

# Independent Jersey Care Inquiry

Day 106

November 4, 2015

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Phone: +44 (0)20 3008 5900  
Email: [transcripts@opus2.com](mailto:transcripts@opus2.com)  
Website: <http://www.opus2.com>

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1 Wednesday, 4 November 2015

2 (9.38 am)

3 THE CHAIR: Good morning, Mr Le Marquand.

4 A. Yes, good morning.

5 THE CHAIR: Morning, Mr Sadd.

6 Mr Le Marquand, I'm sure you know, just to remind  
7 you, you are still under oath.

8 A. Yes, indeed.

9 MR IAN LE MARQUAND (continued)

10 Questions from COUNSEL TO THE INQUIRY (continued)

11 MR SADD: We are going to pick up from where we left off,  
12 Mr Le Marquand, paragraph 27 to 43 {WS000648/7} please,  
13 where you deal with something that we have together in  
14 conversation yesterday touched on already, it is the  
15 issue of remand, and you deal with it in more detail.  
16 Indeed it is a refrain, if I can call it that,  
17 throughout the vast majority of your statement, looking  
18 at the issues that concerned you in relation to remand  
19 and the pressures that --

20 A. I'm sorry, you are right at the limits of my hearing  
21 again.

22 Q. And you did tell me yesterday, forgive me.

23 We are going to look at a refrain that appears  
24 throughout your statement on the issue of remand and the  
25 pressures that it appeared to place on Les Chenes.

1 A. Yes.

2 Q. You explain in detail at paragraphs 27 to 43 how young  
3 people came to be remanded. We have established that  
4 you could only remand children under 15 to Les Chenes,  
5 that's right is it?

6 A. No, under school leaving age.

7 Q. Under school leaving age, so that's between 15 and 16  
8 depending on their date of birth?

9 A. Well, as I say in that paragraph, technically it is  
10 15 years ten months to 16 years ten months, depending  
11 upon their date of birth.

12 Q. And we want to look at the offences that you concluded,  
13 as the Senior Magistrate at the Youth Court, merited  
14 remand. Can you tell the Inquiry what you considered to  
15 be the offences that merited remand?

16 A. I can't answer in such simple terms, because you can  
17 have a situation in which the current offence might be  
18 relatively minor but it might be in breach of a whole  
19 series of previous matters and the conclusion of the  
20 individual judge or the panel was that there was a very  
21 high risk of reoffending. The test in relation to  
22 remand is never based solely upon the seriousness of the  
23 current offence.

24 Q. What was the test that you applied?

25 A. Well, the tests that we would have applied would have

1           been the normal test in relation to bail matters, but  
2           modified because of particular circumstances of youths.  
3           I mean in general what you are looking at in terms of  
4           bail is the risk of reoffending, the risk of failing to  
5           attend, the risk of interfering with witnesses and in  
6           very extreme but very rare cases you would be looking at  
7           the risk of public disorder caused by dissatisfaction,  
8           but in addition to that there is a particular difficulty  
9           that would have arisen during this particular period  
10          relating to actually concerns for the safety of the  
11          individuals. Now, very often those two were  
12          overlapping --

13        Q. To what extent, Mr Le Marquand, would the bail  
14          considerations that would have applied in an adult court  
15          have been tempered by the fact that you were dealing  
16          with young people?

17        A. I actually personally had a particular methodology in  
18          the adult court of my own of balancing risk with risk  
19          and normally I would be balancing the risks I have  
20          mentioned against the risk of -- the risk of unnecessary  
21          serving a period in custody, but we had particular  
22          difficulties because I had to modify that test in  
23          relation to the under 15s because they were never going  
24          to be -- they could never be sentenced to youth custody  
25          and in such cases we would take the view that if the

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1 risk of serious reoffending was sufficiently high, that  
2 nevertheless would override that factor. So there had  
3 to be a modification there in relation --

4 Q. I think your concern, as you set out in your statement,  
5 or that you weighed in the scales of the decision  
6 whether or not to remand a young person in custody at  
7 Les Chenes was your concern about reoffending whilst on  
8 remand, is that right?

9 A. Yes, because --

10 Q. Did you therefore see Les Chenes as essentially  
11 a holding facility?

12 A. It's a remand centre. Well, it was a remand centre. It  
13 was the only remand centre specified for those under  
14 school leaving age, but actually Les Chenes was  
15 fulfilling -- if we're talking about 2000 and 2001 it  
16 was fulfilling multiple roles. Its primary statutory  
17 role was as a remand centre, but by means of the  
18 mechanism of probation orders or binding over orders  
19 with conditions of residence there, it effectively was  
20 also housing a number of youngsters who had been  
21 sentenced. In addition to that there were people who  
22 were placed there on a voluntary basis.

23 Q. Did you see Les Chenes in your role as remanding young  
24 people to its custody as providing support and  
25 rehabilitation?

1       A. Well, remand is pro tem. Remand is just a temporary  
2       holding operation pending the decision being made and  
3       the case being dealt with. Some of the periods of  
4       remand were very very short indeed. I mean it wasn't  
5       unusual to have a situation where someone was presented  
6       shall we say before a single judge, shall we say on  
7       a Thursday or a Friday of a particular week, and there  
8       simply was nowhere for them to go that was going to be  
9       satisfactory without them absconding or reoffending and  
10      therefore a decision might be made to remand them in  
11      custody to Greenfields, but by the following Tuesday  
12      when the Youth Court sat, that situation might have  
13      changed and there might then be something available.

14             One of the key issues that the Court was always  
15      looking for was information in relation to where was  
16      a child going to stay, where were they going to live,  
17      were they going to be properly cared for there, etc,  
18      etc.

19      Q. But one of the provisions, or primary provision of  
20      Les Chenes was education of young people whilst they  
21      were in residence, is that right?

22      A. Yes.

23      Q. You agree with that?

24      A. Because it was a residential school. That was one of  
25      the complications of having these multiple roles. It

1           was --

2           Q. Does it follow --

3           A. Can I just explain to you, if you are not clear about  
4           this, that in addition to those who were resident there  
5           at any given time there were others also who were  
6           attending there as part --

7           Q. That's understood by the Inquiry, Mr Le Marquand, thank  
8           you so much.

9           A. Okay.

10          Q. Coming back to my question then about remand of young  
11          people, you say that some periods were short. We are  
12          going to look at in a moment far longer periods of  
13          remand, so we understand it, or so we have been able to  
14          garner from documents that have been made available to  
15          the Inquiry.

16          A. Have you got --

17          Q. What would you --

18          A. Sorry, can I interrupt you? Have you got copies of  
19          charge sheets? Because frankly if you haven't got  
20          copies of charge sheets you haven't got the full  
21          information.

22          Q. Maybe then the evidence or the questions I ask you will  
23          have to be qualified by that.

24          A. Okay, sorry.

25          Q. But I will come on to those in a moment, Mr Le Marquand,

1 please.

2 What from your memory would be the average time span  
3 of remands at Les Chenes?

4 A. I don't think I can give an answer to that.

5 Q. Were you ever concerned in your time as Senior  
6 Magistrate in the Youth Panel that young people were  
7 being held on remand for far longer than you would have  
8 wanted?

9 A. I think can I just perhaps explain in a longer answer  
10 than that. When I became the Senior Magistrate the  
11 general remand period was four weeks. Now, I think that  
12 applied also to the Youth Court, although I wasn't  
13 sitting regularly in that, I would only be sitting when  
14 David Trott was on holiday. I was very unhappy with  
15 that, not only for the Youth -- not only for the  
16 Youth Court, but for all the courts and in fact  
17 instituted a change so that the general remand period  
18 between hearings before the Magistrates Court or the  
19 Youth Court moved from four weeks to two weeks.

20 Now, in addition to that it was always possible to  
21 make a bail application between hearings if that was  
22 appropriate and youngsters could be brought back pro tem  
23 for a bail application to be made.

24 Now, when you're asking me what was the average  
25 period of remand of somebody in custody, I simply can't

1 answer that because I don't know. I would have to add  
2 up all the number of people who were remanded in custody  
3 and divide them.

4 Q. At paragraph 29 --

5 A. I would be giving you a wild guess, on average.

6 Q. And that's a point you have already made.

7 A. Yes.

8 Q. At paragraph 29 {WS000648/8} you identify as part of the  
9 balancing exercise, when determining the appropriateness  
10 of remand -- you say seven lines down:

11 "The need to protect the young person's welfare was  
12 an important consideration."

13 A. Yes.

14 Q. From your perspective as Senior Magistrate what should  
15 the Inquiry understand you to mean by protecting the  
16 young person's welfare in the decision to remand that  
17 younger than to custody?

18 A. Okay, there is a double issue there. There is an issue  
19 actually sometimes of there simply wasn't anywhere  
20 appropriate for youngsters to go to. Obviously the  
21 default position, if there had been -- if parents  
22 weren't willing to have the youngster, the default  
23 position would be one of the children's homes, but  
24 sometimes the children's home was saying "We can't  
25 manage them, we can't cope with them, it is not

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1 appropriate for them to come back to us", so you  
2 understand that we were receiving information from  
3 outside sources.

4 Q. Does that suggest to the Inquiry, Mr Le Marquand, that  
5 in fact children were being placed on remand in  
6 Les Chenes that ordinarily wouldn't have been had there  
7 been appropriate facilities?

8 A. Yes, absolutely. Absolutely. Because the alternative  
9 was to send them back into either a situation where they  
10 were going to immediately abscond and run away again, or  
11 immediately misbehave. And the other factor which runs  
12 together in thinking on this is the risk of reoffending  
13 and the risk to themselves, because actually in some  
14 cases -- if I can give you a practical example, if  
15 a youngster was continually taking and driving away  
16 vehicles and driving them at great speed and  
17 dangerously, clearly the risk of offending also was  
18 a risk to themselves and also to other youngsters they  
19 might take with them in the same vehicle.

20 Q. Indeed this is something you deal with at paragraph 31  
21 of your statement, this is page 8 {WS000648/8}.

22 A. Yes.

23 Q. Would it be unfair of the Inquiry to see some remand  
24 decisions as based on the fact of taking the young  
25 person out of circulation?

1 A. Taking them out of circulation? Yes, if there was  
2 perceived to be a high risk of reoffending.

3 Q. Was a consideration of your panel whether that needed to  
4 be balanced by the impact of being in a remand centre  
5 for that young person and the long-term --

6 A. Of course that would be balanced.

7 Q. And how would that balance work out?

8 A. Depends on the individual circumstances of the  
9 individual case. As I was starting to say to you,  
10 decisions aren't made in a vacuum. There would be input  
11 of information from various different sources, from the  
12 Probation Department and the Children's Service,  
13 sometimes -- we had a problem for a time where people  
14 were not coming down from the homes or from Les Chenes  
15 to give us advice and that was then changed so that it  
16 became standard that someone would come down whenever  
17 there was a youngster in custody to give us advice as to  
18 where they thought was the most appropriate place for  
19 remand.

20 Q. Page 9 please of your statement {WS000648/9}, the  
21 continuation of paragraph 31, so it is the top of the  
22 page. You say this three lines into the page:

23 "Additionally, although there were concerns about  
24 high occupancy levels and the inability of staff to cope  
25 properly with young people, from the Court's perspective

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1           it was hoped that young offenders would receive support,  
2           attention and training from staff at Les Chenes."

3                     And that's at the point of remand, is that right?

4           Given that you are dealing with --

5           A. That would be both remand and sentence.

6           Q. Do you think Les Chenes achieved this?

7           A. Well, the view of the Youth Panel, as you will see  
8           reflected in one of my letters, at the time was that  
9           Les Chenes was actually the best place, doing the best  
10          work and in terms of -- I won't use the word "remedial",  
11          that's the wrong word. In terms of rehabilitation and  
12          education and so on it was the best we had and that's  
13          why we were very disappointed when it -- we had these  
14          sort of -- it shutting down for anything other than  
15          a remand centre and then of course it reopened again and  
16          then shut down again and so on. The genuine view of the  
17          Youth Panel was that this was the best place and that  
18          the most effective work was being done there.

19          Q. As an alternative to being in custody in Les Chenes did  
20          the Youth Panel have the power to impose curfews on  
21          young people?

22          A. Yes, we could have imposed a curfew and --

23          Q. And did you do so?

24          A. Yes, yes. I mean clearly when you are dealing with bail  
25          matters very often there would be a condition of

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1 residence, that might be residence in a home, and also  
2 there might be a curfew. But similarly on occasion on  
3 sentencing, as part of the sentencing process, there  
4 might have been a condition of curfew for a period, but  
5 generally that would arise on a bail consideration.

6 Q. You refer at paragraph 32 {WS000648/9} to the  
7 UN Convention On the Rights of the Child and you say  
8 that even that acknowledges that "the welfare of young  
9 offenders is not the sole or overriding factor in making  
10 a remand decision" and you go on to say, as indeed you  
11 have told us this morning Mr Le Marquand, that the risk  
12 of reoffending and seriousness was often so high that  
13 individuals, to quote from your statement, "simply had  
14 to be remanded."

15 I just want to invite your comment on an extract  
16 that I showed you before coming in this morning. This  
17 is from the United Nations Rules for the Protection of  
18 Juveniles Deprived of their Liberty, dated December 1990  
19 and under the heading "Fundamental perspectives",  
20 paragraph 2:

21 "Juveniles should only be deprived of their liberty  
22 in accordance with the principles and procedures set  
23 forth ... in the United Nations Standard Minimum Rules  
24 for the Administration of Juvenile Justice ..."

25 And then the paragraph goes on to say:

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1           "Deprivation of the liberty of a juvenile should be  
2           a disposition of last resort and for the minimum  
3           necessary period and should be limited to exceptional  
4           cases. The length of the sanction should be determined  
5           by the judicial authority, without precluding the  
6           possibility of his or her early release."

7           Should the Inquiry understand that all the cases of  
8           remands to Les Chenes were in your view exceptional  
9           cases?

10          A. Yes, within the meaning of that, yes.

11          Q. Can we look at then some figures for remands to  
12          Les Chenes and Greenfields between 1977 and 2013, these  
13          are figures, Mr Le Marquand, that I showed you  
14          yesterday. Could we have two documents on screen, the  
15          first is a table at {WD008353}.

16          A. Yes, I have that.

17          Q. This is information that has been collated on the basis  
18          of documentation provided by the Health and Social  
19          Services, or one of the witnesses from Health and Social  
20          Services, Tony Le Sueur, and information provided by him  
21          has been collated in this way and if we look we can see  
22          starting at 1977 which is when Les Chenes was  
23          established and we go right down the page and starting  
24          at your period of office, 2001, we can see remand  
25          admissions there at 20 and then we go to 2003, remand

1 admissions 9 and then 2004 there is just under  
2 a sevenfold leap to 61, then 62, there is a dip in 2006  
3 to 28, then 2007 is 64, 44, 2009 is 71. If we then go  
4 please -- it is presented perhaps more graphically in  
5 the next document, {WD008352} please.

6 A. I've got that.

7 Q. It has now appeared on screen. If there is any way of  
8 magnifying that, that would be very helpful. What we  
9 see on the right-hand side are those figures  
10 extrapolated into a graph and we can see the peaks there  
11 and set against the numbers, so that the blue line is  
12 "All admissions" and the red line is "Remand  
13 admissions".

14 Having looked at these statistics and how this is  
15 represented, are you able to help the Inquiry understand  
16 that increase?

17 A. Yes, I think I can. Can I first of all point out that  
18 the peak is in the wrong place from the point of view of  
19 the evidence which was given by certain individuals,  
20 that the problems that were being caused of numbers were  
21 related to remands, because if you recall, the first  
22 letter written to me was written in 2000 and then the  
23 real crisis point took place in 2001. Now, there is an  
24 increase in numbers of remands in 2001 which corresponds  
25 with my recollection of a particularly difficult

1 year group, but that's 20 in a whole year and it really  
2 really undermines, I'm afraid, the evidence of those who  
3 have tried to say that the overcrowding in Les Chenes  
4 was down to changes in remand policy.

5 Q. I think there are two issues, Mr Le Marquand, just  
6 before you develop that. There are two issues. There  
7 is not simply the issue of remand and the points that  
8 you make are set out in the graph, but there is also the  
9 issue which we're also going to discuss of the length of  
10 remand. I just hasten to put that in as well.

11 A. Yes, yes, yes.

12 Q. But please carry on.

13 A. Yes, okay. Now, what I don't know and it wasn't clear  
14 from the evidence which I have seen of senior officials  
15 involved with Les Chenes, there was this on/off, on/off  
16 situation. Certainly I saw correspondence -- it is  
17 attached to my statement -- in which I write in very  
18 strong terms when suddenly, almost overnight, a decision  
19 is made to close Les Chenes apart from for the purposes  
20 of a remand centre and then clearly that decision was  
21 reversed at some point because from the correspondence  
22 again that I saw it was apparent that it had been  
23 reversed and I'm not sure that there then wasn't  
24 a second period when it closed for that period and then  
25 a reversal of that again. If it is relevant to the

1 Tribunal's deliberations I think you really need to get  
2 to the bottom of that and find out what the dates were  
3 when those decisions were made and then reversed, but  
4 I suspect from this table that that process was going on  
5 as far as 2003 and I suspect that the 2004/2005 sudden  
6 increase would have been as a direct result of the  
7 closure on a permanent basis, because if you think about  
8 it, if you had a situation in which a youngster might  
9 have been placed on probation for 12 months on condition  
10 that they reside at Les Chenes, that would have been one  
11 admission, but if you then had a situation where that  
12 was no longer available and the youngster was then  
13 repeatedly offending, breaching previous probation and  
14 binding over orders and so on and then finding  
15 themselves remanded back in custody because of the high  
16 risk of reoffending, etc, then you would have multiple  
17 entries and of course what this doesn't provide you with  
18 is the useful information you need which is the average  
19 occupancy during the period.

20 Q. Nonetheless, Mr Le Marquand, are you able to help  
21 the Inquiry as to what we see from the graph on screen,  
22 the peak in 2004 for instance?

23 A. I think that's what I was just trying to do. I think it  
24 must have been caused by the fact that people were no  
25 longer resident there and that would be my top of the

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1 head theory in relation to that, but I think --

2 Q. The Inquiry's understanding of the history of Les Chenes  
3 is that yes, in 2003 there was a change in the  
4 management of how Les Chenes was to operate, so it went  
5 from educational staff to care staff. We also know that  
6 there was a change in the name of Les Chenes to  
7 Greenfields in the August of 2003.

8 A. Yes.

9 Q. But the new secure children's centre or facility was not  
10 opened until 2006, late 2006.

11 A. Yes.

12 Q. So in that period between 2004 and 2006 what would  
13 account for that peak?

14 A. Sorry, you obviously didn't understand what I said  
15 before so I will try and say it again more clearly.  
16 Initially Les Chenes had multiple sources of people  
17 being in there. There were those who were there on  
18 remand, there were those who were placed there on  
19 a probation order or a binding over order on condition  
20 that they lived there, there were those who were there  
21 on a voluntary basis with agreement of parents. I'm  
22 talking about those who were resident, okay? Now, one  
23 of the letters of correspondence indicates a time when  
24 suddenly the Education Committee decided to shut down  
25 the operation apart from -- I'm talking about the

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1 operation of the secure part -- the issue of a remand  
2 centre. That discussion must subsequently have been  
3 reversed -- from the correspondence I deduced that --  
4 because there is then subsequent correspondence in  
5 relation to that -- if we go to Kathie Bull's report and  
6 so on it is apparent that people are still there other  
7 than just as a remand centre for instance.

8 Q. Forgive me --

9 A. And then I think there may have been two occasions in  
10 which it shut down and then reopened again for the wider  
11 purpose.

12 Q. I am being slow, I'm not following what you're saying,  
13 because what of course the graph does do is it  
14 distinguishes, as you can see, between on the one hand  
15 "All admissions", so that includes welfare admissions,  
16 and on the other hand "Remand admissions" and I'm  
17 interested to discuss with you and explore the remand  
18 admissions and I still don't understand the point that  
19 you are helping the Inquiry with in relation to remand  
20 admissions.

21 A. The point I'm making is that if you had a group of  
22 youngsters who had been placed on a probation order on  
23 condition of residence and if that process was actually  
24 being quite successful in terms of them not then  
25 reoffending and if that facility is then removed, then

1           you're going to have a situation in which potentially  
2           they're going to be reoffending regularly and finding  
3           themselves remanded back in again regularly. So it is  
4           in the wrong years, because the numbers issue/problem  
5           was primarily in 2000 and 2001, not in this time period.

6           But in order -- as I said before, in order to be  
7           sure as to what's going on you actually need to get  
8           occupancy figures as well for the relevant periods  
9           because then you can see -- or you need to get evidence  
10          which actually tells you which regime was functioning in  
11          terms of whether or not it was solely a remand centre.

12         Q. Paragraph 35 please of your statement {WS000648/10}  
13          where you are invited to comment on an extract from the  
14          evidence of Peter Waggott's, who was the Deputy  
15          Principal of Les Chenes in 2001 to 2003, and the extract  
16          that you were taken to is the account of witness 73 and  
17          Mr Waggott being asked to comment on it and the extract  
18          from witness 73's statement reads as follows, this is at  
19          page 5 of the exhibits, the exhibit reference is  
20          {WD008320/5} please, and the extract starts at line 20  
21          but I should set the question:

22                 "Question: Witness 73 also went on to say this, he  
23                 says that for him his main experience of Les Chenes was  
24                 the sheer trauma of being isolated so much, and this is  
25                 in 2003. He said this:

1           "Answer: It was the loneliness ... just spending  
2           large amounts of time on my own, whether it be in the  
3           vestibule -- like I said, some days I would have another  
4           young person with me, or in the secure -- old gym area,  
5           that was where I spent I would say at least a month,  
6           just coming out of my cell in the morning and going in  
7           there and I just remember spending large amounts of time  
8           on my own and that's really when I think I started  
9           developing depression."

10           When we come back to look at your statement,  
11           paragraph 35 {WS000648/10}, you say five lines down:

12           "I have been asked whether I was aware of such  
13           implications for young people. I do not specifically  
14           recall hearing of these issues."

15           Mr Le Marquand, notwithstanding you may not have  
16           heard of these issues, there you were -- or there your  
17           court was I should say, imposing remand, and perhaps on  
18           a repeated basis, of people under 15; were there any  
19           concerns of the consequences for those individuals for  
20           remand?

21           A. Of course, of course.

22           Q. And as a Youth Panel, you and your colleagues, how did  
23           you address that? So here we have an example of an  
24           individual who -- and indeed there are other examples,  
25           as we will come to, of individuals for long periods of

1           time being kept in secure. What was the thinking of the  
2           Youth Panel at the time?

3           A. I can't answer these kind of questions without actually  
4           having the charge sheets in front of me because one of  
5           the difficulties in relation to this, of allegations of  
6           very long periods of remand, but from what I know what  
7           had happened was an individual had actually been  
8           released on bail at some point and had reoffended and  
9           then had returned. I think in relation to this  
10          particular individual that is probably what happened,  
11          but if I had charge sheets then I could tell from that.  
12          Again I invite the Tribunal to obtain relevant charge  
13          sheets in relation to this particular individual which  
14          will be available in the records of the Magistrates  
15          Court Greffe.

16                 From are the perspective of Mr Waggott it may have  
17                 appeared to be one period of remand, from the  
18                 perspective of the Court it may in fact have been  
19                 a series of periods of remand with interludes between in  
20                 which there was similar reoffending which was of  
21                 a high-risk nature, both to the individual and to the  
22                 public. I think that is what happened, but without the  
23                 right documents in front of me I can't be certain of  
24                 that.

25                 You see, this is one of the problems inherent in an

1 approach which actually didn't recognise the need at  
2 times to remand people in custody when they were at  
3 high-risk: they would then reoffend and then when they  
4 reoffended the Court would be back in the same position  
5 again, except there would be more complications in the  
6 sense that it was another case to deal with which might  
7 in itself take longer. That was the reality of the  
8 issues you faced when you got very high risks of  
9 reoffending.

10 Q. I know that you come on to discuss the inspection  
11 carried out by Kathie Bull, a very familiar issue to  
12 the Inquiry, and her first inspection was in 2001.

13 A. Yes.

14 Q. There were follow up reports in 2002 and I think in  
15 2003. We know that the modern Greenfields wasn't open  
16 until 2006, as I have already mentioned.

