'he has experience of child abuse cases.' We were later to find that in fact Simon Thomas had little or no experience of child abuse cases and was even having to send simple files back to the female lawyer in his office who did, therefore delaying our arrests even further. This is discussed in further detail below and also in a series of emails at **Exhibit LH14**.

184. We were working against the perception that if we did release suspects without charge after arrest, it was a police failure. However, due to the historic instances of potential cover up in Jersey, there was a real lack of trust of the Jersey authorities among witnesses and victims. We therefore needed to work on our relationship with the victims that were coming forward. A vital aspect of this relationship building was my high profile media insistence that we were on the side of the victims and would do whatever was necessary to get justice for them, no matter what obstacles were placed in our way.
185. On 26 June, we asked Simon Thomas for an update and he confirmed that he would reply the next week. There was then a further delay before I eventually managed to speak to Simon Thomas who confirmed that he was 'looking into it', and the report would go to the Attorney General soon but that I would not be able to see what he was advising the Attorney General, i.e. I would not be able to see his recommendations. It was actually around this time that the Binnington memo dropped on my desk.
186. On 29 July, Simon Thomas met with Holmes and Newth and made a speech about the fact that the past decision of the Attorney General was based on evidential standards alone and not related to the terminal illness of Mr Maguire. Simon Thomas alleged that it was actually the police that had created the impression that illness was part of the reason for dropping the charges, but, as I have already explained, it was the memos we received that mentioned illness. Simon Thomas said that there had been a consultation with Social Services in 1998 before the decision was taken to drop the case.

I was told by Social Services that this was not the case. My **Exhibit LH15**, gives some further details of the problems that we faced with the service from the Law Officers department.

187. In the first week of August, I was told, by Simon Thomas I think, that the Attorney General wanted advice from a specialist UK QC about extradition, but that this QC would be absent from the UK for an unknown length of time.. I do not know the identity of this QC. When I finally left the island, the Maguires had still not been extradited and, to my knowledge, were never extradited. I am told that Mr Maguire has since died, and the whereabouts of his wife are not known.
188. For completeness, it would be useful for the Inquiry to also refer to pages 26-29 of my **Exhibit LH1**, where I have also provided detail on the Maguire's case.

#### **The start of Operation Rectangle**

189. It is therefore difficult to pinpoint an exact date on which Operation Rectangle came into being as during 2007, and perhaps as early as 2006, I was reviewing a number of historic files that had been passed to me by colleagues. Sometime in the summer of 2007 Graham also had concerns about matters emanating from some Serious Case Reviews, but my memory on that is not detailed. All of this was increasingly causing concern about a possible culture of child abuse on the island. As I've already mentioned, it was a gradual and emerging story of child abuse and potential corruption. Therefore the idea of a historic child abuse investigation was at the back of my mind since early 2007, if not before. Laurence O'Donnell had certainly been voicing his concerns about child abuse on the island for some time.
190. I believe Operation Rectangle informally started in or around the spring/summer of 2007, although at that point the operation consisted solely of me conducting a review of historic cases. Up until August/September 2007, the operation was very low-key although I had been speaking with Graham Power about the emerging story and the potential need for a historic abuse investigation, specifically involving HdIG.

191. It was on 01 August 2007 that Operation Rectangle was given its title. It was on this date that I asked Alison Fossey and Bridget Shaw to start to pull together a confidential report so that Graham and I could decide where to go from there. The report was effectively to look at the difficulties in bringing child abuse cases and charging suspects, and any other problems that were being faced in that process.
192. We also wanted to look at any files that appeared to raise issues of concern and I asked that Alison and Bridget bring these to me so that I could review them. I already knew by this point about Peter Hewlett's call for HdIG to be reviewed and also that Stephen Megaw had made a similar request. I also knew of the various allegations against HdIG staff and the involvement of the Jersey Sea Cadets.
193. I don't actually remember Bridget and Alison formally coming back to me with a written report, but I do remember that there was an ongoing dialogue between the whole team about the emerging story.
194. We started to put together a confidential log of abuse claims, and we ensured that this was not accessible to senior individuals within the police force, including Andre Bonjour. Operation Rectangle was very much a 'need to know' project that involved myself, Graham Power, Bridget Shaw, Alison Fossey and the legal team including Laurence O'Donnell.
195. Between August and 20/21 November 2007, the date on which we went public with Operational Rectangle, I had sent detectives out to interview people whose names were mentioned on the files that I was reviewing, including those that had never been previously interviewed.
196. Before Operation Rectangle went public in November 2007, most of the SOJP force thought that it was a corruption investigation and we had made no effort to dispel that notion. Effectively, within the days leading up to 20/21 November, we had been working on the wording of the public statement confirming the existence of Operation Rectangle.



197. Whilst we were drafting the public statement, we became aware that Senator Stuart Syvret had launched a campaign whereby he wanted to take on the system and to represent the voice of victims of abuse. I had a lot of evidence corroborating the stories that Stuart was voicing at the time, and I knew that Stuart was in regular contact with victims and he had built up their trust in him. Stuart, at that stage however, was not bringing victims of abuse forward to the SOJP, as many of the victims still felt that the police and Jersey authorities were the joint enemy.
198. We got wind, just before going public, that the BBC was coming over to Jersey, and that Stuart had planned a stunt to effectively get arrested and bring child abuse to the forefront. We did not tell Stuart about what we had uncovered up to the point of 20th November, as we did not feel that it was appropriate for him to know such confidential details, notwithstanding the courageous stand he was making on behalf of the victims. However Alison Fossey and I talked about this to Graham Power, and we decided we needed to come up with a plan of action on how to manage the situation. We felt we needed to speak to him before he pulled a stunt in front of the BBC team. We felt that any stunt could potentially damage the investigation and stop victims coming forward.
199. I therefore spoke to Stuart the day before we issued the press release. I told Stuart that we were investigating historic abuse on Jersey and that we had evidence implicating a number of senior officials on the island. I confirmed that we really needed him to cooperate with us and I gave him a copy of the press release we were due to issue the next day. I had also given a copy of this to Bill Ogley, the States' Chief Executive. I asked Stuart not to announce the press release and to keep it confidential for the time being.
200. However, despite what I had asked, Stuart immediately announced publically that the SOJP were investigating historic child abuse claims and that we had given him our press release. When this came to light, Chief Minister Frank Walker was not happy at all.

201. On 21 November 2007, we sent out the press release confirming that Operation Rectangle was in place. It is my firm belief that we had to go public at that stage. We had a number of victims that had come forward by that point. We had interviewed many victims, and we wanted more to come forward. We were also forced a little by Stuart's planned stunt with the BBC and therefore we had to go public before any risks were posed to the investigation.
202. We effectively needed to help people come forward and we wanted to build public trust and believed that it was the appropriate time to do it. It was my opinion that a robust media policy would be a great help in attracting the confidence of victims who had been so badly treated when they had previously tried to report the crimes against them.
203. I think it is fair to say that the SOJP was unprepared for what was to come when we went public with Operation Rectangle, but I firmly considered that due to all the evidence that was emerging, there were sufficient grounds for the public announcement of Operation Rectangle. Operation Rectangle was not however started on this date; it was simply made public.
204. Also, it was in November 2007 that I obtained the files from the Jersey Sea Cadets, on Remembrance Day, as mentioned earlier in this statement.
205. I also recall that, just before Operation Rectangle went public, I went to see Mike Pollard, the Head of Health and Social Services and I disclosed information to him. This was on 15 November 2007. I disclosed evidence to him of abuse at various institutions administered by the States of Jersey, and that suspects for the abuse included members of the Education and Children's Services. I disclosed to him significant evidence that a number of retired people from Children's Services and retired senior police officers had blocked investigations into abuse and had even destroyed evidence. I also informed him of the refusal of the Children's Service to hand over the files of HdIG residents, and told him that we had received a tip off from within the department and I knew these files were at Overdale Hospital. I told him I had

detectives waiting and I would be grateful if he would ring the relevant person and have the files released. He did so without any complaint.

206. One point that is also worth noting is that, around this time, on 19 November 2007, when Operation Rectangle was being announced, I spoke to a man named [REDACTED] 735 [REDACTED] 735 had been introduced from off island into the care system in Jersey [REDACTED] at Greenfields care home. [REDACTED] 735 was determined to [REDACTED] [REDACTED] but the staff wouldn't cooperate.
207. [REDACTED] 735 was absolutely shocked at the brutality which was being openly practised by staff as part of the approved regime at the care home, in that children were being placed in solitary confinement, and other outdated and cruel forms of punishment such as the 'Grand Prix' system were being used. He tried to halt these practices but received no support from staff or his senior officers. [REDACTED] 735 was later suspended. He eventually took the Jersey Government to a tribunal and I believe he received a settlement. [REDACTED] 735 gave me a further flavour of what to expect during Operation Rectangle.
208. In terms of whether Operation Rectangle was justifiable at the time it commenced – an issue specifically within this Inquiry's terms of reference - my firm view is yes. I had to follow through on the allegations that I was receiving. It would have been an absolute kick in the teeth to victims if we had not proceeded with Operation Rectangle in August 2007. They were only just starting to trust us as a policing entity.
209. My view is that policing principles are easy. You help the good people and you do whatever needs to be done to stop the bad people. You choose a side. As stated, I have always lived by that, and every policing decision I made was one based on integrity and helping the good. I have always sought to do what I think is right. The commencement of Operation Rectangle was a practical example of following such basic police principles.

## **The reference to Operation Rectangle going public**

210. On 22 November 2007, I received an e-mail from Bill Ogley where he told me to stop using the term 'victim' as there were no victims until charges had been proven and prosecutions brought. Bill Ogley was of the view that the term 'victim' was bad publicity for the island. Whilst I do not have the e-mail, I made a contemporaneous note of the e-mail in my notebook, which as on every day was stamped with the office date stamp or if I wasn't in the office, otherwise dated. I produce a copy of the book entry with the date stamp as **Exhibit LH16**.
211. Graham Power and I were subsequently summoned to the Chief Minister's office, on the same day, and Wendy Kinnard was also in attendance.
212. It should be noted, in relation to Wendy Kennard, that she and I share the same professional views but perhaps not the same political ones. It was often said that my professional views fitted her political agenda. I know this was Graham's view. Personally, I had a good relationship with Wendy, but she was often mocked and criticised by other politicians who I would describe as cavemen, and who, to be frank, were neither as intelligent nor as dedicated as she was. At a later stage of the investigation, Bloggers such as Rico Sorda and Neil McMurray would question why she was not doing more for the operation and the victims. I would defend Wendy as I knew why she was keeping a low profile [REDACTED]
213. At the meeting at the Chief Minister's office, Frank Walker said he was very angry and that I 'was looking at a very angry Chief Minister'. At first I didn't know what Frank Walker was referring to, and I presumed I had done something wrong. Frank Walker then said that he was angry because I had been talking to Stuart Syvret. I explained the reasoning behind this, and why I had given him the press release early. I also commented that I had also

disclosed the press release to Frank himself, when I was not obliged to do so.