17 A. Yes.

18 Q. Did the need for Greenfields come about because of  
19 Kathie Bull, or was it something that you were  
20 already --

21 A. I was already -- I mean one of the letters that I saw,  
22 it was quite apparent that I was saying from a very very  
23 early stage -- I'm not sure whether it was as early as  
24 2000 -- that we need to have some specialist unit in  
25 relation to this and it wasn't -- if I can go back to my

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1 normal language: Kathie Bull's report which I think was  
2 delivered at the end of 2002, or early 2003, created  
3 a crisis. She created the crisis.

4 Q. Wasn't the crisis already there, Mr Le Marquand?

5 A. Yes, the crisis was already there, of course the crisis  
6 was already there. The crisis that was there was this  
7 big increase in amount of crime --

8 Q. Why did it take someone from outside Jersey to identify  
9 the need that was necessary?

10 A. Because of the reluctance of the system to recognise --  
11 I mean I now --

12 Q. You recognised, Mr Le Marquand --

13 A. I now know that some of the senior people thought what  
14 was happening there was down to a change of remand  
15 practice in the courts. That is clearly wrong and the  
16 statistics you provided prove that beyond any doubt. My  
17 memory also is -- forgive me if this is wrong, I will  
18 ask the Education Department to forgive me if it is  
19 wrong, but I got the distinct impression during the  
20 period that the Education Department were unhappy at  
21 being left holding this baby, that they were there to  
22 produce education and in fact they were now having to  
23 tackle difficult cases of remand of persistent offending  
24 youngsters and they didn't like the fact that they were  
25 left there. That's the impression that I got, but it

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1           wasn't until Kathie Bull brought -- she created the  
2           crisis in the sense of making it public what was  
3           happening in relation to the situation and I can  
4           remember attending a meeting as magistrate and there was  
5           real horror from States Members at that meeting to  
6           discover just how difficult the situation was. Kathie  
7           then stayed on for another year to try to design a new  
8           system and then left and, as ever in Jersey, parts of  
9           her system were adopted and parts weren't.

10        Q.    Could you help the Inquiry understand, as they must, why  
11        it is that political awareness of what was going on at  
12        Les Chenes, as you have just told us, only appears to  
13        become apparent at the point of the Les Chenes report  
14        from Kathie Bull?

15        A.    I don't know. I mean I was doing my best to make people  
16        aware. I think it is probably fair to say that I was  
17        a more political judge than most and was not frightened  
18        to seek to engage with politicians and departments in  
19        order to make them aware of failures in the system.  
20        I think that's fairly apparent from the documents and my  
21        willingness to engage with the press when I really  
22        really thought that --

23        Q.    At paragraph 50, Mr Le Marquand {WS000648/15}, you tell  
24        the Inquiry that you visited Les Chenes, this is  
25        page 15, and that you did so in your capacity as

1 magistrate and that you remember meeting Mario Lundy  
2 there. Was that in his capacity as Director of  
3 Education?

4 A. I'm not sure. I'm not sure. If I knew the dates at  
5 which he left Les Chenes --

6 Q. He had left Les Chenes by 1996.

7 A. Oh, in that case it must have been in his capacity as  
8 director.

9 Q. He was no longer Director of Education by 2000  
10 [REDACTED].

11 A. No, no, it is the wrong way round. [REDACTED].

12 Q. My mistake. So you met him at what period?

13 A. Well, I became magistrate in 1999. When did Mario Lundy  
14 leave Les Chenes?

15 Q. 1996.

16 A. No, no. No, sorry, [REDACTED]. I think you've got them  
17 round the wrong way.

18 Q. It doesn't matter.

19 A. I don't know in which capacity.

20 Q. Did you visit the secure area of Les Chenes?

21 A. Yes, I did at one stage. I think it was created -- my  
22 impression is that it was actually built, but that could  
23 be wrong. So my impression is that I saw that at  
24 a later stage, but I could be wrong about that.

25 Q. And as we will come to look at the use of Status 1 and

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1           Status 2, or category 1 and category 2, you say at  
2           paragraph 54 {WS000648/16} of your statement:

3           " ... I have been asked to describe whether  
4           I thought Les Chenes was fit to serve its dual function  
5           as both an educational establishment and remand centre.  
6           Fundamentally, whilst we had no option but to remand  
7           children there, the building at Les Chenes was not  
8           designed to adequately serve a remand function.  
9           A remand centre ought to be secure. Les Chenes was not.  
10          The use of cells at Les Chenes was driven by its general  
11          inadequacy as a remand centre."

12                 That inadequacy was met by the creation of new  
13          Greenfields, is that right?

14          A. Yes.

15          Q. And what do you want the Inquiry to understand by  
16          "inadequacy"; that it wasn't secure, or that the cells  
17          weren't --

18          A. Precisely. I mean there was an issue of youngsters  
19          regularly absconding through a velux window, from my  
20          memory, in the top floor and climbing out onto the roof  
21          and sliding down and holding onto the gutters, or  
22          whatever, and then dropping down. That I was shown  
23          during one of my visits and clearly that was quite  
24          alarming from the point of view of their personal  
25          safety, apart from the issue of them escaping.

1 Q. At paragraph 61 to 63, page 19 {WS000648/19}, you tell  
2 the Inquiry that in response to pressures on Les Chenes  
3 magistrates introduced two different categories of  
4 remand, something I just touched on a moment ago. This  
5 appears to have coincided with the publication of the  
6 first Les Chenes report. Was the introduction of the  
7 categories of remand a consequence of the report?

8 A. I don't know. When you say the first report do you mean  
9 Kathie Bull's interim report?

10 Q. No, the report produced in 2001, "Principles, Procedures  
11 and Practices at Les Chenes Residential School".

12 A. Who produced that?

13 Q. Kathie Bull?

14 A. Right. That must be been when she was first called  
15 in -- as I say, she worked during the whole of 2002.

16 I suspect so. What I can't recall is as to who  
17 initiated this new system. I don't think it was  
18 initiated by the courts, I think it was initiated by  
19 Education because they wanted to have guidance from  
20 the Court as to those people who were perceived as being  
21 so high in terms of the risk of escape and subsequent  
22 reoffending that the Court was of the opinion that they  
23 should be held within a secure area.

24 Q. It may assist you if we look at an extract from  
25 Kevin Mansell's statement. This is page 18 of the

1 documents please {WD008320/18} and it is paragraph 72 at  
2 the top when we come to the page, where he recollects as  
3 follows:

4 "Whilst the Court would dictate the level of remand  
5 and therefore which area of the school a young person  
6 had to stay in, this was sometimes problematic due to  
7 the lack of space in each specific area."

8 A. Sorry, that hasn't come up on the screen for me. Was it  
9 meant to?

10 Q. It was meant to.

11 A. It hasn't.

12 Q. You have nothing on screen at the moment?

13 A. I'm still on paragraph 72, 73, 74.

14 Q. That's what I want you to look at, paragraph 72 at the  
15 top of the page. That's what I'm reading from.

16 A. Sorry, that's his statement. I thought it was still my  
17 statement. I hadn't spotted it had changed. Okay, yes.

18 Q. Reading from the third line please, Mr Le Marquand:

19 "Ian Le Marquand and Ian Christmas categorised  
20 different areas of the school and determined which area  
21 young people should be remanded in, depending on their  
22 level of security risk. This often led to an assessment  
23 as to who would be the highest risk and therefore who  
24 should be placed in the available space in the secure  
25 area. Notwithstanding this use of the secure cells,

1           there was no fixed rule that a new admission would have  
2           to sleep there. This still depended on the state of the  
3           new admission, as previously discussed."

4           There is a certain ambiguity there. Your evidence  
5           to the Inquiry is that it was internally that Les Chenes  
6           developed this Status 1, Status 2, not the magistrates?

7           A. Well, I can't recall for certain, but I can't see that  
8           we would have come up with this idea on our own, as it  
9           were. I think that there clearly was an issue in  
10          relation to people escaping from Les Chenes and  
11          reoffending or putting themselves at risk, etc etc, and  
12          I think that -- I think we must have been approached by  
13          Education people to achieve a system, as it were.

14          I can't see that this was our invention, as it were.

15          Q. At paragraph 61 of your statement, page 19  
16          {WS000648/19}, you set out there how the categorisation,  
17          category 1, category 2, was to work in practice. How  
18          did this come to alleviate the pressure on Les Chenes  
19          from your perspective?

20          A. The question as to categories? Well, simply it meant  
21          that we were identifying those who were at very  
22          high risk of --

23          Q. And high risk was determined by reoffending, is that  
24          right?

25          A. Yes, absconding and reoffending. You see, a remand

1           centre is a remand centre. If people are remanded in  
2           custody they are meant to remain in custody. They are  
3           not meant to be in a place that leaks like a bucket.  
4           It's not satisfactory and I think what happened was,  
5           recognising the weaknesses of the security of the  
6           premises, that some adjustments were made to the  
7           building, because I remember being shown these as  
8           a piece of work which had been done within the building  
9           in order to make this area more secure.

10          Q. So you visited Les Chenes at the time to see how this  
11           was going to work out in practice?

12          A. I was certainly shown the cells, yes.

13          Q. Was one consequence of the different categorisation that  
14           certain young people would spend more time in secure  
15           cells?

16          A. Yes almost by definition, because if the cells didn't  
17           exist before they couldn't have spent time in them. But  
18           I think what may have happened is that there may have  
19           been an existing facility of cells which was then  
20           upgraded in terms of security. This is right at the  
21           limits of my memory of detail.

22          Q. I would like to invite --

23          A. I just want to say, they couldn't spend time in there if  
24           it didn't exist.

25          Q. I would like to invite your comment please on the

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1 following document we are going to have up on screen.  
2 This is {WD003926}, a document that I have shown you  
3 prior to your giving evidence today. This is just an  
4 exchange of emails in June 2003 between Phil Dennett,  
5 the then Manager of Children's Services, and those  
6 within Les Chenes and I want specifically to take you to  
7 the entry two-thirds of the way down. It is an email  
8 from Phil Dennett, it is dated 26 June 2003 at 08:19; do  
9 you have that?

10 A. Yes.

11 Q. The email reads:

12 "The Panel ..."

13 Which by inference the Inquiry has taken to mean the  
14 Youth Panel:

15 " ... met yesterday and considered plans for  
16 [witness 73] in light of the statement from the  
17 magistrate that he was to be secured for the next  
18 15 days. [X] will be meeting with Annie [that's  
19 Annie Shine] to consider the way forward."

20 Annie Shine being a Child Care Officer. The  
21 response above that, reply at 08:22:

22 "Hi Phil.

23 "We met [687 and 543] yesterday and there are no new  
24 proposals without spending money. In the meantime the  
25 three boys are spending a great deal of time in

1 isolation during the day."

2 Were you aware of that fact?

3 A. I'm not quite sure what's meant by "isolation" there.

4 I mean isolation to me means you have one person alone,  
5 not three people together in a group, so I'm not quite  
6 sure what's meant by "isolation".

7 THE CHAIR: Or in a secure cell, isolated in a secure cell.

8 A. Yes, but if there are two of them together in the same  
9 cell they are not isolated is my point.

10 I think there were only two cells from memory.

11 The term "isolation" is unfortunately used in all  
12 sorts of different senses.

13 MR SADD: Paragraph 63 please of your statement, on the same  
14 page that we have been looking at {WS000648/19}, you  
15 say:

16 "I think staff at Les Chenes were able to flexibly  
17 interpret the Youth Court's remand category decisions."

18 Can we then go please to {WD003922}. This is  
19 an entry made following a hearing in the Youth Court  
20 in August 2003.

21 A. Okay.

22 Q. It is an entry that I invited to read before we came in  
23 today.

24 A. Yes, thank you.

25 Q. It sets out a note in relation to what was going to

1           happen to witness 73 and if I read from "Just prior to  
2           being called into court", do you have that, three lines  
3           down above the long black rectangle:

4                     "Just prior to being called into court [a staff  
5           member at] Les Chenes (new care team took over today)  
6           stated to CCO that they were proposing that [73] be  
7           moved to Status 1 from Status 2. She said she had been  
8           advised by [687] that [73] had stated he plans to cause  
9           a riot at Les Chenes. However, as he has made these  
10          comments to another member of staff, it was unclear as  
11          to seriousness of threat; also appeared very unfair to  
12          remove Status 2 on verbal threat which does not cause  
13          immediate threat. In court all supported a move to  
14          further relaxation of [73]'s Status 2 regime ..."

15                    And this was all:

16                    " ... apart from Les Chenes representative who  
17           requested move back to Status 1, whereby [73] would go  
18           back into secure cell. Court asked for clarification of  
19           the alleged threat of riot ..."

20                    This was unavailable. The Court retired and then  
21           just reading down there is reference there to 73's  
22           "current low mode and anxiety", and then picking up if  
23           I may --

24           A. Sorry, I should have the next page.

25           Q. Picking up from "After much discussion", do you have

1           that?

2           A.   Yes.

3           Q.   "After much discussion it was agreed that [73] would  
4           remain on Status 2 and have a sanction at staff  
5           discretion for verbal threat of riot. Spoken to by  
6           magistrate who wished to remand [73] on current status  
7           for one week and that he would review it in one week and  
8           give leniency/staff discretion at that stage provided  
9           [73] behaviour has been appropriate.

10          Magistrate Christmas also asked that [73] not  
11          [underlined] be punished for verbal threat without prior  
12          consultation with himself or Magistrate Le Marquand."

13                 And the case was to be reviewed in August 2003.

14          Mr Le Marquand, were you, sitting as Senior  
15          Magistrate, ever invited to make a decision as to  
16          whether or not someone should be placed in category 1 or  
17          category 2?

18          A.   Yes.

19          Q.   What this note suggests, and it's an inference that  
20          I would invite you to comment on, is that the moving of  
21          a resident to category 1 status would on occasion be  
22          viewed as punishment. Is that how the Court viewed it?

23          A.   No.

24          Q.   Were you aware that that was how it was being apparently  
25          used by staff at Les Chenes?

1 A. Well, it's an interesting case because obviously  
2 I didn't sit on that occasion.

3 Q. Sorry, my question to you was were you aware that staff  
4 were using the categories as a means of punishment?

5 A. I don't think so. Our interest was security.

6 Q. Back to paragraph 37 please of your statement, this is  
7 page 11.

8 A. Sorry, could I just make my comment you cut me short on.  
9 It appears that Magistrate Christmas who sat on that  
10 occasion, Assistant Magistrate Christmas, may have had  
11 some concerns about that from the way in which he dealt  
12 with it.

13 Q. Paragraph 37 please, this is page 11 of your statement  
14 {WS000648/11}. Here you are discussing an issue which  
15 you have already told us about this morning in relation  
16 to the -- it was the role of the Education Department to  
17 resolve and you set out a letter from the principal to  
18 the Director of Education. You refer to the queuing  
19 system, you say that operates in Norway. You say that  
20 this is wholly unsatisfactory, and to quote, as:

21 " ... many offenders would be rehabilitated before  
22 they even commence their sentence."

23 Just so the Panel can understand the perspective of  
24 the senior magistrate at the time, yourself, why did you  
25 feel that this consequence that applied in Norway was an

1           unsatisfactory one?

2           A. The situation in Norway I'm talking about is on sentence  
3           and I'm drawing an analogy there to a situation where  
4           actually we are being asked to change remand decisions  
5           based upon capacity of the premises. In a sense that's  
6           parallel to the Norwegian situation where they for  
7           a time dealt with lack of capacity for sentencing -- for  
8           people to serve sentencing, in that kind of way.

9           Q. When you came to consider a disposal hearing for a young  
10          person who had been on remand, and repeatedly on remand  
11          in some cases so the Inquiry understands, were the  
12          periods on remand taken into account?

13          A. Yes. Ah, well, hang on, they are taken into account if  
14          a person is being sentenced to a custodial sentence,  
15          which of course would be only for someone who was  
16          aged 15 or over. Then the period on remand is part of  
17          the period served in relation to that. In other cases  
18          if there had not been a custodial sentence, if the Court  
19          was actually going to impose a probation order or  
20          something of that nature, then actually you don't  
21          determine the length of the probation order based  
22          upon --

23          Q. Is that right though, Mr Le Marquand, because you were,  
24          as you recognise in your statement, albeit you were  
25          concerned about the legality of the issue, imposing

1           probation orders with conditions of residence? When you  
2           imposed those probation orders did you take into account  
3           the periods of remand that the young person had been on  
4           at that point?

5           A. Okay, you're talking about a situation in which a young  
6           person has been on remand prior to sentence and then  
7           placed on probation on a condition of residence? I'm  
8           not sure you would because I think the decision of the  
9           length of period of probation or the condition of  
10          residence was based primarily upon the needs of the  
11          individual.

12          Q. What should the Inquiry understand that to mean?

13          A. Well, we would get a recommendation from Probation  
14          Department in relation to the length of a proposed  
15          probation order; that recommendation would be based upon  
16          the needs of the individual, in other words what length  
17          of period do they need, for their own good and their own  
18          rehabilitation, to be in Les Chenes.

19          Q. So just to be clear, the condition of residence that  
20          would be attached to that probation order and that  
21          condition of residence being Les Chenes was one that  
22          probation would put forward and not the Court?

23          A. The Court always makes the decision, but the Court never  
24          makes a decision without appropriate advice.

25          Q. And just following that up, it would be the Probation

1 Service therefore that was advising the Court to impose  
2 a condition of residence at Les Chenes?

3 A. Yes.

4 Q. The letter that is referred to at paragraph 37 --

5 A. Sorry, can I just caveat that because sometimes for very  
6 young people reports were produced by the  
7 Children's Service. I just can't remember what was the  
8 age at which the Children's Service produced the reports  
9 rather than Probation.

10 Q. I would just like to invite your comment on the letter  
11 that's exhibited to your statement. It is at page 9  
12 {WD008320/9}. It is a letter from the then principal to  
13 Tom McKeon, 8 December 1999, and you can see two major  
14 issues arise from an incident that had occurred. It is  
15 a specific point I would invite your comment on please,  
16 Mr Le Marquand. It is numbered paragraph 2 and I know  
17 this is before you take up your post:

18 "In 1998 one child from the children's homes was  
19 placed at Les Chenes through either yourself or  
20 the courts. In 1999 seven children have now been placed  
21 with us. In some of the cases a legal remand was used  
22 but could be said to be contrived. In only one instance  
23 was the offending alone serious enough for a remand."

24 I think is it your evidence to the Inquiry that by  
25 2001 that picture had changed so that you tell

1 the Inquiry in your statement that offences by 2001 had  
2 become serious to justify remand in each case?

3 A. Yes, we had patterns of serious and repetitive  
4 offending.

5 Q. Did you meet with the principal of Les Chenes prior to  
6 Kevin Mansell; his predecessor?

7 A. I recall meeting with Tom McKeon -- sorry, not  
8 Tom McKeon. I recall meeting with Mario Lundy, but we  
9 haven't been able to establish what his status was at  
10 that time.

11 Q. And at paragraph 55 please {WS000648/17} you set out the  
12 basis upon which remand orders would be made, and you  
13 have told us what the --

14 A. Sorry, what paragraph number was that?

15 Q. 55, page 17.

16 A. Thank you.

17 Q. You say in the last sentence there:

18 "The magistrates were dealing with issues of serious  
19 crime and the potential for serious danger."

20 Is the serious danger to the individual themselves,  
21 to members of the public?

22 A. Both. Both. Particularly in 2001 we had repetitive  
23 cases of people taking and driving away vehicles and  
24 driving them dangerously, in some cases -- in one  
25 particular case the youngster used to store cars up and

1           then take his friends out to where the cars were so  
2           a number of youngsters would be driving around in  
3           convoy.

4           Q. Paragraphs 39 to 40 please, page 11 {WS000648/11}. Here  
5           you comment on the Howard League Report's finding in  
6           2008 that a higher proportion of children charged with  
7           offences in Jersey are placed on remand at the date that  
8           they were looking at the situation, in 2008, compared to  
9           many other European jurisdictions. On one view,  
10          Mr Le Marquand, this suggests that Jersey has a lower  
11          threshold for remanding young people than elsewhere.  
12          What would you say to that?

13          A. Well, the reality of the situation is we didn't have the  
14          alternatives. I mean other larger jurisdictions like  
15          the UK have secure children's homes. We didn't have any  
16          secure children's homes and so for that very reason  
17          different criminal systems deal with offending behaviour  
18          or risks or whatever in different ways. We didn't  
19          actually have any other options. Our children's homes  
20          for some of these periods were overcrowded and weren't  
21          in any way secure. That was exactly the reason why the  
22          secure facility was needed for the secure placement  
23          orders, apart from the remand.

24          Q. And indeed we're going to come on to that. At  
25          paragraph 40 {WS000648/12}, the last sentence there, you

1 say:

2 "Prior to the existence of secure placement orders  
3 the criminal court route was the only way to establish  
4 a secure placement."

5 Secure placement orders, forgive my ignorance, when  
6 did they come into force in Jersey?

7 A. I'm not sure. If I had to make a guess it would be  
8 about 2003/2004.

9 Q. So this was while you were senior magistrate?

10 A. Yes, indeed.

11 Q. And what was the consequence of those coming into force?

12 A. The sequence of that was the Royal Court had a power to  
13 place people, place young people at Les Chenes or  
14 Greenfields -- it may have been -- if it was later it  
15 would have been of course at Greenfields -- if they were  
16 repeatedly absconding from children's homes, or if they  
17 were seriously at risk. We had -- I remember visiting  
18 in my period as Minister and finding there a girl who  
19 was there aged about 13 and who was highly promiscuous  
20 and had been placed there because of the risks to her.

21 Q. At paragraphs 41 to 42 {WS000648/12} you are invited to  
22 comment on Kevin Mansell's evidence -- again to remind  
23 you he was the principal in 2001. I will just read the  
24 extract, it doesn't need to come up on screen. He says  
25 in his statement to the Inquiry and in evidence that he

1 gave to the Inquiry:

2 "There were instances of young people being sent on  
3 remand for four or five months at a time." {WS000599/11}

4 Can we have up on screen please -- then I will  
5 invite your comment -- document {WD006488/31}. This is  
6 a principal's report, principal of Les Chenes'  
7 report, February 2001. It [REDACTED] is the sixth  
8 paragraph I would like you to look at. He says this:

9 "I have recently met with the magistrates to discuss  
10 the problems that the school is currently facing in  
11 terms of student numbers. Two issues of immediate  
12 concern are the increased number of remand cases ..."

13 Which we have discussed:

14 " ... followed by the length of time that it takes  
15 for cases to be resolved. For example a number of  
16 students have been on remand for over five months, which  
17 is totally inappropriate. At the present time there is  
18 very little that can be achieved in relation to the  
19 remand cases as those numbers merely reflect the  
20 fivefold increase in the number of young people who have  
21 appeared in Youth Court in recent years.

22 The magistrates are actively looking for ways to reduce  
23 the length of remands that some young people are on,  
24 which may be of benefit to the school."

25 It may be, Mr Le Marquand, that you have already

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1 told the Inquiry about the active ways that you were  
2 looking to reduce the periods of remand. What were  
3 magistrates doing to reduce those periods in practice;  
4 what was happening?

5 A. If it is right that the standard remand at the time that  
6 I took over as magistrate was four weeks in the  
7 Youth Court -- it certainly was in the senior court --  
8 I was bringing about changes that the statutory remand  
9 moved to two weeks. Four weeks was much too long,  
10 particularly with young people. I mean dealing with  
11 their cases rapidly is of the essence.

12 Q. What this note suggests, doesn't it, Mr Le Marquand, is  
13 that the magistrates were being made aware of the fact  
14 that there were certain young people being kept on  
15 remand at Les Chenes for five month periods. Do you  
16 take issue with that?

17 A. Well, without the charge sheets I can't be sure.

18 Q. It is not an issue of charge sheets, Mr Le Marquand.  
19 This is a contemporaneous record made in February 2001.

20 A. I know, I still can't be sure without the issue of  
21 charge sheets for the reason I have explained before,  
22 which is the possibility of reoffending and going back  
23 in again. If it is correct it is totally unacceptable  
24 and if -- it clearly was brought to my attention at that  
25 time and clearly I took steps to do something about it.

1           As I say, I'm concerned without establishing that there  
2           hadn't been reoffending and double admissions as to the  
3           accuracy, but five months is much too long, much much  
4           too long to deal with youngsters. As I said, they  
5           change rapidly, for good or for ill, and you need to be  
6           dealing with their cases rapidly.

7           You also notice this is February 2001 and therefore  
8           prior to the period when I actually started to sit  
9           regularly in the Youth Court.

10          Q. Should we understand from that then, Mr Le Marquand,  
11          that on your taking up your position you actively took  
12          steps to reduce those periods of remand? What I haven't  
13          understood yet and would be keen to understand is what  
14          steps you did in fact take?

15          A. Okay. I think that the steps that were taken were the  
16          change from the four week standard remand to the two  
17          week standard remand. The reasons for that, if I can  
18          just explain that, right across the board was that the  
19          system that I inherited was far too reliant upon the  
20          prosecutors getting on and pushing things forward.  
21          I was quite clear that we had moved into the age of case  
22          management and it was a role of the courts to ensure  
23          that cases were dealt with expeditiously and so that was  
24          part of that process. If there was a two week remand  
25          period then the centenier could be asked "What on earth

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1 is going on, why hasn't there been action on this in the  
2 last two weeks?". It is all part of the Court's action,  
3 moving from a reactive to a proactive stance in terms of  
4 ensuring cases were dealt with expeditiously. I kept  
5 lists of the lengths of remand of cases from the time  
6 when they had started in the Court to when they were  
7 dealt with.

8 Q. And those lists would be records that the Court would  
9 still hold, would they?

10 A. I don't know what's happened to them or whether I --  
11 they might be there, but I kept such lists definitely  
12 and that enabled me to keep an eye on cases that were  
13 taking place before my -- when my colleague was dealing  
14 with them.

15 Q. Again I would invite your comment on another aspect of  
16 Mr Mansell's evidence -- it doesn't need to be brought  
17 up on screen, I can quote. It is two lines from his  
18 statement that he gave to the Inquiry. He says this:

19 "The young people would often be sent on extremely  
20 long periods of remand ..."

21 We have discussed that:

22 " ... for offences that would precipitate a fine for  
23 an adult." {WS000599/17}

24 A. Well, without a specific case and without a specific  
25 charge sheet how can I possibly comment on that? That

1           may be his impression but that kind of evidence is  
2           notoriously unreliable. If there was a specific case  
3           and specific charge sheets one could form a view in  
4           relation to that, but he is writing in February 2001 of  
5           course.

6           Q. Was there an element in the Youth Panel in the decision  
7           of remanding young people to teach them a lesson?

8           A. No, I think the issue was to stop them offending and  
9           sometimes it was necessary to remand people in custody  
10          to have a sort of time out, as it were, just to start  
11          trying to break the pattern of persistent offending that  
12          was coming into existence. I don't think I was ever  
13          particularly strong on the issue of punishment in terms  
14          of my sentencing theory.

15          Q. At paragraph 43 {WS000648/13}, dealing in fact with that  
16          issue of punishment, you were invited to comment on --

17          A. Sorry, could I just comment on something else which is  
18          in Mr Mansell's thing.

19          Q. By all means.

20          A. He refers to a fivefold increase in crime. That's  
21          an exaggeration, statistics will show that, but actually  
22          that does totally back up what I'm saying, that the  
23          increase in population was related to an increase in  
24          youth crime.

25          Q. Looking at paragraph 43 please {WS000648/13}, page 13 of

1           your statement, where you were invited to respond to  
2           evidence given by Tom McKeon to this Inquiry and the  
3           extract is at {WD008320/20} please and it starts at line  
4           19 and it is in response to a question from  
5           Professor Cameron, but I should read just above that.  
6           So starting at line 9 please:

7                     "PROFESSOR CAMERON: You say that attitudes changed.  
8           However, it could be the case that we could take a view  
9           [that is the Inquiry could take a view] that in those  
10          latter issues that you were dealing with, the  
11          interactions with the magistrate, Mr Le Marquand, that  
12          there remained a punitive attitude towards children?

13                    "Answer: Well, that is evidenced by some of the  
14          statements that Mr Le Marquand made.

15                    "PROFESSOR CAMERON: What did you feel his attitude  
16          was when you met with him about these matters?

17                    "Answer: As I said, when we were discussing it  
18          Mr Le Marquand agreed that the appropriate course of  
19          action for these children was to place them out of the  
20          community in a secure setting and secure environment.  
21          As a matter of fact as I recall at one stage remands  
22          were being repeated in order that the children were  
23          effectively being 'sentenced' to secure  
24          accommodation ..."

25                    What's your response to that and the impression he

1 had?

2 A. I would like to know what statements he is referring to  
3 and what evidence there is that I made any such  
4 statements first of all. Secondly ...

5 Q. Just dealing with the issue three lines up from the  
6 bottom.

7 A. Okay, "As a matter of fact ..." there was a temptation,  
8 there was a temptation with youngsters with repeat  
9 offending to do this, but my recollection is that  
10 I tried very hard to resist that temptation and to urge  
11 my colleagues who were sitting with me when it was  
12 a full court not to go down that route. That was one of  
13 the reasons actually why the two week remand period was  
14 a good discipline for the courts as well as everybody  
15 else because the matter then had to be reviewed.

16 MR SADD: Madam Chair, I'm conscious of the time.

17 THE CHAIR: Yes, I think we need to take a break and we will  
18 do so now for ten minutes.

19 Just to remind you, Mr Le Marquand, please don't  
20 discuss your evidence with anyone.

21 A. That's fine.

22 Can I just remind the Tribunal I really do have to  
23 go at quarter to 12.

24 THE CHAIR: We are aware of that.

25 (10.47 am)

1 (A short break)

2 (11.09 am)

3 MR SADD: Mr Le Marquand, between paragraphs 44 and 49 of  
4 your statement {WS000648/13} you deal with issues of  
5 sentencing, many of which you have already touched on.  
6 What you do tell the Inquiry at paragraph 45, over the  
7 page to page 14 {WS000648/14}, is that the  
8 probation order with a condition of residence you now  
9 accept was legally questionable at the time. Why was  
10 that? Why was it legally questionable?

11 A. Well, I think it required consent of the individual,  
12 probation orders and Jersey binding over orders required  
13 the agreement of the individual. I think the difficulty,  
14 looking at it now, is that I'm not sure that it was  
15 explained properly to the individual that it required  
16 their consent.

17 Q. Are you telling the Inquiry that at the time that the  
18 probation orders with a condition of residence were  
19 imposed consent was not sought?

20 A. It will have been sought, of course it will have been  
21 sought.

22 Q. So why was there an absence of explanation, as you have  
23 just --

24 A. Well, I'm not sure that the youngsters involved  
25 understood that they could say no. There were

1 subsequent situations in which --

2 Q. That suggests, doesn't it, Mr Le Marquand, that it  
3 wasn't explained to them?

4 A. I suppose that's right, yes. I mean the actual  
5 documents that they signed would indicate that they were  
6 consenting to ...

7 Q. Forgive me, I missed that?

8 A. The documents they signed would indicate that they were  
9 consenting to the terms of the order.

10 Q. And in your experience did any young person refuse to  
11 consent?

12 A. Yes, but that was much later. There was a notable case  
13 where I think we had actually sent a case up to the  
14 Royal Court because it was of sufficient seriousness and  
15 where a youngster refused and if my memory is correct  
16 although it was a quite serious matter involving  
17 burglary and taking of items worth about £25,000 or  
18 more, the Royal Court found itself in the very  
19 embarrassing situation of having to give an absolute  
20 discharge. That was my recollection, but that was  
21 a much later period.

22 Q. There is a letter that you write in July 2002 to  
23 Tom McKeon, then Director of Education, and you write  
24 this letter in your capacity as the Senior Magistrate,  
25 where you are reviewing the legislation and placement at

1 Les Chenes and you say this:

2 "For some reason the fit person order began to fall  
3 into disuse and was gradually replaced by the current  
4 system of a probation order or a binding over order with  
5 a condition of residence at Les Chenes. I suspect this  
6 may have been because of the work involved in obtaining  
7 such an order and delays in the Law Officers'  
8 Department."

9 You add:

10 "Of course the new practice has created grave  
11 difficulties because the young people are not lawfully  
12 detained at Les Chenes." {WD008320/76}

13 What did you mean by that?

14 A. Exactly what I said, they weren't lawfully detained. In  
15 other words although they were on a probation order on  
16 condition of residence they could say "I want to go  
17 out".

18 Q. So when you say "in hindsight I now realise it was  
19 legally questionable ..." in fact in 2002 you were aware  
20 then that it was legally questionable?

21 A. That's a different point actually.

22 Q. Forgive me, I have misunderstood it then.

23 A. The point of their ability to say "I want to go out",  
24 "I know I'm breaching the terms of my probation order  
25 but I want to go out", meant that they had the right to

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1 do so. There was actually -- a situation arose where  
2 a youngster did that and was not released and that  
3 created a difficulty.

4 Q. So probation order with a condition of residence,  
5 implicit in that order the young person would have been  
6 entitled to come and go freely from Les Chenes?

7 A. Well, not come and go freely in the sense that they  
8 would thereby be breaching the order which would have  
9 meant they would be liable for re-arrest and  
10 re-presentation back before the Court, but they weren't  
11 lawfully in custody in the sense that they could be  
12 forced to stay there, that's the point I'm making.

13 Q. If a probation order with a condition of residence was  
14 imposed, how was probation work actually carried out?  
15 How did that work in practice?

16 A. Well, they would be living at Les Chenes as part of the  
17 residence order and therefore would be part of the  
18 Les Chenes School, the residential school regime, but in  
19 addition to that there would be work with the Probation  
20 Department who would come in and do work with them.  
21 I mean there wasn't always a probation order as  
22 a mechanism for this, there could also be what I call  
23 a Jersey binding over order which for the benefit of the  
24 Panel is a conditional discharge in the UK, with  
25 a similar condition. In that case then the Probation

1 Department wouldn't be doing additional work with them.

2 Q. At paragraph 49 {WS000648/15} you refer to the provision  
3 of reports by Children's Services. You say that the  
4 quality of reports was "inferior" and that staff were  
5 not up to the job. In what respects were the reports  
6 inferior to those provided by the Probation Service?

7 A. They were very wishy-washy. Here I'm just expressing my  
8 own view. I'm expressing the perception --

9 Q. By wishy-washy do you mean they were looking at the past  
10 of the particular young person when looking at details  
11 of any family problems that the child had?

12 A. No, no, no, that would be all part of it. No, I don't  
13 mean that at all, what I mean was they weren't  
14 suggesting solutions to the issue, they weren't coming  
15 up with positive suggestions as to what could be done to  
16 improve the situation.

17 Q. So what was the purpose of the report?

18 A. It was a background report which had been produced prior  
19 to sentencing to assist the Court in making  
20 a decision --

21 Q. Were they required to suggest a way forward?

22 A. Yes, of course, of course. There is always  
23 a recommendation in such a report as to the method of  
24 disposal. Just the general perception was that the  
25 professionalism and standards of the Probation

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1 Department were much higher than that of the  
2 Children's Service. But there was a separate issue in  
3 relation to the running of the children's homes where we  
4 had concerns as to the professionalism there, the  
5 ability particularly to deal with very difficult  
6 youngsters. We had one panel member who in fact had  
7 a great deal of experience herself in dealing with very  
8 difficult children in a children's home environment --

9 Q. Who was that?

10 A. I'm afraid my brain has seized on that. I can picture  
11 her.

12 Q. No matter, Mr Le Marquand. Given time constraints,  
13 don't worry.

14 A. But the Napier report was highly critical of standards  
15 within the Children's Service.

16 Q. You come on in your statement to deal with what's been  
17 entitled "The Youth Court and Les Chenes - prior to  
18 Kathie Bull", this is at paragraphs 50 to 65  
19 {WS000648/15}. A great number of these issues we have  
20 already discussed.

21 A. Yes.

22 Q. You make a point that legislation was slow in coming  
23 forward in relation to issues that concerned you. What  
24 factors in your view prevented legislation changing  
25 sooner than it did? So I'm talking in relation for

1 instance to the powers of disposal, the approach to  
2 orders for children.

3 A. From my perspective as magistrate I would say lack of  
4 political will, lack of recognition of the urgency of  
5 the situation. Interestingly enough former  
6 Deputy Bob Hill brought a proposition at one stage to  
7 the States to try to deal with the lacuna in relation to  
8 the lack of sentencing powers for under 15s and that was  
9 recognition by a politician that we had a particular  
10 problem and he lost that vote, so there was at least  
11 an attempt there to recognise an issue.

12 Q. Moving on if I may to paragraphs 78 to 81 {WS000648/24}  
13 and this is in the context, Mr Le Marquand, of  
14 discussing the options available in the light of the  
15 Kathie Bull report and you discuss a meeting that was  
16 held in November 2001. You say in a letter to  
17 Tom McKeon following that meeting that "we all know that  
18 it will take years to implement change" {WD008320/77} in  
19 relation to those recommendations. Talking at that  
20 point I imagine with a sense of experience, is this the  
21 same point about lack of political will?

22 A. It is not just lack of political will, even when you  
23 have a political will to achieve things sometimes there  
24 was at times a lack of law drafting resources, there was  
25 a prioritisation process for law drafting. If you think

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1           about the particular issue of the ability to sentence  
2           people either to Greenfields or to the YOI, which was an  
3           issue that I took up as soon as I took up office as  
4           Minister and was a no-brainer from my point of view, it  
5           actually took an awful long time even though there was  
6           agreement on principles to get the details sorted. It  
7           was one of the last propositions I took to the States  
8           was that particular amendment to the Criminal  
9           Justice (Young Offenders) Law.

10          Q. At various points in contemporaneous correspondence you  
11          use the word "custodial" and you say that that use of  
12          the word in relation to young people was to generate  
13          political reaction. Have I explained that fairly?

14          A. That may well be. It depends on the context of the  
15          document.

16          Q. But generally speaking, Mr Le Marquand, did you see your  
17          role as the Senior Magistrate on the Youth Panel as  
18          imposing custodial sentences in reality on young people  
19          when you were remanding them?

20          A. No. No. A custodial sentence is quite different from  
21          a remand.

22          Q. Paragraph 92 please, this is page 28 {WS000648/28}. You  
23          are discussing here Greenfields and you say towards the  
24          end of that paragraph about nine lines down:

25                 "I personally felt that the power to make a secure

1 placement order should have been vested with the  
2 Youth Court, rather than judges at the Royal Court,  
3 firstly because the Royal Court was an intimidating  
4 environment, and secondly because, whilst the  
5 Royal Court did deal with family law matters, expertise  
6 in dealing with children rested predominantly with the  
7 Youth Court."

8 Is the Inquiry wrong to understand that the  
9 Youth Court dealt entirely with the criminal  
10 jurisdiction of young people --

11 A. No, that's correct.

12 Q. That is correct?

13 A. Entirely a criminal jurisdiction, yes.

14 Q. So that the Royal Court dealt with the welfare  
15 jurisdiction of children and care orders?

16 A. Yes.

17 Q. The fact that the Royal Court was going to deal with  
18 secure placement orders, didn't that suggest a change in  
19 attitude as to the approach to young people in positions  
20 of difficulty who were marginalised?

21 A. Sorry, in what sense a change of attitude?

22 Q. That it was being looked at from an approach no longer  
23 of criminalisation, but of trying to resolve  
24 difficulties in a young person's life, whether those  
25 difficulties involved having to make a secure placement

1 order?

2 A. I think that's right in the sense that that's what  
3 a secure placement is, it is a civil order irrespective  
4 of the criminal situation.

5 It's interesting because at that particular time of  
6 course I was seeking -- and this is what former  
7 Deputy Hill's proposition was seeking -- a provision  
8 which would enable there to be some form of custodial  
9 order for under 15s in appropriate cases. What happened  
10 instead was the secure placement order.

11 Q. At paragraphs 95 to 106 {WS000648/29} you address what  
12 has been entitled "Politics and the Child Policy Group".  
13 This was established in 2009, you tell the Inquiry at  
14 paragraph 97. You thought that it was effective. How  
15 did you measure its effectiveness?

16 A. Well, you got coordination between the four different  
17 agencies involved. You had three ministers meeting and  
18 their officers, so you got coordination between the  
19 Youth Service at Education, the Children's Service,  
20 the Police and also Probation.

21 Q. This isn't to be confused then with the corporate parent  
22 that had been previously established?

23 A. The trouble is the term "corporate parent" is used in  
24 different senses.

25 Q. Well, we have heard in evidence, Mr Le Marquand -- and

1 I just want your observation on this -- that that  
2 constitution or manifestation of agencies working  
3 together in fact in reality failed is one aspect of the  
4 evidence we have heard, because the group wasn't able to  
5 work together particularly effectively. What had  
6 changed?

7 A. Ah, hang on, there was a complete failure of working at  
8 an earlier stage and this was a reconstituted group.

9 Q. That's what I anticipated you would say. I want to  
10 understand how it was that this reconstituted group was  
11 able to work.

12 A. Okay. I think it had something to do with the  
13 personalities of the ministers involved to be honest.  
14 I think there were difficulties in getting agreement  
15 between the three ministers previously. I think also  
16 the Probation Department coming in on it probably  
17 assisted --

18 Q. Made a difference.

19 A. -- as well, but there was certainly a clear ideal of  
20 working together to achieve joint results.

21 Q. I'm now going to invite your comments and your evidence  
22 in relation to Operation Rectangle and your role as Home  
23 Affairs Minister in reviewing the suspension of  
24 Graham Power. Mr Power is giving evidence later on  
25 today and there are issues that he raised in his

1 evidence that I would seek your response to.

2 A. Yes, thank you.

3 Q. This you deal with at paragraph 107 of your statement  
4 {WS000648/32}. You provide your views on  
5 Operation Rectangle and how you think it was managed.  
6 As I'm sure you are aware, the Inquiry's Terms of  
7 Reference do not require the Inquiry to go into the  
8 operational detail of Operation Rectangle.

9 A. Yes.

10 Q. In the light of the allegations being made by  
11 individuals about their treatment whilst in children's  
12 homes in the Island, do you think a major Police  
13 investigation was justified?

14 A. Absolutely. It wasn't just allegations about children's  
15 homes. I was very surprised it was actually one of the  
16 Terms of Reference because to me it was a complete  
17 no-brainer. It was obvious that there was a basis for  
18 a major investigation.

19 Q. And so the issue that you take is with how the  
20 investigation was managed?

21 A. That's precisely -- that was precisely the issue which  
22 led to the disciplinary process against the former  
23 Chief Officer, yes.

24 Q. Do you think, Mr Le Marquand, that the historic child  
25 abuse investigation would have been pursued vigorously

1 without the involvement of Lenny Harper?

2 A. It should have been pursued vigorously whoever was  
3 involved. Unfortunately Mr Harper was not the  
4 appropriate person to be the senior investigating  
5 officer in relation to the matter and that was part of  
6 the difficulties.

7 Q. At paragraph 108 {WS000648/32} you question the press  
8 management of the investigation and it is  
9 uncontroversial and I am sure you would accept from me  
10 that a large number of witnesses came forward?

11 A. Yes.

12 Q. Have you had pause to reflect on whether the same number  
13 would have come forward without the publicity that was  
14 generated?

15 A. That's not the issue. The fact that the investigation  
16 was going on and effectively made public, that's most  
17 proper, it was just the nature of the information which  
18 was being provided to the press which was potentially  
19 going to prevent fair trials and cause major  
20 difficulties. There were in fact major applications in  
21 the Royal Court to dismiss a whole number of cases on  
22 the basis of the problems which arose from that.

23 Q. At paragraph 109 {WS000648/32} you describe Mr Harper as  
24 being inexperienced as the senior investigating officer.

25 A. Yes.

1 Q. Is that on the basis of your reading of various reports?

2 A. It is on the basis of the Wiltshire reports. All I know  
3 in relation to these matters are that which is contained  
4 in the definitive reports produced by the Wiltshire  
5 Police.

6 Q. Do you consider that another individual -- I'm not going  
7 to ask you to name because I'm sure you wouldn't be able  
8 to do so -- another individual within the SOJP should  
9 have conducted the investigation, or someone externally?

10 A. Absolutely. If they didn't have the necessary ability  
11 locally they should have brought someone in from  
12 outside. I mean it is apparent to me that there was  
13 a particular issue of lack of trust within the senior  
14 management of the Police Force to an extent that the  
15 matters relating to this were kept away from officers at  
16 the third and fourth level, that is superintendent and  
17 chief inspector, and that concentrated all the  
18 management, as it were, in the Deputy Chief Officer,  
19 Mr Harper, and in the Chief Officer who should have been  
20 exercising proper oversight.

21 Q. You took up your role as Home Affairs Minister, I think  
22 you told us yesterday, correcting me, in December 2008.

23 A. I think that's correct, yes.

24 Q. And we know that Operation Rectangle finally closed  
25 towards the end of 2010.

1 A. Yes.

2 Q. What was your political involvement in the continuation  
3 of Operation Rectangle?

4 A. My political view was that the matters should be  
5 properly investigated and my role was simply to ensure  
6 that there was appropriate resources for it to be  
7 properly investigated. Also of course I had a political  
8 role to ensure that the management was done effectively  
9 and properly because of the financial mismanagement  
10 which had taken place before.

11 Q. Were you supportive of the Police involvement?

12 A. Of course, absolutely supportive.

13 Q. Inquiry Term of Reference 12 requires us to consider  
14 whether there was political inference with the process  
15 of prosecution. That can either be looked at narrowly  
16 or broadly. You took the decision to review the  
17 suspension of Graham Power originally made at the end of  
18 2008.

19 A. Yes.

20 Q. You reviewed this in 2009. Operation Rectangle wasn't  
21 closed until late 2010 as I have just mentioned. Why  
22 did you decide to uphold that suspension?

23 A. Well, the reasons for that are well documented. There  
24 is a transcript in existence of the hearing and of my  
25 statement of reasons. I'm afraid I can't remember the

1 exact details, but I had a very clear test that I was  
2 applying and I set out that test and that is set out in  
3 the transcript. If it is relevant that transcript is  
4 still extant.

5 Q. We go to paragraph 111, this is page 33 {WS000648/33}.  
6 One of the reasons you gave for the review of the  
7 suspension of Graham Power was that the mismanagement,  
8 as described, of Operation Rectangle had caused Jersey  
9 to suffer adverse publicity. Having accepted that  
10 a major Police investigation into historic child abuse  
11 was justified, how is that reconciled with that view?

12 A. Sorry, can I just -- where are you referring me to on  
13 paragraph 111?

14 Q. This is paragraph 111.

15 A. Yes. Where is that in there?

16 Q. If you bear with me a moment.

17 A. I don't think I say anything there about what you  
18 mentioned.

19 Q. Let me take it then more broadly, my reference is wrong.

20 A. Thank you. I didn't think I said that.

21 Q. But the question still holds, Mr Le Marquand. You  
22 viewed Operation Rectangle as having been mismanaged?

23 A. I had basis of evidence in considering the suspension  
24 from two sources: one was the Deputy Chief Officer and  
25 the other was Chief Inspector Gradwell who had actually

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1           been conducting the investigation, he had taken over as  
2           the senior investigating officer from the Deputy Chief  
3           Officer who had held that role for a short period. They  
4           had produced a press conference in which they set out  
5           very clearly major areas of concern in relation to  
6           mismanagement of the matter. Those were my two sources  
7           of information.

8           Q. Can we look at those sources please. You deal with this  
9           at paragraph 110 {WS000648/31} and you have been asked  
10          to comment on Lenny Harper's witness statement to  
11          the Inquiry and just reading three lines down:

12                 " ... he states that an interim Metropolitan Police  
13                 report detailing concerns as to the handling of  
14                 Operation Rectangle was used 'as a stick to beat Graham  
15                 with, although subsequently an independent QC found that  
16                 there were fabrications in the material used'.  
17                 Paragraph 328 goes on to state that I publicly stated  
18                 that the said interim report was damning and critical of  
19                 Lenny Harper. Lenny Harper's evidence then goes on to  
20                 state that despite my comments, I had never seen a copy  
21                 of the interim report. In the States it was alleged  
22                 that the interim report did not exist. I satisfied  
23                 myself that the report did exist but did not read its  
24                 contents as it contained operational details. In my  
25                 opinion the definitive version of what happened and who

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1           was at fault is contained in the first two  
2           Wiltshire Police reports and I would refer the Inquiry  
3           to these."

4           Why, given your role as Home Affairs Minister at the  
5           time, did you not read the interim report?

6           A. Okay, firstly I didn't read the interim reports in  
7           considering the suspension and I'm pretty certain that  
8           I made it clear during the process of the suspension  
9           because I hadn't read them I was not taking them into  
10          account.

11          Q. Forgive me, Mr Le Marquand, you say in your statement,  
12          second line, I have just read it to you, that you didn't  
13          read its contents.