214. During this meeting, it was claimed that I had potentially breached the Official Secrets Act by making a disclosure to Stuart Syvret. I would just like to compare this stance with the stance of the Attorney General when I was trying to bring charges against corrupt police officers at the start of my time in Jersey, when apparently officers such as Sean Osmand and the Special Branch Officer Nigel Gregory were said to not be subject to the Official Secrets Act.
215. Bill Ogley, who was also in attendance, said that I would bring the Jersey Government down if I were to proceed with my investigation. I firmly responded that this was not my concern as this was a police investigation. I was adamant that the investigation had to remain independent as much as possible, and therefore any potential implications on, or consequence to, the Government were not a concern of mine.
216. Frank Walker and Bill Ogley reiterated that I should not call those making statements 'victims'. Wendy did not agree with this point and piped up and defended my position. Walker and Ogley did appear to back down when they realised that my view was so strong on the subject and I was being supported by Graham and Wendy.
217. My personal view was that the operation would not bring down the Jersey Government, but, as mentioned earlier, such political concerns certainly existed to some extent. However such views should never defeat a genuine and necessary police investigation. I had done hundreds of child abuse investigations over my years as a detective. They have always had consequences, but are necessary. I drew a line in the sand at that meeting. Graham and I decided this was a police investigation and that the SOJP had to remain independent. I therefore did not take their expressed concerns on board, or deviate from my plans. I think that Walker and Ogley backed off when they realised that I was standing my ground.

218. I knew, after this meeting, that tough times would lie ahead. I knew I would need to use the media to cover our backs as well. Whilst it is a strange thing to say, I was actively looking to cover my back to ensure that no matters were used against me to shroud my own career. I knew after this meeting (if I had not before) that I would be out on a limb when conducting this investigation. I was under no illusions that the States of Jersey Government, as represented by the Chief Minister and the Chief Executive at the meeting, were not happy that the historic child abuse investigation was happening and did not want it to be pursued. Use of transparency so far as was appropriate in the conduct of Operation Rectangle was therefore partly designed to prevent steps being taken privately to impede the investigation.
219. It appeared to me that, prior to Graham joining the SOJP, the police had simply done what the Chief Minister wanted, and had been content to be guided by political directive. In my view, this is not how an independent police force should operate.
220. The meeting at the Chief Minister's office lasted around 10 to 15 minutes. I do not remember discussing the meeting with Graham Power afterwards, but I suspect that something must have been discussed. What I do know is that nothing that was said, during that meeting, made me want to back down. In fact, I put a new ringtone on my phone that day - the song entitled 'I won't back down'. I had decided to see the investigation through, regardless of any consequences to me personally.

### **Initial stages of Operation Rectangle**

221. It became immediately apparent, following Operation Rectangle going public, that there was a real prevalence of victims from HdIG. In fact, of the 128 victims that came forward in the initial stages of Operation Rectangle (many through the dedicated NSPCC helpline), 93 of them were from HdIG. Also in relation to the 36 suspects, 22 of them were from HdIG, therefore it was quite clear to me, from an early stage, that HdIG was a site of particular interest. I am confident that these figures are correct as they appeared in police records at the time.

222. It was at the stage when Operation Rectangle went public that we also started to receive further information about HdIG, specifically claims that children had been abused in 'cellars'. There were also claims that children had seen dead bodies at the home. There was one witness that had allegedly seen a child jumping out of a window as he or she was being chased by staff. This child was apparently not seen again, and children who had witnessed it had been ushered away from the scene. We also had a builder come forward and mention that he had previously found what looked like children's bones at the site when completing renovations some years previously. I will come onto this point in more detail later. We even had a Lawyer, Advocate Sinel, claim that he had a client who had seen a dead child at HdIG. Advocate Sinel was adamant that this was genuine information but that his client did not wish to speak at that time. Unfortunately we never got to the bottom of that allegation.
223. There were also reports of children being dragged screaming from their beds during the night and of them not being seen by the other residents afterwards. Whilst it was difficult to find the facts and to verify these reports from former residents, taken together they were a compelling reason why we could not ignore the possibility that very serious crimes, including severe abuse, had occurred at HdIG.
224. During the early days of Operation Rectangle, there was still an emerging story that children on Jersey were being assaulted and abused during boating trips, and that many of the children abused were from HdIG. As mentioned earlier, due to the lack of record keeping at HdIG, it was often very difficult to substantiate any abuse claims with written log evidence.
225. When we were searching for evidence relating to HdIG, specifically the claims relating to dead or missing children, we were being asked quite often 'what missing children are you looking for?' There was a general reluctance on the part of some authorities to assist the operation. For example, Children's Services were very hesitant to assist. We often found that we could not get hold of files or papers from them. This was partly because of bad record keeping, but also due to the obvious fact that they did not want us



having Children's Services files. As previously mentioned, I was told on one occasion that an employee of Children's Services was told to move (i.e. hide) some files at a Hospital on the island. This person had contacted us and told us of what she had been asked to do. The Education Department were equally reluctant to release information to us.

226. When we went public, we decided (as mentioned above) to get the NSPCC in the UK on board and we gave out their number to victims. We did not feel it was appropriate to use any of the so called caring services in Jersey as not only were members of those services implicated in some of the worst abuse, but many of the victims had made it extremely clear to me that they would not co-operate in any fashion if the Jersey services were allowed anywhere near the investigation. An independent support service was the only way to generate public response.
227. I went to the NSPCC in London and I spoke to a senior officer Peter Lever. He confirmed that they would assist and informed me that the NSPCC had been trying to get an office opened in Jersey, but that they had run into obstructions from the existing services who did not want them there. Peter agreed that the NSPCC should receive the public calls. I believe that the NSPCC worked extremely well with our officers, and in fact we had a member of their staff working in our incident room for many months. We also set up a recording facility in London and within a week of Operational Rectangle going public, we had 18 calls. Whilst that may not seem a big number, considering the population on Jersey and the care homes in question, 18 calls in one week was a phenomenal response and Peter Lever commented on the response. The calls soon started to spiral even further. By January 2008, 128 victims had come forward, 93 of whom had been at HdIG.
228. At this point, in January 2008 I firmly believed that we had done the right thing in launching Operation Rectangle. Subsequent events were vindicating that decision. Continuing to do nothing was not an option. Vulnerable people had been abused and had been denied justice and new victims were

coming forward every day. More worryingly, many people being accused of the abuse were still working in positions of authority (and still are to this day).

229. My wife was ill at the time when Operation Rectangle was really at its busiest. I still however felt motivated to do the right thing. In fact, a politician actually stopped me in the street outside Jersey hospital and said that I was 'doing a fantastic job' and I 'should not let the bastards get me down'. However, that politician did not want to come forward and support the SOJP publicly in its actions as he knew, if he did, the establishment would close ranks against him and give him the treatment that Stuart Syvret had received and Trevor Pitman and others were later to be subjected to. There was a real fear on the island that you would lose your job or worse if you spoke up against the Jersey establishment.

230. When all of this information was coming in, we were also contacted by builders who had previously renovated HdIG. I think this had been in January 2003. One of them, Stewart McMullan, told us on 29 February 2008, that as part of the pre job briefing, he had been told that if any bones were found, they should dump them and 'let bygones be bygones.' This saying, 'let bygones be bygones' became a bit of an 'in joke' within my team, and was repeated often when we found something significant. One particular builder, I can't recall if it was Mr McMullen, told us that he had found suspicious bones at HdIG, which looked like children's bones to him, and despite being told by the foreman to dump them, he took them home and did some research. He told us that he looked up bones on the internet and was convinced one of them was a children's pelvic bone. The builder refused to dump the bones.

231. The following day, police officers, Detective Constable Adele Moss, and PC Ingham, were called to the scene. The builder noted that a child's shoe was also found nearby and the officer took possession of this also. The police officers were equally concerned about the bones that had been found and therefore called an assistant pathologist, Helen Goulding, to the scene. Goulding also looked at the bones and stated 'I'm not happy about this.' This resulted in the bone being taken to a senior pathologist who then declared

that the bones were animal, and too large to be a child's bones (Forensic Anthropologist Julie Roberts was later to dispute this and stated that the bones were within the size limits found in children). The bones were then dumped.

232. In 2008, the senior pathologist, Peter Southall, was seen and a statement taken. He was asked about a comment he had made to DC Moss to the effect that one of the bones could potentially have been human. Southall said he could not remember saying that. He did not dispute it, he just could not remember.
233. There was also a discrepancy between Southall's recollection of what had happened to the shoe, and the recollections of the police officers and Val Nelson, the registrar at the Jersey museum. DC Moss said the shoe went to Southall. He said the officers took it to the museum and that it turned out to be from the mid-victorian era. Val Nelson states she would have been the one receiving and dealing with it, but had no recollection of any such event at the time. DC Moss firmly denied taking it back off the pathologist. Southall's original post mortem report on the bones of the 3 February 2003 was extremely brief, and is attached as **Exhibit LH17**. Southall's statement of 2008 is **Exhibit LH18**. A copy of the Action Report from the police system which summarises the events together with comments from the Office Manager is **Exhibit LH19**. It will be seen that as a result of the apparent discrepancies between Southall and the others, and in the light of his comments about what he said to DC Moss, I had instructed that he be interviewed under caution. I do not know if this was ever carried out.
234. There has been a lot of publicity about the search that was conducted at HdIG in early 2008 and the sequence of events has been well documented. I have already provided detail on the search at HdIG at pages 23-24 of my **Exhibit LH1** and I have provided the Inquiry with the SOJP Operation Rectangle Summary Report, at **Exhibit LH20**, which provides much further detail on HdIG generally, events leading up to the search, reasons for it, such as seeking evidence to corroborate victims' accounts, and the specific searches and finds at the home.

235. For the purposes of this statement, I would like to confirm that the allegation that the search at HdIG was conducted on the word of 'a few unreliable people' or 'disturbed people with criminal records' (words used by either Senator Shenton or Perchard and also by the Metropolitan Police in the memo which Warcup passed off as an interim report) is simply incorrect. As stated above, we had received a number of allegations that children had been abused in cellars at the home and that there may have been dead bodies at the home. We conducted the search based on reasonable suspicion and evidence. Before entering the home at all, we had commissioned a desk top study of the site by Professor Karl Harrison, a respected Forensic Archaeologist. Then, with other members of my team, including our Head of Crime Scene Examinations, I travelled to Oxford in early February, where we had a meeting with Mr Harrison, the National Policing Improvement Agency, and other experts in several relevant fields, such as Forensic Anthropology and Searching. At this meeting a decision was agreed that we should proceed with a screening search, that was due to last around 3 days. That screening exercise would determine whether or not the search was continued. However, as is well documented, we made some finds very early on, which meant the search had to continue.
236. During the search, we found a make shift trap door and we later discovered the cellars in which many victims had said they were abused. There was also an inscription on one of the walls of the home which stated '██████████ was raped here'. We never found ██████████.
237. In the early days of the operation we had trouble locating the cellars that a number of victims had described. Deputy Kevin Lewis visited HdIG on 24 February 2008 and confirmed that he had been involved in historic renovation work at the home and knew that the cellars had been bricked up, but that he knew where the entrance was. Deputy Lewis showed us exactly where the entrance was to the cellars, and they were therefore discovered. In the cellars, as well as other evidence, we found a large bath, which corroborated the evidence of some victims that they had been assaulted in it. It is a source of regret, and surprise, that when Mr Gradwell, Mr Warcup, Mr Le Marquand and others were accusing me of 'inventing' the notion of

cellars, Deputy Lewis kept quiet and made no attempt to set the record straight. As is well documented, we did find various items of evidence down in the cellars, much of what corroborated what the victims had said. I will explain later on in this statement, how Mr Gradwell and Mr Warcup later denied that there were any cellars at HdIG, despite the fact that many Jersey Politicians, including Frank Walker and his wife, Andrew Lewis, and others had visited the cellars during our search. A number of journalists were also allowed access including Diane Simon of the Jersey Evening Post who later published several untrue stories in relation to our activities at the home. I detail one of these stories, in relation to the shackles, elsewhere.