14          A. That's correct, yes.

15          Q. What should I understand by your previous answer that  
16          you did read the report?

17          A. No, I didn't say that. I didn't say that. I said  
18          I didn't read the report.

19          Q. I'm sorry, I misheard you.

20          A. I didn't read the report and I therefore didn't take the  
21          report into account in consideration of suspension of  
22          Mr Power.

23          Q. Why did you not read the report?

24          A. Because I didn't read the report for two reasons:  
25          firstly because the Deputy Chief Officer explained to me

1           that there was acute embarrassment being caused in terms  
2           of relationships with the Metropolitan Police, they  
3           hadn't produced that particular report for  
4           a disciplinary purpose, that particular report was an  
5           operational report being produced as a vetting, as it  
6           were, as to where they were in relation --

7        Q.   In the light of what you were being told,  
8           Mr Le Marquand -- you were Home Affairs Minister -- why  
9           did you not ask for a redacted copy of the report?

10       A.   Because I was clearly being told that this would cause  
11           major difficulties in our relationships with the  
12           Metropolitan Police.  As I say, I hadn't taken it into  
13           account.

14       Q.   You were reviewing the suspension of the chief of police  
15           in Jersey.

16       A.   Yes.

17       Q.   And you were doing so on the basis of information that  
18           was being provided to you.

19       A.   Yes.

20       Q.   The decision to review that suspension was, I'm sure you  
21           would agree with me, a significant decision.

22       A.   Yes.

23       Q.   On that basis did you not think it was important that  
24           you have to hand all the information necessary to be  
25           able to make that decision?

1 A. Yes, I wanted to see the report, but accepted that that  
2 caused too many difficulties and therefore I simply  
3 excluded references to the report or its contents from  
4 my consideration.

5 Q. Your evidence to the Inquiry then, Mr Le Marquand, as  
6 I understand it, is on the basis of what David Warcup  
7 was telling you, is that right? Is that David Warcup  
8 who was telling you this?

9 A. Yes.

10 Q. You chose not to read the report?

11 A. Yes. Mr Warcup had relied upon the report in his letter  
12 which was the initial basis of the start of the  
13 complaint against Mr Power.

14 Q. Did you understand the interim report to criticise  
15 individuals and the way in which the investigation had  
16 been conducted?

17 A. That is what Mr Warcup had said in his initial letter.  
18 It was in my understanding an operational report. It  
19 contained a great deal of information about  
20 individual cases and individual investigations as to how  
21 they had arisen. My understanding, bearing in mind  
22 I hadn't seen it, was it also raised concerns in  
23 relation to the manner in which certain aspects of the  
24 case had been handled.

25 Q. How should the Inquiry understand then the validity of

1           your decision to review the suspension of Graham Power  
2           based on a report you hadn't read?

3           A. Well, they should understand it -- no, I'm sorry, that's  
4           exactly the opposite to what I said. I said I didn't  
5           consider it, I excluded it. I made my decision based  
6           upon matters -- evidence which came from the Deputy  
7           Chief Officer and from the senior investigating officer,  
8           Mr Gradwell. I excluded as consideration anything that  
9           was in that.

10          Q. Should we understand then that you excluded any  
11          reference from David Warcup about his summary of that  
12          report?

13          A. No, because that was his evidence.

14          Q. That was?

15          A. That was his evidence.

16          Q. You didn't look to go behind that?

17          A. No. Can I say that the Tribunal needs to understand  
18          that there was a judicial review proceeding in relation  
19          to my decision which was conducted before the  
20          Royal Court and on judicial review my decision to  
21          maintain the suspension was upheld, or perhaps  
22          technically better I should say that it wasn't  
23          overturned.

24          Q. Can we come back please to paragraph 111 {WS000648/33}  
25          and seven lines down -- well, I'm going to read four

1 lines down if I may:

2 "It is suggested that the justification for  
3 Mr Power's suspension seemed to shift as time went on  
4 and that I used concern regarding the creation and  
5 retention of secret files regarding States Members as  
6 the basis for Mr Power's suspension. This is  
7 inaccurate. There were two distinct issues impacting on  
8 the decision to suspend Mr Power."

9 If I have understood those two distinct bases, the  
10 first is inadequate oversight of Lenny Harper during  
11 Operation Rectangle?

12 A. Yes.

13 Q. And is the second the creation and retention of secret  
14 files?

15 A. Yes.

16 Q. Do you accept that the second distinct issue played no  
17 part in the original suspension?

18 A. Yes. What happened there was that after I had made the  
19 decision to maintain the suspension, having reviewed the  
20 initial decision -- I should say incidentally the reason  
21 I reviewed the initial decision was because it appeared  
22 to me that the procedure which had been applied in  
23 relation to that initial suspension had been inadequate.  
24 That's the reason why I agreed to review it. There was  
25 a debate in the States of Jersey early in January of

1           2009 and during that debate I undertook that I would  
2           conduct such a review because of my own concerns about  
3           the procedural aspects there.

4           What happened was after I had maintained a decision,  
5           some months later some of the people from the  
6           Special Branch approached the Deputy Chief Officer,  
7           Mr Warcup, and said "I think you ought to know that  
8           we've got this" and produced these files. So I then  
9           made an announcement in the States in relation to that  
10          so that it was clear what had happened and then  
11          proceeded subsequently to conduct a second suspension  
12          hearing in which I considered suspension separately on  
13          that ground.

14        Q. Mr Power alleges, as he will say in evidence this  
15        afternoon, that you identified three issues relating to  
16        his suspension, namely whether mismanagement of  
17        Operation Rectangle had caused Jersey and its people to  
18        suffer international adverse publicity?

19        A. I don't say that.

20        Q. This is what he maintains --

21        A. Well, he is wrong.

22        Q. -- you disagree with that?

23        A. He is wrong. Again I would invite you to obtain a copy  
24        of the transcript of the hearing and my statement of  
25        reasons.

1 Q. The second reason he identifies that he says was  
2 an issue relating to your review of his suspension was  
3 whether any mismanagement had created difficulties for  
4 prosecutions.

5 A. Yes.

6 Q. And whether mismanagement had led to wasted expenditure.

7 A. Yes, that was a consideration, although in fact the  
8 Wiltshire reports did not hold him responsible for that.

9 Q. Is it right that Graham Power at the time of your review  
10 had initiated judicial review proceedings into the  
11 original suspension?

12 A. Yes, yes.

13 Q. And you say that your review was carried out because you  
14 had concerns about the legality of the original  
15 suspension, is that right?

16 A. No, not the legality, the appropriateness of the  
17 procedure that had been followed, but also because I had  
18 given an undertaking to the other Members of the States  
19 to do that because of concern that they had, which  
20 I think were primarily in relation to procedural  
21 matters.

22 Q. Mr Le Marquand, was any political approach made to you  
23 to review the suspension of Mr Power?

24 A. Yes, through the States, through the debate.

25 Q. Was any approach made to you not through the States, but

1 internally?

2 A. I think probably in correspondence with The Connétable  
3 of St Helier, who actually brought the proposition,  
4 there probably was some correspondence between us.

5 Q. Mr Power will state in evidence that during the first  
6 suspension review you acknowledged that the Metropolitan  
7 Police were unhappy that their report had been used for  
8 suspension purposes. Do you agree with that?

9 A. That's most likely. That's what I have just said today  
10 as to the reasons why I didn't look at it and I probably  
11 told him that and explained that that was why I was not  
12 considering it. I think that's very likely.

13 Q. May I come back very briefly to that. If, as you say,  
14 you were unhappy at the time that it had been used in  
15 that way, why then did you rely on Mr Warcup's summary  
16 of that letter to review the issues of suspension?

17 A. I'm not sure I did, because Mr Warcup was expressing his  
18 own opinion.

19 Q. Why did you rely on that if that opinion was based on  
20 a report that was not produced?

21 A. I think it was based upon his own opinion. He'd had  
22 very very grave concerns about the way in which this had  
23 been handled.

24 Q. Mr Power also alleges that following the second review  
25 meeting, which you have told the Inquiry about a moment

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1           ago, you decided to maintain his suspension but failed  
2           to disclose the grounds to him for doing so, is that  
3           right?

4           A. No, that's not right. I read out a statement and that  
5           would be on the transcript. I read out the equivalent  
6           of a short judgment to explain what criteria I had  
7           applied and so on.

8           Q. Did you consider the grounds for suspension were due to  
9           capability, misconduct, both or neither of those? So  
10          first capability?

11          A. Capability, yes.

12          Q. Misconduct?

13          A. Yes.

14          Q. On what basis?

15          A. Failure to exercise proper oversight.

16          Q. Mr Power criticises the role of David Warcup in his  
17          suspension and states that from your appointment as  
18          Minister for Home Affairs you were accountable for  
19          David Warcup. He suggests that you must have been aware  
20          of the following things: 1, the use of the Metropolitan  
21          Police report for a purpose other than that for which it  
22          was originally intended, do you accept that?

23          A. Yes.

24          Q. The failure to make even a redacted version of that  
25          report available to relevant politicians including you,

1 do you accept that?

2 A. I don't think there was any failure there.

3 Sorry, it is now quarter to 12.

4 THE CHAIR: I think that Mr Sadd is nearly finishing his  
5 questions and when he has then the Panel won't advance  
6 their questions, allowing you to leave, and then we will  
7 arrange a further time --

8 A. Okay, thank you very much.

9 THE CHAIR: -- because we do have questions. So if you just  
10 bear with Mr Sadd until he completes his questions.

11 MR SADD: So you don't agree with his second point. The  
12 third point he makes is that you must have been aware --

13 A. I don't agree that that constitutes a failure.

14 Q. But you must have been aware, Mr Power will say, that  
15 the production of the summary of that report was  
16 misleading?

17 A. Well, I don't know because I've never seen that report.

18 Q. That you will have been aware that the use of  
19 Mr Warcup's summary as a cover for a plan to suspend  
20 Mr Power had already been decided upon?

21 A. That's nonsense as far as I'm concerned. I went into  
22 the hearing with a completely open mind.

23 Q. And that you will have been aware, Mr Le Marquand, of  
24 Mr Power's resignation before the publication of the  
25 Napier report?

1 A. I think that's right. I think he had resigned before  
2 the Napier report was produced, yes.

3 Q. In the light of all of that did you have any occasion to  
4 call into question Mr Warcup's good faith?

5 A. His what, sorry?

6 Q. Did you have any reason to call into question  
7 Mr Warcup's good faith?

8 A. No. Neither did the Napier report. The Napier report  
9 was quite clear that although it felt certain aspects of  
10 the way it had been handled were not appropriate, his  
11 integrity was never questioned.

12 Q. Mr Power alleges, Mr Le Marquand, that even after he  
13 gave notice of retirement you continued the disciplinary  
14 process, including inviting him to attend a disciplinary  
15 meeting towards his last day of service.

16 A. Yes.

17 Q. What was the reason for doing that?

18 A. Because it seemed appropriate to continue with the  
19 process in order to determine whether or not there was  
20 an appropriate basis for disciplinary proceedings to be  
21 brought against him. In fact there was at least one  
22 element of criticism within the reports that I didn't  
23 think warranted a disciplinary process.

24 MR SADD: Madam Chair, on that basis I will conclude my  
25 questions.

1 THE CHAIR: Thank you, Mr Sadd. Slightly over the time  
2 indicated, but, Mr Le Marquand, as I said, the Panel  
3 will have questions --

4 A. Yes, thank you.

5 THE CHAIR: -- so the Inquiry team will arrange with you  
6 a convenient date for you to return. In the meantime  
7 thank you for your attendance --

8 A. I also had some other matters I wanted to raise in  
9 relation to the area of -- my continuing concerns in  
10 relation to adequacy of provision in certain areas.

11 THE CHAIR: That can be addressed.

12 A. I didn't mention that but that's particularly important  
13 I think --

14 THE CHAIR: That can be addressed on the next occasion.

15 A. That's fine, thank you very much.

16 THE CHAIR: In the meantime as previously please do not  
17 discuss your evidence.

18 A. Yes, can I say I understand that: it's pretty jolly  
19 academic when a transcript of it is being put out.

20 THE CHAIR: Mr Le Marquand, the point is if anybody  
21 approaches you to discuss the detail of it.

22 A. Sorry?

23 THE CHAIR: If anybody approaches you to discuss the detail,  
24 that's the point.

25 A. Yes, I understand.

1 THE CHAIR: On that basis we will now rise and we will sit  
2 again -- I understand that Mr Power is ready, but if you  
3 need longer than ten minutes then please let us know.

4 (11.50 am)

5 (A short break)

6 (12.10 pm)

7 THE CHAIR: Good afternoon, Ms McGahey.

8 MS MCGAHEY: Good afternoon, Madam. The next witness is  
9 Graham Power.

10 MR GRAHAM POWER (affirmed)

11 MS MCGAHEY: Thank you, Mr Power. Please make yourself  
12 comfortable. I think you have been told that after an  
13 hour, an hour and a quarter of your evidence we will  
14 naturally take a break. If at any stage during today  
15 and tomorrow, because we anticipate that your evidence  
16 will not be completed today, you need a break shorter  
17 than that, just indicate. We will now sit until  
18 1 o'clock and then take an hour's luncheon break and  
19 lunch will be provided for you. So when you are  
20 comfortable, counsel will begin the questions.

21 A. Thank you.

22 Questions from COUNSEL TO THE INQUIRY

23 MS MCGAHEY: Thank you. Could we have on the screen please  
24 {WS000536/1}. Mr Power, is that the first page of  
25 a witness statement that you made to this Inquiry and

1 signed on 23 February 2015?

2 A. Yes, it is.

3 Q. And have you had a chance recently to read through that  
4 statement?

5 A. I read it before I came here and I browsed it briefly in  
6 the waiting room.

7 Q. Are its contents true to the best of your knowledge and  
8 belief?

9 A. I believe everything to be true.

10 Q. Mr Power, it is a lengthy and very detailed statement  
11 and I'm not going to ask you questions about every  
12 single paragraph. The Inquiry has prescribed Terms of  
13 Reference. Some of your statement deals with matters  
14 that are quite definitely within the Terms of Reference,  
15 but you have given so much detail I need ask you no  
16 further questions about it, although the Panel may well  
17 have their own questions. In some parts of your  
18 statement you refer to matters that fall outside our  
19 Terms of Reference. I will not ask you questions about  
20 those and I should make clear that the Inquiry will not  
21 make any findings about whether you or any other  
22 witnesses are right or wrong in respect of matters that  
23 fall outside those terms.

24 If we could look please at page 2 of your statement  
25 {WS000536/2} and paragraph 5 onwards. You provide

1 a summary of your career history.

2 A. Yes.

3 Q. You spent a very long time in policing, starting in  
4 1966.

5 A. Yes, I did, yes.

6 Q. And then from 1974 you began what was the process of  
7 fast-tracking.

8 A. Yes.

9 Q. When you went on the special course, at what later  
10 became the Police Staff College.

11 A. Yes.

12 Q. And at paragraph 7, after you had done your degree you  
13 returned to Cleveland Constabulary.

14 A. Yes.

15 Q. Then in paragraph 7 you say that most of your time as  
16 a chief inspector and around half of your time as  
17 a superintendent was spent in senior positions in  
18 operational support and planning roles.

19 A. Yes.

20 Q. What did operational support and planning roles involve?

21 A. Operational support was running that part of uniform  
22 operations which couldn't, for economies of scale  
23 reasons, be delivered at divisional level and so I would  
24 hold a central pool of resources of specialist trained  
25 officers dealing with public order, suspicious packages,

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1 dogs, horses, and some units dealing with street  
2 prostitution and things of that nature which the Force  
3 felt were best dealt with on a Force-wide basis, leaving  
4 local commanders to get on with the local stuff. So it  
5 was heavy operational work on a Force-wide basis, but it  
6 wasn't local policing. That was half of the time. The  
7 other half of the time was commanding local units in  
8 places such as Middlesborough, Hartlepool, Stockton,  
9 some difficult inner city areas which were part of  
10 the Force at that time.

11 Q. Sticking with the first half, the operational support,  
12 were you actually responsible for planning operations in  
13 which say firearms officers would be deployed, or --

14 A. Yes, and I forgot to say the firearms unit was part of  
15 it of course, that was a Force-wide -- yes, we would do  
16 contingency planning for things which were extremely  
17 unlikely, you know. At one end of the scale we had  
18 planning say for nuclear attack, which everybody hoped  
19 wouldn't happen, but you had to know what you were  
20 expected to do.

21 On a more realistic basis we would have plans for  
22 hostage taking, an aircraft landing at Teeside Airport,  
23 which was just outside our Force area but we would have  
24 to become involved, which perhaps had been hijacked.  
25 A bank robbery goes wrong and hostages are taken and

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1           there is a stronghold and the local police are  
2           surrounding it, then my specialist people would then  
3           come in and say "Look, we are taking charge of this and  
4           these are the things we're going to do."

5       Q. Did they ever deploy while under your command?

6       A. Yes, yes.

7       Q. And did you command the operations when they did?

8       A. Yes.

9           Another example I ought to give -- we did have  
10          a specialist major incident command room in the Force  
11          which had been funded I believe by ICI, because we were  
12          also sitting on the biggest chemical plant in Europe at  
13          the time and we did suffer some serious toxic releases  
14          and a number of fatalities, things blew up and things  
15          leaked, and yes, I would be involved -- I would rehearse  
16          people in doing it. So one morning we would get some  
17          senior officers in, lock them in a room and say "Okay  
18          watch the screen because things are going to happen", or  
19          we are going to give you an exercise and so on.

20       Q. But did you actually yourself take command --

21       A. Yes.

22       Q. -- in say an incident where there was a leak of toxic  
23       chemicals?

24       A. Yes.

25       Q. You said you also spent some time in sub-divisional

1 commands in inner city areas such as Middlesborough and  
2 Hartlepool.

3 A. Yes.

4 Q. What did your job involve when you were there?

5 A. It was day-to-day, 24-hour policing. I was responsible  
6 both for the uniform part of the Force and for the CID  
7 and we policed that community, so for example in  
8 Stockton we kept order on the streets, we investigated  
9 crime, we investigated murder, we did all of the  
10 things -- we took prisoners into custody. We did all of  
11 the things that a day-to-day police force deals with.

12 Q. But what did you do?

13 A. Right. I was in command. Sorry, you say what do you do  
14 when you're in command? I suppose you take  
15 responsibility and you set standards, you deal with all  
16 of the management, financial and personnel issues that  
17 come out of it, you decide what the division can afford  
18 and what it can't afford.

19 Q. Do you ever for example take charge of a murder inquiry?

20 A. No, I didn't. I'm not ever trained to do that.  
21 I didn't come up that route. But at Stockton for  
22 example when there was a murder the detective chief  
23 inspector who was under my command would investigate it,  
24 a superintendent from headquarters would come and give  
25 advice, but I would make sure that the resources, the

1 facilities -- and I would keep my head around it.

2 I would pop in every day to the major incident room and  
3 say "Okay, what's going on?", I will sit in on the  
4 briefing, I will just keep my head around it in that  
5 particular way.

6 Q. Then going on in your statement to paragraphs 9 and 10  
7 {WS000536/3} you become an assistant chief constable and  
8 then deputy chief constable with Lothian and Borders.

9 A. Yes.

10 Q. And as deputy chief constable you say in paragraph 10  
11 you were in periodic command of Scotland's second  
12 largest force, presumably in the absence of a chief  
13 constable?

14 A. In the absence of a chief constable. A chief constable  
15 had many Scotland-wide responsibilities, particularly in  
16 my early years, which necessitated his absence. Either  
17 he was out of the Force completely, or he was in Force,  
18 but fully engaged in national matters, or talking to  
19 ministers at the Scottish Office as it was then.

20 Q. You described in paragraph 9 {WS000536/3} a summary of  
21 your work as assistant chief constable. As deputy chief  
22 constable what were your principal responsibilities?  
23 You said you had lead responsibility for professional  
24 standards and major events.

25 A. Yes, yes. Professional standards is a big part of

1 a deputy's job, particularly in a force that employed  
2 something close to 4,000 people and you have not only  
3 had to maintain standards and deal with the complaints  
4 and allegations which in a force of that size would come  
5 in on a daily basis, you had -- I had the lead  
6 responsibility for selecting, promoting, career  
7 developing the people who were going to take the Force  
8 forward. You know, I was picking graduate entrants who  
9 have subsequently gone on to be chief constables and now  
10 hold senior positions in Police Scotland. Part of my  
11 job was identifying, selecting and developing those  
12 people and at major events I was operational -- I had  
13 some operational command at the Conference of European  
14 Ministers. I was full operational commander, I spent  
15 over a year, possibly two years planning the policing of  
16 the Commonwealth Conference which took place in  
17 Edinburgh and I was full 24-hour operational commander  
18 for that event.

19 Q. I think you became deputy constable of Lothian and  
20 Borders in 1994, is that right?

21 A. Yes, that's my recollection.

22 Q. We don't see it in your witness statement, we see it in  
23 exhibit 1 of your evidence.

24 A. Okay, yes.

25 Q. Because you say in that, you made a statement, much

1 later then 1994, that you had no direct command or  
2 oversight of criminal investigations?

3 A. No, I've never done that in that sense. I was  
4 a detective constable for a while and then I left the  
5 CID and I went back in I think as a detective constable  
6 to help with a murder inquiry which needed more  
7 resources. But, you know -- it might be different now,  
8 but there were so many different routes you could go  
9 through in policing and it tended to be a little bit  
10 more -- I think now some people might be more generalist  
11 and thought is given to people who are potentially  
12 senior officers saying "Well, he is strong in that  
13 area", I did it, I would take people who had no CID  
14 background and get them trained as detectives, but if  
15 you hadn't come up through a CID route in those days you  
16 didn't sort of re-enter at a senior rank. You were on  
17 a particular route and that was the route you stayed on.

18 Q. In fact although we didn't turn to it you do say in  
19 exhibit 1 that it from 1994 you had had no direct  
20 command or oversight of criminal investigation; it was  
21 really before then, wasn't it? You wouldn't have done  
22 as assistant chief constable?

23 A. No, I didn't. I did some professional standards work  
24 around criminal investigations that had gone wrong and  
25 I was assisted in that by some senior detectives, but

1 no, I've never been a detective sergeant, detective  
2 inspector, detective chief inspector, detective  
3 superintendent or detective anything else, and I've  
4 never been an assistant chief constable who had command  
5 of detective resources, no, that's true.

6 Q. In fact if we could look please at exhibit 1, which is  
7 {WD008209/4}. This is the statement that you made many  
8 years later for Wiltshire Police, but set out there your  
9 experience.

10 A. Yes.

11 Q. And you say at paragraph 16 about five lines up from the  
12 bottom:

13 "Against this background I would point out that  
14 since 1994 I have been at a rank in the Service where  
15 the possibility of direct command or oversight of crime  
16 operations is remote."

17 A. Yes.

18 Q. "In those circumstances I consider it legitimate to  
19 focus on broader corporate governance issues at  
20 strategic level, and to seek advice from suitable  
21 experts in relation to more direct operational matters  
22 should that become appropriate. For the avoidance of  
23 doubt I have no current qualifications or training  
24 whatsoever in the investigation of serious crime, or in  
25 the oversight of such investigations."

1 A. Yes, that is as true now as it was then, yes.

2 Q. And you also say in paragraph 19, when you are referring  
3 to your current role, which was then at the SOJP:

4 " ... I have encouraged and mentored local officers  
5 in the exercise of the responsibilities of command ..."

6 You give examples:

7 "Once I am satisfied that a command structure is in  
8 place I normally assume a mobile role, visiting command  
9 centres, operational officers, and relevant local  
10 stakeholders. I am always alert to the problems which  
11 can arise when delegation is combined with interference.  
12 Additionally, I am conscious that my operational skills  
13 in these areas are no longer current, and that others  
14 have been trained to undertake the relevant roles."

15 A. That's true.

16 Q. That's an accurate summary of your experience in  
17 policing?

18 A. Yes, that's true.

19 Q. I would like to ask you then about your role as  
20 Chief Officer at the SOJP. You were appointed in 2000.

21 A. Yes.

22 Q. Were those who appointed you fully aware of your  
23 background?

24 A. Oh, yes. We talked it through extensively what my areas  
25 of professional expertise were and what they weren't.

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1 I was coming at that time from HM Inspectorate of  
2 Constabulary and I suppose my reputation that came with  
3 me was somebody who was quite firm on professional  
4 standards, the ethics and conduct of police officers and  
5 the development and fast-tracking of talent. We needed  
6 some good talented graduate people in senior positions  
7 in the Police Service and it wasn't happening quick  
8 enough.

9 Q. When you say "we" does that mean Jersey --

10 A. The Service as a whole.

11 Q. You mean nationally?

12 A. Yes. I came as a person who had been part of the  
13 Home Office selection procedure which picked potential  
14 chief officers in the Police Service and I had gained  
15 a reputation in performance management, particularly in  
16 relation to HM Inspectorate of Constabulary, challenging  
17 police forces: what are you doing with this money? How  
18 do you measure your performance? What are the standards  
19 you're working to? I'm going to go and test it. How  
20 much does it cost you to catch a burglar in this police  
21 force compared to the next police force and if you don't  
22 know why don't you know and what are you doing about it?  
23 And you might be -- but that clearly resonated with the  
24 selection panel in Jersey at that time.

25 Q. That was what I was going to ask.

1 A. Yes.

2 Q. As far as you were aware what did they want in  
3 a chief officer?

4 A. They were very concerned about performance and  
5 standards. The report by Colin Smith who was  
6 HM Inspector of Constabulary had been highly critical of  
7 the performance and standards and you would have to say  
8 leadership in the Force, and it wanted a firm hand and  
9 it needed some clearing out and it needed some strong  
10 capable people in senior positions and a firm line on  
11 misconduct and unacceptable behaviour. Those were the  
12 points which appeared to resonate with the panel when  
13 I was selected.

14 Q. And you were appointed initially for five years?

15 A. Yes.

16 Q. And that appointment was extended to 2007?

17 A. Yes.

18 Q. And then again to 2010?

19 A. Yes.

20 Q. With that being a sort of final deadline.

21 A. Yes.

22 Q. Was that with the possibility that you would retire  
23 earlier if the succession plan was in place by then?

24 A. Yes. The final extension was -- you can check. It was  
25 set to coincide with the date when I would have been

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1 resident in Jersey for ten years and for the legal  
2 reasons that applied at that time that enabled my  
3 extension contract to contain a provision about the  
4 award of residential qualifications when I retired. The  
5 ten year period was for that reason. As it was  
6 I decided I didn't want the residential qualification,  
7 that wasn't going to work out, but at the time we were  
8 signing that that seemed to be the right thing to do.  
9 But it was always understood that I was there simply --  
10 I mean by that time I was a couple of years perhaps past  
11 my retirement date. It was always clear that I was  
12 there to do a handover. The Force would have had  
13 a problem if I didn't; too many senior people had left  
14 quickly, or were due to leave and I agreed that I would  
15 do a handover, that we would advertise the deputy's job  
16 not as a deputy's job but as a deputy and chief officer  
17 designate and it was advertised on that basis and  
18 I agreed to do a handover and to have a discussion with  
19 whoever was Minister for Home Affairs at the time about  
20 when that handover could be deemed to be complete and  
21 when I ought to move on.

22 Q. We will come back later to what does happen in terms of  
23 a succession, but I would like to deal in more detail  
24 with your role when you were first appointed. In  
25 exhibit 1 you quote from Article 9 of the 1974 Police

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1 Law which provides that the Chief Officer is responsible  
2 for the general administration and the discipline,  
3 training and organisation of the Force.

4 A. Yes.

5 Q. And later in your statement, we need not turn to it, but  
6 for those who wish the reference it is paragraphs 116  
7 onwards {WS000536/34}, you set out the political and the  
8 government advisory work that you did.

9 A. Yes.

10 Q. But as far as the policing side of the job was concerned  
11 what did you do on a day-to-day basis?

12 A. Well, assuming I hadn't been called of a night, and that  
13 sometimes happened, I would have a 9 o'clock meeting  
14 with all key senior managers and that would be  
15 a 20-minute sort of hot-wash, what's gone on over the  
16 last 24 hours, what are the problems, what are we going  
17 to do for the rest of the day.

18 Q. Stopping you there, what rank senior managers would you  
19 be dealing with?

20 A. It would be the deputy chief, the superintendent who was  
21 head of operations, and then at various stages, because  
22 the composition evolved, it might be the head of  
23 personnel, the head of -- no, not the head of IT, it  
24 would be the head of planning and research at some stage  
25 because that person would have all the numbers, would be

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1           able to talk about -- you know, "You might be saying  
2           this, but actually the numbers are indicating that we  
3           are ..." and the head of finance.

4           Q.    Would it involve the head of CID?

5           A.    The head of CID would come when the chief super --  
6           the head of CID reported to the superintendent  
7           operations and so the superintendent operations would  
8           bring along the head of CID sometimes and say "Look,  
9           we've got this crime problem and me and whoever it was  
10          want to talk to you about it", or "You need to be  
11          briefed about a sensitive operation, we might be coming  
12          to you later today to sign an application to the  
13          Attorney General for some sensitive facilities, you  
14          ought to know a little bit about the case", or if the  
15          superintendent operations wasn't there the head of CID  
16          would very likely come in in his stead and say  
17          "Operationally this is what's been happening over the  
18          24 hours and this is what we plan to do today". That  
19          would be the sort of start of the day.

20          Q.    Okay. So that would give you an overview as to what had  
21          happened in the last 24 hours?

22          A.    Yes.

23          Q.    And then what would the rest of your day involve?

24          A.    The diary would vary immensely, but there might be  
25          business in the UK. I would, for example, represent

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1 Jersey, the Channel Islands and the Isle of Man on a UK  
2 group that dealt with sensitive terrorist planning.  
3 That might seem to some people unlikely, but when you  
4 consider that these places are points of entry into  
5 the UK, they all have airports and so on, it was  
6 necessary that we joined up with the UK authorities.  
7 I spent some time on that. Time in the UK might also be  
8 spent in dealing with some of the Home Office selection  
9 work that I did, or it might be spent simply sitting  
10 down with chief officers from the South West region and  
11 just plugging in generally to English ACPO business and  
12 that sort of thing. That might take me to the UK.

13 If I wasn't in the UK I would quite often have  
14 meetings at a local level. It might be corporate  
15 management board or some other department of Jersey's  
16 Government when I was meeting with representatives.

17 Q. What about the policing side though? If you were on  
18 Jersey, leaving aside meetings with other agents of  
19 Government, what would you do as far as the policing  
20 side of Jersey was concerned?

21 A. Well, we would begin -- I did touch upon it, but I would  
22 make sure that I was fully acquainted with things which  
23 were going to land on my desk and because I was the  
24 route into the Attorney General for certain sensitive  
25 issues I would make sure I was acquainted with those

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1 operations, so I would walk the ground, walk the  
2 building and talk to the people involved and make sure  
3 I was getting my head around it so if I was challenged  
4 about it I would know what to say.

5 People to be seen on staff appraisal, promotion  
6 selections to be made the bureaucracy and finance  
7 meetings of running an organisation. You know, half  
8 a -- when you're at the top of a police force half the  
9 time you're dealing with police issues, half the time  
10 you're dealing with issues that are not dissimilar from  
11 the ones you would get if you were running a supermarket  
12 or some other big organisation.

13 I didn't do hands on with anything, but if there was  
14 a gap in the diary I would put on my hat and I would  
15 walk about and meet officers on the streets and  
16 generally talk to them and get a picture. I would go on  
17 patrol, I would work night shifts. I would go out in  
18 a response car on night shift so that I got the flavour  
19 of what was actually happening on the pavement and try  
20 and make -- try and compare it in some way with what was  
21 in theory taking place, in terms of policy and operating  
22 procedures just how were these hitting on the ground is  
23 something I wanted to assess. But did I ever take  
24 charge of anything personally? No. But I would mentor  
25 those who were. So if someone was for example saying

1 "Look, we need an operational order because there is  
2 a royal visit, because there is a pop concert" I would  
3 say "Okay I have done a lot of these, do your first  
4 draft, come and sit with me and I will talk through with  
5 you and then you can go away and have a go. But it is  
6 always an interesting challenge to anyone at the actual  
7 top of an organisation, particularly a big one, to say  
8 "Well, what do you actually do?"

9 I used to occasionally have a meal with Tom Farmer  
10 who was head of Kwik Fit and he used to say "Once upon  
11 a time I fitted tyres and exhausts, I used to understand  
12 what I was doing. Now I spend all my time in meetings  
13 with accountants and finance people." That just is the  
14 way it is. It wouldn't be appropriate for  
15 a chief officer to actually go and hands on deal with an  
16 operation on the street, but you would keep an eye on  
17 what people are doing.

18 Q. You set out in your statement some of the challenges  
19 that you found faced SOJP at the time of your  
20 appointment and could we go back to the statement  
21 please, {WS000536/9}, paragraph 31.

22 A. Sorry, I would like to go back to the previous just  
23 a little bit and I want to say I spent some time  
24 managing the political interface.

25 Q. We will come to the political side of things --

1 A. Right, okay. I forgot to mention the thing that took up  
2 rather a lot of time.

3 Q. That's why I deliberately divided up the policing side  
4 from --

5 A. Yes, okay. As long as we get to it.

6 Q. Sticking with the policing side of the job, one  
7 difficulty you faced was the fact that because Jersey is  
8 the size it is essentially everybody knows everybody  
9 else.

10 A. Yes.

11 Q. And you can't deal with that difficulty in the way you  
12 can in Scotland by sending an officer to a police  
13 station 100 miles away.

14 A. No.

15 Q. Is there a solution to that difficulty?

16 A. If there is I don't know that I found it. It forces you  
17 to deal with things in a formal disciplinary way more  
18 than it does in other policing environments. There is  
19 a long culture of transfers in the Police Service.  
20 There are even places known as punishment stations where  
21 people need a fresh start, you say "Look you have made  
22 a mess of things here, but you could make a good police  
23 officer, I'm sending you somewhere where nobody knows  
24 your name, start again." You just can't do that here.  
25 It requires a huge degree of professional ethics,

1 knowing who -- I would go into the canteen and I would  
2 find myself standing in the queue with people I might be  
3 seeing on a disciplinary hearing a few days later.

4 I would see groups of individuals, officers, sitting  
5 eating with each other at a table and know that one of  
6 them was running a surveillance operation against the  
7 other one. You would never have to deal with that --  
8 I didn't pick that up. I had heard all sorts of stories  
9 about island policing and why it should be approached  
10 with caution, but I just had not picked that up. You  
11 can't move anybody anywhere and I thought how many  
12 problems did I solve once upon a time by saying to  
13 people "Clear your locker out and go and start again."

14 Q. And so on Jersey is this just a reality that has to be  
15 managed?

16 A. It has to be managed, yes, as best you can.

17 Q. And in some cases is it right that the extent of local  
18 knowledge can actually be used to the advantage of the  
19 Police?

20 A. Yes. I mean the really positive thing about policing in  
21 Jersey which I hadn't thought about again I realise is  
22 that they are actually policing their own community.  
23 You know, their kids go to the schools, their wife shops  
24 in the supermarkets, they are part of it. The quality  
25 of the service they deliver affects the quality of life

1 for them and their families. That's a huge motivation  
2 and it's a powerful -- and also they've got their ears  
3 close to the ground and they pick up a lot of stuff.  
4 You rarely get that the in the UK. People --  
5 police officers drive in from somewhere else and police  
6 a community for eight hours and then go away again.  
7 It's not totally like that, but it is predominantly like  
8 that in most of the places I worked where nobody would  
9 want to live if you could help it. No, that's not  
10 right. Plenty of places were quite good. But I have  
11 policed places where nobody would want to live if they  
12 could help it, so police officers would be home as quick  
13 as they could and were not part of that community at  
14 all.

15 Q. In the latest statement that we have seen that's  
16 exhibit 1 -- could we have that please -- {WD008209/5}  
17 you refer to the fact that when you joined most of the  
18 major investigations were handed over to Devon and  
19 Cornwall Police.

20 A. Yes, that's true. Can you draw my attention to the  
21 paragraph please.

22 Q. Paragraph 20. You are dealing there with major crime  
23 and you refer to the HMIC report "which was highly  
24 critical of the management of the force and its  
25 performance" and serious professional standards and you

1 "became aware of a lack of self-sufficiency in the  
2 investigation of murder and comparable crime" and it was  
3 established practice for the Force simply to hand over  
4 major investigations to Devon and Cornwall. Was that  
5 because local officers would be compromised because they  
6 knew people involved, or was it because they simply did  
7 not have the experience to deal with major crime?

8 A. Skills, training, experience was insufficient. That is  
9 how people judged it before I came and they were quite  
10 right to do so. Also some practical difficulties:  
11 the Force did not have a HOLMES computer, a HOLMES  
12 computer was unaffordable for Jersey.

13 Q. For the benefit of the transcriber it is H-O-L-M-E-S,  
14 the Home Office Large Major Enquiries System.

15 A. Yes, it is a big computer that is now indispensable for  
16 major crime inquiries, everybody is trained to use it  
17 and you couldn't do one unless you had a trained team  
18 and a HOLMES facility. Yes, that was the situation. It  
19 was -- do you want me to say what I think was wrong with  
20 that arrangement?

21 Q. Yes, I do please.

22 A. It undermined local pride and self-confidence, that was  
23 clear, that every time something really interesting  
24 happens somebody else gets it to deal with. It also  
25 placed upon Devon and Cornwall Police an obligation that

1           they didn't have. There's nothing in the rules of  
2           policing the law in England or Jersey or anywhere that  
3           says Devon and Cornwall Police have to come running when  
4           I pick up the phone. It was just an informal  
5           arrangement and in discussion with the chief constable  
6           of Devon and Cornwall it became clear the things were  
7           getting tight and that it couldn't be an automatic  
8           guarantee that we would get a sort of good standard team  
9           to come across.

10          Q. When you say things were getting tight, does that mean  
11          money?

12          A. Things were getting tight in terms of money, operational  
13          pressures and so on, yes. Chief constables change and  
14          they are entitled to say "Well, just -- I've got enough  
15          to do, why am I responsible for sorting out business in  
16          Jersey? Where does it say that?" Well, it doesn't say  
17          it anywhere is the answer.

18          Q. So what did you do about this?

19          A. Well, I think we needed to have something signed off and  
20          I met with the chief constable of Devon and Cornwall and  
21          we agreed a written memorandum of understanding between  
22          us, a document which set out what they would do and what  
23          we would do, but also we got a link -- we couldn't have  
24          a HOLMES computer, but they had one big enough to manage  
25          the capacity of what we were doing, so we effectively

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1 had rows of terminals and a long piece of wire that went  
2 to Exeter so we could work directly into their computer  
3 and we would test that annually, switch it on, try and  
4 do some basic stuff and see if it all worked. And  
5 I also set about, with the support of politicians --  
6 I was forever talking at that time to Alistair Layzell  
7 who was President of Home Affairs, Wendy Kinnard as  
8 Deputy -- and said "Look, I'm concerned this force does  
9 not have a senior heavyweight detective who can be got  
10 out of bed at 3 o'clock in the morning to deal with the  
11 horrible murder or whatever it is, we're dependent on  
12 somebody else. And let's hope there isn't any fog on  
13 the day, we're relying on somebody else getting in  
14 a plane and coming here. It's not good enough. We need  
15 to start training local people, but we also need, if you  
16 like, the local detective" -- I'm trying not to say  
17 godfather, but you needed some big, seasoned, hardened  
18 detective who could pick up things in an emergency but  
19 would largely mentor and develop local people.

20 Q. We know you go on later in your statement to talk about  
21 the recruitment of Lenny Harper and John Pearson who  
22 fulfilled the role of the heavyweight detective, but  
23 before we get to that point I would again like to stay  
24 with the generalities about the way policing was working  
25 in Jersey when you joined SOJP.

1 A. Yes.

2 Q. I would like to ask you about the role of the  
3 Honorary Police.

4 A. Yes, yes. Well, I mean it is an excellent thing that  
5 local citizens volunteer to protect their community and  
6 maintain -- in principle it's a fine thing and there are  
7 some excellent people who gave a lot of their time and  
8 their lives to assisting the community as honorary  
9 officers and I have a lot of respect for many of them,  
10 but it's a damn hard system to work. There wasn't  
11 a Jersey honorary police service, there were 13 -- 12  
12 separate --

13 Q. Plus the SOJP, yes.

14 A. Yes. 12 separate, independent honorary forces and the  
15 States of Jersey Police.

16 Q. Was that system workable in your view?

17 A. Well, it worked better in practice than it did in  
18 theory, if that makes any sense, that if you look at it  
19 on paper and say "That will never work", you could  
20 somehow make it work. I spent a lot of time traipsing  
21 around parish halls, going out and meeting  
22 Honorary Police patrols, sitting down in meetings trying  
23 to get some modernising agenda moving in relation to the  
24 Honorary Police, but you had to do that against  
25 a cultural baggage as well because the Honorary Police

1 had for centuries been the actual police service in the  
2 Island, what they did, and it took a lot of persuading  
3 and pressure to get them to accept these paid  
4 police officers who were coming in thinking they know  
5 what they're doing, trying to take over, you know -- we  
6 were a threat, and the more professional and better  
7 organised we got the more of a threat we were I suppose,  
8 to some who chose to see it in that way. I mean others  
9 saw it as an opportunity, here is a chance to join in  
10 partnership with a slick, professional organisation, we  
11 can link into -- with regular meetings, tasking, be part  
12 of it, but I've got to say there was a significant  
13 element who never quite came to terms with the idea that  
14 we might actually be in charge. They wouldn't -- and  
15 the legal theory I suppose was that the Honorary Police  
16 were in charge, we were professional support.

17 Q. Yes, your role was to assist the connétable in the  
18 investigation of crime in a particular parish, is that  
19 right?

20 A. Yes, I mean that I think is the legal theory of it, yes.  
21 Impossible to do, particularly -- you know, we would be  
22 dealing in some parishes with operations where my staff  
23 officer, or other senior people in the building wouldn't  
24 know what was going on, you know, perhaps have to tell  
25 the connétable about it. So it was impossible, but we

1 did develop ways of -- you know, for example I would say  
2 "Look once a week we will give you a print-out with  
3 a breakdown of what's happened in your parish so you can  
4 target your patrols, but no, if we are keeping covert  
5 operations on drug dealers, I don't think I want to tell  
6 you about that."

7 You needed to keep oiling the wheels all the time of  
8 that system. It took a lot of time and energy. It was  
9 very very frustrating. Particularly given the strength  
10 of representation of the honorary system in the States,  
11 because there did seem to be a sort of order of  
12 succession: you joined the Honorary Police, you became  
13 a centenier and then you became either connétable or  
14 deputy and you became effectively a member of parliament  
15 and so if you said in the States at that time if  
16 everybody who has got a Honorary Policing background put  
17 their hands up, there would have been a lot of hands  
18 that went up. It was a very difficult situation to  
19 manage.

20 Q. Why was that a difficulty?

21 A. Why was, sorry?

22 Q. Why was it a difficulty that essentially joining the  
23 Honorary Police was as a means ultimately to membership  
24 of the States?

25 A. Because every time we had an issue with the

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1           Honorary Police there was an incident, there was  
2           a misunderstanding, or there was something that needed  
3           to be sorted out, before you could sit down and sort it  
4           out somebody was on their feet in the States saying, you  
5           know, "Will the President of Home Affairs -- will the  
6           Minister explain why X, Y, Z" or whatever it is, or be  
7           talking to the press about it and it was very hard to  
8           discreetly problem solve. And also there was an  
9           inappropriate -- I just -- the political influence of  
10          the honorary system, you know, I commended people who  
11          gave their time and energy to working for the community,  
12          but I didn't necessarily want them sitting on the  
13          committees to which I was accountable. I think that was  
14          just a bit disproportionate and it meant that every time  
15          you tried to strengthen and professionalise what we were  
16          doing there was already a lobby in the Island's  
17          Parliament that saw it as a threat.

18        Q. You talk in your statement about a number of attempts  
19        that you made to modernise the system and we don't need  
20        to go to it, but you say that in 2005 you established  
21        a memorandum of understanding to try to identify who  
22        would be responsible for dealing with which sort of  
23        incident.

24        A. Yes.

25        Q. Did that work?

1       A. It did in the end. I mean draft copies at the  
2       discussion stage were allocated to States Members to ask  
3       questions about it and that sort of thing, you expect  
4       that, but yes it did. It came along with the  
5       computerisation of police operations, so we stopped  
6       putting things on bits of paper, everything is on  
7       computer, so you then need a book of rules about who can  
8       have access to that information. Some Honorary  
9       Police officers said "Well, that's easily solved, you  
10      just give us a piece of wire plugged into the back of  
11      your computer and we will ..." we said "No you can't  
12      have that but we need written understandings about what  
13      you get and what you don't get", and reporting back and  
14      so on.

15             It did work in the end. It defined the things which  
16      we would send the Honorary Police to. If they were  
17      willing to say that "If there is ever a case of a stray  
18      animal you ring us and we will take responsibility",  
19      I think that's great. You know, rubbish in the road --  
20      and then certain minor crimes, disturbances, annoyances,  
21      and then we got to the bits that say "We're going to go  
22      to these. We might ask you for help but we're going to  
23      go because that's our business, that's professional."

24      Q. Was that accepted, did it work?

25      A. Yes, it worked. It did. It had problems, but it was

1 the first time it had been attempted and it worked, yes.

2 Q. Another effort you made with Senator Kinnard was  
3 an attempt to bring in a new police law in 2008 that  
4 would have given the Chief Officer of SOJP overall  
5 command of policing on the Island including the  
6 Honorary Police.

7 A. Right, can you go to that because that's not entirely  
8 what I think.

9 Q. That was going to be my question, whether it was in  
10 charge of Honorary Police. Paragraph 98 at page 28  
11 please of the statement {WS000536/28}.

12 A. Yes.

13 Q. Paragraph 98:

14 "The draft law sought, in a tentative way, to make  
15 the Chief Officer the person who was formally in  
16 operational command and control of the Force."

17 A. Yes.

18 Q. And then you go down to say that it ran out of time:

19 "The panel hearings and other discussions make it  
20 clear that political opinion was divided on the matter  
21 of command and control of the Police. Some wished to  
22 retain the legal primacy of the connétables for  
23 the policing of their parishes. Others thought that  
24 operational direction should sit with the Minister for  
25 Home Affairs ... no major lobby in favour of placing

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1 greater operational or command powers in the hands of  
2 the Chief Officer."

3 So what were you actually trying to achieve?

4 A. I was trying to have something in law which said that  
5 the Chief Officer of the States of Jersey Police had  
6 operational command of the States of Jersey Police  
7 because you couldn't find that anywhere else and I think  
8 we have talked earlier about the law under which  
9 I operated which doesn't mention operational command at  
10 all. It talks about the Chief Officer as administrative  
11 head of the Force, that's how effectively that person is  
12 pitched. You look after the paying rations, you promote  
13 people, you discipline people, but there is no mention  
14 of having operational command. And that was probably  
15 unachievable at the time that law was put through, the  
16 connétables would have said "No, I'm in command of  
17 policing in my parish and you can go away." I mean  
18 I describe elsewhere -- even in the 21st Century I was  
19 getting phone calls from parishes who would say "One of  
20 your cars has been sighted entering the parish can you  
21 tell me what it is doing there", so those attitudes were  
22 still about in those times.

23 Q. So your attempt was not for SOJP to take control of the  
24 Honorary Police, but essentially to have operational  
25 command of SOJP itself?

1 A. Yes.

2 Q. Would that involve SOJP having the right to go into any  
3 of the parishes?

4 A. Yes.

5 Q. Regardless of the view of the connétables?

6 A. I think we had that now, but -- I think we had that  
7 then, but some of the connétables would hold the view  
8 "You might be able to come into our parish and do stuff,  
9 but this is still my parish." It was never articulated  
10 very clearly what they thought, but what they didn't  
11 want was the Chief Officer of the States of Jersey  
12 Police to have something in writing that said he was the  
13 operational commander of the Force. There was still  
14 a wish in some of them -- and I only say "some" -- to  
15 maintain their autonomy and their feeling that they were  
16 in charge of policing of their parish. I mean it's hard  
17 to put a finger on it precisely, but when we put it  
18 forward in the draft to say Chief Officer operational  
19 command of the Force, there were a few people who said  
20 "No, I'm not having that when it should be the  
21 connétables, or perhaps it should be the Minister." You  
22 couldn't find much support for people saying "No" -- you  
23 know, "We ought to make it clear that the Chief Officer  
24 is in operational command and we can't interfere."  
25 There wasn't much support for that. I mean she failed

1 in the attempt. It was a brave attempt and she is  
2 a brave lady to try and do it, but she failed.