238. I have provided to the Inquiry a number of documents which explain a little bit about the whole 'bone'/'coconut' fiasco that was later played out in the press and was used to try and discredit me by Mr Warcup and Mr Gradwell. I honestly think the whole 'coconut' story was seized upon by Politicians to rubbish the operation and to distract from the evidence we had obtained. I do not think that this is an issue covered by the terms of reference of the Inquiry.
239. As will be known, we made a find on the second or third day of the search, and it was identified by an Anthropologist as a piece of a child's skull. Doubt was later cast on this finding, and the evidence appeared to be inconclusive. At **Exhibit LH21**, I have provided the Forensic Anthropology Examination Report produced by Professor Andrew Chamberlain on 01 May and at **Exhibit LH22**, I have provided an extract from Julie Roberts' log. Finally, at **Exhibit LH23**, I have provided a typed document which described the truth about the 'coconut'.
240. One further matter I wish to mention about the search at HdIG is that, not only did Danny Wherry show up unannounced at the search, as explained later, but Anne Pryke, the widow of Roger Pryke also showed up and demanded entry. Pryke is the Detective Sergeant mentioned by DC Cornelisson and others in connection with the Victoria College abuse case. According to my notebook this was on the afternoon of 19 February 2008. Mrs Pryke was very abusive towards the officers at HdIG and demanded to

know why she had not been informed of the search beforehand and, as stated, demanded access. She was not allowed entry.

241. The following day Graham Power received an e-mail from the Chief Minister, Frank Walker, demanding that we fully brief Mrs Pryke and fully update her of any developments. He was bluntly told that the answer was no, and reasons were given. He was also informed that this, and all similar approaches would be recorded and disclosable. Again, I made a contemporaneous note of this matter and it is produced as **Exhibit LH24**.
242. From the early stages of the increased profile of Operation Rectangle the operation was subjected to monitoring, assessment, and quality control, by three members of the ACPO Homicide Working Group from the UK, consisting of Andy Baker and two others. They issued a number of reports and reviews of Operation Rectangle, at Graham Power's request. The Working Group had a quality control role, as well as individual mentoring of key members of our team. I was mentored by Andy Baker. This was confirmed in their terms of reference, although the Jersey Government later denied this and claimed that I was not monitored, supervised, or mentored during Operation Rectangle.
243. In particular, Ian Le Marquand claimed that I was an 'incompetent maverick.' This comment with others is contained in the Jersey Hansard record of 1 March 2011 at 6:3:9; under the heading 'Senator B.I. Le Marquand.' This is what he said: 'The Deputy of St. Mary offers a statement made, apparently, by former Deputy Chief Officer, who he named in fact today as Mr. Harper, as being a reason to doubt that. Well, in my view, the opinion of that particular gentleman is hardly a credible source of information. This is the person who took colleagues on expensive outings to London, with expensive meals, which were totally unjustified in any way whatsoever. This particular officer, in my view, caused enormous problems in this Island, not just in this context, but in the context of the police force generally, and he is, in my opinion, an incompetent maverick and not in the least a credible person to be believed by this Assembly or anywhere else.' I have included, as my **Exhibit**

**LH25**, the first seven pages of the Jersey Hansard report of 1 March 2011 and the relevant extract appearing at 6:3:9.

244. The monitoring of police investigations in the manner described above is quite common. I had no problem with it at all. The HWG never interfered with our work and provided useful advice and confirmation when we were doing things correctly. I believe the HWG actually told Frank Walker and Andrew Lewis, during a meeting, that Operation Rectangle was a 'shining example' of how an investigation of this nature should be conducted. I believe Andy Baker will have a record of this.
245. The HWG conducted its first review between 23 February 2008 and 02 March 2008 and made a number of recommendations. Importantly, the first report at paragraph 2.2 states 'The investigation is focussed on searching and exhibit recovery at the former care home. This is the correct approach – it allows for recovery of exhibits and evidence, corroboration of accounts and allegations being made by the witnesses and victims and ensures that public reassurance is addressed as to the integrity of the investigation.' I have attached the first report of the HWG as my **Exhibit LH26**. I have also provided to the Inquiry the second HWG report, as my **Exhibit LH27**.
246. When Operation Rectangle was later being rubbished by Politicians, and by Messrs Warcup and Gradwell, no mention was made of the HWG reports and all of the positive feedback we had obtained. However, I recall that Dick Shenton or Jimmy Perchard did make a comment that the reports were written by 'cronies' of ours. He presumably meant that they were fellow UK police officers as Shenton had made a similar comment over the favourable HMIC Inspection Reports that we had received.
247. In or around July 2008, Graham Power was being placed under a lot of pressure to cut the size of the recipients of the SOJP press releases about Operation Rectangle. I too was being regularly pressurised by Deputy Andrew Lewis to leave UK and international media off our list. I explained to him that the list was tailored to fit demand – that on previous occasions so many people not on our list had telephoned our press office that our phone



system in the department crashed. This made no difference to him. His main concern seemed to be that the island was being made to look bad internationally. Lewis was in attendance during some of the meetings between Graham and the Attorney General where this was discussed. The Attorney General wanted the size of the media circulation list reduced and only wanted us talking to local media. Essentially, the Attorney General wanted the national and international media out of the picture. I remember telling Louise Hubble, a television reporter, about this and, on 22 July 2008, Louise challenged the Attorney General about it. The Attorney General denied to her that he had ever said such a thing. Graham was later to say that he was fairly sure the Attorney General was lying about this.

248. One other matter I wish to mention at this stage is the way in which I was treated by the Honorary Police after Operation Rectangle went public. The Attorney General is of course, the titular head of the Honorary Police. Prior to Operation Rectangle, I had been stopped by the Honorary Police, whilst in my car, once in five years. Within a month of the operation going public, I was stopped four times. The Honorary Police would say that they wanted to check if I had been drinking and examine my brakes and lights. I never produced my warrant card on these occasions, and made no comment. The Honorary Police would give no sign of recognition. I became wary of the frequency of the stops so I started to use my wife's car. I was not stopped in it. When I reverted back to my car, I was stopped again.

249. I have provided detail of these events at pages 31-32 of my **Exhibit LH1**, but effectively, the actions of the Honorary Police on that occasion and what they said, led me to believe it was an identity check, so on this occasion I produced my warrant card. The Honorary Policeman didn't examine the card, it was dark anyway, and said he wanted to check the lights and other items. I let him get on with it and said little other than it was not a problem. However the sequence of events led to a member of the Honorary Police force making a false complaint against me for improper use of my warrant card. The Attorney General wrote to me about this on 27 December 2007. I produce this letter as **Exhibit LH28**. I questioned the integrity of the complaint and confirmed the series of events which had occurred

immediately by a reply letter, which I produce as **Exhibit LH29**. However, I was so angry that the following day I sent the Attorney General an e-mail, together with a copy of the letter. In the e-mail I told him this could not possibly be a mistake - it was a deliberate attempt to smear my name. I also pointed out a number of concerns I had arising from comments made by the Attorney General in his letter. I produce this e-mail as **Exhibit LH30**. I received no reply from the Attorney General, not even an acknowledgment, to either the e-mail or the letter, and after my challenge nothing more was ever said or referred to again in relation to it. Oddly enough, in the remaining eight months of my stay in Jersey I was never stopped by the Honorary Police.

### **Lawyers appointed from the Law Officers Department to Operation Rectangle**

250. Once Operation Rectangle was up and running, I was instructed to regularly brief the Attorney General and the Lieutenant Governor. These briefings would take place both face to face, and on the telephone. Politicians were continually sniping in the background and between them, and my conversations with Graham in which he relayed details of conversations he had with the Attorney General, I was basically told that the Attorney General was not happy with the way in which I was running the operation. The Attorney General wanted a Lawyer placed in the Operation Rectangle incident room. My firm view was that this was not appropriate as any lawyer placed in the Incident Room would have access to not only witness statements and details, but also raw intelligence reports, many of which were implicating members of the Attorney General's staff in past attempts to cover up abuse. The Attorney General apparently wanted to stop me from 'barking up the wrong tree at an early stage' as he said to Graham. I objected to a Lawyer being present in the incident room. Whilst working in London I had often sought the advice of the CPS at an early stage of an investigation to get their advice, but had never encountered a situation such as the Attorney General was demanding.
251. I also had complaints from victims about senior officials, including Philip Bailhache, and allegations against senior police officers. Having an Attorney

General representative in the incident room was not an appropriate option. I told Graham Power that if a Lawyer was placed in the incident room, I would resign. Graham was very good at the political side of policing and had a good grasp of operational difficulties. He is a very experienced police officer but he did appreciate my operational experience so he supported me in my view. I could not have done Graham's job at all. I could not have interacted in the manner he did with politicians and officials whom I knew were corrupt and who were actively trying to do me damage. Graham Power protected my back throughout the investigation despite there being many calls for me to be sacked, including calls from the Home Affairs Minister Andrew Lewis and the Chief Minister, Frank Walker.

252. The Attorney General and the Operation Rectangle team eventually came up with a compromise whereby an 'independent specialist in child abuse' (the Attorney General's description) would be appointed by the Attorney General, and would have a dedicated room near (but not in) the incident room. This is when Simon Thomas arrived in Jersey. Simon Thomas, a UK barrister, was appointed as this 'independent specialist'. However it soon became obvious to me that Simon Thomas had little or no experience in child abuse cases at all. In fact I had substantially more experience than he did. However he confirmed to me that he did have a female colleague in his chambers who did have experience in child-abuse cases. This admission came after I discovered that he was sending all our files, even relatively simple ones with only a handful of statements to this lawyer in the UK. The circumstances of this discovery and admission are clearly illustrated in a series of emails between [REDACTED] and myself produced as **Exhibit LH14** above.
253. I was also a little concerned because Simon Thomas came from 7 Bedford Row, a chambers which had a heavy connection with the Bailhache brothers. In fact, the Attorney General had used these chambers for many financial crime matters. The chambers had therefore earned millions from the Attorney General's office. I was therefore worried that this would create a perception of a lack of independence. It did, and I soon came to feel the same.

254. Simon Thomas remained as the appointed 'independent' Lawyer throughout Operation Rectangle and was given a room outside the incident room. However, he was rarely in Jersey and spent most of his time in the UK.
255. An agreement was also reached that I would provide files to Simon Thomas before an arrest was made and that Simon Thomas would quickly turn around the files with his advice. However the detectives often had trouble getting hold of him. He never seemed to serve a useful purpose. This was especially apparent after it became clear he was sending the files back to the UK. He was very rarely in the office, therefore [REDACTED] and Stephen Baker, of another law firm in Jersey, were also asked to assist with the investigation. They would take some of the files. The law firm that Baker and [REDACTED] worked for had also conducted a lot of financial crime work for the Attorney General previously and had made a lot of money out of it.
256. In terms of [REDACTED] specifically, it is important to note that he was previously a Lawyer within the Attorney General's Office but left to join the same firm as Stephen Baker. As mentioned earlier, Laurence O'Donnell's wife Sarah worked at the Attorney General's Office, within the legal department. Sarah was approached by a young Portuguese lady who worked in the Attorney General's office and who was being sexually harassed by [REDACTED] [REDACTED] had been sending her offensive emails, and she handed these emails over to Sarah O'Donnell. Sarah told me she was retaining these emails and still had them at the date of my retirement.
257. Sarah O'Donnell provided moral and practical support for the young lady and told me that it was her intention to support her at the hearing into the matter. However, Sarah was warned in no uncertain terms that if she continued her activities in support of the victim then her husband's job in the Attorney General's department would be at serious risk. In the meantime, the young lady was transferred to work within the HR department in the States of Jersey Police. Anne Sugden, the Head of our HR told me that it was felt this was one place where she would not suffer the sort of harassment inflicted upon her at the Attorney General's office. This was obviously correct, as the lady

joined the police within a year and stated to me that she had loved working within the force..

258. When the complaint of the Portuguese lady was heard, the individual hearing the complaint was actually the godparent to [REDACTED] children. I am not aware of the outcome, although I was told that 'Words of Advice' were issued. This is yet another example of a lack of integrity and corrupt behaviour inherent within the States of Jersey. I did have reservations about using [REDACTED] on the investigation, and informed Graham of all of this. No action was taken by the Attorney General so I just avoided [REDACTED] as much as I could.

### **Specific suspects and problems with prosecution**

259. During Operation Rectangle, we maintained and updated a 'prime suspects' list. A major concern of mine was that some of the suspects were employed by the States of Jersey. Some were within Government Departments, including [REDACTED].

260. Three cases I remember, involving individuals from within the police/care/education system were the cases of Mario Lundy, [REDACTED] 108 and [REDACTED] 7. One of these individuals was even known as the 'pinball wizard' because of allegations that he would bounce young boys off brick walls whilst throwing them around. I experienced problems in trying to question, charge and prosecute these individuals, as explained below.

261. I have located some notes I took on 09 June 2008, and this confirms that the prime suspect list, at that point in time, consisted of:

- 261.1 [REDACTED] 335 – who I believe was a [REDACTED] at HdIG. Unfortunately, I cannot remember the specific allegations against [REDACTED] 335 but he would be mentioned by witnesses. I do not think we ever submitted a file to the Lawyer's Officer on [REDACTED] 335. I am not sure there was quite enough evidence and he had retired at the time of Operation Rectangle so there was no urgency to protect vulnerable individuals;

- 261.2 [REDACTED] 532 – who I also believe was [REDACTED] at HdIG. I again cannot remember any of the specific allegations against [REDACTED] 532
- 261.3 Anton Skinner – the allegations were that he stood back and did nothing, even though he knew that abuse was happening. I recall once specific allegation that he was present when a girl was thrown down the stairs, into a dark room, and assaulted. Anton’s name would come up now and again;
- 261.4 Claude Wateridge – who I will discuss in more detail below;
- 261.5 [REDACTED] 108 – discussed below;
- 261.6 Mario Lundy – discussed below;
- 261.7 [REDACTED] 7 – discussed below;
- 261.8 The Maguires – discussed below;
- 261.9 The Jordans – discussed below; and
- 261.10 [REDACTED] 279, 281 – discussed below.
262. Before I move onto some of the specific suspects listed above, and the cases against them, it is very important to bear in mind some information I had received on 31 January 2008 from a Lawyer within the Attorney General’s Office, Sarah O’Donnell. She had wide UK experience in child abuse cases and during a discussion about the need for a dedicated prosecutor for the operation, had offered her assistance to the Attorney General. The Attorney General refused. Sarah pointed out that she had more experience in the field than those others available. To this, I was told that the Attorney General had responded – ‘No need for it – none of them will ever be prosecuted anyway.’ Again, I noted this contemporaneously in my A4 book in an entry under the date. I produce this as **Exhibit LH31**. This disclosure to me came before a number of the decisions of the Attorney General’s Office not to charge suspects during Operation Rectangle and provided a worrying context for their decisions.

263. I would also like to confirm, for the record, that during my investigations into child abuse on the island of Jersey, I received no allegations against Jimmy Savile or Sir Edward Heath. I understand that both of these have subsequently been linked to the island of Jersey. I do however know that Sir Edward Heath was a frequent visitor to the island and a member of the boating community.

### **Claude Wateridge**

264. Claude Wateridge was a Superintendent at a particular children's home on the island. I cannot remember if this was HdIG or if it was another children's home. He was accused of a number of assaults including an indecent assault on a snooker table. We collated a large amount of evidence against Claude Wateridge and I think this was one of the first cases where we put together a file together for the Attorney General's Office and asked if we could proceed. I do recall that I came under criticism from some of the lawyers and the Attorney General who felt that I should have brought forward as the first case, something more serious, such as a rape. This made me angry, as one of the allegations against Wateridge was indecent assault of a young girl on a snooker table. I made my feelings known in an e-mail which I produce as **Exhibit LH32**.

265. At this early stage it was Laurence O'Donnell and Robin Morris that were involved in the charging and prosecution decisions and I was in discussions with them pretty much daily about how the Wateridge case was progressing. Laurence O'Donnell and Robin Morris were of the view that we had enough evidence to go against Wateridge.

266. On 30 January, with Wateridge under arrest, I attempted to contact [REDACTED] who may still have been at the Attorney General's Office at this time, although I am not certain. However, [REDACTED] was unavailable so I instead spoke to a colleague of his named Tim Allen. I discussed the case with Allen and he agreed that we had enough evidence to proceed and charge Wateridge. Allen was of the view that I would not need to check back in with the Attorney General's Office. I could instead just proceed. I made a



contemporaneous note of this conversation in the A4 book, dated as usual, and I produce a copy of this note as **Exhibit LH33**.

267. Just as we were nearing charging Wateridge, I received a visit from Laurence O'Donnell who told me that Stephen Baker had emailed him, on behalf of the Attorney General, and had told Laurence that we were not to charge Wateridge. I said to Laurence something along the lines of 'You never found me'. However, I knew Laurence would not lie to the Attorney General and I had no issues with that at all. He had told me often enough that he would not be able to stand up to the Attorney General in the manner that I did. I proceeded to have Wateridge charged.
268. It later became known that Laurence had in fact found me and had told me not to proceed. I then said that I had misunderstood what Laurence had told me. I did not want Laurence to be blamed for a decision that I had taken. I later said that by the time Laurence had found me it was too late, the charge was already in progress. The truth is that I felt frustrated with the instruction that had come through from the Attorney General, and I did not agree with it. I knew we had sufficient evidence to charge as I had been told by [REDACTED] [REDACTED] Tim Allen and other lawyers at Police HQ.
269. Stephen Baker later told Robin Morris that he had told us not to charge Wateridge on the instructions of the Attorney General, and that 'Lenny Harper would have to take it up with the AG.' Again, the contemporaneous note of this can be seen at **Exhibit LH33**. I have to be honest and say that whilst Wateridge was the first case to reach this stage during Operation Rectangle I was not at all surprised by the turn of events. I had already had issues with the Attorney General's Office when it came to charging and prosecuting corrupt police officers and senior individuals that had held illegal firearms. I had already seen a pattern of behaviour. Additionally, Laurence O'Donnell had also previously told me that he had experienced trouble in securing charges in historic child abuse cases. All of this had prepared me for the difficulties I now faced.

270. Despite the fact that the Attorney General had instructed us not to proceed with the Wateridge case, Wateridge was later convicted of indecent assault in a care home. The conviction actually happened after I left the island so funnily enough all of the credit went to Messrs Gradwell and Warcup, and was used as an example of good policing on Operation Rectangle. In my view, Wateridge would never have been charged if it wasn't for me ignoring the Attorney General's instructions. There was no acknowledgement at all of the actions of the Attorney General and I received no feedback.

Case against [REDACTED] 7

271. [REDACTED] 7 was a [REDACTED] HdIG. [REDACTED] 7 [REDACTED] joined Children's Services, where he became a [REDACTED].

272. Over the years, there had been many allegations of child abuse against [REDACTED] 7, but none of them had resulted in [REDACTED] 7 being charged. The allegations were of both physical and sexual abuse and most of the allegations had been made long before I joined the SOJP.

273. [REDACTED] 7 name was first drawn to my attention during Operation Rectangle, when we were looking into the Hamon case. [REDACTED] 7 was named as a suspect in either the Hamon case, or something running from it. He had been brought into the station and interviewed, one of a number of such occasions, but no action was taken against him. However, he soon became a prime suspect in Operation Rectangle.

274. I allocated two police officers to the [REDACTED] 7 investigations, as was standard practice during Operation Rectangle. To add further detail here, during Operation Rectangle, we had brought over a number of UK officers and civilian investigators to assist with the investigation. It was not solely run with SOJP officers. It was very hard work getting the Jersey authorities to agree that we could have UK officers on the case, but eventually we did get agreement. We had civilian investigators from the UK and SOJP officers working together. The civilian investigators from the UK required

accommodation in Jersey for the duration of the investigation, and the Accounts Officer Austin Vautier knew of this and his staff dealt with the hotel bills. My PA spent many hours negotiating with local hotels and did a good job getting much reduced rates in an attempt to keep costs down.

275. I cannot remember who the two officers were that investigated the allegations against [redacted] but one of them may have been from the UK. I know that these officers would have gone out and interviewed all of the victims that had alleged abuse by [redacted] previously and any new witnesses that had come forward. I remember that following a review of the evidence against [redacted] there were two serious sexual abuse allegations that stood out:

275.1 An allegation made by [redacted] of male rape; and

275.2 An allegation made by [redacted] of digital rape with a finger.

276. [redacted] had made a number of historic allegations against [redacted]. He first complained in the 1980's and his most serious allegation was that he had been raped by [redacted]. [redacted] had also been [redacted] by [redacted] with a cigarette, which resulted in [redacted]. [redacted] has been given a very rough time by the Jersey authorities as they claimed that he was not at HdIG at the same time as [redacted] of the Jersey Care Leavers Association, actually emailed me to see if I could help with these claims and I mentioned that there had been very bad record keeping at HdIG, so they should not necessarily rely on what the States were saying.

277. [redacted] first complained about the abuse he suffered at the hands of [redacted] in 1976, when he was just 12 years old. [redacted] had told the police that [redacted] had grabbed his crotch and put his finger up his anus. Digital rape was not recognised as a 'rape' offence in Jersey at the time [redacted] made his complaint. It was instead classed as indecent assault. Nevertheless, it was a serious offence. My belief, and argument was and still is, that this should have been treated as similar fact evidence to the [redacted] matter and [redacted] should have been charged.

278. Allegations of child abuse had also been made against [redacted 7] by the following individuals:

278.1 [redacted 28] – who claimed that [redacted 7] had punched and slapped him whilst he was at HdIG;

278.2 [redacted 617] – who also made claims of physical abuse;

278.3 [redacted 213] – who claimed to have been indecently assaulted by [redacted 7]

278.4 [redacted 749] – who claimed to have been assaulted by [redacted 7] [redacted] first complained to the police in 2004 and whilst [redacted 7] was questioned, no further action was taken;

278.5 [redacted 618] – who alleged assault in 2002 and 2003. [redacted 7] was again questioned, but he could not recall the alleged instances;

278.6 [redacted 619] – who I believe had witnessed some abuse;

278.7 [redacted] – another witness of abuse;

278.8 [redacted 200] – claimed to have been indecently assaulted on a number of occasions, including an instance when [redacted 7] had rubbed up against her whilst he had an erection; and

278.9 [redacted 749] – who alleged assault. Interestingly [redacted 749] allegation was corroborated by a member of staff at HdIG named [redacted]

279. As mentioned above, some of these allegations had been made to the police long before Operation Rectangle. My understanding is that historically the reasons given for not proceeding were that it was felt that there was not enough evidence to charge [redacted 7] and that some of the victims were unreliable. It is true that [redacted 213] in particular was seriously damaged by the whole experience, but many victims were. This did not mean they were not telling the truth. However, the claims by [redacted 749] which had been drawn to the attention of the police years before, were corroborated.

[redacted 7] actually claimed that he had reported the incident with [redacted 749]

[redacted] to a member of Children's Services called Phil Dennett. Phil Dennett denied [redacted] ever spoke to him about this incident.

280. I did seize [redacted] personnel file as part of our investigations into him, but suspiciously there was nothing in that file from the year 2005 onwards and the last entries were in 2004. [redacted]

[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]

281. During the Operation Rectangle investigations, I found that the name [redacted] [redacted] struck fear with a number of victims. I had [redacted] arrested on 12 June 2008, a month before I left the SOJP. I wanted [redacted] arrested before I left the island as I was not confident that this would be done after I left. The States of Jersey Government had been trying to get rid of me for some time and I did not have much confidence that they were backing Operation Rectangle, despite their public utterances. My own experiences with them and information being passed to me gave me a totally different picture.