3 Q. Sticking with the role of the Honorary Police, it was  
4 the centenier who had the right to decide whether to  
5 bring a charge against someone, is that right?

6 A. Yes, the States of Jersey Police in my time had never  
7 charged or prosecuted anybody. That wasn't what we did.

8 Q. You could arrest but if you wanted to charge you would  
9 go to the centenier of the relevant parish and he or she  
10 would make the decision?

11 A. That's true, yes.

12 Q. In your statement at paragraph 90, if we could go back  
13 to page 25 please {WS000536/25}, you say that:

14 "Should it be felt that a centenier had taken  
15 an apparently perverse decision the SOJP could challenge  
16 that decision with the Attorney General, through the  
17 Law Officers' Department."

18 What was the mechanism for that challenge? How did  
19 you do it?

20 A. We had a unit that dealt with criminal justice issues  
21 and somebody could flag up what appeared to be  
22 a perverse decision. Then I think there was an  
23 inspector then in charge of that unit who had the  
24 responsibility, possibly seeking to senior officers  
25 first, of referring it. I remember perhaps one or

1           two -- I don't know -- I saw a couple of these reports  
2           that went to the Attorney General saying "Look, this is  
3           just not right what's happened here, there is something  
4           very odd with this decision."

5       Q.   Was there a written procedure?

6       A.   I don't think -- no, no, there wasn't any protocol that  
7           we worked to, we just -- I mean it was always understood  
8           that we could go to the Attorney General if we were in  
9           difficulty and at times we did. He did intervene on  
10          some occasions.

11      Q.   Were you as Chief Officer ever directly involved in any  
12          of these challenges?

13      A.   I must have been told about a couple of them because  
14          people -- I mean the advantage of morning meetings is  
15          that people tell you about things that might pop up on  
16          your radar and people would say "Look, just in case you  
17          get a phone call about it, this is going on" and I think  
18          in that context I might have been told about a couple of  
19          these referrals.

20      Q.   When you were appointed you were responsible to  
21          a committee, to the Home Affairs Committee.

22      A.   Yes, I was.

23      Q.   And you explain in your statement that during your  
24          tenure there was a change from the committee system to  
25          the ministerial system --

1 A. Yes.

2 Q. -- which meant that the Chief Officer of Police became  
3 accountable to one individual only, the Minister for  
4 Home Affairs --

5 A. Yes.

6 Q. -- and therefore could be removed by that one  
7 individual.

8 A. Yes.

9 Q. In paragraph 75 of your statement, if we could go back  
10 a couple of pages please {WS000536/21}, you say that you  
11 felt that sooner or later difficulties would arise, you  
12 never thought it appropriate that a single politician  
13 could be accountable for and potentially remove a chief  
14 of police and that there was essentially a risk always  
15 of abuse of power or improper political pressure being  
16 brought to bear.

17 A. Yes, yes. It is inherent in the arrangement, yes.

18 Q. Was that a view that you held at the time of this change  
19 from the committee to the ministerial system?

20 A. Well, I held two views about the change which don't  
21 quite contradict each other. I felt -- as a member of  
22 the corporate management board I felt that the change to  
23 the ministerial process was an improvement on the  
24 governance of the Island, provided it was run properly.  
25 So let's not say I was dead against having ministers.

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1 But I would flag up -- I mean before this happened  
2 I think I was -- or around the time it was happening  
3 I was desperately trying to get a police law in place  
4 that would create an independent police authority  
5 because I was promised it. When I had my selection  
6 interview -- and selection interviews are a two-way  
7 process: they decide if they want me and I decide if  
8 I want them -- on the panel was the chairman of the  
9 shadow police authority and members of the Home Affairs  
10 Committee and I was promised that very soon there would  
11 be an arrangement in place which had me accountable to  
12 a politically independent police authority. It might  
13 have some politicians on it, but it was a proper  
14 corporate body which took me out of a direct line of  
15 command by politicians. Had I not been promised that  
16 I would not have taken the job.

17 Q. Yet you accepted extensions in 2005 and 2007?

18 A. Because there was always the promise. And I mean  
19 I think it's a fair challenge, but there was always the  
20 promise that "Well, we will have the police authority by  
21 next year", you know, "We will have a new police law,  
22 look here it is, here is the draft". And I also felt --  
23 I mean I suppose I had been working to Wendy Kinnard  
24 from the very beginning and I felt that, look, this  
25 isn't going to be a problem with Wendy because she has



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1 MS MCGAHEY: Thank you. Could we have on the screen please  
2 Mr Power's statement {WS000536/6} and paragraph 20.

3 Mr Power, you are talking there about what you describe  
4 as the "Jersey way" and that's an expression the Panel  
5 have heard many times before.

6 A. Yes.

7 Q. How would you interpret the Jersey way?

8 A. Well, how long have we got? Yes. Procrastination is  
9 a big feature of the Jersey way. I don't know what  
10 would constitute urgency in the Jersey Government  
11 machine. Nothing ever seems to happen on time. And not  
12 just big things, but if a meeting is down to start at  
13 11 o'clock I would turn up at 5 to 11 and I would be the  
14 only one there and I would continue to be the only one  
15 there for about 20 minutes, and that fed through the  
16 entire political culture. Nothing was ever immediate.  
17 Decisions were always put off and there was a tendency,  
18 a very annoying tendency when there was something  
19 awkward that had to be implemented or acted upon and  
20 they didn't want to do it, not to say "No, I'm not going  
21 to do this, for these reasons"; throughout politics and  
22 throughout several parts of the establishments the  
23 tendency was to say "Yes that's a good idea, we'll do  
24 that", then they didn't do it, it just never ever  
25 happened.

1 Q. Why do you think that was?

2 A. I think to some extent it was a lack of skills at some  
3 of the senior levels of government and Civil Service.  
4 I just don't think they had the delivery skills and  
5 though I had a lot of sympathy with the desire to  
6 promote local talent, I thought it often had the effect  
7 of putting people in positions where they weren't  
8 equipped to deal with what they were doing at that  
9 level. And it's no matter how clever, how professional,  
10 how good you are, if all you have known is Jersey you  
11 are not executive material in my judgment. The Clothier  
12 Committee, which only looked at policing, did say "If  
13 anybody wants to be Chief Officer of States of Jersey  
14 Police, they can be local if they want but you shouldn't  
15 come for selection unless you have proved yourself at  
16 senior management level for at least five years in some  
17 hard environment in the UK." That was good sound  
18 advice.

19 Q. Is that because people from Jersey needed a broader  
20 experience?

21 A. Yes, needed broader experience and they needed to learn  
22 the skills. The culture just was not in place. I mean  
23 I hope this is not wandering into a story, but I will  
24 give an example. One of my first management meetings  
25 somebody brought a policy document to the table, one of

1 the senior managers and I can't remember what it was  
2 even, but something to do with firearms, or criminal  
3 investigation or whatever --

4 Q. Can I stop you there, is this a police management  
5 meeting?

6 A. Police management meeting, yes. And he had been  
7 working, preparing it for months and he had been round  
8 and he had got the sign-off from his colleagues. And we  
9 agreed at the meeting and I said "Well, well done, you  
10 have done the first hard 10 per cent of the job, you  
11 have agreed what you're going to do, now where is the  
12 action plan? Where is the plan that says in order for  
13 this to happen you've got to do the following 20 tasks  
14 and here are the people that are going to do them and  
15 here is the timescale and here is how we hold them to  
16 account and here is how we monitor movement?" Well,  
17 I mean the room just fell silent, it was just -- people  
18 had not encountered that sort of approach before and  
19 I got the impression that was prevalent throughout the  
20 public sector.

21 The intentions are often good, but delivery is  
22 hopeless and sometimes it was hopeless because of lack  
23 of skill, but sometimes it was hopeless because people  
24 didn't want it to happen: we are under pressure from the  
25 IMF or from whatever to introduce this or that reform in

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1 Jersey because if we're not a good, clean jurisdiction  
2 we can't trade in certain ways with the outside world,  
3 so we've got to do it, so we're going to do it. But it  
4 was with foot-dragging reluctance, and then  
5 implementation, you know, their hearts weren't in it and  
6 in some cases people, politicians quite often thought,  
7 very rightly, if they just talked about something for  
8 long enough it would wear itself out. It was a very  
9 frustrating environment for anyone who likes to make  
10 things happen, an impossible environment almost.

11 Q. Was there a feeling among the people whose job it was to  
12 make things happen, say within the Police, that the  
13 status quo should be maintained for as long as possible?

14 A. That was the underlying culture. That was the default  
15 position is to do nothing.

16 Q. But why? Because you can do nothing because you don't  
17 have the skills to deliver it, or because you are too  
18 lazy to do it, but why was there a feeling that "We will  
19 talk about doing something but not actually do it"?

20 A. Sometimes because it was too difficult, sometimes  
21 because they felt they had to say yes but they didn't  
22 want to do it and some of the foot dragging was just  
23 deliberate: we can kill this thing just by keeping it in  
24 the long grass for long often was often ...

25 Q. Did you ever encounter a feeling among the people that

1           you were dealing with that "This is the way we have  
2           always done things in Jersey and we know what we're  
3           doing and this is the way we want to continue"?

4           A. Oh, yes: "Why do people complain about the way we do  
5           things, if you don't like it here find somewhere you do  
6           like", would be a common way that things were said.

7           Yes, "This is how we do it".

8           Q. Is there some validity in wanting to maintain  
9           traditions?

10          A. Absolutely. You wouldn't want everywhere to be like  
11          everywhere else and that's the difficulty, isn't it?  
12          I mean the people would talk about not wanting Jersey to  
13          be turned into a suburb of Hampshire and "We're not  
14          having creeping Anglicisation here" and that sort of  
15          thing, but at the same time they wanted the benefits of  
16          a modern -- well, some of them did -- modern,  
17          democratic, cosmopolitan society. There were different  
18          pressures. There was definitely an old guard who would  
19          resist change on principle simply because it was change.

20          Q. Where were the old guard to be found?

21          A. I think largely in the country parishes, which the way  
22          the election system works they perhaps have  
23          a disproportionate representation, I'm not sure about  
24          that, but I have heard it said, and within the honorary  
25          system and I suppose within -- well, you would have to

1 say within sections of the legal establishment as well.

2 Some of that was based on fear of encroachment.

3 You know, I understand it perfectly well, that you don't

4 want to be in a position where everything's dictated

5 from London or whatever, but if you're clever enough and

6 skillful enough and you're willing to work in a sort of

7 team way, you can take forward change in a way that

8 preserves/respects tradition and you can blend the two

9 together skillfully, but it takes very good leadership

10 and a lot of skill and it wasn't always about.

11 Q. Were there elements of the old guard within the senior  
12 ranks of the Police, the SOJP?

13 A. There were initially, yes.

14 Q. But?

15 A. Well, they moved on and other people came in.

16 Q. You give one example in your witness statement of the  
17 operation of the Jersey way. If we could look please at  
18 paragraph 100, page 29 of the statement {WS000536/29}  
19 and you spoke earlier this morning about the plans to  
20 turn the shadow police authority into a police  
21 authority.

22 A. Yes. I mean there it was, it was a shadow police  
23 authority meeting with an agenda and minutes and all  
24 that sort of thing and it had managed to allow itself to  
25 die. It just stopped meeting and everybody went home

1           and forgot about it. I mean that is typical of a -- it  
2           was in response to a Clothier Report so they could not  
3           other than do something about it -- they needed quite  
4           a bit of push. Some people had to put a lot of effort  
5           into getting the States to move on the Clothier report  
6           and so eventually they said "Okay, we're going to have  
7           a police authority" and some people, and one person in  
8           particular was very influential in pushing that agenda,  
9           but they allowed it to die a small death: that's what  
10          they do.

11         Q. Who was the person who tried to push for a police  
12           authority?

13         A. I think Bob Hill was very influential.

14         Q. What was the purpose of having a shadow police  
15           authority?

16         A. It was -- it was a good question. What I saw them doing  
17           was trying to work out some rules and responsibilities  
18           for themselves and have discussions about how it would  
19           work in practice and what legal changes would be  
20           necessary in order for it to happen. That's what they  
21           seemed to be doing. They seemed -- it was a shadow  
22           police authority, but I suppose you could call it a sort  
23           of Police Authority sub-committee. They spent a lot of  
24           time talking about having a police authority.

25         Q. And you said in your statement the plan was that both

1           the SOJP and the Honorary Police would be accountable to  
2           the police authority?

3       A.   Yes.

4       Q.   And you say in this paragraph, 100 {WS000536/29}, that  
5           the Honorary Police didn't overtly disagree with this  
6           idea:

7                   "... but they instead portrayed that they were  
8           amenable and then did nothing actively to support it."

9       A.   Yes.

10      Q.   What would you have expected the Honorary Police to do?

11      A.   I'm speaking about the Honorary Police as an entirety  
12           there and I suppose it's fair to say that a lot of  
13           people would have really loved Clothier to happen.  
14           Clothier made an attempt to address the problem we  
15           talked about earlier where you've got 13 police forces  
16           without a clear chain of command and Clothier thought  
17           the police authority can be the chain of command and  
18           pull Island policing together with a single strategic  
19           policing plan and clear definition of who does what.

20                   Sorry, can you just ask me that question again?

21      Q.   What would you have expected the Honorary Police to  
22           do --

23      A.   I would expect them to commit to it and to say: yes, we  
24           will surrender part of our parish autonomy and make  
25           ourselves responsible to a police authority.

1 Q. And did any of the connétables that you remember do  
2 that?

3 A. I don't remember any of them being explicit about that.  
4 There was the awkward thing that the connétables who  
5 were responsible for policing in the parish then sat in  
6 the Chamber as members of that parliament and I think  
7 Clothier envisaged that they would give up their  
8 policing powers to a senior centenier, which meant  
9 surrendering some of their power, and then the Police  
10 would be responsible to the police authority.

11 There was a lot of talk, but no energy for change.  
12 Again, it was partly lack of skill, but lack of will,  
13 commitment, drive to make it happen. It just was not  
14 there.

15 Q. And did you feel you had any effect in succeeding in  
16 driving change forward?

17 A. Well, I tried to support the formation of an authority  
18 as much as I could. I tried to achieve some of the aims  
19 of Clothier by sitting down with the Honorary Police and  
20 saying let's have to begin with this memorandum of  
21 understanding; in 100 years or whatever we have never  
22 actually sat down and said "These are the things that  
23 you will do and these are the things that we will do",  
24 we have never -- and who reports to whom and how do we  
25 find out what happened when you went to an incident and

1           we didn't and so on. So I tried to achieve some of that  
2           and if other things hadn't have got in the way I would  
3           have tried to take that forward to a joint policing  
4           plan.

5           I also tried to resurrect -- I had regular meetings  
6           with the Honorary Police to try and hammer these issues  
7           out. I used to have proper diaried, regular meetings  
8           with senior members of the Honorary Police, agenda,  
9           minutes, items to resolve and so on and I was doing  
10          that -- I thought -- I sounded out could we go back to  
11          the Clothier thing about us all being a responsible  
12          police authority and I got the sense that they weren't  
13          with that, so when I became involved in drafting a new  
14          police law, with some help from some very capable  
15          people -- you might think it is an odd job for a chief  
16          of police to undertake to draft a new police law but if  
17          I didn't do it nobody else was going to. I took  
18          a decision that we had better start off by saying "Let's  
19          have a police authority that deals with the States  
20          Police only, we can probably get that through", and you  
21          take off the table all of the problems of the  
22          connétables whatever saying "We're not giving up our  
23          power to a police authority" and so on. Sometimes if  
24          you try and achieve something very difficult it is  
25          better to try and achieve it incrementally and I saw

1           that as the first stage. As we know, it got talked  
2           about forever, but was resurrected later in a new form  
3           I understand.

4           So those are some of the examples: when it became  
5           clear there wasn't going to be a police authority  
6           I tried to pick up the bits and pieces and try and work  
7           something out of them.

8        Q. Mr Power, I'm going to turn to another topic now but  
9           before I do I understand that there is a correction you  
10          would like to make to an answer you gave this morning,  
11          or a clarification.

12       A. I just want to add a little bit extra. I don't know  
13          whether I made myself clear enough, but when you were  
14          asking me what I did all day I don't know if I made it  
15          clear that under the law and under operating procedures  
16          there were a number of decisions that can only be taken  
17          by the Chief Officer, it can't happen if the  
18          Chief Officer does not sign it off, and it can't be  
19          delegated unless I'm effectively off the Island, so that  
20          was part of what I did and it was a 24/7 thing, you  
21          know. It happened Sunday mornings, it happened  
22          3 o'clock in the morning, it happened on Christmas Day,  
23          and so making sure that I was available and equipped to  
24          do that was part of the job. I had an office at home,  
25          a radio at home, a computer at home and sleep with my

1 head next to the telephone, that sort of thing, so that  
2 was part of the responsibility. It was to deal with the  
3 things that the law said only I could do.

4 Q. And can you give us a couple of examples of those  
5 things?

6 A. Yes, I mean there's plenty of things on a sliding scale  
7 and somewhere in the middle of the sliding scale is sort  
8 of sensitive intelligence -- things that intrude into  
9 people's privacy certainly needed me to have my personal  
10 say on.

11 At the top of the scale it would be the potential  
12 deployment of lethal force, if you want to arm  
13 police officers and send them out with loaded weapons on  
14 an operation, I had to sign that off and that was  
15 something that you are obviously -- by the nature of the  
16 task it often happened at an unusual hour, so at  
17 4 o'clock in the morning you find yourself dealing with  
18 that sort of stuff and taking a decision, then spending  
19 the rest of the night worrying about it I suppose, and  
20 then having to follow up the next morning and see how  
21 things worked out.

22 Q. Thank you. The focus of this Inquiry is on the  
23 investigations of alleged child abuse and so I would  
24 like to ask you more questions about that side of the  
25 SOJP's work.

1 A. Yes.

2 Q. And the Inquiry has already heard evidence that the  
3 Family Protection Unit, later known as the Public  
4 Protection Unit, certainly fell within CID.

5 A. Yes.

6 Q. And we have heard that in the early 2000s anyway it was  
7 a bit of a poor relation to the main CID.

8 A. Yes, I think looking back you would say that, yes.

9 Q. At the time it didn't have its own detective inspector.

10 A. No.

11 Q. And so the DI for the whole of CID was responsible for  
12 it.

13 A. Yes.

14 Q. And he -- I think it was he all the time -- was based in  
15 the CID offices, which were at the other end of the  
16 building from the Family Protection Unit.

17 A. Yes, yes.

18 Q. And we have also heard that it was under-resourced.

19 A. Yes.

20 Q. Were you aware of those problems in your early few years  
21 within --

22 A. No, I don't think that -- I mean -- well, it is true it  
23 didn't get on the radar, and I can only say that there  
24 was a rather lot of things on the radar in those early  
25 years. But at some point it did. I began to focus on

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1           just what was going on there and it started with the  
2           complaint I got from the mother of an abuse victim.

3       Q.   You say this is about 2006, isn't it?

4       A.   That would be right, yes.

5       Q.   Could we turn please to your statement at page 32,  
6           paragraph 109 please {WS000536/32}. What you say in  
7           paragraph 109 is that in the period following your  
8           appointment you periodically had occasion to be  
9           concerned regarding standards and performance. Now,  
10          this appears to be a reference to the early days, or  
11          I assume it is.

12      A.   Yes.

13      Q.   What concerns did you have about the standards and  
14          performance in that unit?

15      A.   I can't remember the detail, but I -- you have hit upon  
16          one of it: that it didn't have a detective inspector.  
17          It wasn't very well resourced and there had been some  
18          issues about its performance, but I had been given  
19          assurances that it was fine.

20      Q.   And who gave you those assurances?

21      A.   It would have been line management and I can't remember  
22          now who -- it wouldn't be right to say which individual  
23          it was. And I had the disadvantage -- I didn't have  
24          a specialist on the books at that time. There was  
25          nobody who could say "My background is in family

1 protection issues and I can give you some advice, boss,  
2 if you want". We didn't have that person at that time.

3 Not long into my service I think we appointed  
4 somebody who did have that background.

5 Q. That's DS Fossey who subsequently became DI Fossey?

6 A. Yes. She expressed an interest in joining the Force and  
7 we looked into her background and we said "Yes please",  
8 we could do with that.

9 Q. Before that happened, looking back to the early years,  
10 you say in paragraph 109 in the last sentence:

11 "It was intended to be a unit that dealt with  
12 multi-agency work, that is a unit that would rely on  
13 collaboration from State departments, such as Health and  
14 Education."

15 Were you aware of how well, if at all, the unit was  
16 working with other agencies?

17 A. No, I didn't know enough about it. If it helps anybody,  
18 looking back, that didn't get on the radar quickly  
19 enough with hindsight and I can only say there was  
20 rather a lot going on, but I must have seen the need to  
21 appoint somebody with a specialist background and I did  
22 take quite decisive action at a later stage when it was  
23 clear that the usual words/encouragement "Well, perhaps  
24 we can do a bit better, will you take a look at it"  
25 wasn't going anywhere, that this needed some big

1           decisive change which needed political support as well  
2           and needed a change in the rank structure of the Force.  
3           I mean none of these are easy things to achieve.

4           I think it might have been easier to achieve them when  
5           Wendy Kinnard was Minister. They would never have gone  
6           through a home affairs committee I don't they, that  
7           would have been a much harder challenge, but Wendy was  
8           willing to sign off the changes that I wanted to make.

9           Q. Why do you think it would not have been possible to get  
10          those changes through a home affairs committee?

11          A. I think it would have been very difficult because it  
12          involved -- it was one more chief and one fewer indian  
13          in that sense. And quite rightly there would have been  
14          challenge, saying, you know, "How many inspectors do you  
15          need in this force? We have managed all these years  
16          with a sergeant in charge of the unit and why" --  
17          I could just see that being a difficult debate before  
18          committee, but Wendy was enthused about this particular  
19          issue. She also had a background which led her to be  
20          convinced that this was an important area of Police work  
21          that ought to be reinforced.

22          Q. And so in 2005 I think Alison Fossey was appointed as  
23          the DS?

24          A. Yes.

25          Q. And I think 2006 became the DI.

---

1 A. Yes.

2 Q. Was there general political support for that  
3 appointment?

4 A. There was general political support, but the political  
5 support that mattered was there, Wendy Kinnard approved  
6 it. I mean what I had to do when it became clear that  
7 this had ... we had to do some things that we had never  
8 done before. We had to change the establishment before  
9 so we had a detective inspector in charge of that  
10 unit -- I think she might have been the first woman  
11 inspector ever in the Force, certainly when I was there  
12 initially there had never been a woman above sergeant --  
13 I'm pretty sure I'm right -- and we needed to give her  
14 a certain degree of autonomy of command within the  
15 hierarchy of the operations department and the CID.  
16 That was going to be potentially a source of tension so  
17 there was going to be some sort of direct communication  
18 between her and the Executive of the Force.

19 I think prior to her promotion she had worked as my  
20 staff officer -- I think that's the sequence of  
21 events -- and we got to know her and had come to  
22 a conclusion that she was ... on message -- I'm trying  
23 to think of something else, but she was basically signed  
24 up to the agenda that we were trying to pursue.

25 Q. I think what you just said was she was on message, was

1           that right?

2           A. Yes, I did, is that right. I was trying to think of  
3           something else to say, but you know what I mean. We  
4           were trying to drive progress and modernisation through  
5           this organisation and she had worked close to the  
6           executive team for a time. She had been sitting in the  
7           room at all the meetings and she got the agenda as far  
8           as I was concerned and it became clear that if anyone  
9           was going to do this, she was. We either had to bring  
10          somebody in from outside the Island or she was going to  
11          do it.

12          Q. Stick for the moment with the situation before she was  
13          appointed and you implemented these changes. You speak  
14          in your statement about the Roger Holland case. You  
15          weren't directly involved in that case.

16          A. No.

17          Q. And I'm not going to ask you any questions about the  
18          case itself.

19          A. It was being mopped up when I arrived. The tail end of  
20          that was being sort of swept up.

21          Q. What I would like to ask you about is the comment that  
22          you make on paragraph 38 of page 11 of the statement  
23          please {WS000536/11}. You say:

24                         "What happened in the Roger Holland case is a good  
25          example of the complacent attitude in Jersey towards

1 child protection issues."