282. After [redacted] arrest, I wanted to charge him as I felt there was sufficient evidence against him. I also felt I could charge him on the grounds of similar fact evidence i.e. the fact that the two main victims had described very similar situations involving [redacted]. I felt a common pattern was emerging. However, when I sought permission to charge [redacted] the Attorney General refused due to an apparent lack of evidence/corroboration. The Attorney General did not feel that there were 'similar facts'. I am not sure whether the force had direct correspondence with the Attorney General on this case. I suspect I was told the decision, and the reasons, by Laurence O'Donnell. I do not think we ever received decisions in writing. My unease in this matter was made more acute when I received an e-mail from Graham Power on 22 July 2008 which related to unsubstantiated intelligence regarding the relationship between [redacted] and the Attorney General. I emphasise that the

intelligence was unsubstantiated but it did not increase my confidence all the same. I have produced this e-mail as **Exhibit LH34**.

**Case against Mario Lundy and [REDACTED] 108**

283. The cases against Mario Lundy and [REDACTED] 108 are very much interlinked. They had both spent periods at HdIG and were both accused of physical assault and violence by a number of victims.
284. To my recollection, we had over 20 individual victims come forward independently of each other and allege abuse against Lundy, [REDACTED] 108 or both. There was also a claim that Anton Skinner had actually been present during one of the occasions where Mario Lundy and [REDACTED] 108 had assaulted a particular victim. Lundy and [REDACTED] 108 were quite often named as beating children at HdIG and were priority suspects during Operation Rectangle.
285. Given the number of victims that came forward, I thought we had ample evidence to charge these individuals. We submitted a preliminary file on Lundy and [REDACTED] 108 including a number of witness statements and an interim report. The file was submitted to Simon Thomas who determined, presumably on the advice of the Attorney General, that Lundy and [REDACTED] 108 should not be arrested as there was not sufficient evidence. This was nonsense. There was a lot of similar fact evidence, there were a number of victims coming forward telling very similar stories including being kicked, punched and bounced off a wall. This was so common place that one of them, I'm not sure which now, was known as the 'Pinball Wizard.' There was victim, after victim, after victim. Lundy and [REDACTED] 108 were not arrested during my time in the SOJP, nor to my knowledge, since.
286. If I was operating under my normal UK rules, where I would not need to seek permission to arrest, I would have proceeded to arrest them. When working in London I would often, after arrest and interview, seek out the local CPS prosecutor with whom I had an excellent relationship, and ask his advice informally on a file. However, the decision as to whether or not to arrest on reasonable suspicion was always mine alone.

287. I was surprised and angered that I was not allowed to arrest Lundy and [REDACTED]<sup>108</sup> as there was so much evidence against them. In my view, Lundy and [REDACTED]<sup>108</sup> should have been arrested on reasonable suspicion and questioned. I did consider arresting them anyway, but I decided that this would not achieve anything as we would then be prevented from proceeding to charge. I also remember that, at one point, [REDACTED] had said publicly at a seminar in Graham's presence that if the SOJP wanted to come after a certain member of his staff, then we would 'need to go through him'. To my recollection, this comment related to Lundy or [REDACTED]<sup>108</sup> Graham Power actually saw [REDACTED] comment as a direct challenge to the SOJP. So did I. Such political interference was, in my view, wholly inappropriate.
288. Before I left Jersey, I actually disclosed some papers I had on Lundy to his employer and to [REDACTED]. I wanted them to see the wealth of evidence amassed against Lundy as I was concerned that he was still working with vulnerable individuals. It was a protective measure on my part, but it also shifted the responsibility to do something about it onto them. I had already done what I could from a policing perspective and was not allowed to arrest them. I made this disclosure as I believe it was the reasonable and proper thing to do. If I had not made the disclosure, I would have been guilty of neglect. The documents may have hit the public domain somehow as I think there was a Belfast Telegraph article about it, although I don't know if my report was the source.
289. With the allegations against various senior members of Children's Services and Educational Services within Jersey, this reinforced why we were required to bring in the services of the NSPCC from the UK to gain public trust. In fact I was criticised later on by Wiltshire Police, in their 'Operation Haven' report, for not having a 'gold group' as part of Operation Rectangle. I think the BDO report – the inquiry into my use of resources which I was never told about or interviewed for – also made the same criticism. Such comments starkly revealed the lack of understanding that Wiltshire Police and BDO had about the circumstances we were facing. I would like to stress that such a group wouldn't have been possible at this stage as potential members of that group would have been on my suspects list, including Lundy and [REDACTED]<sup>7</sup>



290. During Operation Rectangle, we also received allegations against a couple called [279, 281] who I believe ran some kind of foster home. The children that had been resident with [279, 281] claimed that they had been locked in dark rooms and left there. There were also claims of 'knuckling' and being lined up and hit on the back of the heads with a cricket bat. [45] was one of the victims that came forward and alleged physical abuse against [279, 281]. I also recall that one of the children at the home had hearing problems as a result of being hit with the bat – this may well have been [45] herself.
291. We gathered quite a bit of evidence against [279, 281] and we put together a file to submit to Simon Thomas. As case files during Rectangle went, it was not a large file, with I think only five or six statements. It is important to note that we were required to submit this file to Simon Thomas, before we were able to arrest [279, 281]. This is the process that had been agreed with the Attorney General's Office. To ensure that we could arrest [279, 281] and later charge them, we aimed quite low and only sought to pursue [279, 281] for assault charges.
292. Simon Thomas agreed that we could arrest [279, 281] and suggested that we should charge them with grave and criminal assault. It was his suggestion to elevate the gravity of the charges. We brought [279, 281] in for questioning on 24 June 2008. They denied the allegations against them. During the interview [279] claimed to be feeling ill so Mandy Johnson, the SOJP Doctor, took a look at her. There was nothing found to be wrong with [279, 281] and the doctor declared her fit for detention and interview.
293. At around 5PM on the same day, Simon Thomas instructed officers at the station that he had changed his mind and that we could no longer charge [279, 281]. The officers were very concerned about this change of heart and they immediately came to see me. I rang Simon Thomas and was very blunt. He was at a train station in England at the time. We continually had to pause the conversation for station announcements and passing trains.

294. Simon Thomas said there had been some developments on the case. He gave me three pieces of information which he described as 'new evidence.' First that [REDACTED] <sup>279</sup> was unwell, to which I explained she was feigning illness and the doctor had seen through her, declaring her fit for detention and interview. Secondly, that a witness called [REDACTED] had called the Custody Officer to say we had made a mistake and we had the wrong people in custody, to which I explained that we had already taken a statement from [REDACTED] and this was nothing new. There was nothing in his statement to support this assertion. Thirdly, [REDACTED] had contacted to say that [REDACTED] <sup>279, 281</sup> were 'good people'. I commented that this was character evidence only, and not something which would influence the question of charging.
295. Simon confirmed that he needed to speak to Stephen Baker and [REDACTED] [REDACTED] further about the case. He called me back and said that they agreed that they needed to review the interview notes before charging. 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. I mentioned that he had previously given us consent to charge [REDACTED] <sup>279, 281</sup> with grave and criminal assault but he then inexplicably denied this, despite the recollections of myself and a number of officers.
296. I explained to Simon the implications of releasing [REDACTED] <sup>279, 281</sup> without charge. It was by now fairly common knowledge in Jersey that they were in custody. If we released them without charge it would appear to victims that we had not done our job. The confidence in us would be damaged, perhaps fatally so. There would be a fuss kicked up by the victims and a resultant media interest. This was confirmed later when several victims rang the incident room and one of them complained of another 'cover up'. I confirmed that if we were to release [REDACTED] <sup>279, 281</sup> would be forced to tell the press the truth behind the embarrassing change of plan, as otherwise the SOJP would be blamed. It is important to note that the victims did not trust the Attorney General's Office at all, nor Jersey authorities generally, and we had succeeded beyond expectations in doing a very difficult job in bringing people forward to talk to us after their previous experiences.

297. Following my calls with Simon Thomas, I decided that I would go ahead and try to have [REDACTED] charged. I instructed a Detective Sergeant to call in the local Centenier to charge [REDACTED] <sup>279, 281</sup> [REDACTED]. The Centenier, Danny Scaife, spent some considerable time examining the file of evidence and afterwards declared that he agreed there was sufficient evidence to charge but said that he could not go against the instructions of the Attorney General's Office.
298. Following the above, I knew that the news of [REDACTED] release without charge would not take long to spread. I did not want anyone, particularly the victims, to think that this was a SOJP mistake, or worse, a deliberate attempt to suppress the truth. Accordingly, I issued a press release clarifying exactly what had happened although not naming the suspects.. The Press Release confirmed that the reason the suspects were released was because the Attorney General's Office had instructed us to do so after previously authorising the charges. I also explained that the Centenier had declined to charge despite stating that the evidence was present. I stated that we had no alternative but to release the suspects without charge. The Attorney General was not happy with the press release which I now produce as **Exhibit LH35**.
299. The day after the press release, the Attorney General complained to Graham Power about the press release, and about my conduct. The Attorney General was demanding an explanation about the decision to issue the press release. I therefore prepared a report, which I provided to Graham Power to forward to the Attorney General, which explained the whole [REDACTED] fiasco and my decision to issue the press release. However, I did not stop there as I saw this as an ideal opportunity to lay bare the problems I saw with the service we were getting from the Attorney General's office. I outlined a number of problems in respect of the Maguires and other cases as well as [REDACTED]. I have attached this report, as my **Exhibit LH15** and it explains far more about the process we had agreed with the Attorney General about arresting suspects and the numerous problems we had encountered with that process. The Attorney General did not respond to my report.

300. The report was later leaked and made its way to the media, I am not sure how exactly. I had provided the report for an action at the High Court in London and it was the day following the hearing that the Times newspaper reported on the matter. The Attorney General was not happy that this report was leaked and I believe he instigated an official secrets act investigation into it. Stuart Syvret was the other target of the investigation and although he was spoken to by the investigators, I was not. I believe the investigation was carried out by Sussex Police although I was never informed of this investigation. I have explained more about this investigation later.

301. I have also previously provided detail on the case against [REDACTED] 279, 281 at pages 29-30 of my **Exhibit LH1**, in addition to **Exhibit LH15**.

### **The Jordans**

302. In 2008, we had obtained statements from around 30 witnesses alleging that they had suffered abuse at the hands of Morag Jordan (nee Kidd) and Tony Jordan. The Jordans both worked at HdIG. In June 2008, the case started to expand. Claims were being made by victims that the Jordans had beaten them with wooden objects, including wooden spoons, wooden 'scholl' sandals and wooden sticks. Some of the victims that came forward and alleged abuse by the Jordans were:

- 302.1 [REDACTED] 139
- 302.2 [REDACTED]
- 302.3 [REDACTED] 120
- 302.4 [REDACTED]
- 302.5 [REDACTED]
- 302.6 [REDACTED] 28
- 302.7 [REDACTED] 192
- 302.8 [REDACTED] 384

303. I recall that [REDACTED] 28 had made a particularly serious allegation that Morag had [REDACTED]. To my understanding this is one of the allegations that was not proceeded with during the Jordans' trial. I think [REDACTED] 192 claimed to have been beaten with a wooden spoon or a shoe and [REDACTED] 384 had claimed that he had been shook very violently by the Jordans and had to get treatment on his neck. I have provided to the Inquiry, at my **Exhibit LH36**, a summary of some of the allegations received against Morag in particular.
304. At the time the claims were being made, the Jordans were living in Scotland. I therefore sent two officers to Scotland to interview them as I thought there was sufficient evidence to do so. Later that night, the Jordans appeared on television and claimed that the SOJP were interviewing them as suspects in the child abuse investigations. The Jordans were making out that this was wholly ridiculous. I found it very strange that they went on television and drew attention to themselves. All of a sudden it was very 'full on' and the Jordans were in the media spotlight.
305. I put a file together on the Jordans and submitted it to the Attorney General's office. It may have been Stephen Baker and [REDACTED] that were originally involved in this case, not Simon Thomas. Whoever was involved came back with a 'do not proceed' instruction. My view at the time was that we had a lot of evidence against the Jordans. In fact, it was one of the strongest files I had put together. In light of this, I revisited the case a number of times and later submitted a file to Simon Thomas. We were again told not to proceed against the Jordans as there was not enough evidence but we still kept them as priority suspects.
306. At the time I left the island, the Jordans had still not been charged but they were later charged using the evidence that was already available at the time I had been pressing for charges. I have read the press reports of the case against the Jordans and all of the evidence used to convict them was known to me at the time of Operation Rectangle. I think there were around 14 witnesses against them during the Court case, 6 were victims of serious criminal offences and the others were providing corroborative evidence. My

view is that the decision to charge Jordan with little or no additional evidence from when I left was part of the attempt to make the subsequent segment of the investigation appear more productive and successful than our own.

### **My retirement**

307. I left Jersey on 11 August 2008, having retired from the SOJP. At the time of my retirement, Wateridge had been charged and a second suspect may have also been charged. I think it was a man named Aubin. After all the difficulties I had experienced in the SOJP, I was glad to leave the island, although I was concerned about how victims would be treated when I left. I saw my ferry home as an escape from the most corrupt political and legal systems I had ever encountered.
308. Prior to my retirement, there had been a decision to recruit two people to cover my role. There would be a Deputy Chief recruited and a Senior Investigating Officer for Operation Rectangle. These posts were filled by Mr Warcup and Mr Gradwell.
309. I had only met Mr Warcup on one occasion, for around 20 minutes, and I knew that he had little operational experience and had only ever worked at one force. I know this was a concern for Graham Power. Mr Warcup asked me about Operation Rectangle and I told him about the corruption issues in the force and a little bit about some of the political problems we had experienced. I also know that Warcup had difficulty with the SOJP 'on call' system. I think he claimed that he was doing an unfair share of the on call work and that Graham was not pulling his weight. I very much doubt this as when I worked alongside Graham he was forever working. He would be in the office very early in the morning and even when he went home I know that he had a police radio and was often listening in. He frequently referred to the police computer systems at home, examining ongoing incidents and the response to them. He would also keep abreast with crimes that had been committed. On many occasions he would visit the station during evening hours. The only time he would not carry out his on call duties was if left the

island or was otherwise engaged. The number of meetings he attended in his own time was many.

310. In terms of Mr Gradwell, I know that there were five applicants for his post and all of them telephoned or came to see me, save for Gradwell. Gradwell is the one that took over the operational role. Warcup took the Deputy duties.
311. Rather bizarrely, two nights before I had left the island I was invited to a dinner on the island which was attended by a number of the powerful individuals on the island including the Bailiff, the Attorney General, Deputy Lewis and others. It was a very strange experience being at this dinner given that I was basically in a room with my adversaries. I recall that Deputy Lewis even put his arm around me at one point, and claimed that he had stood shoulder to shoulder with me during Operation Rectangle. This was quite laughable and a bizarre piece of hypocrisy from Lewis given his role in the fabrications surrounding the suspension of Graham and the smear campaign against myself later.
312. I recall that my wife and I were split during the dinner. I was sat next to a suspect of child abuse and a social services worker and my wife was sat next to Michael Birt. Sir Digby Jones was the guest speaker at this event (from CBI) and at one point as we left the dinner room he approached and quietly said to me 'You're doing a good job, but watch those bastards' (I presume referring to the Jersey Government or some of those present).

### **Post-retirement**

313. Following my retirement, there were many attempts by the Jersey establishment to discredit me and the work I had conducted on Operation Rectangle. By discrediting me, the establishment was also discrediting the victims and the evidence that had been obtained during Operation Rectangle.
314. Very soon after I retired, I received a request from the Attorney General for me to return any original police documents I had in my possession. I did not have any, although the Attorney General, Warcup, Gradwell and certain



politicians insisted that I had. The Attorney General also wanted my A4 books. Throughout Operation Rectangle, I would carry and maintain an A4 notebook. Sometimes I would enter details of conversations I had, or messages given, before they were entered into official records, and sometimes after. They were also used for personal matters, such as details of my pending retirement and removal to the UK, and things associated such as details of utilities back in Scotland and other domestic matters. It also contained details of the illness and treatment my wife was going through at the time. Each day I would begin the entries with the date, either the office stamp or in ink if I was away from the office. I have used them extensively in the preparation of this statement. I did not provide these to the Attorney General, as my notebooks contained personal information about my wife's illness as well as the other matters mentioned.

315. In truth, I would not have handed them over anyway as I know they would have been destroyed like other evidence in the case, and I would now be unable to present this statement as I have. I realised that these books contained many aspects of the truth about what happened in a contemporaneous form, and whilst I told the Attorney General the truth about them containing some personal data, they also contained material I did not want the establishment in Jersey destroying.
316. The Attorney General even requested copies of retirement cards I had received when I left the island, I suspect to see who might have helped or supported me during Operation Rectangle. In the same correspondence in which I responded by saying that I did not have any original documents, only some copies, I copied all of my retirement cards and sent them to the Attorney General, although I blanked out all of the names, leaving only their comments, so that it was not possible for the Attorney General to see who had written all the very complimentary comment on them. I was making sure there would be no retribution against people that had supported me on the island. The cards, and the messages on them, gave the lie to the story that Le Marquand and others were spreading, that I was head of a team who disliked and mistrusted me.

317. One of my retirement cards mentioned a 'safe' that I had. I did not have a safe, it was part of a running joke about me storing incriminating evidence against the Attorney General and some politicians, but this was deliberately seized upon by the Attorney General and he made a great public show of launching a campaign stating I had been hiding/withholding information. This was ridiculous and he knew it.

#### **Press conference in November 2008**

318. On 12 November 2008, Mr Gradwell and Mr Warcup gave a press conference where they totally misrepresented what I had been saying for the previous few months. I already knew that there was an intended press conference in November as Robert Hall (Panorama) had come to see me and interview me. Robert knew about the press conference and thought it was going to be about how the SOJP had done what they could with the segment of the investigation at HdIG, but that the evidence had been inconclusive. As is now well known, this is not what the conference was about at all. It became a launch pad to begin a vicious campaign of misinformation and untruths about Graham Power and myself. Graham had been suspended that morning. He will no doubt give evidence of all the background details to his situation, but suffice to say, in order to justify his suspension and damage the credibility of abuse victims, they had to attack me. And attack me they did.
319. Gradwell and Warcup claimed that I had deliberately misled the public in a number of ways. They stated that contrary to the impression I had given to the media, there was no evidence of murder, no suspects for murder, and no murder enquiry. They 'apologised' for the false impression I had given. This is despite the fact that they were saying nothing different from what I had been saying for months. I never at any time claimed that there was a murder enquiry. At the most, I said that we had a potential homicide scene at HdIG. I never said, or implied, that there was a murder enquiry. I have been shown e-mail correspondence, at **Exhibit LH37**, between myself and Thomas Higham, of the Archaeology lab in Oxford, where I mention that we may be announcing a homicide. This was on 17 May 2008 and I made it clear that it

was dependant on test results. Those test results came back inconclusive so no homicide investigation was ever launched or announced. As mentioned above, we were treating the site at HdIG as a potential homicide scene at this point. This is standard police procedure, necessary and also endorsed by the Homicide Working Party Group, but no mention was made of a murder enquiry ever having been launched. This was total fiction from Gradwell and Warcup. Graham Power explains this very well in his documents.

320. Graham details how officers from Wiltshire were detailed to go through all my media dealings in an attempt to find where I had talked about murders and homicide investigations. He relates how they only found evidence to the contrary and how Wiltshire refused or failed to reveal that. I have attached excerpts from two relevant documents in which Graham demolishes much of what Gradwell and Warcup say. **Exhibit LH38** is a short paragraph from a statement he made for a purpose I cannot now recall. **Exhibit LH39** is a four page excerpt from another statement Graham made. In each of them he contradicts the content of Warcup and Gradwell's press conference.

321. There are many records of me saying that I did not have sufficient evidence to mount a homicide enquiry. One of the most prominent is a BBC News story of 31 July 2008 which quotes me as saying that 'unless the evidence changes, it is obvious that there will be no murder enquiry'. The article that accompanied this story is attached as my **Exhibit LH40**. Further illustration of my playing down the possibility of a homicide investigation is contained in the e-mail series showing the press release which led Bill Ogle to admonish me for discussing the financial implications of a homicide investigation, which is produced as **Exhibit LH41**. This series of emails starts off on 18 April 2008 at 15:32pm with Louise Nibbs sending out a press release from me in which I again play down the possibility of a homicide investigation. At 17:09pm, Bill Ogle, the Chief Executive emails the Chief Officer and the Attorney General complaining about me mentioning finance. The third e-mail on the series is the Attorney General having his say.

322. There were various other claims that I had misled the public about bones being identified as human and the existence of cellars at HdIG. According to

Gradwell and Warcup, there were no cellars, just floor voids 'no deeper than three feet'. In a cynical and untrue attempt to discredit victims of abuse who claimed that they were assaulted in the cellars, Gradwell stated that the 'voids' as he referred to them, were only three feet high and an adult could not have stood up in them, thus inferring that the victims and myself were lying. This was despite the fact that Robert Hall of the BBC's Panorama programme had been filmed standing in the cellars and clearly showed they were in excess of six feet. Deputy Bob Hill had also filmed himself in the cellars and this film is available on You Tube. Frank Walker was shown around the cellars and after his visit was content to refer to them as cellars in the States, to which he apparently refers to in his statement for Wiltshire. Yet, despite Ian le Marquand, the Attorney General, Frank Walker, other politicians and journalists, all knowing the truth, they all continued to peddle the myth that there were no cellars.

323. Also, as mentioned above, Deputy Kevin Lewis knew that there were cellars at the home, and had even showed us how to access them. Deputy Andrew Lewis had also visited the cellars. Kevin Lewis, Frank Walker and Andrew Lewis failed to mention this at the time I was being criticised and at the time Gradwell and Warcup were claiming there were no cellars. They were clearly going to any lengths to discredit me. Journalists from the Jersey Evening Post, particularly Diane Simon, had been shown the cellars but she and others enthusiastically followed the lie that they did not exist. It was Diane Simon who had first mentioned 'shackles' to me – when I emerged from HdIG she asked if I had 'found the shackles' and after I had refused to comment, she then reported that I had refused to confirm what builders had told her – they had found shackles and left them in situ five years before. Despite running the story that I had refused to confirm the finding of shackles, after the Warcup and Gradwell Press conference she was to run a story criticising me for introducing the term shackles and whipping up a media frenzy about them.
324. Gradwell and Warcup had clearly separated the search at HdIG from the rest of the investigation. However, the search was part of the operation. It was not a separate matter. As the ACPO Homicide team said, it was about

finding evidence to corroborate the victims as well as the possibility of other crimes. Gradwell and Warcup were loudly and publicly claiming that a search at HdIG should never have been conducted. I have already explained in this statement, why the search was necessary.