2 What did you have in mind by that?

3 A. Well, I wasn't involved in the Holland case, but I think  
4 I had a brief meeting with the officers who investigated  
5 the Holland case. The officers came from the UK and  
6 I think -- we went out one evening and talked it through  
7 and I had a briefing on it from my predecessor and  
8 I read through some of the papers and what seemed to  
9 emerge from the paperwork that I saw -- bear in mind I'm  
10 talking now about paperwork that I saw 15 years ago --  
11 that Holland had a history of abusive behaviour towards  
12 young people, that in spite of this he was appointed as  
13 an Honorary Police officer, that this history of abusive  
14 behaviour was drawn to the attention of someone in the  
15 hierarchy and I don't remember who, who apparently  
16 thought that his value as an Honorary Police officer  
17 took priority. Someone was told "Stop complaining about  
18 Holland, if you are only half as good an Honorary Police  
19 officer as he is ..." and so on, and I also saw  
20 correspondence which seemed to indicate that my  
21 predecessor wrote to the Attorney General expressing  
22 some concerns about the fact that a member of the  
23 Honorary Police had a history of abuse. None of this  
24 seemed to gain any traction. It was only when the thing  
25 tumbled -- and further abuse occurred, that anything

1 effective was done and, you know, if you ask the  
2 Honorary Police or anyone responsible for them "Well,  
3 where is the action plan of what you did in the  
4 aftermath of the Holland case? What are the lessons and  
5 what have you done to tighten things up?", I think that  
6 would be a challenging question.

7 Q. Did it ring any alarm bells with you though? Did you  
8 think that this was one shocking but isolated example or  
9 did you think it did reflect a wider problem?

10 A. I suppose that the general feeling at that time that you  
11 would pick up in conversations or whatever was this is  
12 pretty typical. There were rumbles and talk about  
13 abuse, a history of abuse, cases that should have gone  
14 to court and didn't, things that have been covered up.  
15 People would mention it in conversation and I would say  
16 "What do you mean about exactly ...", "Oh, it doesn't  
17 matter". You could get a sense that there was some sort  
18 of history and so I wanted to make sure that we were in  
19 a position where we were robust in that respect and  
20 I have described a number of steps, one of which -- we  
21 might go back to it -- is using a lot of influence to  
22 get a senior detective onto the team. We did not have  
23 the big CID man. In a UK force you would have an  
24 assistant chief constable responsible for crime  
25 services, three or four detective superintendents, all

1 of them seasoned campaigners in dealing with difficult  
2 crime issues. We had nobody, nobody at all with that  
3 background and so getting John Pearson appointed --  
4 I don't know if you intend to talk about him later, but  
5 when the job of Deputy was advertised there was only one  
6 vacancy and Lenny Harper finished first on the  
7 scoresheet and John Pearson second and to their credit,  
8 Alistair Layzell and Wendy Kinnard took the decision  
9 "We're going to get a lot of flak for this but we're  
10 going to appoint them both", "Well you haven't got a  
11 place on your books", "Doesn't matter, there'll be a  
12 retirement, we're going to appoint them both".

13 I remember Alistair Layzell saying "Look, this man is  
14 the Deputy Director of the National Crime Agency --"

15 Q. This is John Pearson?

16 A. John Pearson -- "I'm not letting him walk out the door  
17 and go home". That was the sort of thing that I think  
18 I was persuasive in and some of the steps that I was  
19 taking to try and get us into a better state than the  
20 one I have described.

21 Q. You could see a need for SOJP to have a detective of  
22 John Pearson's seniority. Was that for criminal  
23 investigation purposes generally, or because you had  
24 a concern over child abuse?

25 A. It wasn't specifically about child abuse. I can't sit

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1           here and say that. It wasn't specifically about -- it  
2           was about standards in general.

3        Q. You said that you had become aware of a lot of  
4           rumours --

5        A. Yes.

6        Q. -- that abuse had gone on and not been properly  
7           investigated.

8        A. Yes, yes.

9        Q. In those early days did you do anything to get to the  
10           bottom of those rumours?

11       A. No. I mean people would talk about the Holland case,  
12           the Victoria College case and some others and I thought,  
13           well, all right, that's happened in the past but it's  
14           not going to happen under me. I'm just going to try and  
15           get this to a position where it doesn't happen. I'm not  
16           sitting here claiming that the need to get us right on  
17           abuse was always top of the agenda. It was a pretty  
18           crowded top agenda and I just accept that, but it did  
19           not get on the radar in the early years, but when it did  
20           get on the radar it was dealt with pretty ruthlessly.

21                There was no point -- why go back, what would be the  
22           point of going back to Victoria College or other cases  
23           and digging them up and -- nothing to be done about it.  
24           That's taking up time and energy looking at the past,  
25           let's get on with now, what have we got now and are we

1           doing it properly.

2           Q.   So is it your view that on your watch if an allegation  
3           of child abuse was made it would be properly  
4           investigated?

5           A.   I think that I put it say if any allegation of anything  
6           was made it would be properly investigated. We weren't  
7           just poorly equipped -- we were poorly equipped across  
8           the board. I'm probably hopping to another part of it,  
9           but everything was done on pieces of paper, we didn't  
10          have a computer record, so I couldn't sit at my desk and  
11          say "I wonder what happened to the case of ..." no,  
12          because there wasn't a computer, nothing was in a system  
13          and so you had to go round chasing after paper files and  
14          sometimes failing to find them. It was just -- it took  
15          me back to when I was in if the Force in the 1960s and  
16          1970s. I didn't -- it need -- I don't think I achieved  
17          any great modernisation in police service terms, you  
18          know, I don't think I was that good or that influential;  
19          what I did was just take what the rest of the world knew  
20          to be good and try to apply it.

21          Q.   Even if you didn't the have a particular focus on child  
22          abuse it seems that you did in respect of domestic abuse  
23          more widely.

24          A.   Yes.

25          Q.   If we look please at paragraph 104 of your statement

1           which is on page 30 {WS000536/30}.

2           A. Yes, and this I suppose is trying to get into the  
3           general diversity agenda and I have said the Force was  
4           male dominated, I have said the Honorary Police who were  
5           largely male were very masculine in their attitudes  
6           towards things. The political environment was that it  
7           was not illegal at that time in Jersey to discriminate  
8           on gender, race; racial abuse was not a crime and so on.  
9           I'm saying that not to denigrate how things were then,  
10          but it was a very very difficult background to try and  
11          pursue this type of agenda and there were a lot of  
12          concerns about it. One lady who was an independent  
13          member of a shadow police authority would talk to me  
14          constantly, you know "Whatever you do, whatever happens  
15          to us you've got to do something about the domestic  
16          violence issue because women talk to me and I know  
17          what's going on", and Wendy knew a thing or two about it  
18          as well.

19          Q. And was this something that SOJP moved on quite swiftly  
20          after your appointment?

21          A. Yes, I mean again I invented nothing new, but I applied  
22          a principle that had been generally accepted in other  
23          places and that is you can if you want stop talking  
24          about domestic violence, an assault is an assault and  
25          the phrase often used: an assault is an assault

1           irrespective of the relationship between the parties.  
2           Stop telling me who is married to who, who is living  
3           with who and who -- an assault is an assault. Do you  
4           know how to deal with an assault? Fine, well deal with  
5           an assault. That was -- it was welcomed by many  
6           police officers who were seeking clarification, but it  
7           was in the face of the way things had been approached by  
8           a lot of people.

9           Q. Including SOJP officers? Had they taken the view that  
10          this was just a domestic and it wouldn't lead to  
11          charges?

12          A. I think many of them were quite good at it, but they  
13          were working without the clear supported policy  
14          background that we were giving them. They knew, most of  
15          them -- they were very professional and the States of  
16          Jersey Police, in case I forget to say it, has really  
17          professional, good police officers, but they would  
18          always wonder if they would be supported, I suppose, you  
19          know, and the message had to come clear from the top and  
20          say this is a -- and don't anyone dare get in the way of  
21          it either, you know, we don't want some old charge room  
22          sergeant at 3 o'clock in the morning saying "What have  
23          you brought this man in here for?", we're not having  
24          that. If it's an assault, it's an assault, that's it.

25          Q. And you also took domestic abuse cases away from the

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1           Honorary Police and tried to get SOJP officers to deal  
2           with them, is that right?

3           A.   In a cunning step in the memorandum of understanding  
4           I did that and that was because -- well, I knew it was  
5           the right thing to do. There were a number of reasons.  
6           The message I was getting from some of the ladies who  
7           were in contact with domestic violence victims --  
8           I think I visited a refuge, I have told you about the  
9           lady who was on the shadow police authority, Wendy's  
10          views and a whole lot of background noises and then some  
11          independent research that was commissioned by some UK  
12          experts on dealing with domestic violence -- it wasn't  
13          me that commissioned it, it might have been  
14          Home Affairs, it might have been that Wendy was --  
15          I can't remember. But all of these give a very negative  
16          message about how the Honorary Police were dealing with  
17          domestic violence. They would -- I mean you would see  
18          the attitude displayed in many other things. It's not  
19          irrelevant. I mean I remember a case where we got  
20          a complaint from someone who knew about it that a woman  
21          was drink driving and that an Honorary Police officer  
22          had pulled her and hadn't done anything about it and  
23          instead of arresting her had taken her home or whatever  
24          it is. And he said yes, he had done that. He had taken  
25          her home and given the car keys to her husband and said

1 "Don't you let your wife out in the car again", and that  
2 was a resolution. Well, I can think of what -- that  
3 displays an attitude, isn't it, that men are in charge  
4 of the household and they have authority over the woman  
5 in the -- and that was in the culture of a lot of  
6 elements of the Honorary Police and the complaints were  
7 that they would talk to the man and woman in a room  
8 together, they would have the conversation with the  
9 alleged assailant, they would sort of give advice, they  
10 would offer no protection, they would go away, and they  
11 would say they were okay to do that because they knew  
12 the family, they had known this family for generations  
13 and ...

14 Q. Domestic abuse can of course include the physical and  
15 sometimes sexual abuse of children.

16 A. Yes.

17 Q. In your investigations into how domestic violence or  
18 domestic abuse was being handled did you come across  
19 incidents of child abuse?

20 A. No, I don't think I did. I can't remember. I don't  
21 think I did.

22 Q. And were there any discussions when domestic violence  
23 was being brought into the SOJP fold and taken slowly  
24 away from the Honorary Police of the need to include  
25 abuse of children?

1 A. There might have been, but if there were I can't  
2 remember. I can't remember now, you know. If you had  
3 asked me ten years ago I might have had an answer but  
4 I don't have an answer now, I'm sorry.

5 Q. I would like to move on now to something you asked  
6 whether I would be coming to, which is the appointment  
7 of Lenny Harper and John Pearson. Could we go please to  
8 paragraph 39, page 11 of your statement {WS000536/11}.  
9 You have set out in some detail and you have also told  
10 us this afternoon a little bit about these two  
11 appointments.

12 A. Yes.

13 Q. And you say that you had agreed with Deputy Layzell that  
14 the Deputy Chief Officer, who was initially the only  
15 person you were thinking of appointing, was going to  
16 come from outside the Island.

17 A. Yes, I think Alistair was determined that that was going  
18 to be the case. I don't know how we advertised that,  
19 whether -- I'm not sure local candidates were banned or  
20 anything like that, I just think by the time we got to  
21 the selection stage there were only external candidates.

22 Q. Was there any political opposition, as far as you were  
23 aware, to the idea of appointing an external candidate?

24 A. There always was. It would be routine that you would  
25 get a certain level of back bench criticism about that.

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1           There was always opposition when you were bringing  
2           people in from outside the Island.

3       Q.   At any level?

4       A.   I think at senior level more than junior level.  At  
5           senior level there was always opposition and  
6           particularly in the Police Service and I'm not --  
7           probably due to Honorary Police influence, I don't know.  
8           All I know is that whenever the possibility of an  
9           outside appointment to the Police Service occurred there  
10          would be political opposition and we would frequently  
11          get questions, you know, "Will the Minister say how many  
12          J category [that's licensed] appointments/officers there  
13          are in the States Police, will the Minister say what  
14          plans she has for development of local officers?" and so  
15          on.

16       Q.   That's political.  You said there was opposition  
17          particularly in the Police Service, do you mean  
18          political opposition to Police Service appointments --

19       A.   Yes.

20       Q.   -- or opposition from within the Police Service, or  
21          both?

22       A.   Particularly in respect of the Police service and  
23          opposition within the Police -- when I think about it,  
24          yes, we had a fair degree of -- John Pearson's  
25          appointment caused a fair degree of internal

1 controversy, some really rebellious behaviours by some  
2 of the middle ranking to senior people in the Force who  
3 thought they were the ideal person to be detective  
4 superintendent. We had to deal with some quite  
5 difficult attitudes that came along with that  
6 appointment.

7 Q. Within those who were critical was there a recognition  
8 that local senior officers did not have the expertise to  
9 fulfil these roles?

10 A. No, I don't think there was that recognition. I mean  
11 what -- we just told the truth, that "We need  
12 John Pearson at this time and if you listen to what  
13 we're saying you'll see that part of his role is to  
14 develop you to be the next generation of senior people.  
15 That's part of his job description" -- I think that was  
16 actually written into his job description, that that was  
17 what he was to do, he was to mentor and develop  
18 detective skills within the Force.

19 Q. In paragraph 40 of the witness statement {WS000536/11}  
20 you.

21 "... pointed out to the panel that Lenny Harper  
22 would be a bold choice. He was a man who would 'lift  
23 stones and rattle cages'. He was likely to be  
24 relentless on ethical issues."

25 What issues did you have in mind?

1 A. Well, the Force had a history of inappropriate, illegal,  
2 unprofessional behaviour by some police officers. We  
3 suffered a lot from leaks, and I don't mean to the  
4 press, I mean to criminal organisations.

5 Q. Did you ever prove any of those leaks?

6 A. Yes, yes, we did. Eventually. Lenny did, I didn't.  
7 Lenny did. There was a close association between  
8 members of the Force and people who were career  
9 criminals, yes.

10 Q. So you were aware of a potential problem which hadn't  
11 been solved, is that right?

12 A. I thought we had only got the tip of the iceberg and  
13 this was a man who was going to lift stones and deal  
14 with what he found under the stone. I had known --  
15 I had never been a colleague of Lenny, but he had been  
16 active -- I mean he had a strong reputation in the Met  
17 and his references from the Met, which weren't direct to  
18 the post we were appointing him to, but the references  
19 that had carried forward in his file, if you know what  
20 I mean, in the Met he had at one time been described as  
21 one of the best detectives of his generation. I know  
22 that in Strathclyde he was a thorny character, that he  
23 was pretty uncompromising on standards, that was the  
24 word that was coming out, and I know that he had spent  
25 time in Northern Ireland dealing with some pretty

1           horrible people, on secondment of his own volition, and,  
2           you know, he was hardened and he wasn't going to be put  
3           off. Well, he wasn't put off. I said -- you know, "If  
4           you appoint this man you're going to have to back him",  
5           that's the point, "You're going to have to back him."

6           I had also been involved in his assessment when at  
7           times he had applied through the Home Office system to  
8           be a future chief officer and I shared the view that the  
9           feeling was that he was a relentless operational police  
10          officer who had some areas for development in terms of  
11          some of the more rounded skills. That is I think what  
12          I might have said.

13        Q. And what were the more rounded skills you felt he didn't  
14          have?

15        A. I think that for development -- I think he worked best  
16          as an individual and not as a member of a group. People  
17          would find him abrasive. He wouldn't be the first  
18          choice to send to a multi-agency meeting where there was  
19          a difficult issue to be resolved and there might be  
20          a need for some sort of compromise or addressing grey  
21          areas. You let him do what he was good at and then  
22          somebody else, usually me, would deal with the political  
23          agency interface of what he was doing.

24        Q. You had already learned really, hadn't you, in two years  
25          there that there were sensitivities, political

1 sensitivities, traditions perhaps either to be overcome  
2 or to be worked with?

3 A. Yes.

4 Q. Was Lenny Harper going to be able to cope in this  
5 environment?

6 A. Well, I didn't appoint him. I mean remember. The  
7 politicians appointed him, not me.

8 Q. Did you recommend him?

9 A. I said I would support that choice, but I did say "You  
10 make this choice with your eyes open". You know, "Don't  
11 say that I didn't tell you that if you want a quiet life  
12 pick someone else. This person is going to go through  
13 some of these people like a dose of salts". And I said  
14 "It's time, we've got the baggage of this  
15 Clothier report, it is now or never. If we don't get  
16 this right then we have missed an opportunity, we want  
17 him." That was the view. And it was a view taken with  
18 eyes open. And in any event he came across as very much  
19 himself in the selection process. He didn't need me to  
20 talk to a lot of history, but I did.

21 Q. Had you actually come across him directly yourself? You  
22 talked about the Home Office assessment for --

23 A. Yes, I think we have sat at opposite sides of a table  
24 during a selection process at some stage. I had heard  
25 about him -- I think I heard about some difficulty --

---

1           having some -- I think his car had fire bombed or  
2           something like that outside his house in Strathclyde at  
3           one time. No, there is a risk I'm getting him mixed up  
4           with someone else so I don't want to say that.

5       Q. But apart from the assessment you had never come across  
6       him professionally?

7       A. We had never worked directly with each other, no.

8       Q. And as we know the two were appointed.

9       A. Yes.

10      Q. And you said in paragraph 45 over the page in your  
11      witness statement {WS000536/12} that:

12                "As Lenny settled into his role, it became apparent  
13                that his intrusive approach to professional standards  
14                issues was revealing more problems than anyone had  
15                anticipated."

16                And you said that that led to people leaving  
17                the Force.

18      A. Yes.

19      Q. What problems were there that were uncovered that you  
20      hadn't anticipated?

21      A. I suppose all of the problems -- if you take them one at  
22      a time -- were things that I would say "Yeah, I thought  
23      that might be going on", it was the scale, there was  
24      just so much of it. I mean I have given some examples,  
25      but it was just the scale and the casual way in which

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1 illegal inappropriate behaviour was taking place that's  
2 apparently condoned at senior level in some cases,  
3 you've got to say that.

4 Q. How was it you hadn't become aware of the scale of this  
5 in the two years before Mr Harper was appointed?

6 A. As Chief Officer you can't be everywhere and, you know,  
7 you depend rather a lot on what people tell you,  
8 I suppose. I mean you can put on your hat, go for  
9 a walk about, talk to people and -- but you depend a lot  
10 on what people are telling you, and some of this had not  
11 found its way up the chain of command.

12 It's difficult to go on here because the Deputy who  
13 retired and gave way to Lenny was a nice man and quite  
14 loyal and is now deceased and he died too soon and  
15 I think he did a good job, but he was not intrusive and  
16 what you had often in the States Police and you get in  
17 some organisations -- you get it throughout Jersey  
18 suppose -- is what we would call reactive management,  
19 that you get a problem on your desk and you deal with it  
20 and if it doesn't land on your desk that's not  
21 a problem. The idea that management should go looking  
22 for problems was a bit alien. Lenny went looking for  
23 problems. So "I've got a funny feeling about what's  
24 going on, X, Y, Z, I'm going to go and find out, I'm  
25 going to get in there". And quite often once that tone

1           was set you would get good police officers with high  
2           standards of integrity -- and there are plenty of them  
3           in the Force -- would make a phone call and say "Can  
4           I come and see you, Mr Harper, I don't want anyone to  
5           know I'm talking to you but I've got something to say  
6           about what's going on, you ought to know."

7           Once we impressed that it wasn't just -- it's  
8           actually your duty to do that, because if you knew  
9           something was going on that was illegal and you hadn't  
10          come forward and said, you're in trouble and once we got  
11          that message through we became far more aware of the  
12          scale of what it was we were dealing with.

13         Q. You give in your witness statement a number of examples  
14          of various things that were discovered, misconduct on  
15          the part of various officers.

16                 In paragraph 64 of your witness statement on page 18  
17                 {WS000536/18} you say that:

18                 "In terms of child abuse specifically, I do not  
19                 recall any direct allegations of child abuse against  
20                 a police officer."

21         A. Yes.

22         Q. Before the arrival of Mr Harper are you confident that  
23          such allegations would have been brought to your  
24          attention had they existed?

25         A. I'm not sure. I mean probably there would have been.



1 A. Oh, no, we spoke to each other across a desk. There was  
2 a time when most of the chief officers or the newly  
3 promoted chief officers in the Police Service in  
4 the UK -- half of them, or a lot of them would have been  
5 at an assessment process where I had been one of the  
6 assessors. You couldn't get -- without being through  
7 the assessment process and I was one of many assessors  
8 but I was one of the assessors.

9 Q. Was this on the senior command course?

10 A. It's to choose who can go to the senior command course,  
11 yes.

12 Q. Sorry, it is those who hoped to go on the senior command  
13 course?

14 A. It is applicants for the senior command course, yes.

15 Q. Did Mr Harper pass his assessment?

16 A. No.

17 Q. Because of the --

18 A. Well, it's simplistic to say it, but you're looking for  
19 a whole range of skills and I can't remember the  
20 specifics of the assessment process. I didn't write his  
21 report, I'm sure about that, so I wouldn't have been his  
22 lead assessor at any time, but I had been present when  
23 he has been going through the process and colleagues  
24 might have been doing something -- and I'm pretty sure  
25 that I did some part of the process that involved him

1           and he wasn't -- I say with certainty he wasn't  
2           a catastrophic failure because you get different grades  
3           of outcome and numbers and one is "Don't come again" and  
4           he definitely didn't get that, and others are encouraged  
5           to come again and "Here is an action plan that you ought  
6           to follow for the next year if you would like to come  
7           again", and so on and I think he was somewhere in that  
8           range. He was not seen as a hopeless case, but he was  
9           seen as somebody who needed to achieve some development  
10          objectives before further assessment. I think that was  
11          how it was.

12                 I mean I'm not very well prepared for this question,  
13          of course, I'm trying to remember things that happened  
14          in assessment centres, what, ten years -- yes, yes.

15          Q. Of course. And you have identified the skills which you  
16          thought he needed to develop, essentially perhaps in  
17          managing people and situations?

18          A. In complex situations there was -- I think the corporate  
19          style needed some developing, if you could put that, you  
20          know, the boardroom skills perhaps weren't as evident in  
21          him as some of the more successful candidates, but  
22          I mean -- there are people who have been through that  
23          process and been sent away as not having passed, or  
24          failures, and have gone back to pass and have  
25          a successful career. I mean you're talking to one of

1           them, so it happens that people go into that -- because  
2           certainly the candidates that I had everybody -- I would  
3           write about 5,000 words of advice, development advice to  
4           every candidate, including the ones who were successful,  
5           so I would say "Well, you're not successful this time,  
6           but here are 20 pages of things that we would like you  
7           to think about and suggestions how you should take your  
8           career forward."

9           Q.   But by the time he came to apply for the position of  
10           Deputy Chief Officer Mr Harper hadn't successfully gone  
11           on the senior command course?

12          A.   No effectively he had abandoned that route I would say  
13           by then.   He was leaving the UK Police Service and  
14           taking a second job, which was being Deputy Chief  
15           Officer in Jersey.

16          Q.   And that was going to be his last job before retirement?

17          A.   Yes.

18          Q.   Obviously as your deputy there might be times when he  
19           would have to step in for you?

20          A.   Yes.

21          Q.   Did you have concerns about his ability to manage --

22          A.   No.

23          Q.   -- complex situations?

24          A.   No, no, because you're talking here about long-running  
25           strategic issues.   You know, if I was working with the

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1 corporate management board on some multi-agency thing,  
2 if I was working with agencies in the UK, he would do  
3 a very -- you can have excellent deputies who will never  
4 make chiefs and he was indisputably an excellent deputy.  
5 He could mind a shop very well indeed.

6 Q. What was excellent about his work as a deputy?

7 A. He never came with problems, he always came, as good  
8 people do, with a solution: "Graham, this has happened  
9 and I think what I'm going to do is X, Y and Z, but  
10 I need you to agree", "That's a good solution, Lenny,  
11 but let's just talk about are we going to do a press  
12 release, am I going to tell the Chief Executive" -- you  
13 know, the sort of wider issues around it. He never let  
14 you down. I mean he wouldn't -- he didn't have  
15 a "too difficult" tray, he didn't have a "do tomorrow"  
16 tray. Stuff got dealt with and if you said to him about  
17 something "Lenny, what's going on, X/Y/Z, is  
18 unacceptable and I want you to put a stop to it now",  
19 and by tomorrow it would have stopped. You know, there  
20 was no nonsense about him at all. He was very -- and he  
21 was actually very thorough as an investigator. You got  
22 some complex professional standards issues where all  
23 sorts of things were running simultaneously and he could  
24 control them all and produce a very coherent analysis of  
25 what was going on. He was a thorough, tenacious

1 investigator, that's what he was.