325. Gradwell himself, gave interviews to the media in which he criticised me for the way I had dealt with the victims, claiming that I had let them down and had no proper policy for dealing with them. This was a laughable, ridiculous, claim. We had achieved what many people said was impossible and had succeeded in getting so many victims to come and trust us and to tell their stories despite the lack of confidence in the police as a result of the way they had been treated previously. I received letters from both the Jersey Care Leavers Association, and their solicitor, after I retired thanking me for the way I had dealt with them. I produce these letters as **Exhibit LH42** and **Exhibit LH43**. In contrast, the victims were to be bitterly critical of the manner in which Gradwell dealt with them, stating he had ignored them, failed to update them, and treated them with contempt. This is illustrated in a press release issued by the Jersey Care Leavers Association which I produce as **Exhibit LH44**.

326. Gradwell and Warcup also proceeded to criticise me for 'whipping up a media frenzy' and for introducing the term 'shackles'. I have provided detail on these matters above, and at pages 33 and 34 of my **Exhibit LH1**, but for the avoidance of doubt, I did not introduce the term 'shackles', therefore creating a media frenzy. As I explain above, this was in fact a builder that had conducted work at HdIG and a Jersey Evening Post reporter.

### **Graham Power suspended**

327. At the same time as the press conference mentioned above, Graham Power was suspended. He will no doubt evidence that in detail. There were some interim comments by the Metropolitan Police at the time, about the handling of Operation Rectangle, and these were used as a stick to beat Graham with, although subsequently an independent QC found that there were fabrications in the material used.

328. Ian Le Marquand, David Warcup, and Gradwell in particular, publicly stated that the interim Met Report was 'damning and critical' in respect of myself. I had not been interviewed when this alleged interim report had been apparently given to the SOJP, so I made a formal complaint to the Metropolitan Police. My complaint was rejected because the Met said that there was no interim report, only a memo from a junior member of staff, and that the eventual report was neither critical nor damning. It then transpired that Ian Le Marquand, despite what he had said about what was in the report, had never seen it. David Warcup had only sent him a letter with his account of what was alleged to be in the interim report which he must have known was not actually what he said it was. Through Graham's determination and insistence on being allowed access to computer records, it was then discovered that dates in Warcup's letter could not be correct. He was claiming to be in possession of information before he could have been. Gradwell, Warcup, and le Marquand all stated that the search at HdIG should never have taken place. The Wiltshire investigation (Operation Haven) however, found that the search was justified. I provided a very detailed statement to Wiltshire at the time of the investigation. I provide this statement as **Exhibit LH45**.
329. One reason given for suspending Graham was his failure to control my spending on the operation. This is despite the fact that when I told the media that financial considerations would be one of the factors I took into account on deciding my action, I received a severe admonishment from the Chief Minister's office by means of an e-mail to Graham, for mentioning finance. 'It is irrelevant', I was told. I was instructed that justice was the important aspect, not the cost. I produce this e-mail as **Exhibit LH46**.
330. I have provided detail on some financial aspects of Operation Rectangle at pages 34 and 35 of my **Exhibit LH1**, including a particular trip to Australia that two officers took to obtain witness statements. This is another example where members of the Government and other politicians in Jersey invented facts and misled the public in an attempt to damage my credibility and therefore the abuse investigation and victims. There were two victims living in Australia who were keen to give evidence. They lived at opposite ends of

Australia. This meant that not only did officers have the lengthy trip to Australia, but they faced the prospect of a long internal flight as well. For such a trip, it was perfectly within States policy for the officers to travel other than standard class. Accordingly, my PA and the officers spent some time, with the full approval of the Treasury department, seeking out the most economical way to get there and back outwith of standard class.

331. As a further attempt to save money, the officers took no rest days at all whilst in Australia. As soon as they finished the first statement they left by air to see the second victim. Each statement was lengthy and emotional for the victims and took a toll on the officers also. At the completion I received emotional e-mails from the victims saying how beneficial the process had been for them. The officers were clearly exhausted on their return and I had to instruct them to take their rest days. Before the trip I had discussed it with the Accounting Officer, Steven Austin Vaughtier and he had agreed with the arrangements. Shortly after the officers returned, a number of politicians started publicly criticising the fact that the officers had not flown standard class. Angered, I submitted a full report to the then Home Affairs Minister, Andrew Lewis, and the Chief Minister Frank Walker. I also met again with the Accounting Officer and the Head Of Finance, who assured me that the arrangements had been in compliance with the policies. Frank Walker never replied nor acknowledged the report.
332. After my retirement and at the time of the BDO report which I detail elsewhere, the same politicians resurrected the same old criticisms, and Senator Perchard, the same politician whom had been implicated by a journalist in leaking a confidential police e-mail, (see below) was waving documents from the trip around. The Jersey media again gave it prominence, despite the fact that it had already been raised and all criticism dismissed.
333. During Operation Rectangle, I believe Graham Power was under a lot of pressure to suspend me. He in fact relates how one politician told him that he overheard Andrew Lewis and Frank Walker discussing how they could sack or suspend me. He resisted all such attempts fiercely. I honestly



believe that the only reason I was not suspended, (as it was quite clear that the establishment wanted me gone), was that I was in the public eye too much. As stated, I had used the media as a way of protecting my own position.

### **Other matters**

334. Since my retirement further evidence of the lengths to which the Jersey Government have gone to try and discredit myself and abuse victims has come to light. I found out in May 2011 that after my retirement the Home Affairs Minister had commissioned an enquiry by BDO into the way resources had been used during the operation. BDO never approached me about this, nor did anyone from the Jersey Government or the SOJP. Their report contained many incorrect assumptions and factual inaccuracies. Despite making no attempt to interview me, they were very critical of my decision making.
335. They even criticised me, in a financial review, for not having a 'Gold' Group. I had taken this decision with the full approval of Graham and the ACPO Homicide team because the Gold Group would have been made up of many post holders who were suspects. The fall-out from this fiasco led to a Jersey Parliamentary Scrutiny Panel examining the whole process and ended with the panel being very critical of the Jersey Government, and interestingly enough, of Mr Gradwell for leaking confidential police papers to a journalist well known for his views that historic abuse victims were usually lying or suffering false recall. This journalist had previously given evidence to parliamentary bodies in defence of the North Wales Care Home Abusers and Frank Beck, the Leicestershire Care Home rapist. Along with another campaigner, Richard Webster, he had co-written articles critical of abuse investigations. His name was David Rose. He was also the journalist who Senator Perchard leaked a confidential police e-mail to in an attempt to damage my credibility. Rose admitted this to Graham Power in a recorded conversation. As a result of his attempts to get at the truth, the lead member of the Scrutiny Panel, Trevor Pitman, has been subjected, along with his wife, to a dishonest and vicious campaign of denigration by the Jersey government

and legal establishment, supported by the government sponsored Jersey Evening Post. I have provided further detail about this sequence of events in respect of BDO at page 35 of my **Exhibit LH1**.

336. I recall that I was also criticised for presenting the UK police and civilian officers, who assisted in Operation Rectangle, with souvenir SOJP glasses. They would have been wine glasses, or whiskey tumblers and would have only cost a couple of pounds each. These glasses were part of a stock that were kept for such purposes. Another example of the petty attitudes and attempts to use anything possible to smear our investigation.
337. Also, at some point after I retired, Stuart Syvret emailed me as it appeared that there were suggestions I should be prosecuted for an alleged offence under the Official Secrets Act. The offence related to the leaking of the Bonner report that I had drafted for the Attorney General. I did not know anything about this and had not been approached about any potential allegations against me. Stuart Syvret told me that Sussex Police had been asked to investigate the matter and he gave me the name of the superintendent who was supposedly conducting this investigation. Stuart said he had been interviewed but was pretty sure that the real target was me.
338. I contacted the superintendent and asked 'Are you investigating me?' to which he responded, 'Should I be?' Nothing else was said. Sussex Police never ever contacted me and I was never informed by anyone that I was under investigation. It just disappeared. Stuart Syvret's life however has been blighted by the pressure he is under as a result of him challenging the abuses of the Jersey establishment. Punative action has been taken against him on matters that have always had a blind eye turned to them when those concerned were anyone else. I have no doubt, that like myself and Trevor Pitman, he and others have been targeted to try and prevent the truth emerging.
339. The SOJP have never told me that I was under investigation although I was, about three weeks after retirement, offered a job as a consultant to deal with some integrity matters in one of their departments, by the Metropolitan

Police. As usual, this was subject to satisfactory checks. When those checks were made, the Met informed me that I had failed the vetting process. They explained that I had passed the security aspect (hardly surprising as I was still vetted to the highest level possible) but had failed the vetting. No further detail was given. The department who were looking to employ me were unhappy, knowing my background and record, and appealed.

340. Eventually they were told that every force I had worked for had given me a glowing recommendation except for the SOJP. When they asked what the problem was, they were told that as the matter had been supplied as an 'intelligence briefing' rather than any statement, no details could be given. I persisted, and was eventually told that the SOJP had informed the Met, as intelligence only, that had I been still serving I would be subject to disciplinary proceedings over the manner in which I had dealt with the Abuse investigation. This was quite simply a falsehood calculated to damage me. The Acting Chief Officer at this time was David Warcup, but it was Ian Le Marquand, the Home Affairs minister who was leading the attacks on me – such as calling me an 'incompetent maverick' in the States, and my information was that it was he who had instigated the so called intelligence. I sent a number of emails to Le Marquand challenging the assertion, most of which were ignored. However, subsequently he issued a press release confirming that no disciplinary action was being brought against me. I produce this as **Exhibit LH47**. However, by this point in time I had lost the consultancy job.

341. One matter I should also mention is Operation Haven, by Wiltshire Police. I recall that Ian Le Marquand actually stood in the States, around the time Wiltshire were conducting its investigations, and claimed that I should not have headed up Operation Rectangle as I had no recent operational experience. This was also apparently, the view of Wiltshire Constabulary as well. I was at a loss to understand this, as I explain below. Ian Le Marquand criticised me on a number of occasions, making wild statements about the police under Graham and I being out of control and acting as if we thought we were actually independent. He claimed that I had disobeyed Attorney

General instructions and, as mentioned earlier, called me an 'incompetent maverick'.

342. During Operation Haven, I was interviewed by Superintendent Bonner of Wiltshire Police, who asked when was the last time I had investigated something? I pointed out to him that even though I had not been an operational detective for some time, I had continued to carry out investigations involving all sorts of serious crimes, and to supervise others. I also pointed out that I had been asked by the authorities in Guernsey to investigate matters involving the apparent framing of a police officer by colleagues, for offences he did not commit. My investigation into those matters resulted in the police officer concerned being awarded damages. Following that investigation I received a letter from a lawyer in Guernsey who had been a former police officer. This letter gives a rather different picture of myself from Le Marquand, Gradwell, and Warcup. I produce this letter as **Exhibit LH48**.

343. I also pointed out that my role in the investigation was not taking statements nor acting as part of the operational team. My job was to lead and manage it and that it was quite common for major investigations to be headed by senior individuals and for them to have a team under them that does the operational side of the job i.e. conducting interviews and the other up front tasks. Many senior officers who have long left the front line have headed up and led major investigations of great importance. Police forces in the UK and elsewhere have frequently appointed officers as senior detectives to head up major investigations who have little operational experience as detectives but are skilled leaders and managers. Other organisations, such as Police Complaints Authorities and Legal bodies have major investigations led by managers who are not detectives. I confirmed that my role was to head up the team, to give direction and to instil public confidence.

344. On one occasion after I had retired, I received a card through my door from the local police, whilst I was away for the weekend. The card said that I was wanted in Court in Jersey on Monday. There was no other information. I only received this notification on the Monday I returned from holiday i.e. the

day I had been requested to be in Jersey to attend Court. The card had apparently been delivered Friday night. I think it was the Court case of Claude Wateridge that I had been requested to attend as apparently the Judge had been told that I held some original documents relating to the case. I did not. This was untrue information given to the Judge. The Jersey Evening Post and other local media then claimed that I had ignored a witness summons. This was taken up also by Le Marquand, and was totally untrue. I offered through the Crown Office in Edinburgh to give evidence at any court in the UK but this was totally ignored and I heard nothing more.

345. One thing I also noticed after I retired was how certain people who were supportive of Operation Rectangle and who had worked closely with me, went into their shells and did not seem to speak up in support of me, or the operation, after I left. This was not surprising to me, given the level of intimidation and outright damage sustained by those who did attempt to speak the truth.

### **Concluding comments**

346. I went to Jersey in 2002 full of expectation for the challenge that lay ahead. I soon learnt that it was like nowhere else in the British isles. I was puzzled at first by the hostile reaction from Politicians to our efforts to stop the few bullies in the force from making the lives of their colleagues miserable. This turned to anger at the complete obstruction to all our efforts to regulate the possession of high velocity weapons on the island. I began to then see the close links and the way in which various arms of the Jersey society worked in order to stop modernisation. I saw the law being enforced by the Honorary forces, not on the basis of right and wrong, but simply on who was known to each other. When we tried to tackle police corruption, we again ran into a wall of hostility. This time it was organised, as Politicians and Ministers gave open support to the corrupt cops, as explained at page 36 of my **Exhibit LH1**.

347. During the historic child abuse investigations, I was humbled by the number of ordinary Jersey people that would stop me daily and thank me for standing

up to those who had abused their power and not listened to them for so long. Trying to get independence in the system is nigh on impossible. An example of this is the so called 'independent specialist' Lawyers appointed by the Attorney General for Operation Rectangle. They were neither independent nor specialists in child abuse.

348. The Judicial system in Jersey is corrupt, lacking basic checks, balances, and safeguards for ordinary people. I have no doubt about that the decision making clique is in the hands of a few powerful people, such as the Bailhache brothers.

349. I confirm that I am willing to give oral evidence to this Inquiry if required to do so. I would prefer to give evidence from the UK, via video link but if absolutely necessary, I would attend to give evidence in Jersey so long as I receive assurances that the authorities do not intend to invent something new to try and affect a phoney arrest.

Statement of Truth

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

Signed .....  .....

**Leonard Harper**

Dated *2<sup>nd</sup> November 2014* .....

impression that the purpose of these meetings was for them to 'sense me out' before the vote in the States.

16. Following further process required by law, I was sworn in before the Royal Court as Chief Officer of the SOJP in December 2000, on a five year contract. I will explain later how my contract of employment with the SOJP was subsequently extended. The three unsuccessful shortlisted candidates were the then serving Deputy Chief Officer who was Roly Jones (now deceased), and two senior ACPO officers from England.

### **Initial challenges and matters arising pre Operation Rectangle**

17. To enable me to set the scene for the evidence I will provide about the challenges faced on Operation Rectangle, it is necessary for me to explain some of the initial challenges faced by the SOJP before the operation came into being.

### **Report by Her Majesty's Inspectorate of Constabulary**

18. I joined the SOJP in the aftermath of a report by Her Majesty's Inspectorate of Constabulary ('HMIC') which was highly critical of the management of the force and its performance. From recollection, the force had been criticised in the way it was addressing crime and also the way in which staff were managed, specifically staff morale. There were also recognised serious professional standards issues to be addressed. Overall, the report was highly critical of most aspects of policing and it was therefore immediately clear to me that change was required. At the same time, a high-profile trial of three or four police officers on corruption charges was coming to a conclusion. The evidence heard during the trial was seen locally as indicating a need to 'get a grip' of standards within the force.
19. Whilst I do not intend to deal with each problem the SOJP had at the time I joined the force, I will address below some policing challenges and the issues of professional standards. Within my **Exhibit GP1**, on page 4 specifically, I have detailed some further problems faced by the force at the time I joined, and the actions I took in relation to them.



proposals were agreed and accepted but quietly forgotten when they became inconvenient.

130. André Bonjour was popular with some of the 'old boys' of Jersey and my view of André Bonjour was that he needed to develop substantially before we could be confident that he could deal effectively with political pressure and controversial issues. He was at that time assessed as needing to develop his skills in areas of pro-active management and to demonstrate stronger ability in addressing and resolving contentious issues. Early on in my time on the island I spoke to a senior police officer from another island. This officer knew Jersey very well and said that it had always been clear that Jersey wanted a force that would lock up burglars, arrest drunks on a Saturday, keep Jersey a clean place, but keep their nose out of everything else. André Boujour may, rightly or wrongly, have been seen as an attractive candidate by those who held that view.
131. The second event happened when for some reason Senator Kinnard was absent from the States during questions to Ministers, and Deputy Lewis answered a question in relation to the succession plan. In the process he unexpectedly departed from his script. He said that the position of Deputy Chief Officer and Chief Officer designate would after all be open to local officers. I later learned from a reliable source that he had apparently spoken to Chief Inspector David Minty and suggested that he apply. David was a capable officer with some early indications of strategic management potential, but had not at that time even reached the rank of Superintendent. He was not eligible to be considered for the Senior Command Course. He did not meet any of the criteria specified by Clothier.
132. The announcement by Lewis was completely unexpected. I learned of it while at the local airport. I actually ended up meeting Deputy Lewis at the airport by chance and I asked whether there had been a change in Government policy. I pointed out that I had agreed to serve beyond retirement age in order to deliver an agreed succession plan which would ensure that the force had a person with relevant skills and qualifications in a senior position, and that I was not inclined to continue on any other basis.

Andrew said that he had been misunderstood. I then helped him draft a 'clarification' in which he said that what he had actually meant was that there were currently officers who had completed the Senior Command Course who had Jersey residential qualifications who were serving in UK forces and that these officers may well apply (none did). This was a frustrating experience but one of a kind to which I was becoming accustomed. The fact that a plan had been discussed, negotiated, agreed and signed off did not apparently mean that any of the parties saw themselves as being bound by what it said.

133. After a few further difficulties we eventually began the process of advertising and selection. By then, more time had lapsed. I had been hoping for a long handover between the new Deputy Chief Officer and Lenny but this was no longer probable. The whole process left Senator Kinnard exhausted. I have explained later on in this statement, the handover that later occurred with Mr Warcup and Mr Gradwell.
134. There are some fundamental points which emerged: While others played a role, the succession plan was mostly my plan and it was my determination and drive to bring it to fruition which enabled it to survive. Without my input there would have been no external appointment of a Deputy Chief Officer, no appointment of David Warcup, and no suspension and disciplinary enquiry either, as I would have walked away and retired earlier.

## **Police investigations, Operation Rectangle and the spin-offs**

### **The lead up to Operation Rectangle**

135. To my knowledge, there were a number of reported cases and factors that led to the decision to commence Operation Rectangle. Many of the key cases were initially investigated years before the formal commencement of the operation, but resurfaced during 2007. Whilst I am not entirely sure of the exact order that these cases were brought to light, the relevant ones are:
  - 135.1 The Paul Every case;
  - 135.2 The abuse of a sea cadet; and

135.3 The investigations at Victoria College.

136. As well as the cases above, one significant factor that reinforced the need to commence Operation Rectangle was one relating to 'perception'. The belief that there had been cases of child abuse which had not been properly addressed, and the idea of 'cover ups' to protect senior figures, had been a feature of island life for some years before I was appointed to the SOJP. Operation Rectangle took place against a background of widespread rumour, speculation and political controversy.
137. There were other notable events that also occurred on the lead up to Operation Rectangle going live including the revelation that André Bonjour had sat on a report requesting an investigation into abuse at Haut de la Garenne ('HdIG') for a period of 12 months.

#### **The perception of 'cover-up'**

138. Before I deal with the specific cases of child abuse that occurred before Operation Rectangle went live, it is important to firstly deal with the environment within which Operation Rectangle commenced.
139. On a small island, such as Jersey, 'perception' can be just as important as reality and there was a perception in Jersey that many senior officials, politicians and members of the police had covered up allegations of child abuse, or were even involved in child abuse themselves. These kind of perceptions damage confidence in the police and the criminal justice system. Something needed to be done to address this.
140. For a number of years, possibly starting before my appointment, Senator Syvret had been outspoken in his criticism of the Jersey legal establishment, and in particular the approach taken towards child abuse issues. He had given interviews and circulated papers on the subject. Senator Syvret and his supporters had long been active in alleging that Jersey had a hidden history of child abuse, and that the authorities were resolved to do nothing about it. He was equally sure that the police were compromised, and that the local force would never take effective action.

141. Senator Syvret was a determined, committed and interesting person, and a Politician who most ordinary people, or individuals who are disadvantaged, would trust. In a community which is sharply divided into 'us' and 'them' he was seen by many people as one of 'us.'
142. Senator Syvret will feature a lot in this statement and I will explain later on, how senior politicians and officials in Jersey carried out a 'pincer' movement against Senator Syvret to have him removed from Ministerial office.

### **The Paul Every case**

143. The original investigation of this case occurred a few years after I was appointed. It involved a senior civil servant, named Paul Every, who was suspected of accessing child pornography on the internet. This all stemmed from Operation Ore where the FBI were breaking into child pornography websites and identifying individuals who had accessed the sites. Details of Every and others would have been provided to the force via the relevant authorities in the UK. It was clearly in the reputational interests of the force and the island that we responded robustly and professionally to the information which the American and UK authorities had provided.
144. Paul Every was a person who was seen as a rising star in the public sector, and a potential Chief Officer in a Government Department. He was also a senior member of the local sea cadets. This caused some 'need to know' issues due to the fact that Chief Inspector André Bonjour was also a senior member of the same organisation. A warrant was executed, but it was found that the suspect's computer had been wiped the previous evening. It is as if he knew we were coming which was disturbing given that the investigation was covert. There were suspicions about whether some person 'in the know' had tipped off Paul Every. There was discomfort at the fact that André and Every were close colleagues in the Sea Cadets. These suspicions may have been unfounded but they were never resolved and became part of the general background which influenced thinking as Operation Rectangle progressed.

145. Despite Paul Every's attempt to wipe his computer, some detailed computer forensic work was undertaken and enough evidence was collated to secure a conviction. However, I recall that there was some initial controversy around this case as the Attorney General's office had originally come back with a 'do not prosecute' instruction in the form of a covering letter. However following some telephone exchanges, in which I recall I had some personal involvement although I do not remember the details, the file was quickly requested back and the decision was made to prosecute. I do not know what lay behind this change of mind or indeed whether there had simply been an administrative error in the Law Officers Department.
146. This case is an interesting one because, on the lead up to Operation Rectangle, and during the operation, there were other enquiries relating to alleged abuse within the sea cadets. I was told that there was one other case in which a computer had been wiped, shortly before an arrest. I do not have the details of other cases involving abuse of sea cadets, save for the key case I have mentioned below, which implicated a senior police officer.

### **Abuse of Sea Cadet**

147. I now turn to a case which had a fundamental effect on relations between the force, government representatives, and the leadership of the public sector. In July 2007, a case came to public notice following a Serious Case Review carried out by an independent person appointed by the States. This was a case in which two local men had abused a boy who was also a sea cadet. As far as I am aware the men did not have a direct connection with the sea cadets as an organisation, but they owned or had access to a boat. The men were convicted to my recollection, but one of them later died in jail. It was determined that he had taken his own life.
148. During the period around the time of the Serious Case Review, Lenny's attention was drawn to a text between one of the offenders and John De La Haye, who had been Head of CID prior to the investigation but had retired by the time the abuse was being investigated. Within the text, the offender seemed to be asking De La Haye for some kind of reassurance about the