2 And all the things I'm talking about I suppose you  
3 could transplant to all sorts of other organisations,  
4 you know. You have the hard working, thorough Deputy  
5 who keeps the ship steady and you have the person at the  
6 top who has the most strategic role, deals with the  
7 outside world and all sorts of complexities. It's not  
8 an unfamiliar model, it's one that works.

9 Q. And when you said that you would support his candidacy,  
10 you warned the selection panel that this was a bold  
11 appointment --

12 A. Yes.

13 Q. -- and that they would have to back him and that he was  
14 uncompromising?

15 A. Did I say he was uncompromising? Well, he probably was  
16 uncompromising in many respects. But yes, yes, you do  
17 this with your eyes -- I remember having that  
18 conversation: "Do you realise this guy is going to lift  
19 stones", I remember using that -- "He is going to lift  
20 stones. He is not going to wait for stones to lift  
21 themselves, he is going to start lifting them and he is  
22 going to deal with what he finds and you have to be  
23 prepared for that."

24 Q. Did you foresee that there might be any trouble with  
25 politicians at a higher level through Mr Harper's

1 approach?

2 A. I could see he had rocked boats -- I couldn't anticipate  
3 which boats he would rock, but would he ever be guest of  
4 honour at the connétables' annual dinner? I think not.  
5 I just didn't see that as being what was going to  
6 happen, but he -- yes, there was going to be trouble,  
7 but you see Alistair Layzell wasn't afraid of trouble  
8 and Wendy Kinnard -- she will speak for herself, but  
9 I got the impression that she -- this place needs a good  
10 shake up and not just the Police, you know, but she  
11 would use her role over the Police Service in a way of  
12 expressing and implementing some of her wider political  
13 aspirations, if you like. She was for a more diverse  
14 society, more equality, less discrimination, better  
15 opportunities for women and she -- and Lenny came with  
16 a very very strong record on that front. I remember  
17 an example where he had purged some part of Strathclyde  
18 Police as a result of sexual harassment issues and  
19 I don't know how much support he had had in doing it.  
20 It had been difficult and controversial for him to do  
21 but he had done it. It was documented and we went  
22 through that and evidenced it and I suppose -- I'm  
23 trying to read other people's minds, but it seemed to be  
24 that there was a feeling "Well, we need some of that."  
25 You know, bear in mind that this was a place where

1           it was still perfectly legal to discriminate against  
2           people on grounds of gender, race, and racial abuse was  
3           not illegal. Against that you have a sort of  
4           progressive female politician seeing a man who is hard  
5           working and tenacious and who is also driven by the same  
6           agenda -- I mean I have said elsewhere people called him  
7           a dinosaur, for a dinosaur he was pretty progressive and  
8           some of his most ruthless actions were in the field of  
9           discrimination, sexual harassment and so on, and she may  
10          well have seen him as a man who was going to take her  
11          agenda forward -- I don't know, I'm trying to anticipate  
12          what was in her mind, but I know the both of them well  
13          enough.

14        Q. His work was going to be confined to work within SOJP,  
15          wasn't it?

16        A. Yes.

17        Q. And you thought he would be very effective at rooting  
18          out lazy officers, corrupt officers, bad practice of one  
19          sort or another.

20        A. Mmm.

21        Q. Was that the trouble you foresaw, that there would be  
22          trouble over him doing this?

23        A. I think it would be controversial because you get  
24          challenges politically -- I mean for example we were  
25          always being asked "How many discipline cases do you

1           have in the States Police? How many people have you  
2           sacked? How many people have you suspended?" and  
3           proportionately it was always more than any department  
4           you would choose to name within the States Government.  
5           Of course people would simplistically analyse that  
6           "Well, it shows you are such a rotten lot because you've  
7           got more trouble than anyone else" and the correct  
8           answer was "No we're actually the only people doing  
9           anything about it and you're not". You know, "You're  
10          sitting in your lazy offices doing nothing and we're  
11          doing something". It was always difficult, every day  
12          was difficult. You did not have a widely generally  
13          supportive political environment for driving forward  
14          a reform agenda.

15        Q. Even if the reform agenda was to get rid of officers who  
16        could be proven to be corrupt?

17        A. Well, firstly you've got to prove them to be corrupt and  
18        you couldn't always do it. There are enough lawyers in  
19        the room to understand that sometimes a police force  
20        might be in possession of material which is pretty  
21        conclusive on an issue of corruption, but which cannot  
22        be used for disciplinary purposes or for legal purposes  
23        and we sometimes found ourselves in that position, but  
24        we did get rid of some people for corruption but some of  
25        them were pals of States Members or senior members of

1 the Honorary Police, or connected to influential  
2 families and it was a rough ride and nothing -- even if  
3 we had a live case it was not seen as anything unusual  
4 to have a sort of political and media vendetta against  
5 the investigation that we were trying to run.

6 Q. I would like to take you on now a few years after  
7 Lenny Harper's appointment to 2006 and the appointment  
8 of Alison Fossey as the DI for the Family Protection  
9 Unit.

10 A. Yes.

11 Q. Could we go back please to page 32 of the witness  
12 statement and paragraph 110 {WS000536/32}. You have  
13 spoken a little bit about this already.

14 A. Yes.

15 Q. About the appointment of DI Fossey. The Inquiry has  
16 evidence that in about 2006 Alison Fossey was requesting  
17 further resources and saying that the unit couldn't cope  
18 with its workload and the number of officers that it  
19 had.

20 A. Well, yes. That has to be wrong, doesn't it? So the  
21 timing of that -- I'm sorry, I have interrupted you.

22 Q. No, not at all.

23 A. Because this is a time before Alison Fossey was in the  
24 unit, so I -- just tell me if you think that can't have  
25 happened in 2006.

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1 Q. No, we think she joined as a detective sergeant in 2005  
2 and by 2006 she was the detective inspector.

3 A. Right, okay.

4 Q. So it is about right. We will take a few months, that's  
5 fine. I would like to look at the time after her  
6 appointment.

7 A. Okay, yes.

8 Q. And she is concerned that her department does not have  
9 the resources that it needs to run effectively.

10 A. Yes.

11 Q. Were you aware of those concerns?

12 A. I have seen a report about that which you kindly sent me  
13 recently. I don't recall seeing that before. It's  
14 a report that went to line management.

15 Q. To Mr Bonjour?

16 A. Yes. I don't recall it finding its way up the chain of  
17 command, but I do recall some later conversations  
18 that -- no, I don't recall. I recall that there were  
19 some later conversations about staffing and workload and  
20 I can't really remember -- I can't bring much to  
21 the Inquiry about that. I have seen the document -- I'm  
22 pretty confident I never saw that, it didn't find its  
23 way up the chain of command. Beyond that I would be  
24 struggling to say when it was I had conversations about  
25 resourcing levels.

1 Q. Did SOJP generally have resourcing difficulties?

2 A. It all rather depends what people wanted it to do.

3 I mean the resourcing problem in the States of Jersey  
4 Police is that it is an independent police force and so  
5 has to carry all of the headquarters bureaucracy that  
6 you would get in Hampshire or Wiltshire or wherever it  
7 is and it does things that a police unit of comparable  
8 size in the UK would never be asked to do, such as run  
9 a 24-hour control room, run a 24-hour inquiry desk, run  
10 a 24-hour custody centre, and by the time you had  
11 staffed all these posts and covered for people who were  
12 sick or on holiday or whatever, you were sometimes left  
13 with almost nobody to send out; you know, that was one  
14 of the problems. And it was also the balance between  
15 how many people you had walking the beat and how many  
16 you did in specialist roles.

17 I don't think it had an insoluble ... but every  
18 service has a resourcing problem. You have never got  
19 enough people and enough money to do all the things you  
20 want to do and so hard choices have to be made and in  
21 response to this resourcing inquiry someone would have  
22 made the hard choice to reduce or disband some other  
23 unit in order to resource Family Protection and whenever  
24 we reduced or disbanded another unit the local  
25 politicians and media would know about it the next day

1 and there would always be a problem about it, running --

2 Q. Did you go to the politicians and say "SOJP needs more  
3 money", rather than taking it from another unit?

4 A. Well, you could try that. We did make growth bids on an  
5 annual basis, but by the time I had settled in and  
6 certainly by 2006 the annual budget discussion was not  
7 about growth, it's about how much reduction can you  
8 take. That was what the dialogue was about.

9 Q. And did you ever oppose that? Did you ever say "I'm  
10 sorry, SOJP needs the money it has got and if anything  
11 it needs more money"?

12 A. Well, all the time, but it was never -- it wasn't  
13 an argument that would carry today, I mean it was really  
14 really frustrating, and, you know, particularly because  
15 the Government was fond of signing up to commitments  
16 that it didn't resource, it was a recurring thing. In  
17 the area of financial crime it would sign up to new  
18 enforcement and monitoring obligations and then we would  
19 say "Who is going to do it? How many people have you  
20 built in for this?", you wouldn't get a helpful answer.

21 Yes, of course I would make the point. I mean  
22 I really would make the point that sometimes we were  
23 stretched dangerously thin, but you wouldn't go to  
24 a police force anywhere in the UK, particularly in the  
25 modern age, that didn't tell you that story and of the

1           frustrations and the -- I mean the growth bids that  
2           I have made for development of the Force are simply  
3           a matter of record, they exist and if somebody wants to  
4           dig them out they can.

5        Q.   As far as you were concerned there was no particular  
6           funding issue for the Family Protection Unit above the  
7           resource issues that would affect every unit?

8        A.   Nobody was starving it of funds or anything like that.  
9           I mean Alison inherited what had historically been  
10           considered to be the right staffing level for that unit  
11           and I think from what I saw in the memorandum she was  
12           saying -- well, there are two reasons why she should  
13           challenge that. She said firstly there are new  
14           standards we have to comply with -- I can't remember  
15           exactly what she said, but, you know, there is more we  
16           need to do and there are more cases in. I think she  
17           brings some evidence about the caseload per officer  
18           which should be at whatever figure and is at nearly  
19           twice that figure, or something like that.

20       Q.   40 to 60.

21       A.   Yes, it's a strong case that she made and you would  
22           expect people -- you know, anybody can say this or that  
23           unit in a police force -- we want more cops on the beat,  
24           we want more people -- okay, that's the easy bit. The  
25           hard bit is saying "Okay, what are you going to do less

1 of? Where are you going to take the people -- do we  
2 take two people out of financial crime? Do we take two  
3 cops off the beat? Do we disband community policing or  
4 some other unit?" -- that's the debate.

5 Q. Going back to the work of the Family Protection Unit and  
6 over the page please to paragraph 112 {WS000536/33}, you  
7 identify there the problems that Alison Fossey found  
8 when she took over the unit and you say that you  
9 supported her in making the necessary changes and  
10 assisted with the drafting and signing off of relevant  
11 partnership agreements, and in paragraph 113 you say  
12 that you knew that she:

13 "... tried to build relationships between the SOJP  
14 and the States departments as it was very important that  
15 all parties worked together and not in isolation or in  
16 conflict."

17 Did you have any direct involvement yourself with  
18 any of these initiatives?

19 A. Yes, I did.

20 Q. So what did you do?

21 A. I mean if that is read as saying there wasn't a working  
22 relationship, or some corporate group to which all these  
23 people attended and reported, that isn't true. It's not  
24 what I'm meaning to say, irrespective of what I actually  
25 might have said when you read it. What we found was --

1           we did an audit -- we", well, I helped her but she did  
2           most of the work: where is all this written down? You  
3           know, we're sharing sensitive data about families, where  
4           is the agreement that sets out how you share that and  
5           what are the protocols about who does what and how these  
6           things are followed? There wasn't a structure in place.  
7           We used a template obtained from HM Inspectorate of  
8           Constabulary and we self-inspected ourselves and we felt  
9           that we were short of it and we need to change -- and  
10          I worked with her on some of the written agreements.  
11          She would sit in my office and go through and say "This  
12          is the draft, this is what we're going to do about  
13          sharing information about Children's Services", or  
14          whatever.

15        Q. Did you know anything about how the relationship with  
16        Children's Services was already working?

17        A. I received -- not in any depth. I had received some  
18        messages, some of which were positive and some of which  
19        were negative. There was I think in Alison's estimation  
20        and in mine a little bit too much informality in the  
21        arrangements. It wasn't clear where responsibility lay,  
22        but I'm not in favour of too much bureaucracy, but it  
23        actually needed a lot more paperwork, I think that  
24        was -- we needed to set some of these informal  
25        understandings down in writing and just be more

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1 professional. It was about being more professional and  
2 sharper about how these things are dealt with.

3 Q. As far as you were aware was there a good level of  
4 cooperation between Children's Services and SOJP?

5 A. There is no negative examples that have been brought to  
6 my attention, except she did express some frustration  
7 about the process of the meetings, what is for Child  
8 Protection Committee or something like that. She said  
9 things would be agreed -- she had been used to attending  
10 my management meetings and so she got used to  
11 a particular style and, you know, she would see  
12 things -- well, it was agreed that this or that or the  
13 other ought to happen, but there wasn't the bit that  
14 I had at the end: "action": named individual will do  
15 this, that and report back in three months. So things  
16 went into -- I say almost the Jersey way, they went into  
17 the ether with never any clear understanding of who was  
18 going to get hold of this and make something happen.  
19 That was the impression she gave to me. That was what  
20 I picked up from what she was saying.

21 Q. Did you take any action to address that?

22 A. Yes, I sat down with her and said we need to get a clear  
23 written understanding about who is doing what and what  
24 I'm responsible for. I want to know what could come  
25 back and bite me, so I want to know what you've got to

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1 deliver, what I've got to deliver, what we as a police  
2 force are going to do, what we passed through -- yes,  
3 and I went through line by line some of the agreements  
4 she was doing and eventually I signed them off.

5 Q. And did you ever become involved in any monitoring as to  
6 how these agreements were implemented?

7 A. I would ask her. Go up and see her and "How is it  
8 going?"

9 Q. And how was it going?

10 A. "Okay, we're making progress, it's not perfect, but  
11 we're making progress."

12 Q. Did you have any direct involvement yourself with the  
13 liaison between SOJP and Children's Services?

14 A. No, I don't think I did. I think that was down the  
15 chain of command, but I -- I wanted to know we were  
16 working properly, you know, "Tell me it is working  
17 properly".

18 Q. And as far as you were aware did things get better?

19 A. Yes, yes.

20 Q. I would like to move on in your witness statement to  
21 paragraph 126, which is at page 37 please {WS000536/37}  
22 and to succession planning and the extension of your  
23 contract.

24 A. Yes.

25 Q. Because that happened I think first in 2005, extended to

1           2007 and then to 2010.

2           A. Yes.

3           Q. And you explain that initially the plan was that -- or  
4           the hope was that your successor might be someone from  
5           Jersey, but that wasn't feasible.

6           A. No, I don't think that is what I say at all.

7           Q. Paragraph 126 {WS0030536/37}:

8                         " ... it was quite clear that the political  
9           establishment in Jersey wanted to keep the role inside  
10          Jersey and political soundings indicated that approval  
11          of a succession plan was unlikely to find favour unless  
12          it offered the prospect of a local succession ..."

13          A. Yes. Well, the stark truth was there was nobody in  
14          the Force who was qualified to be Chief Officer. Lenny  
15          was a deputy, he was leaving, there wasn't the  
16          equivalent of a -- there was nobody -- nobody had been  
17          on a senior command course, nobody who had the rank and  
18          experience to be suitable, it was just absurd to -- but  
19          that wouldn't stop many politicians saying it ought to  
20          be a local person.

21          Q. Stopping you there for a minute. Lenny Harper was going  
22          to retire in 2008, he had been appointed in 2002 at  
23          a time when you were going to retire in 2005.

24          A. Yes.

25          Q. Had there been any plans then that he might succeed you

1 as Chief Officer, or was it always reckoned that he  
2 would be the Deputy until his retirement?

3 A. I recall no conversation about him succeeding to me.  
4 You go back to what I said earlier, that there are some  
5 people who are excellent deputies but don't, you know --  
6 and whatever. That is not belittling them as people,  
7 they might be better people than me but just haven't had  
8 the training, the skills or whatever it is. And nobody  
9 talked about that that I can think of.

10 Q. So you stayed in any event up until 2007, by which time  
11 clearly, since he was retiring in 2008, there would be  
12 no prospect of him being a candidate.

13 A. No, no. He wasn't a candidate.

14 Q. But a plan was agreed, wasn't it, to appoint a new DSO  
15 from outside the Island?

16 A. Right. I mean it -- my word. We talked a lot about  
17 this. It was very clear that in Wendy Kinnard's mind  
18 that -- I suspect she might not even have been  
19 sympathetic to a local officer being appointed. You're  
20 going back to Clothier. Clothier was clear enough and  
21 nobody has yet said he was wrong that you can't be  
22 chief -- you shouldn't -- in the UK the Commissioner of  
23 the Metropolitan Police has to have proven senior level  
24 experience outside of London. You know, come on. You  
25 can't man and boy become chief in -- I would never --

1 and she could see that. But how do we market it? That  
2 was the thing. Do we market it as a local succession  
3 opportunity, we would say "Okay, we've got to replace  
4 Lenny, but when he is successfully replaced you go, I go  
5 and the deputy becomes the chief and we then have  
6 a competition for the deputy's role" and who knows, you  
7 know, at that time we might find a local candidate for  
8 the deputy's role. Who could possibly then be  
9 developed -- I think that might be stretching it a bit.  
10 But it offered a prospect of local officers being  
11 promoted. Because when you think in the States of  
12 Jersey Police you can be the most outstanding officer in  
13 the Force, but the rank structure is so narrow that if  
14 one person above you says "Well, I think I'm going to do  
15 another ten years", that's it, it's over for you because  
16 the one person who needs to move out of the way is not  
17 going to move out of the way. I mean in big forces you  
18 just don't have that problem, you know. Myself, if  
19 I can't be chief superintendent in Cleveland I will see  
20 if I can be chief superintendent in North Yorkshire, and  
21 yes I will move house and I will go through all the  
22 grief and all of that because I want it, but you  
23 couldn't do that in Jersey. So we packaged it in that  
24 way and the job of Deputy was advertised as being Deputy  
25 and Chief Officer Designate.

1 Q. Yes. And you managed to obtain support for this  
2 proposal on the basis that the deputy's job would in due  
3 course become vacant?

4 A. And that could be -- yes, and that could create some  
5 internal promotion and development potentially.

6 Q. And had any steps been taken, or were they taken to  
7 ensure that local officers might have the necessary  
8 skills to step up?

9 A. Yes, all the time, loads of it. I had what was called  
10 the leadership development programme which I identified  
11 promising officers who were then sent on testing  
12 secondments to UK forces: Metropolitan Police,  
13 Strathclyde Police, South Yorkshire, all these forces  
14 took a Jersey officer and put them through the mill  
15 effectively and we got a report back as to just what  
16 they thought their potential was. We sent a number of  
17 officers on detective training courses and trained them  
18 as senior investigating officers. I, to some great  
19 difficulty, signed up the Force to the Home Office  
20 fast-track programme so that officers from Jersey could  
21 apply to the fast-track programme, be assessed in the UK  
22 and then go through the process which would involve some  
23 UK development and some development in Jersey.

24 Q. And did any Jersey officers make it onto the fast-track  
25 course when you were Chief Officer?

1       A.  When I was Chief Officer one or two made it to the  
2       latter stages and -- I'm trying to think whether they  
3       made it to the latter stages when I was there or not.  
4       I certainly started the ball rolling for some of them  
5       and I just happen to know that there might have been one  
6       officer who was successful and one or two who made it to  
7       the latter stages, but I know that through  
8       conversations, so I suspect it occurred at a later date,  
9       but I got it started and you might think "Well, that's  
10      an easy thing to get started", but that was in the time  
11      of the Home Affairs Committee, I had to have people from  
12      the Home Office come over and did a presentation and so  
13      on, and what was the difficulty about it, you might say?  
14      Well, the difficulty about it was -- and particularly in  
15      a small force -- that part of the deal was that if  
16      people were accepted on the fast-track programme they  
17      actually get fast-tracked and so the Force and the Home  
18      Affairs Committee might lose control of who was being  
19      accelerated to a senior position, it might be determined  
20      for them by the people who were managing the fast-track  
21      programme in the UK.  That was the thorny bit that we  
22      had to get through.

23      Q.  So is that the way it works, if somebody is fast-tracked  
24      are they appointed centrally to vacancies anywhere in --

25      A.  I don't know how it works now, but in my time and

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1           probably when I was doing the presentation -- as  
2           I remember the package was that there was an assumption  
3           that if you get through part -- you are part of  
4           a programme which will take you through the rank  
5           structure at various benchmarks. The presumption is in  
6           favour -- you know, all promotion assumptions usually  
7           are negative, aren't they, they say "Well, you don't get  
8           promoted unless there are good reasons why", this is  
9           "You get promoted unless there are very good reasons why  
10          not."

11        Q.    Would you normally go back to your own police service,  
12            or would you go anywhere?

13        A.    Yes, you would, but you would have to do development  
14            modules in other services quite often.

15        Q.    How would that work in Jersey in any event if, as you  
16            say, a particular officer in a post doesn't retire --

17        A.    You might end up with two superintendents and one of  
18            them might be someone you wouldn't have wanted, but  
19            that's the scheme you are signing to here. Don't ask  
20            officers to put themselves through this really testing  
21            gruelling process, and I have been through it on both  
22            sides of the table, I know how hard it is, unless you  
23            are actually going to deliver the prize at the end, you  
24            know. If you win the race at the Olympics you get gold  
25            medal and don't tell them they have to go through it all

1 but they don't get the medal at the end, you have to  
2 sign up to that.

3 Q. But that was done?

4 A. That was done, yes, but I got an agreement and I copied  
5 it and I made sure it was handed out to potential  
6 candidates so they could keep it in case anyone forgot.

7 Q. And the succession plan was put in place, even though,  
8 as you have explained, there was some misunderstanding  
9 when Mr Lewis made a public announcement.

10 A. I haven't quite finished, you asked me what I did about  
11 development.

12 Q. Yes, sorry.

13 A. I did something else. I brought a senior assessor from  
14 the Home Office selection process, one of the people who  
15 would sit with me on the selection process, and  
16 I brought him to Jersey and with authority from  
17 the Home Office he brought a series of the exercises  
18 with him and what we did together, because we were both  
19 senior command assessors, was do a simulated senior  
20 command assessment process for local officers who wanted  
21 to go through it.

22 Q. And were all your efforts in this respect well received  
23 by --

24 A. Yes.

25 Q. -- the SOJP officers?

1 A. Yes, yes, it was.

2 Q. And by politicians in Jersey?

3 A. I think the politicians understood what we were doing,  
4 yes.

5 Q. And did that have a favourable effect on morale within  
6 SOJP, that officers could see that there were  
7 advancement possibilities?

8 A. Yes, yes. I mean -- yes, I've got to say yes. I mean  
9 people have fed that back. There would be one or two of  
10 a different mind, but yes. I mean you're never going  
11 to -- the Police Service has suffered too long from  
12 people who thought that promotion ought to happen  
13 because it was their turn and there are one or two who  
14 thought it was their turn and discovered it wasn't their  
15 turn and that had to be managed, but -- I mean again  
16 promotion processes became competitive, they became  
17 assessment centre based with independent -- and  
18 sometimes blind assessments.

19 Q. And that was true nationally, wasn't it, not just in  
20 Jersey?

21 A. Yes, yes. You just want to get the best, free of any  
22 preconceptions or prejudice, yes.

23 MS MCGAHEY: Madam, I am about to turn to  
24 Operation Rectangle. I am more than happy to continue,  
25 but I wonder whether ...?

1 THE CHAIR: I think that would be a convenient moment to  
2 stop and we can address that when everybody,  
3 particularly Mr Power, is fresh in the morning. It has  
4 been a long day. So we will start tomorrow at  
5 10 o'clock. 10 o'clock tomorrow, Mr Power.

6 A. Yes, that's fine, thank you.

7 THE CHAIR: I will just say again, you are in the middle of  
8 giving your evidence to this Independent Inquiry, so as  
9 I'm sure you know please don't talk to anybody about  
10 your evidence until it is completed.

11 A. I shan't, yes. Thank you.

12 THE CHAIR: So we will sit again tomorrow at 10 o'clock.

13 (4.10 pm)

14 (The Inquiry adjourned until 10.00 am on Thursday,

15 5 November 2015)

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